



**AMENDED AGENDA**

**SUMMIT COUNTY COUNCIL**

**Wednesday, April 6 2011**

NOTICE is hereby given that the Summit County Council will meet in session  
Wednesday, April 6 2011 at the Sheldon Richins Building, 6505 N Landmark Drive, Park City UT 84098  
All time listed are general in nature and are subject to change by the Council Chair

**Please Notice Change in Meeting Location & Times**

2:45 PM Closed Session – Property Acquisition (30 minutes)

3:15 PM Work Session

Council Mail Review (10 min)

- 1. Work Session – Idle-Free Resolution (30 min)
- 2. Discussion and Review of Citizen Survey (30 min)

4:30 PM Convene as the Board of Equalization

- 1. Consideration of approval of stipulations – 3/23/11, 4/6/11
- 2. Consideration and possible approval of requests for property tax exemptions for 2010 taxes for the following entities: 1) Friends of Animals, Utah; 2) Intermountain Health Center; 3) Community Wireless (KPCW); 4) Utah Athletic Foundation; 5) Kimball Art Center; 6) National Ability Center; 7) Colby School; 8) Park City Ski Education Foundation; 9) Park City Academy/Carden Academy; 10) Save our Stage Foundation (Egyptian Theater); 11) Christian Center of Park City; 12) Catholic Church; 13) Episcopal Church; 14) Kamas Bible Church; 15) Mountain Chapel Christian Fellowship

Dismiss as the Board of Equalization and reconvene as the County Council

4:45 PM - Consideration of Approval of Administrative Items – Council Chambers

Pledge of Allegiance

- 1. Appeal of an Administrative Decision to Apply Stream Setbacks at 995 Old Ranch Rd (1 hr)
- 2. Appointment of Board Members to the North Summit Recreation Special Service District
- 3. Advise and Consent of County Manager recommendation on the Board of Health appointments.
- 4. Council Meeting Minutes – 3/9/11, 3/16/11

\*Manager’s Comments

\*Council Comments

6:00 PM - Public Input

*Public Hearing and Possible Approval of Ordinance No. 316-B: An ordinance to amend Title 5, Chapter 3 of the Summit County Code relating to noise disturbances. (30 min)*

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Individuals with questions, comments, or needing special accommodations pursuant to the Americans with Disabilities Act regarding this meeting may contact Doreen Davis, (435) 336-3025, (435) 615-3025 or 783-4351 ext. 3025

**Distribution:                    A                    Posted:                    April 4, 2011**



## Staff Report

**To:** Summit County Council  
**Report Date:** Thursday, March 31, 2011  
**Meeting Date:** Wednesday, April 6, 2011  
**From:** Ashley Koehler, County Sustainability Coordinator &  
Rich Bullough, County Health Department Director  
**Project Name:** **Idle Reduction Policy Discussion**  
**Type of Item:** Work Session

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### **EXECUTIVE SUMMARY:**

In response to rising air quality issues in surrounding Utah communities, the County Health Department has partnered with County Sustainability Staff to propose a County Idle-Free Resolution and initiate a county-wide educational and promotional campaign. The resolution and promotional campaign would encourage County citizens and tourists to limit vehicle idling and educate the Community on the negative health and environmental effects of vehicle idling.

### **Air Quality Background:**

This past winter air quality issues have again been in the forefront of conversation and made national news as Salt Lake's air quality topped the charts as having the worst air quality in the nation. The Utah Division of Air Quality (UDEQ) has reported that Salt Lake County is a Nonattainment Area for Particulate Matter (PM)<sub>10</sub>, PM<sub>2.5</sub> and Sulfur Dioxide (SO<sub>2</sub>). It is also considered a Maintenance Area for ground-level ozone (O<sub>3</sub>) and in some areas for Carbon Monoxide (CO). Several other counties along the Wasatch front as far north as Cache County are dealing with these designations and beginning to act.

### **What is PM<sub>2.5</sub> :**

The Environmental Protection Agency (EPA) defines "PM [as] the term for particulate matter found in the air, including dust, dirt, soot, or smoke that can be suspended in the air for long periods of time. Some particles are large or dark enough to be seen as soot or smoke...Particles less than 10 micrometers in diameter (PM<sub>10</sub>) pose a health concern because they can be inhaled into and accumulate in the respiratory system. Particles less than 2.5 micrometers in diameter (PM<sub>2.5</sub>) are referred to as "fine" particles and are believed to pose the greatest health risks. Because of their small size...fine particles can lodge deeply into the lungs."

### **Public Health & Environmental Issues**

Presence of these pollutants can be associated with respiratory ailments, heart disease and a greater increase in cancer. Additionally, the Utah Department of Environmental Quality reports that children breathe more quickly and take in more air per minute into their lungs than adults so they are more vulnerable in pollution hot spots, such as in school pick-up/drop-off zones and drive-thru areas.

Unnecessary vehicle idling contributes harmful heat-trapping, or greenhouse gases, to the atmosphere that not only lead to rising global temperature, but cause smog and haze. Where a significant portion of Summit County's economy is maintained by recreation enthusiasts, both in the Uinta's and at ski resorts, clean air and snowfall is critical.

For the past three years the County Health Department has tracked air quality with two monitors placed in the Snyderville Basin to measure PM<sub>2.5</sub> and has reported measurements well below the action level. Even though Summit County does not currently have a significant PM<sub>2.5</sub> problem, Staff is proposing an Idle-Free Resolution to prevent or delay the onset of reduced air quality. The Resolution also supports healthy local environments such as school zone programs and County and regional sustainability initiatives.

**Current Action:**

The State of Utah and several communities in the state are responding to the poor air quality reports in an effort to comply with state and federal regulations. Governor Herbert partnered with mayors of Provo, Ogden, Salt Lake County and Salt Lake City in 2009 to pass a declaration encouraging drivers to limit idling time in vehicles. This partnership joined with UDEQ to launch the "Turn your key, be idle-free" and the "Clear the Air" Challenge, both promoting limiting driving and idling. The Utah Moms for Clean Air has pushed this message in many schools throughout the state and actively works with schools in Summit County. The Park City School District adopted a bus idling policy that restricts school bus idling and the South Summit School District follows the state's recommendation for prohibiting idling in the school zone and idling beyond 2 minutes anywhere else. Ecker Hill Middle School students recently organized to install Idle-Free signs in their drop-off/pick-up areas.

Nationally, there are several municipalities that have adopted resolutions or ordinances for idling limits. Salt Lake City has adopted a specific idling policy for their fleet vehicles and is going through the public process of adopting an idling ordinance city-wide. After having an Anti-Idling Resolution and promotion campaign for over a year, Park City just adopted an Anti-Idling Ordinance with enforcement.

**Analysis:**

Even though Summit County alone is not creating a significant air quality problem now, increasing pollutants from surrounding areas will continue to be carried in. Therefore, it is recommended that we do what we can to protect our own air quality and limit the pollutants that we generate, such as supporting public transit, reducing vehicle trips, and idling limits.

The County already supports public transit with the use of cleaner burning bio-diesel fuel, which burns 75% cleaner than petroleum and opened the Park 'n Ride at Jeremy Ranch. The County also adopted a fleet driving policy that does not allow vehicles to idle unoccupied, with the exception of sheriff vehicles. This policy and other fuel saving ideas needs to be promoted internally within County operations. It is also timely that the County partner with the existing agencies to support the Idle-Free campaign community-wide.

**Promotion/Education Campaign:**

Staff has considered various options of promoting the message and has drafted a promotional campaign that targets all ages and will be displayed throughout the county. The campaign will include the installation of Idle-Free signs at select locations, as well as brochures, and posters at community

businesses and Summit County facilities. Media campaigns with local testimonials, fuel efficiency and smart driving tips will begin the promotion with additional information on both the County and Health Department websites. Partnerships with local school districts, Park City Municipal, Utah Department of Air Quality and community groups will enhance these efforts.

**Recommendation:**

Based on the current movement nationally and the need to do something proactive locally, Staff has recommended that the Council adopt an Idle-Free Resolution and support a strong educational campaign County-wide. During 2011 the public will be able to learn about the impacts of vehicle idling to their environment, health and welfare.

**Attachment(s):**

**Exhibit A:** Draft Idle-Free Resolution

Resolution No \_\_\_\_\_

**IDLE FREE RESOLUTION FOR MOTORIZED VEHICLES IN SUMMIT COUNTY, UTAH AND DECLARING  
SUMMIT COUNTY, UTAH TO BE AN IDLE-FREE COUNTY**

WHEREAS, emissions from vehicle idling contributes significantly to air pollution, climate change and increased rates of cancer and heart and lung diseases, which adversely affect the health: and

WHEREAS, children whose lungs are still developing, are at a higher risk because they breathe more rapidly and inhale more pollutants per pound of body weight than adults; and

WHEREAS, it is vital that we protect the health and well being of our children who are the future for Summit County; and

WHEREAS, emissions from vehicle idling significantly affects the natural environment and economic well being of residents, guests and visitors of Summit County; and

WHEREAS, Petroleum-based fuels are nonrenewable and should be used wisely and not wasted; and

WHEREAS, idling a typical vehicle for longer than ten seconds consumes more fuel than restarting that vehicle, resulting in excessive emissions and wasted fuel; and

WHEREAS, every citizen can improve our county's air quality by turning off vehicles whenever we are going to idle more than three minutes; and

WHEREAS, reducing needless vehicle idling is in keeping with Summit County's promotion as an eco-friendly community and its affiliation with ICLEI (Local Governments for Sustainability); and

WHEREAS, education about idle reduction can raise community awareness, encourage consumers to develop idle free habits, and influence adoption of idle free policies within county governments;

WHEREAS, The County Council, with support from the Summit County Board of Health, desires to ensure that idling does not occur in idle-frequent locations such as school grounds, parking lots/garages, ski resort premises and business centers; and

WHEREAS, the County Council, with support from the Summit County Board of Health, desires to take a proactive position on air pollution to protect the livability and viability of Summit County and its residents, visitors and guests; and

WHEREAS, it is in the public interest that Summit County residents, guests and visitors reduce vehicle emissions to protect the health, economy and natural environment of Summit County and the surrounding area;

NOW, THEREFORE BE IT RESOLVED, by the Council of Summit County that:

1. **NO IDLING GUIDELINES.** Summit County encourages residents, guests, visitors, County employees and other individuals within the County limits to not exceed a three minute idling time in their gasoline or diesel-powered motor vehicles. Exceptions to these idling guidelines include the following:
  - A. The vehicle is forced to remain motionless on a public road because of traffic conditions.
  - B. The vehicle is an emergency vehicle used in an emergency situation.
  - C. Vehicle idling is necessary for auxiliary power for law enforcement equipment, refrigeration units, loading/unloading lifts. Well drilling and/or farming.
  - D. Vehicle idling is necessary for repair or inspection of the vehicle.
  - E. The health or safety of a driver or passenger requires the vehicle to idle, including instances where the temperature is below 32 degrees F or above 90 degrees F.

**This Resolution is not enforceable by citation or fine. Compliance shall be strictly voluntary.**

2. **DECLARATION.** The County Council hereby proclaims Summit County to be an **Idle-Free County.**
3. **NO IDLING/IDLE-FREE COUNTY SIGNS.** Summit County will partner with Clean Air Utah, businesses, schools, and local communities within Summit County to support the installation of Idle-Free signs and distribution of promotional and educational material.
4. **EFFECTIVE DATE.** This Resolution shall take effect upon adoption by the County Council.

**PASSED AND ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2011.

# 2010 BOE Adjustments

Serial #	New Market Value	Old Market Value	MV Difference	New Taxable Value	Old Taxable Value	
ALLC-106	\$ 1,263,600.00	\$ 1,500,000.00	\$ (236,400.00)	\$ 1,263,600.00	\$ 1,481,000.00	
ALLC-207	\$ 1,718,100.00	\$ 1,900,000.00	\$ (181,900.00)	\$ 1,718,100.00	\$ 1,818,900.00	
ALLC-309-1AM	\$ 1,324,800.00	\$ 1,500,000.00	\$ (175,200.00)	\$ 1,324,800.00	\$ 1,440,000.00	
ALLC-314-1AM	\$ 1,350,000.00	\$ 1,500,000.00	\$ (150,000.00)	\$ 1,350,000.00	\$ 1,487,800.00	
ALLC-401	\$ 1,210,500.00	\$ 1,500,000.00	\$ (289,500.00)	\$ 1,210,500.00	\$ 1,395,400.00	
ALLC-402	\$ 1,640,700.00	\$ 1,900,000.00	\$ (259,300.00)	\$ 1,640,700.00	\$ 1,564,700.00	
ALLC-406	\$ 1,269,900.00	\$ 1,500,000.00	\$ (230,100.00)	\$ 1,269,900.00	\$ 1,487,800.00	
COTPRK-1316	\$ 440,000.00	\$ 440,000.00	\$ -	\$ 440,000.00	\$ 440,000.00	
LDVC-2-E-323	\$ 816,700.00	\$ 900,000.00	\$ (83,300.00)	\$ 816,700.00	\$ 900,000.00	
LT-2-12	\$ 3,595,200.00	\$ 3,800,000.00	\$ (204,800.00)	\$ 3,595,200.00	\$ 3,800,000.00	
LT-2-13	\$ 3,592,050.00	\$ 3,800,000.00	\$ (207,950.00)	\$ 3,592,050.00	\$ 3,800,000.00	
LT-2-15	\$ 3,595,200.00	\$ 3,800,000.00	\$ (204,800.00)	\$ 3,595,200.00	\$ 3,800,000.00	
LT-3-7	\$ 3,596,250.00	\$ 3,800,000.00	\$ (203,750.00)	\$ 3,596,250.00	\$ 3,600,000.00	
LT-3-8	\$ 3,596,250.00	\$ 3,800,000.00	\$ (203,750.00)	\$ 3,596,250.00	\$ 3,800,000.00	
LT-3-9	\$ 3,596,250.00	\$ 3,800,000.00	\$ (203,750.00)	\$ 3,596,250.00	\$ 3,600,000.00	
LT-4-24	\$ 3,588,900.00	\$ 3,800,000.00	\$ (211,100.00)	\$ 3,588,900.00	\$ 3,800,000.00	
LT-5-27	\$ 3,605,700.00	\$ 3,800,000.00	\$ (194,300.00)	\$ 3,605,700.00	\$ 3,800,000.00	
LT-5-28	\$ 3,796,800.00	\$ 3,800,000.00	\$ (3,200.00)	\$ 3,796,800.00	\$ 3,800,000.00	
3601500	\$ 3,800,000.00	\$ 3,800,000.00	\$ -	\$ 3,800,000.00	\$ 3,800,000.00	
SU-A-24	\$ 244,948.00	\$ 244,948.00	\$ -	\$ 244,948.00	\$ 134,721.00	
LWPCRS-3800-AM	\$ 1,036,000.00	\$ 1,550,000.00	\$ (514,000.00)	\$ 1,036,000.00	\$ 1,550,000.00	
<b>Totals for 3/23/2011</b>	\$ 48,677,848.00	\$ 52,434,948.00	\$ (3,757,100.00)	\$ 48,677,848.00	\$ 51,300,321.00	
<b>Totals for 2/23/2011</b>	\$ 14,653,140.00	\$ 16,335,577.00	\$ (1,682,437.00)	\$ 15,216,329.00	\$ 15,252,900.00	
<b>Totals for 2/16/2011</b>	\$ 4,799,265.00	\$ 5,249,181.00	\$ (449,916.00)	\$ 3,301,713.00	\$ 4,799,265.00	
<b>Totals for 02/2/2011</b>	\$ 73,112,284.00	\$ 8,412,562.00	\$ (11,132,778.00)	\$ 68,727,020.00	\$ 79,999,729.00	
<b>Totals for 01/19/2011</b>	\$ 2,340,200.00	\$ 2,568,800.00	\$ (228,600.00)	\$ 2,978,800.00	\$ 3,090,200.00	
<b>Totals for 12/15/2010</b>	\$ 42,580,445.00	\$ 46,747,858.00	\$ (4,197,413.00)	\$ 36,386,611.00	\$ 43,527,567.00	
<b>Totals for 12/8/2010</b>	\$ 256,130,918.00	\$ 270,141,431.00	\$ (13,761,543.00)	\$ 221,226,738.00	\$	New Request by Council for Old Taxable Value
<b>Totals for 12/1/10</b>	\$ 79,138,975.00	\$ 106,628,763.00	\$ (27,489,788.00)	\$ 30,742,001.00	\$	
<b>Totals for 11/14/2010</b>	\$ 204,923,608.00	\$ 237,071,884.00	\$ (32,148,276.00)	\$ 187,934,386.00	\$	
<b>Totals For 10/27/2010</b>	\$ 60,356,753.00	\$ 71,364,807.00	\$ (10,699,177.00)	\$ 55,466,010.00	\$	
<b>Totals For 10/20/2010</b>	\$ 161,113,456.00	\$ 184,854,205.00	\$ (23,700,749.00)	\$ 184,572,126.00	\$	
<b>Totals for 10/6/2010</b>	\$ 235,173,079.00	\$ 280,021,137.00	\$ (44,848,058.00)	\$ 222,313,664.00	\$	
<b>Totals for 9/22/2010</b>	\$ 43,542,565.00	\$ 124,365,244.00	\$ (11,257,530.00)	\$ 84,633,488.00	\$	
<b>Totals for 9/15/2010</b>	\$ 67,881,996.00	\$ 83,337,396.00	\$ (15,455,400.00)	\$ 57,403,587.00	\$	
<b>Totals for 9/7/2010</b>	\$ 97,641,192.00	\$ 127,731,262.00	\$ (30,090,070.00)	\$ 69,587,642.00	\$	

<b>Totals for 8/25/10</b>	\$ 31,851,279.00	\$ 36,229,990.00	\$ (4,378,711.00)	\$ 24,464,418.00
<b>Totals for 8/18/10</b>	\$ 42,766,085.00	\$ 48,254,753.00	\$ (5,488,688.00)	\$ 28,455,458.00
<b>Running Total</b>	\$ 1,466,683,088.00	\$ 1,701,749,798.00	\$ (240,766,234.00)	\$ 1,342,087,839.00

Anita,

The Market value of the county on 7/23/2009 was \$20,231,562,313

The Market value of the county on 12/31/2009 was \$19,561,804,757

The Market value decrease for 2009 is (\$69,757,556)

So far this year(2010)the Market value decrease is (\$240,766,234) As of 03/23/2011

(The 2009 numbers do not reflect 2009 State Appeals that are still pending)

Kathryn has the total number of appeals this year(2010) at 2,564.

We have sent 2,272 appeals to the council for signature. That is 89% of the Appeals that we have this year.

We Have 292 Appeals waiting for Decisions from Hearing officers.

# 2010 BOE Adjustments

Serial #	New Market Value	Old Market Value	MV Difference	New Taxable Value	Old Taxable Value		
QEC-20	\$ 400,000.00	\$ 560,000.00	\$ (160,000.00)	\$ 400,000.00	\$ 560,000.00		
SL-A-4	\$ 770,000.00	\$ 1,435,173.00	\$ (665,173.00)	\$ 497,856.00	\$ 514,357.00		
SMB-115-AM	\$ 337,000.00	\$ 1,180,000.00	\$ (843,000.00)	\$ 337,000.00	\$ 1,180,000.00		
SMB-116-AM	\$ 100,000.00	\$ 350,000.00	\$ (250,000.00)	\$ 100,000.00	\$ 350,000.00		
SMB-55-AM	\$ 5,000.00	\$ 9,000.00	\$ (4,000.00)	\$ 5,000.00	\$ 9,000.00		
SMB-61-AM	\$ 15,000.00	\$ 17,000.00	\$ (2,000.00)	\$ 15,000.00	\$ 17,000.00		
<b>Totals for 4/6/2011</b>	\$ 1,627,000.00	\$ 3,551,173.00	\$ (1,924,173.00)	\$ 1,354,856.00	\$ 2,630,357.00		
<b>Totals for 3/30/2011</b>	\$ 1,164,876.00	\$ 12,448,760.00	\$ -80000	\$ 320,883.00	\$ 320,883.00		
<b>Totals for 2/23/2011</b>	\$ 14,653,140.00	\$ 16,335,577.00	\$ (1,682,437.00)	\$ 15,216,329.00	\$ 15,252,900.00		
<b>Totals for 2/16/2011</b>	\$ 4,799,265.00	\$ 5,249,181.00	\$ (449,916.00)	\$ 3,301,713.00	\$ 4,799,265.00		
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<b>Totals for 9/7/2010</b>	\$ 97,641,192.00	\$ 127,731,262.00	\$ (30,090,070.00)	\$ 69,587,642.00	\$		
<b>Totals for 8/25/10</b>	\$ 31,851,279.00	\$ 36,229,990.00	\$ (4,378,711.00)	\$ 24,464,418.00	\$		
<b>Totals for 8/18/10</b>	\$ 42,766,085.00	\$ 48,254,753.00	\$ (5,488,688.00)	\$ 28,455,458.00	\$		
<b>Running Total</b>	\$ 1,420,797,116.00	\$ 1,665,314,783.00	\$ (239,013,307.00)	\$ 1,295,085,730.00	\$		
	\$ 1,164,876.00	\$ 12,448,760.00	\$ -80000	\$ 320,883.00	\$ 320,883.00		

Doreen,

The Market value of the county on 7/23/2009 was \$20,231,562,313

The Market value of the county on 12/31/2009 was \$19,561,804,757

The Market value decrease for 2009 is (\$669,757,556)

So far this year(2010)the Market value decrease is (\$239,013,307) As of 04/06/2011

(The 2009 numbers do not reflect 2009 State Appeals that are still pending)

Kathryn has the total number of appeals this year(2010) at 2,564.

We have sent 2,268 appeals to the council for signature. That is 89% of the Appeals that we have this year.

We Have 284 Appeals waiting for Decisions from Hearing officers.





## STAFF REPORT

**To:** Summit County Council (SCC)  
**Report Date:** Thursday, March 31, 2011  
**Meeting Date:** Wednesday, April 6, 2011  
**Author:** Adryan Slaght, Principal Planner  
**Title:** Barndt Stream Appeal  
**Type of Item:** Appeal of Administrative Decision  
**Future Routing:** N/A

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**EXECUTIVE SUMMARY:** Doug Barndt, the owner of the property located at 995 W Old Ranch Road, is appealing the determination of the Community Development Department that the stream and pond setbacks of the Rural Residential Zone apply to his property. **Staff is recommending that the SCC conduct a public meeting, and uphold staff's determination.**

A. **Project Description**

- **Project Name:** Barndt Stream Appeal
- **Applicant(s):** Douglas & Maria Barndt
- **Owner(s):** Douglas & Maria Barndt
- **Location:** 995 W Old Ranch Rd
- **Zone District:** Rural Residential
- **Setbacks:** Front 30'/55', Side & Rear: 12', Streams/Ponds: 100', Wetlands: 40'
- **Adjacent Land Uses:** Ag fields, Quarry Mountain Subdivision
- **Existing Uses:** Residential property
- **Parcel Number(s) & Size:** PP-120-3, 3.50 ac

B. **Community Review**

This item appears on the agenda as an appeal of an administrative decision, and has been noticed as such. As an appeal, no public hearing is required.

At the time of this report, Staff has received no public comment regarding this item.

C. **Background**

In the fall of 2008, in an effort to provide a consistent practice for determining whether stream setbacks applied to a particular body of water (particularly historic ditches), staff developed a written internal interpretation on when stream setbacks should be applied. This interpretation was based on consultation with the Utah Division of Water Resources, and was meant to be applied based on a preponderance of the evidence. The guidance as written is presented below:

*In general, where the water body in question is controlled by a weir or gate, it is classified as a ditch. **However**, if the water body typically flows year-round, carries flood waters during the spring melt-off or carries more water than the ditch company has shares,*

*and has riparian rather than upland vegetation within its banks, for the purpose of application of the Summit County Stream Setbacks, it is considered a stream.*

On December 12, 2010 the appellant, Douglas Barndt, visited the Community Development Department to verify building setbacks for his property located at 995 W Old Ranch Rd, and specifically inquired about the ability of the existing home to be expanded to the north as part of a pending property sale. At that time, Mr. Barndt informed staff that the streams on the property flowed year-round and carried populations of cutthroat trout. After reviewing aerial photographs of the site, and considering the information provided, staff informed Mr. Barndt that the 100 ft setback for streams would apply to the property.

At Mr. Barndt's request, staff visited the property on the same day. The property in question contains streams that were built as historic ditches on the south, west, and north portions of the property. The existing home, which was built in 2005/2006, is located approximately 24 ft from the stream on the southern property line, 170 ft from the stream on the western property line, and 98-155 ft from the stream and ponds on the northern property line. During staff's inspection, these streams were found to have riparian vegetation, and uncontrolled flows. Staff was also informed that there was no longer a managing ditch company, nor are there ditch maintenance easements in place. The building permit application for the Barndt Home included a floodplain study (*Exhibit C*) showing the Dent Ditch on the south property line, and a stream and ponds along the west and north property lines. It appears that the waterway on the south side of the property was treated as a ditch rather than a stream for setback purposes.

After evaluating the on-site characteristics, and following further in-house discussion, staff re-affirmed with Mr. Barndt that the stream setbacks would apply. At that time Mr. Barndt was informed that he had the option to pursue an appeal of an administrative decision. Mr. Barndt informed staff that he would prefer to consult with the Army Corps of Engineers and pursue legal remedies against the County rather than file an appeal.

On February 8, 2011, Mr. Barndt and Ed Clissold met with staff to discuss the historic ditches in the vicinity and to ask staff to reconsider their position. The lack of the need for stream alteration permits, in addition to Army Corps of Engineer approval was brought forward as possible reasons why the setbacks might not apply. The historical nature of the ditches was also discussed, as was the possibility of Mr. Clissold installing a gate some distance upstream of Mr. Barndt's property in order to manage the stream-flows. Following the meeting with Mr. Barndt and Mr. Clissold, staff contacted the Army Corps of Engineers to discuss the property in question. Based on ACOE review of aerial photographs and discussion of the site, the ACOE indicated that the stream was likely jurisdictional. It was also indicated that a wetland delineation probably should have been performed in the vicinity of the ponds on the north side of the property. It should be noted that the applicant received a Low Impact Permit for the home in 2005, and provided a note from the Utah Regulatory Office of the Army Corps of Engineers stating that a permit from them was not required.

Following additional discussion with Mr. Barndt, on February 17, 2011, staff visited the Old Ranch Road area to determine whether the stream that flowed through Mr. Barndt's property indeed flowed into the ditch flowing adjacent to Old Ranch Rd. Staff found water flowing

from the watercourse in question through a culvert that empties into the ditch flowing adjacent to Old Ranch Rd (*Exhibit D.3*).

On February 18, 2011, the Community Development Director (CDD) phoned Mr. Barndt to inform him of the CDD's decision to apply stream setbacks. A letter stating the same, and informing Mr. Barndt in writing of his ability to appeal the decision to Council was mailed on the same day.

D. **Identification and Analysis of Issues**

The following are potential issues that have been raised in association with the application:

*Intent of Setbacks*

The intent of setbacks from any bodies of water within the Snyderville Basin is to protect the health, safety, and welfare of the citizens of Summit County. This comes through the reduced exposure to the risks of flooding, as well as the reduced chance of nutrients, sedimentation, or other pollutants entering into the County's water bodies.

E. **General Plan**

The property in question is located within the Old Ranch Road Neighborhood Planning Area. One of the neighborhood character objectives is that,

“the character of Old Ranch Road, together with the unique natural features, i.e., wetlands, waterways, agricultural meadows and hillsides, wildlife, historic structures and equestrian areas, are the aspects that must be preserved and enhanced.”

Staff feels that applying the 100 ft setback to the water bodies in question is consistent with the general plan.

F. **Findings/ Code Criteria and Discussion**

Under the Snyderville Basin Development Code, Section 10-2-4, the setbacks from wetlands, streams, ponds, etc. within the Rural Residential Zone are as follows:

10-2-4(D). Setback and Bulk Regulations (*only the water related portions are shown below*):

3. The minimum setback from any wetland shall be forty (40) feet.
4. The minimum setback from the centerline of East Canyon Creek shall be one hundred fifty (150) feet.
5. The minimum setback from a naturally occurring year round stream, (other than East Canyon Creek), shall be one hundred (100) feet from the centerline of the stream.
6. The minimum setback from a lake, pond, or reservoir shall be one hundred (100) feet from the high water mark.

G. **Standard of Review**

Appeals of Administrative Decisions must be made to the County Council within ten days of the final written decision by the CDD, or designated planning staff member. Pursuant to Utah Code Annotated §17-27a-705 and 707, the appellant has the burden of proving that the land use authority, i.e. the CDD, erred. On appeal, the County Council shall review the matter de novo, that is, reviewing the facts and evidence “anew,” and shall determine the correctness of the CDD's decision in its interpretation and application of the Snyderville

Basin General Plan and Section 10-2-4 of the Snyderville Basin Development Code governing setbacks in the Rural Residential Zone.

H. **Recommendation(s)/Alternatives**

Staff recommends that the Summit County Council evaluate the information provided by staff and the appellant, and vote to uphold staff's determination that the stream/pond setbacks for the Rural Residential Zone apply to the property located at 995 W Old Ranch Rd with the following finding:

1. That staff appropriately interpreted the setback requirements found in Section 10-2-4 of the Snyderville Basin Development Code.

**Attachment(s)**

*Exhibit A – Zoning Map(s)*

*Exhibit B – Aerial Photograph(s)*

*Exhibit C – Barndt Flood Study*

*Exhibit D – Site Photograph (s)*

*C:\Users\adryans.CCH\Desktop\Basin\Barndt Appeal\Barndt Stream Appeal\_SCC\_040611.doc*

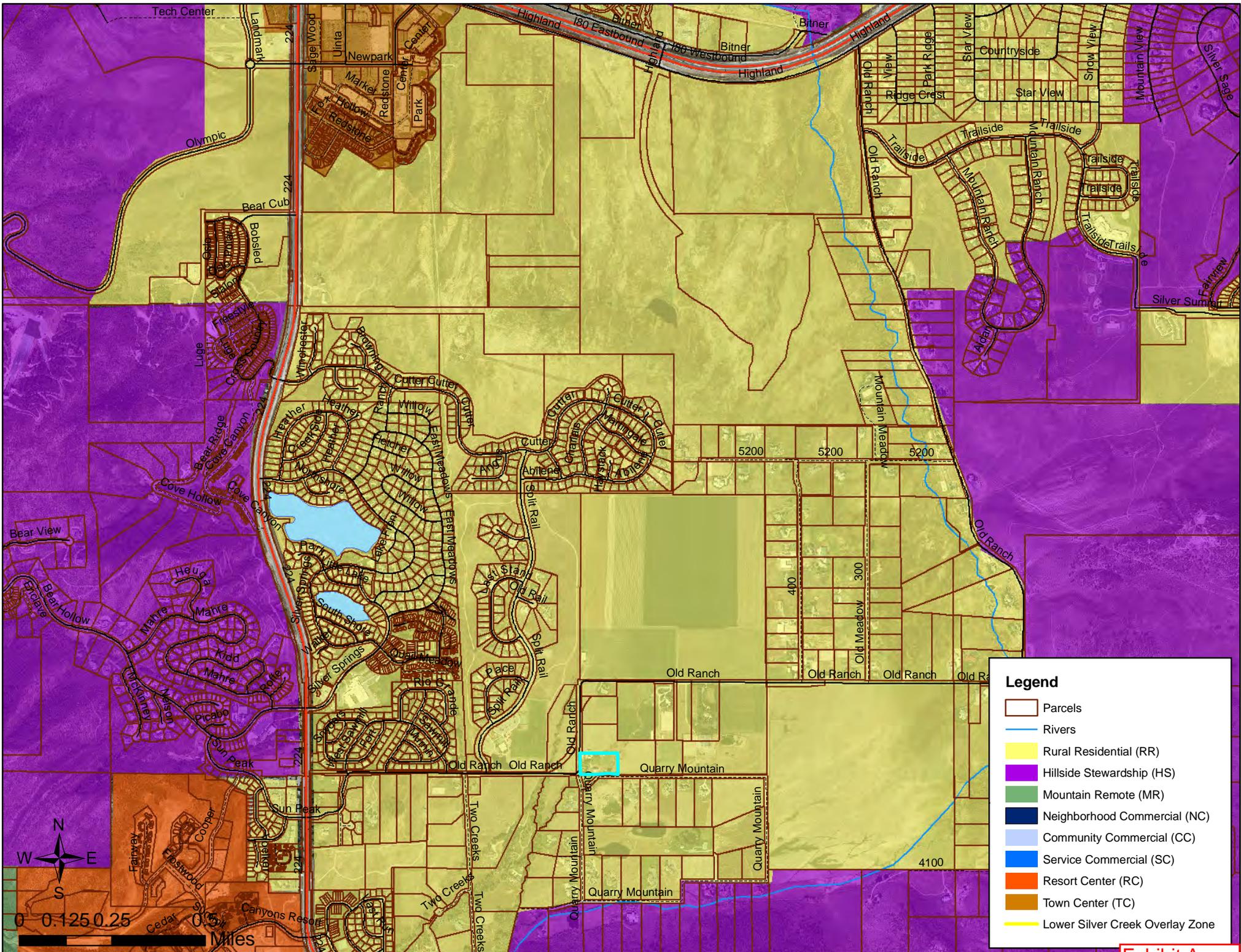
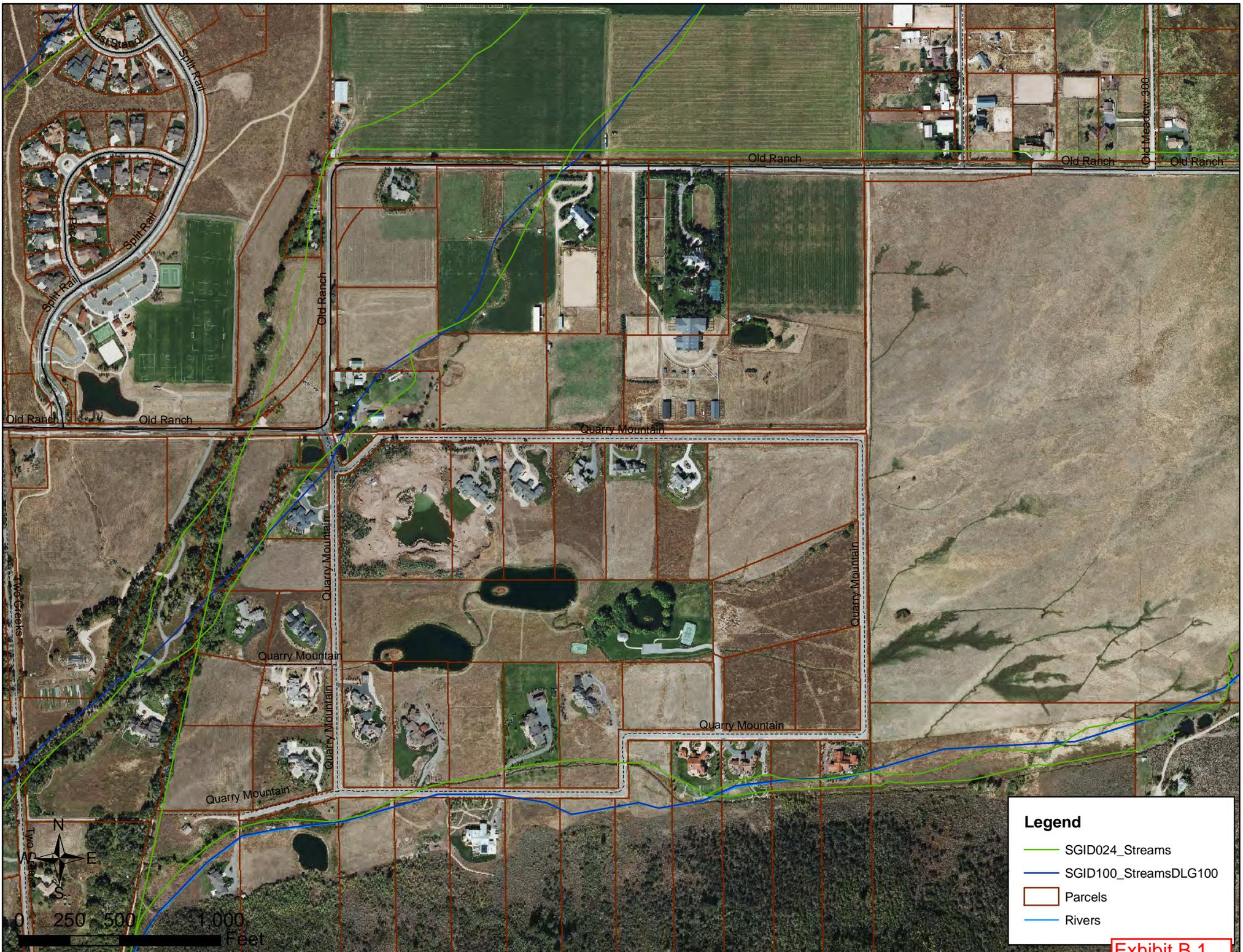
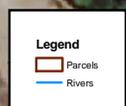
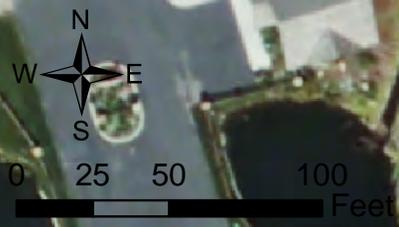
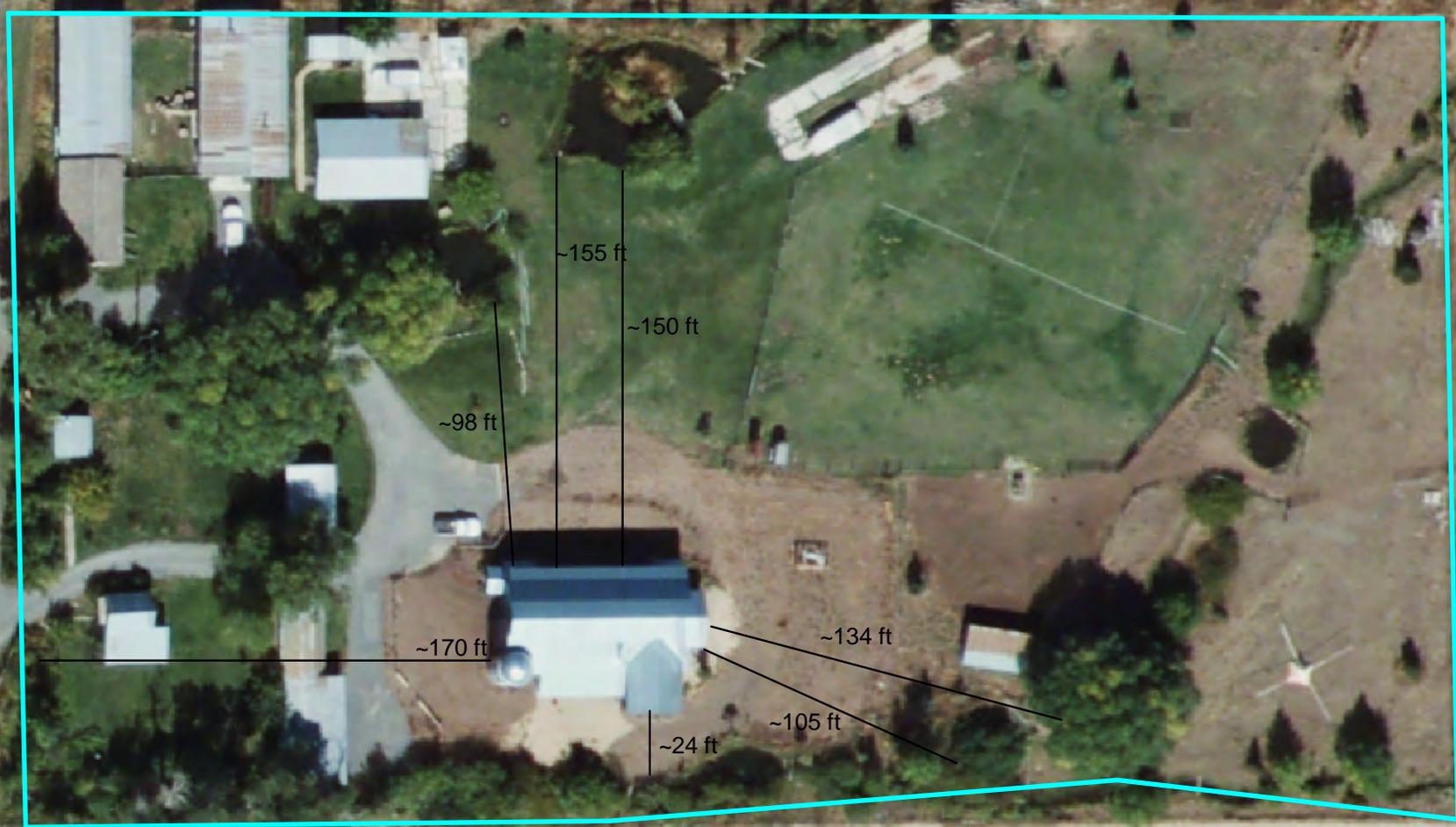


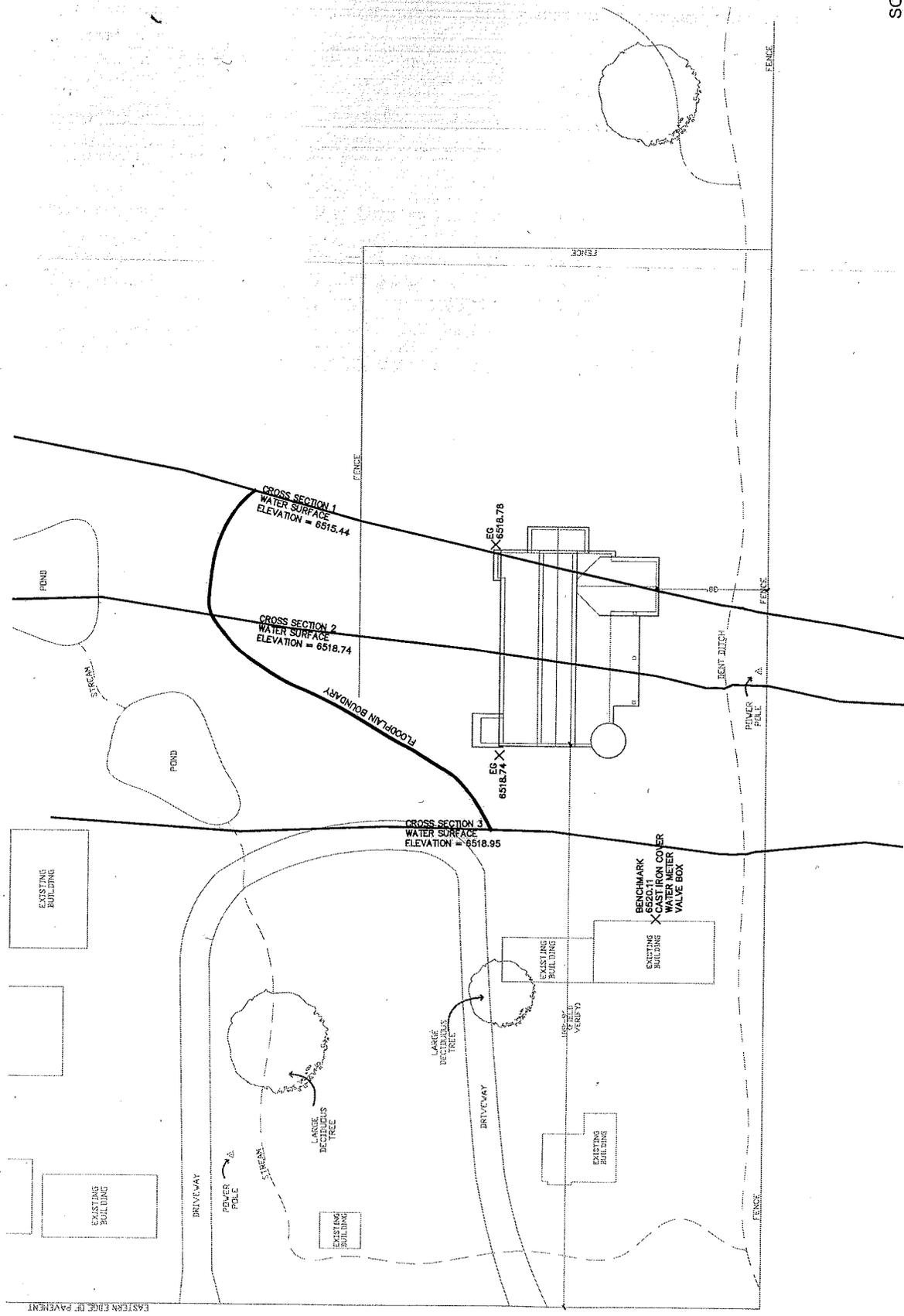
Exhibit A



**Legend**

- SGID024\_Streams
- SGID100\_StreamsDLG100
- Parcels
- Rivers





SCALE 1"=50'

# DOUGLAS BARNDT PROPERTY FLOODPLAIN EXHIBIT

SUMMIT COUNTY, UTAH



**JACK JOHNSON COMPANY**  
 Designing World Destinations  
 1st Floor - 1777 Sun Peak Drive, Park City, Utah 84006  
 Telephone - 435.645.8000 - Fax - 435.640.1620  
 www.jackjohnson.com

Exhibit C

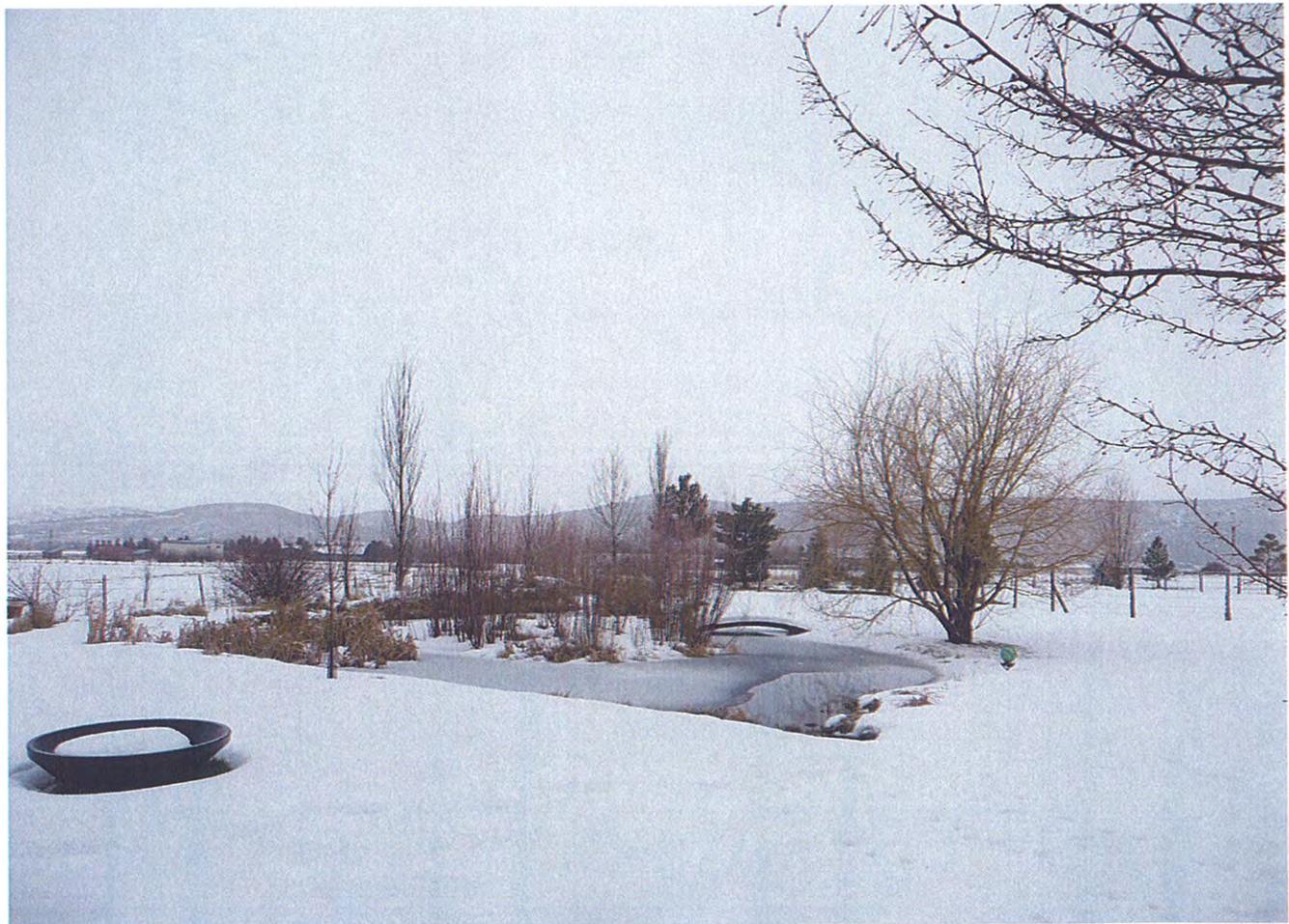


Exhibit D.1



Exhibit D.2



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# MINUTES

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**SUMMIT COUNTY**  
**BOARD OF COUNTY COUNCIL**  
**WEDNESDAY, MARCH 9, 2011**  
**COUNCIL CHAMBERS**  
**COALVILLE, UTAH**

**PRESENT:**

**Chris Robinson, Council Chair**  
**David Ure, Council Vice Chair**  
**Sally Elliott, Council Member**  
**John Hanrahan, Council Member**  
**Claudia McMullin, Council Member**

**Robert Jasper, Manager**  
**Anita Lewis, Assistant Manager**  
**Dave Thomas, Deputy Attorney**  
**Kent Jones, Clerk**  
**Doreen Davis, Office Manager**  
**Karen McLaws, Secretary**

**CLOSED SESSION**

**Council Member Hanrahan made a motion to convene in closed session for the purpose of discussing property acquisition and litigation. The motion was seconded by Council Member Ure and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 12:50 p.m. to 2:35 p.m. to discuss property acquisition and litigation. Those in attendance were:

**Chris Robinson, Council Chair**  
**David Ure, Council Vice Chair**  
**Sally Elliott, Council Member**  
**John Hanrahan, Council Member**  
**Claudia McMullin, Council Member**

**Robert Jasper, Manager**  
**Anita Lewis, Assistant Manager**  
**Dave Thomas, Deputy Attorney**

**Council Member McMullin made a motion to dismiss from closed session and to convene in regular session. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.**

**CONVENE AS THE BOARD OF EQUALIZATION**

**Council Member Hanrahan made a motion to convene as the Board of Equalization. The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0.**

The meeting of the Summit County Board of Equalization was called to order at 4:00 p.m.

## **CONSIDERATION OF APPROVAL OF STIPULATIONS**

**Board Member Hanrahan made a motion to approve the stipulations as presented. The motion was seconded by Board Member McMullin and passed unanimously, 5 to 0.**

## **DISMISS AS THE BOARD OF EQUALIZATION AND RECONVENE AS THE SUMMIT COUNTY COUNCIL**

**Board Member Hanrahan made a motion to dismiss as the Board of Equalization and to reconvene as the Summit County Council. The motion was seconded by Board Member Elliott and passed unanimously, 5 to 0.**

The meeting of the Summit County Board of Equalization adjourned at 4:01 p.m.

## **WORK SESSION**

- **Council Mail Review**

Administration Office Manager Doreen Davis asked if the Council would be meeting on March 30. Council Member Hanrahan recalled that the County Council has a standing policy of not meeting on the fifth Wednesday when there is a fifth Wednesday in a month. The Council Members agreed that they would not meet on March 30.

## **DISMISS AS THE SUMMIT COUNTY COUNCIL AND CONVENE AS THE GOVERNING BOARD OF THE NORTH SUMMIT FIRE DISTRICT**

**Council Member Elliott made a motion to dismiss as the Summit County Council and to convene as the Governing Board of the North Summit Fire District. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.**

The meeting of the Governing Board of the North Summit Fire District convened at 4:05 p.m.

## **BOARD INTERVIEWS**

The Board Members interviewed the following candidates for openings on the North Summit Fire District Administrative Control Board:

Brett Jones

Mark Giauque

## **DISMISS AS THE GOVERNING BOARD OF THE NORTH SUMMIT FIRE DISTRICT AND RECONVENE AS THE SUMMIT COUNTY COUNCIL**

**Board Member McMullin made a motion to dismiss as the Governing Board of the North Summit Fire District. The motion was seconded by Board Member Elliott and passed unanimously, 5 to 0.**

The meeting of the Governing Board of the North Summit Fire District adjourned at 4:55 p.m.

## **REGULAR SESSION**

Chair Robinson called the regular meeting to order at 5:00 p.m.

- **Pledge of Allegiance**

### **ORDINANCE #753 COUNTY OPTION FUNDING FOR BOTANICAL, CULTURAL, RECREATIONAL, AND ZOOLOGICAL ORGANIZATION OR FACILITIES**

Council Member Ure asked how much money has been raised in the last 10 years. Council Member McMullin replied that it has been approximately \$10 million, or about \$1 million per year.

**Council Member Ure made a motion to adopt Ordinance #753 County Option Funding for botanical, cultural, recreational, and zoological organization or facilities. The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0**

### **RECONSIDERATION OF ORDINANCE #751 AMENDING THE WILDLAND/URBAN INTERFACE (FIRE) MAP AND EASTERN SUMMIT COUNTY DEVELOPMENT CODES**

Chair Robinson recalled that the Council approved this ordinance on January 12 in Council Member Ure's absence, and Council Member Ure has asked that this item be reconsidered.

Council Member Ure quoted from Planning Commissioner Tom Clyde's comments regarding the Wildland/Urban Interface (WUI) defining something in a different category than it really belongs in. He noted that Planning Commissioner Ken Henrie agreed with Commissioner Clyde's comments and further stated that there may be increased construction costs related to placing an area within the WUI zone and that there are still questionable areas on the map. Council Member Ure commented that the verbiage in the ordinance is not his concern, and in some areas he might be even stricter. His concerns relate to the map, because he believed some locations on the map do not need to be included in the WUI area, and there is enough protection for those areas due to the terrain. He explained that the map affects the economic value of properties, because it could cost between \$7,000 and \$15,000 more to build a home within the WUI. He requested the Council's support in allowing him to work with Fire Warden Bryce Boyer to review and refine the map. He indicated areas on the map that are of concern to him. He commented that the County has concerns about affordable housing, yet they are putting ordinances in place that make homes unaffordable.

Council Member Hanrahan explained that it does not matter whether an area within the WUI is a meadow or not if water is not available to it, and they have to have certain safety features in place. Council Member Ure stated that he spoke with Fire Warden Bryce Boyer, and he indicated that there are other mitigating factors, such as having a good road going into the property. Mr. Boyer clarified they still has to be a fire supply. If a property is not on a community supply, they must provide a fire supply. According to HB 308, up to a 5,000-square-foot home requires 15,000 gallons of capacity. Even if a property were removed from the WUI, that requirement would still have to be met. He explained that the County Code allows property owners to provide a suppression system and 5,000 gallons of fire supply. If they eliminate the

County Code requirements, they would become subject to HB 308 requirements. By requiring fire suppression systems, the County was able to reduce the amount of storage. Council Member Ure asked where the standard of 250 feet from the road came from. Mr. Boyer replied that is the NFPA standard for fire apparatus from the road to the house to be able to fight a fire.

Chair Robinson explained that he had similar concerns when the ordinance was adopted on January 12. It was explained in that meeting that the determination is made not just on fuel load, but also the ability to access the area. He recalled that Commissioner Clyde suggested that they have two categories for the WUI, but when Mr. Boyer explained that the Fire District has a lot of discretion in deciding which mitigation features are needed, he thought they had made a good case for adopting the map as it was presented. That was why he supported adopting the ordinance and the map. Council Member Ure asked how many people have come to the Council Members to ask them to pass a wildland fire suppression area to protect them.

Council Member Elliott stated that she had people ask her for that protection during the four years she served in emergency services, and she was inclined to support Staff's viewpoint on this issue. She acknowledged that Commissioner Ure is under a lot of pressure from constituents and that meeting the fire suppression requirements is expensive to the point of being onerous, but she believed Staff had done the best they could to be reasonable and make it as inexpensive as possible for people who want to build. At some point they need to protect people from themselves.

Chair Robinson stated that the issue is whether the Council wants to allow Council Member Ure to work with Mr. Boyer on this map. He asked if Mr. Boyer believes there are areas on the map on which he would be willing to compromise and if it could be improved by spending another week on it. Mr. Boyer stated that he believed they have the flexibility with the language in the Code to be reasonable in working with people who plan to build and that they have been and will continue to be reasonable with people. He believed the map was the simplest way for people to understand that they might have additional requirements, and he likes it the way it is. Chair Robinson suggested leaving the map as it is and using it for a year or two to see how it works. If they start to receive a lot of complaints, or it is being abused, they can always look at it again. Brett Jones with the North Summit Fire District explained that they are required to review the map every three years.

Council Member Elliott requested that people who contact Council Member Ure regarding this issue be asked to contact all the Council Members. She stated that she hears from people who want better fire protection and more stringent regulation and never hears from anyone who wants to be left alone.

Greg White stated that he has lived in Peoa for 40 years and has submitted a request to be excluded from the Wildland/Urban Interface zone. He noted that roads have been serviced over the years he has ranched his property that semi trucks use them daily. He believed there is sufficient access and availability to any site on his property, and he did not believe he needed to be in the WUI zone. Council Member Hanrahan asked about the practical impact on Mr. White and whether he would have to install anything additional. Mr. White stated that the practical impact is his perspective relative to the entire program. He believed this proposal was a well-crafted power grab on the part of the Fire Department that would place a burdensome, unnecessary layer of procedures, costs, and intrusions upon current and future landowners in the

developing eastern side of the County. He believed it was intended to sneak into the Summit County law and onto the backs of the unwilling County residents a hidden requirement for sprinkler systems in residential homes. He stated that the sprinkler system requirement was already excluded from the WUI code and the entire chapter several years ago and from other forms of State law throughout the entire Building Code. He believed imposing this requirement that is more restrictive than State law is suspect. Knowing that they have to adopt a WUI map to fulfill the obligation to the State, it seemed to be a stretch of logic to leap into adopting and applying rules and codes specifically intended for forested areas and extend them across the eastern side of Summit County. He did not see how they could make such an unfounded declaration. He believed there were already sufficient regulations in national, State, and County law to provide safety and the ability to construct and protect all residential homesites, whether they are within 250 feet of the road or further from the road. He stated that planning, zoning, building, health, fire, and engineering already have the rules necessary to build single-family residences anywhere on just about any buildable site in the County, and implementing a set of costly new building requirements, with the deciding factor being the 250-foot reach of a fire hose, is not really necessary. He noted that the County spends hundreds of thousands of dollars to purchase highly specialized off-road equipment, and he has seen that equipment farther than 250 feet from the road. If the County is concerned about mapping, he believed they could find a way to do it that is more representative and sensible and not so intrusive as the one being proposed.

Council Member Hanrahan commented that he understood from what was said earlier that this ordinance provides a less intrusive option than HB 308, which has more stringent requirements. He asked if a sprinkler system is required under this ordinance or if it is simply allowed as an option. Mr. Boyer replied that it is allowed as an option. The builder can either provide a sprinkler system or a tank. In areas where there is no community water system, both a tank and a suppression system are required due to the longer response time. He explained that a suppression system buys time for the Fire District to get to a structure fire.

Council Member Ure stated that he is not talking about areas that are definitely within the wildland fire suppression area, but borderline areas down in the meadows and flatlands. Mr. Boyer explained that, if there is a hydrant within 1,000 feet of a structure, the structure is not required to provide its own water supply. A structure either needs to have a community water supply or meet the 500 gallons for 30 minutes requirement. Chair Robinson verified with Mr. Boyer that, if a structure were within the WUI zone, but a hydrant was within 500 to 1,000 feet, a sprinkler system or water supply would not be required. Mr. Boyer explained that municipalities are exempted from these requirements, because they are incorporated, and he does not have jurisdiction over them.

Council Member Ure summarized that he would like to ask for a week or a period of time that would be acceptable to the Council to work with Mr. Boyer and whomever else may be involved to review and make adjustments to the map.

Council Member Hanrahan stated that he was uncomfortable with allowing one Council Member to sit down with Staff. He believed it would be one Council Member's opinion potentially impacting the choice of a map. It should either be done by all the Council Members together, or by someone who is not on the Council. Council Member Ure stated that he believed the Council process was skewed. He stated that numerous departments have come to the Council to ask them

to do certain things, and he would prefer that individual Council Members sponsor an ordinance like they do at the legislature. If an individual Council Member had an opportunity to meet with Staff and fine tune an ordinance and bring it to the Council, that Council Member could answer the other Council Members' questions.

Council Member McMullin agreed that individual Council Members bring a certain set of skills with them. She stated that Council Member Ure has strong opinions and knowledge in this area that are greater than hers, and she would not have a problem if he were to deal with issues like this hypothetically, but not necessarily in this case, since the Council already discussed and passed this ordinance two months ago. Council Member Hanrahan expressed concern that the Council Member who works on something would drive what comes forward, not Staff. He could foresee situations where Staff might not agree with the Council Member who proposes an ordinance, but the Council Member may push it forward anyway. Council Member Ure felt that those on the Council with a particular expertise or talent should push for ordinances that are in the best interests of the public like they do in the legislature. He stated that Staff does not represent the people, because they were not elected, and the elected officials should be proposing these ordinances.

County Manager Bob Jasper commented that this body is not a legislature or congress, it is a Council/Manager form of government. He expressed concern that Staff would be intimidated by the Council Members proposing ordinances, and if they choose to do so, he would sit in on the meetings with Staff. He stated that any Council Member could propose legislation, and he would be happy to help Staff work with them and bring it back to the Council. Chair Robinson stated that he has never had a desire to get involved in developing ordinances and would prefer to maintain his independence so he can look at ordinances with fresh eyes and not bias the outcome. He did not believe Council Member Ure would have taken on the task of rewriting the WUI ordinance, and it appeared that he was reacting to it, thinking it may have gone too far. He stated that any Council Member who wants to propose changes or new ordinances should have the right to do so.

**Council Member Elliott made a motion that the Council agrees that Ordinance 751 amending the Wildland/Urban Interface (fire) map and Eastern Summit County Development Code stand as approved with the caveat that anyone at any time can bring information to the Council. The motion was seconded by Council Member McMullin.**

Council Member Elliott commented that Staff has worked very hard with the Fire Districts, and she believed they have the best proposal they have seen fit to give to the Council. Chair Robinson suggested that Council Member Elliott make a motion to support the map as it is, and that the comment about bringing information to the Council at any time be a separate discussion.

**Council Member Elliott restated the motion to confirm the County Council's support for Ordinance 751. The restated motion was seconded by Council Member McMullin and passed by a vote of 4 to 1, with Council Members Elliott, Hanrahan, McMullin, and Robinson voting in favor of the motion, and Council Member Ure voting against the motion.**

Council Member Elliott suggested that any time Council Member Ure believes he has better information or could propose something better, he should bring it to the Council. She believed the ordinance is reasonable, allows discretion, and takes into account the capacity of the Fire Districts and their ability to serve.

### **APPROVAL OF MEETING MINUTES**

FEBRUARY 2, 2011

FEBRUARY 9, 2011

FEBRUARY 7, 2011

**Council Member Elliott made a motion to approve the meeting minutes of February 2, February 9, and February 7, 2011, as written. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0. Council Member Ure abstained from voting on the minutes of February 7 and February 9, as he was not in attendance at those meetings.**

### **ADVISE AND CONSENT OF MANAGER'S RECOMMENDATION FOR THE EASTERN SUMMIT COUNTY PLANNING COMMISSION**

Mr. Jasper requested the Council's consent to the reappointment of Chris Ure and Ken Henrie and the appointment of Shawn Wharton to the Eastern Summit County Planning Commission for three-year terms to expire in February 2014.

**Council Member Elliott made a motion to consent to the County Manager's proposal for appointments to the Eastern Summit County Planning Commission. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.**

### **MANAGER COMMENTS**

Mr. Jasper reported that he met with representatives of The Boyer Company, Redstone commercial developments, Fox Point homeowners association, Newpark homeowners association, and Newpark commercial association regarding changes to the noise ordinance, and they were able to reach a compromise. A new ordinance is being prepared for presentation to the Council for approval. Council Member McMullin asked if the ordinance would be applicable throughout the Snyderville Basin. Mr. Jasper replied that it is aimed at mixed-use development.

### **COUNCIL COMMENTS**

Council Member Ure stated that he would like to discuss with Mr. Jasper what the County is proposing to charge people who live along the Weber River to help cover the cost of repairing the river. Mr. Jasper explained that the consultant has recommended placing riprap in several places in the river. The Federal government will pay 75% of the cost, and the protected property owners will pay 25%. Council Member Ure stated that he has received telephone calls from a property owner whose share of the cost is \$50,000, and he claims he could do the whole job himself for \$25,000. Mr. Jasper explained that they have had problems along the river where people have done the work themselves which may have caused flooding on other people's parcels. The property owners would have to get permits, and the County is obtaining a permit to

work under specified conditions. If there is a less expensive way to do it, he would be willing to listen.

Council Member Elliott reported that she received a message from a constituent in Highland Estates who does not get good digital service. She sent him a letter asking for more information. County Engineer Derrick Radke also wrote a note telling him that the County is the franchiser, but they do not have much input. She requested that Mr. Jasper meet with Mr. Radke and discuss how to meet with the service providers to bring high-quality service to Summit County. Council Member Elliott also reported that she received a request from Cliff Blonquist asking her to try to get the Park City Lodging Association to brainstorm how to increase lodging business for the rodeo and County Fair.

Council Member Hanrahan clarified that he agreed with Council Member Ure that, as legislators, the Council Members should bring ordinances to the Council and work with Staff to do that. In this instance with the WUI, Staff had already brought a staff report that they were comfortable with and were asking for approval. He did not believe it would make sense at that point to have a Council Member work with Staff to change it and try to bring it back as a unified position. That was where he believed the process could become intimidating. He believed it would be appropriate for a Council Member to bring an alternative in front of the Council and defend it, and that process would cover the things they are concerned about.

## **PUBLIC INPUT**

Chair Robinson opened the public input.

There was not public input.

Chair Robinson closed the public input.

## **PUBLIC HEARING – DISCUSS AND POSSIBLE APPROVAL FOR A CONDITIONAL USE PERMIT, DEVELOPMENT AGREEMENT AMENDMENT, AND FINAL SUBDIVISION PLAT FOR THE CONSTRUCTION OF A THREE-LEVEL 354-STALL UNDERGROUND PARKING GARAGE BENEATH THE FORUM AREA OF THE CANYONS RESORT (BETWEEN THE SUNDIAL LODGE AND THE GRAND SUMMIT HOTEL)**

Principal Planner Adryan Slaght clarified that the County Council would only be approving the Development Agreement amendment. The Manager would review and approve the Subdivision Plat, and the Snyderville Basin Planning Commission has approved the Conditional Use Permit. He reported that it came to his attention just before the meeting that the Council cannot take action on this item without an ordinance, so they can hold the public hearing this evening and adopt the ordinance at their next meeting. Planner Slaght presented the staff report and provided background on The Canyons SPA. He explained that the land is owned by ASC Utah and Wolf Mountain Resorts, and ASCU has a ground lease on the property that allows them to use the site. The total affected parcels amount to approximately 21 acres. A Conditional Use Permit (CUP) is required for structures larger than 5,000 square feet, and the Planning Commission agreed with Staff's determination that this constitutes an increase in intensity of use from what was originally described in the SPA. Staff is requesting that the County Council amend the Development

Agreement to allow the structure to be constructed. The applicant would like to start construction in mid-April and have it covered by November. The applicant held a work session with the Snyderville Basin Planning Commission on February 22, and a public hearing was held on March 8. The CUP was approved by a vote of 7 to 0 with the findings and amended conditions in the staff report. The Final Subdivision Plat received a positive recommendation to the County Manager, and the Development Agreement amendment received a positive recommendation to the County Council. Notice was mailed to approximately 550 property owners within 1,000 feet of the property. Staff received comments prior to the public hearing on March 8 regarding construction mitigation, traffic impacts, and the construction and laydown area between Silverado Lodge and Red Pine Condominiums. Four members of the public spoke at the public hearing, representing the Osguthorpe family, Silverado, and Red Pine Condominiums, and the issues that arose were construction mitigation, traffic impacts, and status of the Lower Village Road and other developer obligations. Staff recommended that the Council evaluate the information provided by Staff and the applicant, conduct a public hearing, and continue this item to next week pending preparation of an ordinance to amend the Development Agreement.

Chair Robinson opened the public hearing.

There was no public comment.

Chair Robinson closed the public hearing.

Patrick Putt, representing the applicant, explained that they look at this less as an amendment and more as a clarification of their intent. He explained that the global principles in the SPA look at the resort core as being a very active, year-round place. This language will give them the ability to develop an underground parking structure, which they view as an important support to businesses in the resort core and après ski and après golf activity.

Chair Robinson asked what the applicant would do with the fill from construction of the garage. Tim Vetter, representing the applicant, explained that the majority of the fill would go directly from the construction site up to the golf course and onto the mountain. None of the fill would leave the resort, and they would minimize impacts to the roads. A small portion that would be used for backfill upon completion of the garage would be stored on an adjacent parcel. Chair Robinson asked how Mr. Tesch's concerns about the parcel opposite the Silverado would be addressed. Planner Slaght explained that they were incorporated into the conditions of approval for the CUP.

**Council Member Elliott made a motion to continue this item to March 16, 2011, pending an ordinance to amend the Development Agreement. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.**

**PUBLIC HEARING – ORDINANCE #754 POSSIBLE APPROVAL OF AN ORDINANCE VACATING A DEEDED PUBLIC ROAD RIGHT-OF-WAY LOCATED IN SECTION 33, T1S, R43, SLB&M. THE ROAD IS LOCATED SOUTHEAST OF OLD RANCH ROAD NEAR THE RANCH CREEK SUBDIVISION**

County Engineer Derrick Radke presented the staff report and indicated the location of the portion of the road the petitioner would like to vacate. He reported that the road does not appear on the Class D or Class B road maps, but it does appear on the 1955 USGS plot map. The road does not appear to directly access any public lands, open space, national forest, or BLM lands. He reviewed the Council's policies for vacating roads and explained that there are no legal standards that must be met, but the Council has adopted a policy to apply three tests when considering road vacations. He indicated parcels surrounding the applicant's parcel that appear to have no other access than the road in question. Based on the finding that this public right-of-way may be the only ingress and egress for some parcels, Staff recommended that the County Council deny the road vacation. He read into the record a letter from the Snyderville Basin Special Recreation District Trails Coordinator, which states that the road serves as access to public lands and uses as an informal but highly utilized trail connection between Park City and the Snyderville Basin. The letter reported that the Recreation District and other entities worked with a property owner northwest of this parcel to relocate a trail to preserve this connection, and both City and District funds were spent to construct that new trail on Park City open space. The Recreation District requested that, at a minimum, the standard trail easement be considered to provide public access through this corridor. If that is not possible, the District would support Staff's recommendation not to vacate the road. Mr. Radke also read into the record a letter from the Park City Municipal Trails Coordinator supporting Staff's recommendation to deny vacation of the road right-of-way. The letter stated that the road accesses public lands located within the County and Park City, is used as a recreational corridor and has been for many years, and its vacation would harm the public interest. It requested that they reserve a public, non-vehicular trail easement if the County decides to vacate the road. It also requested an opinion prior to Council action as to whether there has been a dedication by public use or prescriptive use.

Wade Budge, representing SK&M Investments, owners of the property where the road is located, stated that his clients purchased the property in 2005 with the hope of someday building a home on it. He stated that his clients are interested in understanding the interests of the community for use of the road. He explained that, shortly after purchasing the property, the owners posted signs along the trail indicating that they had no objection to non-motorized use of the road, recognizing that people use it for recreation. Their concern is that it not be used for motor vehicles, and during the time they have owned the property, they have not seen anyone use the road for access to their property. Mr. Budge noted that the plat shows a 50-foot road right-of-way, and the applicants have not seen anything constructed to that extent. They also want to vacate the road so that anyone who may want to develop the property in the future will know that this road has not been dedicated to the extent reflected on the plat. Mr. Budge stated that there was a transaction in 1968 in which the deed contemplated a 50-foot right-of-way would be granted and dedicated in the future to Summit County, but he has not seen any evidence that this occurred. The deed states that, "Any portion of the right-of-way not dedicated to Summit County for road purposes shall be returned to grantee herein." Mr. Budge explained that there is ongoing interest in preserving rights for public trail purposes for non-motorized vehicular use, but they are not interested in having anyone believe there ever was a right-of-way of the width described on the plat, and nothing was ever constructed to the width contemplated in the deed.

Chair Robinson opened the public hearing.

Randall Felter reported that his father-in-law has had a right-of-way to his property for over 30 years and has allowed some property owners along his right-of-way a permissive use of his road. He asked how the property owners would access their property if the road were vacated. He also expressed concern that the road on the applicant's property is the legal right-of-way for the properties to the south of that parcel.

Frank Corbett indicated the property he owns to the south of the SK&M property, which his family purchased more than 30 years ago. He stated that they have always known that the right-of-way existed, and they frequently visit their property in the summer. It was his understanding that, if this road were vacated, it would block access to their property and the other properties located to the south of the applicant's property and would land lock their parcels.

Jim Creel stated that he bought a 10-parcel in 1968 and showed the Council Members the original plot plan given to him by Bush & Gudgell with a 1968 date on it. He indicated that the document shows the right-of-way through the SK&M property. He stated that he purchased the property for his retirement, but if the County were to vacate the road, he would have no access to his property.

Bruce Krieger, a resident of Southlake, Texas, stated that he is here to defend his property. He provided photographs of the views from his property to establish its value and stated that he purchased his property in 1976. He recalled that no one knew much about Park City at that time, and the value of his property was reasonable, but that has now gone up dramatically due to the growth of the ski industry and the Olympics. He stated that his property would only be valuable if he has access to it, and he would be denied access to his property if this section of the road were vacated, which would harm him and the other people who own property in that area financially. He asked the Council to deny the vacation.

Dale Gardiner with VanCott, Bagley, Cornwall & McCarthy, stated that he represents Old Ranch Road Partners, LLC, and indicated the location of the parcel owned by his client. He agreed with the previous comments and noted that, if the County were to grant this road vacation, the only other way people could gain access would be to condemn property in another location, which would be expensive for Summit County and a problem for his client, because it would take out part of their property.

Steve Daniloff indicated the property owned by his family and stated that his parents purchased the property in the late 1960's. His mother passed away a few months ago and spent her last years in a nursing home, which depleted most of her assets. This property is their legacy from her, and its value would drop considerably without access on this road.

Paul Benson, a Realtor representing Park Meadows & Associates, which purchased the property as an investment many years ago, stated that he has been attempting to sell the property for the last two years but has been unable to do anything with the property, because they cannot prove access to the property. The property is valued at between \$695,000 and \$1.2 million, and the applicant made an offer to purchase the property for \$50,000 to get the current owners to walk away from the land. He believed this application had everything to do with trying to get rid of

the homeowners behind the applicant's property so a few homeowners can take advantage of the lack of access and pick up the properties for pennies on the dollar. He stated that his clients have tried to negotiate easements with the applicants for as high as \$300,000 and have been turned down. Then the applicants turned around and offered \$50,000 for their property. He stated that he is speaking on behalf of those homeowners who purchased their properties as an investment who would be greatly hurt by this road vacation.

Todd Wakefield stated that he represents several property owners whose lots would be landlocked if the road were vacated. He noted that he submitted a letter on behalf of his clients and stated that they agree with Staff's analysis and support their recommendation that the road vacation be denied. He noted that Staff indicated that there are essentially no criteria and that this is a discretionary issue, but he took issue with that. He believed that, because the Council has identified three criteria, failure to follow those criteria could potentially be challenged in District Court, and he believed it was important for the Council to follow the criteria. He noted that, although the road may not run all the way to the Round Valley open space and open lands, it is close enough that it is used regularly for access to those areas. Therefore, he believed the answer to the first criterion would be that there is a public purpose at issue. With regard to whether this road is the only means of access to other property along the road, the Council has heard from property owners this evening who have confirmed that to be the case. He believed there was a Federal and State takings issue, because there is ample case law supporting the proposition that government action to vacate a road or right-of-way that results in landlocking private property can constitute an inverse condemnation situation, and the County could be exposed to liability for just compensation. He noted that everyone who appeared before the Council this evening had notice of the existence of this right-of-way when they purchased their property. It would disappoint reasonable expectations of a number of property owners to vacate this road now, and it would result in a windfall to the petitioner. He stated that no public purpose would be served by vacating the road, and he urged the Council to accept Staff's recommendation to deny the petition.

Joe Wrona, representing SS Partners, stated that this is a case of the "haves" versus the "have-nots." He explained that SK&M already have access, and the people who are not speaking up already have access. But the other parcels would be landlocked and would become devalued to the point that they would have very little value, and the owners would have no interest in holding onto them. Some of the "haves" are interested in purchasing these properties cheaply, probably to increase the open space around their parcels. He reiterated the point that every property owner purchased their property with the awareness that this right-of-way was in place. He believed the Council should acknowledge that there are a lot of questions that remain to be answered, and he believed the prudent move would be to take no action. If the Council were to decide to vacate the road, it could inject the County into a dispute among the property owners. He recommended that the County take no action and remain on the sidelines, because there will likely be litigation among the property owners. He recommended that the Council deny the application and maintain the status quo.

Chair Robinson closed the public hearing.

Mr. Budge explained that, in his conversations with his clients, one of their questions was whether anyone else uses the right-of-way as their access. They walked the property and saw no evidence that anyone was using it for their access. He stated that his clients respect property

rights and instructed Mr. Budge that, if people came forward and said this was their only access, they would not cut it off. Mr. Budge requested that the Council accept the applicant's request to withdraw the petition. He did not want the Council to feel that they had wasted their time, because the applicants have been interested in identifying those who have an interest in the right-of-way. With this additional information, he would contact the people who have identified themselves, talk to them about what they understand to be the scope of this road, and handle it amongst themselves.

Chair Robinson asked about the legal distinction between the applicant withdrawing their request and the Council denying it. Mr. Thomas explained that, if the Council were to deny the request, the applicant would have the right to appeal that decision. However, they could also return in the future and again ask for a road vacation if they withdraw their application, so there would not be a significant difference. He saw no reason why the Council should not accept the applicant's request to withdraw and recommended that the Council honor that request.

Council Member Elliott stated that she would like a signed letter from both jurisdictions' trail providers that whatever they are able to work out comports with the trails master plan. She stated that she would like to deny the application.

Council Member Ure asked when a petitioner gives up his right to withdraw a petition and stated that he believed he should have the right to withdraw it anytime during the process. He believed that, once an applicant stated that he wanted to withdraw his petition, it is no longer in front of the Council. Mr. Thomas explained that the County has always respected an applicant's decision to withdraw. Since the process has come this far, the Council could make a decision, but he recommended that they allow the withdrawal.

Council Member McMullin stated that she would have no problem with withdrawal, but she would definitely deny the petition on the grounds that criteria 1 and 3 have not been met.

Council Member Elliott asked why the applicant brought this forward now rather than waiting until they have some use planned for the property. Mr. Budge explained that his clients wanted to have an understanding of the scope and who has an interest in the right-of-way.

Council Member Hanrahan stated that he is still in favor of denying the application. If the applicant were to ever come back and take legal issue that this was ever a public right-of-way, he believed the decision to deny this petition might be of some value. Mr. Thomas replied that it would in that it would force the petitioner to sue the County in order to pursue his quiet title action. He would only have 30 days to contest a denial to determine who really owns the right-of-way. He suggested that the Council accept the withdrawal and let the parties work this out amongst themselves to see if they can come up with a solution.

Chair Robinson asked why the applicant wishes to withdraw. Mr. Budge replied that they may not want to fight. They want to understand what people's ideas are about the right-of-way and whether anyone uses it as their sole access. He can now report to his client what he has heard, and they could decide to let the existing uses continue. If they withdraw, they do not have to take any legal action and can engage in discussions and evaluate their options.

**Council Member Hanrahan made a motion to deny the petition to vacate a deeded public road right-of-way located in Section 33, T1S, R4E, SLB&M. The motion was seconded by Council Member Elliott.**

Council Member Ure commented that he believes in taking a person at his word, and if they want to withdraw a petition, he believed they should have an opportunity to do so. He would vote against the motion, not because of the road vacation issue, but because he believes the applicant should have the right to withdraw his application. Council Member Hanrahan responded that they have heard that the applicant offered \$50,000 for a \$700,000 piece of property to walk away, and he was not convinced this was on the up and up.

**The motion failed by a vote of 2 to 3, with Council Members Elliott and Hanrahan voting in favor of the motion and Council Members McMullin, Robinson, and Ure voting against the motion.**

Chair Robinson accepted the applicant's request to withdraw his application.

The County Council meeting adjourned at 7:15 p.m.

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*Council Chair*, Chris Robinson

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*County Clerk*, Kent Jones

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# MINUTES

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**SUMMIT COUNTY**  
BOARD OF COUNTY COUNCIL  
WEDNESDAY, MARCH 16, 2011  
SHELDON RICHINS BUILDING  
PARK CITY, UTAH

**PRESENT:**

**Chris Robinson**, *Council Chair*  
**David Ure**, *Council Vice-Chair*  
**Sally Elliott**, *Council Member*  
**John Hanrahan**, *Council Member*  
**Claudia McMullin**, *Council Member*

**Robert Jasper**, *Manager*  
**Anita Lewis**, *Assistant Manager*  
**Dave Thomas**, *Deputy Attorney*  
**Doreen Davis**, *Office Manager*  
**Karen McLaws**, *Secretary*

**CLOSED SESSION**

**Council Member Hanrahan made a motion to convene in closed session for the purpose of discussing personnel. The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 1:25 p.m. to 1:30 p.m. to discuss personnel. Those in attendance were:

**Chris Robinson**, *Council Chair*  
**David Ure**, *Council Vice-Chair*  
**Sally Elliott**, *Council Member*  
**John Hanrahan**, *Council Member*  
**Claudia McMullin**, *Council Member*

**Robert Jasper**, *Manager*  
**Anita Lewis**, *Assistant Manager*

**Council Member Elliott made a motion to dismiss from closed session to discuss personnel and to convene in closed session to discuss property acquisition. The motion was seconded by Council Member Ure and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 1:30 p.m. to 1:50 p.m. to discuss property acquisition. Those in attendance were:

**Chris Robinson**, *Council Chair*  
**David Ure**, *Council Vice-Chair*  
**Sally Elliott**, *Council Member*  
**John Hanrahan**, *Council Member*  
**Claudia McMullin**, *Council Member*

**Robert Jasper**, *Manager*  
**Anita Lewis**, *Assistant Manager*

**Council Member Elliott made a motion to dismiss from closed session and to conduct interviews for the Snyderville Basin Planning Commission. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.**

**BOARD INTERVIEWS – SNYDERVILLE BASIN PLANNING COMMISSION**

The County Council interviewed the following applicants for vacancies on the Snyderville Basin Planning Commission:

- Stephen Peterson
- Annette Velarde
- Colin DeFord
- Bruce Taylor
- David Kottler
- Stephen Dowling
- Chuck Klingenstein
- Greg Lawson
- Mike Kelly Franklin
- Timothy Fehr
- Terry Kutzbach

Interview questions included why the applicants want to serve on the Planning Commission, whether they can meet the time commitment, how their prior experience would be an asset to the Planning Commission, their opinion of the main issues currently facing the Planning Commission and the community, whether they have attended Planning Commission meetings, whether they have a specific agenda they would bring to a position on the Planning Commission, what kind of relationship they would have with Staff and the other Commissioners, what skills they would bring to the position and whether they believe a certain viewpoint or skill set is missing on the Planning Commission, whether they have any conflicts of interest, whether they could make an independent judgment on applications in the area where they live, and goals they would like to accomplish as a Planning Commissioner.

The Council Members discussed with Deputy County Attorney Dave Thomas the eligibility requirements for service on the Snyderville Basin Planning Commission. Mr. Thomas explained that a Planning Commissioner must either live in the unincorporated County within the Snyderville Basin Planning District, or they can live in Park City if they own property in the unincorporated Snyderville Basin Planning District. Only one of the seven Planning Commissioners can live in the incorporated city and have property in the unincorporated planning area.

**CLOSED SESSION**

**Council Member Elliott made a motion to convene in closed session to discuss personnel. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.**

The Summit County Council met in closed session from 5:05 p.m. to 5:25 p.m. to discuss personnel. Those in attendance were:

**Chris Robinson**, *Council Chair*  
**David Ure**, *Council Vice-Chair*  
**Sally Elliott**, *Council Member*  
**John Hanrahan**, *Council Member*  
**Claudia McMullin**, *Council Member*

**Council Member Hanrahan made a motion to dismiss from closed session and to convene in work session. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.**

## **WORK SESSION**

Chair Robinson called the work session to order at 5:30 p.m.

- **Council Mail Review**

Administration Office Manager Doreen Davis confirmed with the Council Members that the April 6 meeting will be held at the Richins Building, the April 13 meeting has been cancelled, the April 20 meeting will be held at the Richins Building, and the April 27 meeting will be held in Coalville.

- **Primary Residency Status for 2010**

Chair Robinson reviewed the grounds on which an appeal of application for primary residency status can be granted. Mr. Thomas clarified that the question is how late a person could file an appeal for the 2010 tax year. Generally speaking, the property owner must file within 2010, but a provision in the Tax Commission rules allows a late filing under certain circumstances until March 31, 2011. He reviewed the circumstances under which a person could file by March 31, 2011. One of those circumstances relates to an error in classification, which includes property tax exemptions and would include the primary tax exemption. Chair Robinson asked how the “close of the Board of Equalization” is defined, noting that the Board of Equalization has been kept open for 2010 while waiting for the Tax Commission’s decision in the USSA appeal for 2009. Mr. Thomas clarified that it would apply to appeals filed for a tax year in which the Treasurer has not made a final annual settlement under Utah Code, which is the March 31 date. Council Member Elliott verified with Mr. Thomas that nothing can be done about the years 2008 and 2009. Mr. Thomas further explained that the standard is higher under this provision for late appeals, and the applicant must provide clear and convincing evidence.

With regard to Parcel NBF-68, Stacy Street explained that she purchased her home in November 2008 as low-income housing through Mountainlands Community Housing Trust and Rural Housing Development. Once she was approved for the low-income housing, a representative of Rural Housing Development completed the paperwork and told her what her house payment and tax payment would be, but there was no further explanation. Although her tax statement said non-primary, this is the first time she has owned a home, and she had not received a clear explanation of what that meant. She paid to have her taxes done this year, and her tax advisor told her she was paying too much in taxes. She stated that it was not until that moment that she knew what was happening.

Council Member McMullin swore in Stacy Street to give testimony. Ms. Street swore under oath that the home in question is her only residence and her only home and that she lived in that residence for at least six months during 2010.

The Council Members confirmed with Mr. Thomas that there is no way that they can do anything to help Ms. Street for the 2008 and 2009 tax years. Council Member Hanrahan requested that someone make it clear to Mountainlands Community Housing Trust how to complete the paperwork properly in the future. Mr. Jasper offered to visit with them. Council Member Hanrahan further stated that, if this happens again, he would not be willing to provide Mountainlands with further County funding. Council Member McMullin stated that, if there is any way they could get Ms. Street relief for 2008 and 2009, she would like to do it, because this was a third party that did not properly handle the transaction, and someone living in low-income housing cannot afford to pay for someone else's mistake and overpay their taxes. Council Member Elliott stated that there have been multiple discussions with the Assessor's Office about how to make the tax form easier for people to understand and to make it clear if a residence is listed as primary or non-primary. She would like to see a better job done in the future.

With regard to Parcel CCR-29, Dawn Louchheim reported that she has provided documentation showing that their home is a primary residence. She explained that she noticed the value on their first tax statement but did not notice the non-primary classification until she received a notice from their mortgage company saying that they owed back taxes. County Assessor Steve Martin has provided her with documentation that from 2011 forward their residence is classified as a primary residence, and she is applying for relief for 2010. Council Member McMullin swore in Dawn Louchheim to give testimony. Ms. Louchheim swore under oath that their residence at 2008 Paddington Drive is their primary residence, that it was their primary residence during 2010, and that she lived there for at least six months in 2010.

Steve Preston, legal counsel for the Louchheims, reported that he spoke with Mr. Thomas yesterday and explained their rationale for the March 31 deadline. Mr. Preston suggested that the Council might want to amend the ordinance to make it possible to accept a late appeal. Mr. Martin asked if the ordinance should be changed to extend the deadline from May 22 of the tax year to March 31 of the following year. Mr. Thomas replied that there are only certain circumstances under which the March 31 date applies, and they should not change the ordinance.

## **REGULAR MEETING**

Chair Robinson called the regular meeting to order at 5:55 p.m.

- **Pledge of Allegiance**

## **CONSIDERATION OF APPROVAL OF MEETING MINUTES**

FEBRUARY 16, 2011

**Council Member Elliott made a motion to approve the County Council meeting minutes for February 16, 2011, as written. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.**

**CONTINUED—POSSIBLE APPROVAL OF ORDINANCE #754 AMENDING THE CANYONS DEVELOPMENT AGREEMENT TO ALLOW THE CONSTRUCTION OF A THREE-LEVEL UNDERGROUND PARKING GARAGE BENEATH THE FORUM AREA OF THE CANYONS RESORT**

Council Member Elliott made a motion to adopt Ordinance #754 as proposed in the staff report dated March 3, 2011. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

**PUBLIC INPUT**

Chair Robinson opened the public input.

There was no public input.

Chair Robinson closed the public input.

**CONVENE AS THE GOVERNING BOARD OF THE NORTH SUMMIT FIRE DISTRICT**

Council Member Elliott made a motion to convene as the Governing Board of the North Summit Fire District. The motion was seconded by Council Member Hanrahan and passed unanimously, 5 to 0.

The meeting of the Governing Board of the North Summit Fire District convened at 5:59 p.m.

**APPOINTMENT OF BOARD MEMBERS**

Board Member Elliott made a motion to appoint Brett Jones and Mark Robertson to the North Summit Fire District for the specified term. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

**DISMISS AS THE GOVERNING BOARD OF THE NORTH SUMMIT FIRE DISTRICT AND RECONVENE AS THE SUMMIT COUNTY COUNCIL**

Board Member Elliott made a motion to dismiss as the Governing Board of the North Summit Fire District and to reconvene as the Summit County Council. The motion was seconded by Board Member Ure and passed unanimously, 5 to 0.

The meeting of the Governing Board of the North Summit Fire District adjourned at 6:00 p.m.

**MANAGER'S REPORT**

Mr. Jasper recalled that the Council has discussed transfer of development rights and identification of potential receiving areas for growth. Based on those discussions, he issued requests for proposal and has a firm he is ready to accept. However, he thought the money for this was in his budget or the Council's budget, but it is not. He explained that there is money in the Council's contingency fund that could be used, and the cost of the proposal would be about

\$50,000. He stated that he would like to move ahead with this, but he does not have appropriation authority. Chair Robinson asked if the study would be site specific, and Mr. Jasper replied that it would not be. Chair Robinson asked if the program would be generic in nature, and Mr. Jasper replied that it would be both. They would identify areas for growth through the Development Code and planning process, but if they do not have areas in mind, they probably should not do the study. There are two separate processes that would have to dovetail. Chair Robinson asked how much money is in the Council's contingency fund. Mr. Jasper replied that there is \$100,000 in the Council contingency fund. Council Member McMullin stated that she would like to see the RFP before she would be willing to commit money from the contingency fund for the study.

### **COUNCIL COMMENTS**

Council Member McMullin stated that she received a telephone call from Bruce Margolius complaining about her serving on a subcommittee to review the Animal Control Ordinance given her position as Executive Director of Friends of Animals. She stated that she has no interest in serving on a subcommittee if there is an appearance of impropriety. Therefore, she will not serve on the subcommittee. She stated that she offered to be on the subcommittee as a County Council Member with a particular interest in that area, but she would be willing to not serve on the subcommittee and just give input when the proposed changes come before the Council. Chair Robinson stated that, as far as he is concerned, it would be fine if Council Member McMullin wants to continue on that subcommittee if she would like to. The other Council Members agreed. Council Member Hanrahan commented that everyone on the Council has various areas of expertise, and he did not believe they should have to recuse themselves from working on something on which they have expertise so long as they have nothing to gain materially or financially. He believed Council Member McMullin should stay on the subcommittee as a proactive statement that this is not a conflict of interest or a problem.

Council Member Elliott reported that she attended the Peace House Board, and she reported to Assistant Manager Anita Lewis that they are not accepting used items other than blue jeans on an as-needed basis. The North Summit Seniors might want to register with them, and if they have a sudden need, the seniors could go out and gather the items. Council Member Elliott also reported that she went to an affordable housing meeting at the Board of Realtors. Rose Stauffer offered to compile some new information for the Planning Commission when considering the needs assessment. Council Member Elliott reported that she would testify on March 17 at the ASCU versus Wolf Mountain trial.

Council Member Hanrahan noted that UAC sent an e-mail indicating they would be coming on March 24 to meet with the Council so the Council could inform them of any issues or areas of concern. He reported that he could not attend that meeting.

Chair Robinson noted that the Council received an e-mail from Sarah Wright at Utah Clean Energy asking Summit County to join with other interested counties in sending a letter to the Congressional delegation encouraging them to vote against budgetary measures that would remove funding for alternative and clean energy. The Council Members indicated that they would have no problem with doing that. Chair Robinson recalled that the Council decided not to meet on March 30, but they will be meeting to do tax exemptions for the non-profit organizations. He asked if the Council Members want other items on the agenda. Council

Member Hanrahan stated that he would like to do the annual review of the CORE Rezone Ordinance and asked if they were planning to wait for the Planning Commission to sign off on and send the needs assessment to the Council before they hold a work session on that topic or review the CORE Rezone. Council Member Elliott stated that she would prefer to have a work session after the Planning Commission makes a recommendation to the Council. Chair Robinson asked how long it would take to review the Board of Equalization cases. Mr. Thomas replied that they should be able to go through them fairly quickly. Ms. Lewis stated that it should take about 30 minutes total to review the cases. Chair Robinson stated that he would not want to meet for just 30 minutes and suggested that they schedule that item for April 6.

Chair Robinson reported that he and Council Member Ure received a telephone call from Jake Anderegg, Senator Mike Lee's northern Utah liaison to counties. He would like the Senator to come up and see how he can meet Summit County's needs.

### **PUBLIC INPUT – (Continued)**

Chair Robinson re-opened the public input.

Chris Hague commented that he sent an e-mail to the Council on March 15 concerning the CORE Rezone, and now he has heard that they are going to hold their annual meeting concerning the CORE Rezone. He recommended that the County Council instruct the Planning Commission to not take any action on the CORE. He believed the Planning Commission seems to be confused. They started out with the Weilenmann project applying a 2006 needs assessment. Then they got a 2010 needs assessment, which has never been adopted, and then they went back to the 2006 needs assessment. At the last public hearing on the Weilenmann proposal, they said they would apply the 2006 needs assessment. Now there is a public notice that the Planning Commission will discuss adopting a needs assessment at their next meeting, without saying what year. He stated that is confusing the public as to what is going on.

Chair Robinson explained that the Planning Commission will recommend a new needs assessment to the Council, which is the 2010 assessment based on data from 2009, and they have been waiting for months to see it. The Council wants the Planning Commission to approve it first, which should happen next week, and then it will come to the County Council for their thorough consideration. At that time, they will also review the CORE Rezone ordinance, and they have been waiting to do that review until they have the new needs assessment recommended by the Planning Commission.

Mr. Hague suggested that the Council wait until they have all the information from the 2010 Census before doing anything on the needs assessment, because that could change everything. He also stated that he understood that the recent legislature adopted legislation with regard to townships, which could have a substantial effect on whether or not the County Council wants to continue with two separate planning commissions. Chair Robinson explained that HB 434 is a corrective measure; it did not create the requirement to elect members of township planning commissions. It clarifies what was an open-ended requirement in the past and now gives a date certain that, by the end of December 2011, the County must have passed an ordinance that identifies how they will go about complying with that law. By the election of 2012, if the County chooses a method that makes it necessary to elect planning commissioners for townships, the Council will hold an election for those planning commissioners. The Council will take its

time for plenty of public input before doing anything to alter the planning commissions or attempt to comply with HB 434.

Chair Robinson closed the public input.

The County Council meeting adjourned at 6:30 p.m.

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***Council Chair***, Chris Robinson

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***County Clerk***, Kent Jones

DAVID R. BRICKEY  
COUNTY ATTORNEY



Criminal Division

JOY NATALE  
Prosecuting Attorney

RYAN P.C. STACK  
Prosecuting Attorney

Summit County Courthouse • 60 N. Main • P.O. Box 128 • Coalville, Utah 84017  
Telephone (435) 3363206 Facsimile (435) 336-3287  
email: (first initial)(last name)@co.summit.ut.us

Civil Division

DAVID L. THOMAS  
Chief Deputy

JAMI R. BRACKIN  
Deputy County Attorney

HELENE. STRACHAN  
Deputy County Attorney

**To: Summit County Council**

**From: Helen Strachan**

**Date: April 6, 2011**

**Re: Public Hearing on Noise Ordinance**

Please find attached the latest draft of the proposed amendments to the Summit County Noise Ordinance. You will recall that on February 16, 2011, the Summit County Council had a public hearing on the proposed changes to the Ordinance. The public, mostly from the Newpark and Redstone areas of Kimball Junction, expressed their concerns over the proposed changes to the provision relating to the unloading and loading of boxes. These proposed changes have been discussed at length in prior staff reports and prior public meetings and will not be addressed herein. At the conclusion of the public hearing, the Council directed County Manager, Bob Jasper, and staff to facilitate a meeting with those representing business owners and vendors in the Newpark/Redstone Area and those representing the homeowner associations in those areas. Staff and Mr. Jasper have since met with those interested parties and reached a compromise of sorts, relating to this controversial provision.

Here is a quick summary of the major proposed amendments:

- Jurisdiction shall remain with the Community Development Department and the Sheriff's Office.
- Loading and unloading of boxes, etc. shall be prohibited between the hours of 10 pm and 6 am. (rather than 9 pm and 7 am) in all zones. Staff is no longer proposing that all commercial or mixed use zones shall be exempt from this requirement. We have added proposed language exempting July 4<sup>th</sup>, the week between Christmas and New Year's, the Sundance Film Festival, and the Park City Arts Festival from this regulation as those are dates that business owners and vendors feel the time restrictions will likely be rather burdensome. We have also added a provision that Summit County may issue a permit, which specifically exempts a party from abiding by this provision.
- Snow removal and medical helicopters are now exempt as a noise prohibition.

In our meeting, we also discussed the process that the Redstone / Newpark residents will use to address complaints. That is, residences will be encouraged through their respective HOAs to submit initial concerns to the respective Property Management Companies. It is the hope of all parties involved that this initial procedure will solve the majority of problems without the necessity of involving the County and law enforcement. The proposed amendments stem from issues arising out of the Redstone/Newpark area, which is why staff, Mr. Jasper, and the Council have focused on this region. However, please bear in mind that the Noise Ordinance as it exists and as amended is an ordinance of general applicability throughout Summit County and shall apply with equal force and effect in all of unincorporated Summit County. It is therefore best that this informal arrangement not be mentioned in the Ordinance itself, but rather noted on the record.

Staff recommends that the Council conduct a public hearing and approval the proposed changes to the Summit County Noise Ordinance.

**SUMMIT COUNTY ORDINANCE # 316-B**

**AN ORDINANCE TO AMEND TITLE 5, SECTION 3 OF THE SUMMIT  
COUNTY CODE RELATING TO NOISE**

**THE COUNTY COUNCIL OF SUMMIT COUNTY, STATE OF UTAH,  
ORDAINS AS FOLLOWS:**

**SECTION**

- 5-3-1 Intent**
- 5-3-2 Jurisdiction**
- 5-3-3 Administration**
- 5-3-4 Definitions**
- 5-3-5 Compliance Requirement**
- 5-3-6 Emergency Orders**
- 5-3-7 Sound Level; Measurement Method**
- 5-3-8 General Prohibition of Noise**
- 5-3-9 Specific Noise Prohibitions**
- 5-3-10 Motor Vehicle Noise**
- 5-3-11 Noise Levels**
- 5-3-12 Exemptions**
- 5-3-13 Relief from Restrictions**
- 5-3-14 Enforcement**
- 5-3-15 Penalty**

**5-3-1: INTENT:**

These regulations are intended to establish minimum standards to:

- A. Reduce the making and creation of excessive, unnecessary or unusually loud noises within the limits of Summit County, Utah;
- B. Prevent the making, creation, or maintenance of such excessive, unnecessary, or unusually loud noises that are prolonged, unusual, or unreasonable in their time, place, or use that affect and are a detriment to public health, comfort, convenience, safety, or welfare of the residents of the county; and
- C. Secure and promote the public health, comfort, convenience, safety, welfare, and the peace and quiet of the residents of the county.

**5-3-2: JURISDICTION:**

All noise control in this chapter shall be subject to the direction and control of the Summit County Sheriff's Office, the Summit County Community Development Department, and the County Manager.

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**5-3-3: ADMINISTRATION:**

The Summit County Sheriff's Office and the Summit County Community Development Department shall be responsible for the administration of these rules and regulations and any other powers vested in it by law and shall make inspections of any premises and issue orders as necessary to effect the purpose of these regulations; and do any and all acts permitted by law that are necessary for the successful enforcement of these regulations.

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**5-3-4: DEFINITIONS:**

For purposes of these regulations, unless otherwise defined in other sections of these regulations, the following terms, phrases, and words shall have the meanings herein given:

A-WEIGHTED SOUND PRESSURE LEVEL: The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is "dB(A)" or "dBA".

**CONTINUOUS SOUND:** Any sound that exists, essentially without interruption, for a period of ten (10) minutes or more.

**CYCLICALLY VARYING NOISE:** Any sound that varies in sound level so that the same level is obtained repetitively at reasonably uniform levels of time.

**DEVICE:** Any mechanism that is intended to produce, or that actually produces, noise when operated or handled.

**DYNAMIC BRAKING DEVICE:** A device used primarily on a truck for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes, commonly referred to as "jacob's brake" or "jake brake".

**EMERGENCY:** A situation or occurrence which, in the opinion of the county manager, county sheriff, county building official, or county engineer, presents an imminent threat to the health, safety or welfare of any person, place, or property.

**EMERGENCY VEHICLE:** A motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

**EMERGENCY WORK:** Work required to restore property to a safe condition following a

public calamity or to protect persons or property from an imminent exposure to danger.

**IMPULSIVE NOISE:** A noise containing intermittent sounds usually less than one second.

**MOTOR VEHICLE:** Any vehicle that is self-propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, motorcycles, minibikes, go-carts, snowmobiles, and racing vehicles.

**MUFFLER:** An apparatus consisting of a series of chambers or baffle plates designed to transmit gases while reducing sound.

**NOISE:** Any unusual or unreasonable sound that is unwanted and causes or tends to cause an adverse psychological or physiological effect on a reasonable person

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**NOISE DISTURBANCE:** Any unusual or unreasonable sound that annoys or disturbs a reasonable person with normal sensitivities or that injures or endangers the comfort, repose, health, hearing, peace, or safety of a reasonable person.

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**PLAINLY AUDIBLE NOISE:** Any noise for which the information content of that noise is unambiguously transferred to the listener, including, but not limited to, the understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

**PROPERTY BOUNDARY:** An imaginary line at the ground surface, and its vertical extension that separates the real property owned by one person from that owned by another person.

**SOUND:** A temporal and spatial oscillation in pressure, or other physical quantity with interval forces that cause compression or rarefaction of the medium and that propagates at finite speed to distant points.

**STATIONARY NOISE SOURCE:** Any device, fixed or movable, that is located or used on property other than a public right of way.

**5-3-5: COMPLIANCE REQUIREMENT:**

It shall be unlawful for any person not to comply with any rules or regulations promulgated by this chapter, unless expressly waived by these rules and regulations.

**5-3-6: EMERGENCY ORDERS:**

Whenever the County Sheriff, County Community Development Director, County Manager or their official designees find that an emergency exists requiring immediate action to protect the public health, safety, or well being of the public, one or all of the following actions may be taken:

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A. Suspension Of Rules By Officials: In time of a public calamity or disaster, emergency suspension of these rules and regulations may be ordered for the duration of seventy two (72) hours, at which time the incident will be assessed and further suspension of these rules ended or extended.

B. Individuals To Apply For Emergency Exemption: An individual may apply for emergency exemption to these rules and regulations based on good and reasonable cause due to emergency circumstances. See definitions section of this chapter.

**5-3-7: SOUND LEVEL; MEASUREMENT METHOD:**

Sound level measurements shall be made with a sound level meter using the A-weighting scale, in accordance with standards promulgated by the American National Standards Institute or other reasonable standards adopted and tested by the Summit County Health Department.

**5-3-8: GENERAL PROHIBITION OF NOISE:**

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In addition to the specific noise prohibitions outlined in this chapter, it shall be unlawful for any person to produce, continue or cause to be produced or continued, any "noise disturbance" within the limits of Summit County, as defined in this chapter.

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**5-3-9: SPECIFIC NOISE PROHIBITIONS:**

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The following acts are declared to be in violation of these rules and regulations:

A. Horns And Signaling Devices: The sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle, or other within the county, except as a danger warning signal as provided in the vehicle code of the state of Utah.

B. Radios, Television Sets, Tape Players, Compact Disc Players, Musical Instruments, And Similar Devices: Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device for the production or reproduction of sound between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. Monday through Saturday and before nine o'clock (9:00) A.M. on Sunday in a way that is plainly audible beyond the property boundary of the sources.

C. Public Loudspeakers: The use or operation of a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any vehicle in or upon any street, alley, sidewalk, park, place, or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons in violation of section 5-3-11 of this chapter, unless a grant of relief has been issued by the county manager under section 5-3-13 of this chapter.

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D. Hawkers And Peddlers: Selling anything by outcry within any area of the county in such a manner as to violate section 5-3-11 of this chapter.

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E. Animals: Owning, keeping, possessing or harboring any animal or animals that, by frequent habitual noisemaking, violates section 5-3-11 of this chapter. The provision of this section shall apply to all private and public facilities, including any animal facilities that hold or treat animals.

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F. Loading Operations: Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers, or other objects between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M.

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This section shall not apply on the following dates or during the following times: 1) on July 4<sup>th</sup> of each year; 2) between Christmas Eve and New Year's Day; 3) during the dates associated with the regularly scheduled Sundance Film Festival; and 4) during the dates associated with the regularly scheduled Park City Arts Festival. In addition, this section shall not apply if specifically exempt through a permit issued by Summit County.

G. Construction Work: In a residential zone, it shall be unlawful for any person to perform or cause to be performed, any construction work on any construction site under his control or at which he is employed between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. of the following day, or before nine o'clock (9:00) A.M. on Sundays. The county building official or county engineer may authorize extended hours for construction operations or procedures which, by their nature, require continuous operations, or modify or waive the hours of work for or on projects in generally isolated areas where the extended hours do not impact upon adjoining property occupants.

H. Fireworks Or Explosives: The use of explosives, fireworks, discharge guns, or other explosive devices that are audible across a property boundary, public space, or right of way without first obtaining relief from such restrictions as provided by section 5-3-13 of this chapter. This provision shall not be construed to permit activities prohibited by other statutes, ordinances or regulations governing such activity.

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I. Liquor Licensed Premises:

1. Failure To Control Noise: Permitting or providing either live or recorded amplified music without first having closed all exterior doors and windows of the liquor licensed premises to control noise. Doors may be opened to provide ingress and egress, but shall not be blocked in the open position to provide ventilation. Doors shall be equipped with automatic closing devices to keep them in the closed position except to permit ingress and egress of patrons.

2. Outdoor Speakers: Permitting or causing to exist any loudspeaker or sound amplification equipment on any outdoor balcony, deck, patio or garden associated with the licensed premises other than speaker systems or sound amplification equipment in conjunction with approved outdoor dining, which music is limited to eleven o'clock (11:00) A.M. to eleven o'clock (11:00) P.M. and may not emanate beyond the boundaries of the outdoor dining area.

J. Racing Events: Permitting any motor vehicle racing event at any place in violation of section 5-3-11 of this chapter, without first obtaining relief from such restrictions as provided by section 5-3-13 of this chapter.

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K. Powered Model Mechanical Devices: Flying a model aircraft powered by internal combustion engines, whether tethered or not, or the firing or the operation of model rocket vehicles or other similar noise producing devices, between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. or in such a way as to violate section 5-3-11 of this chapter.

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L. Dynamic Braking Devices: Operating any motor vehicle in a residential zone with a dynamic braking device engaged, except to avoid imminent danger, during the following hours: nine o'clock (9:00) P.M. to seven o'clock (7:00) A.M., Monday through Saturday, and eleven o'clock (11:00) P.M. through nine o'clock (9:00) A.M. on Sundays.

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M. Defect In Vehicle: Operating or permitting the operation or use of any truck, automobile, motorcycle, or other motor vehicle because of disrepair or mode of operation violating section 5-3-11 of this chapter.

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N. Garbage Collection: Collecting garbage, waste or refuse between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. in any area zoned residential or within three hundred feet (300') of an area zoned residential.

O. Standing Motor Vehicles: Operating, causing or permitting the operation of any motor vehicle or any auxiliary equipment attached thereto either in violation of section 5-3-11 of this chapter, or in such a way as to cause a disturbance in a residential zone for a consecutive period of fifteen (15) minutes or longer.

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P. Bells And Alarms: Sounding, operating or permitting the sounding or operation of an electronically amplified operation of an electronically amplified signal from any burglar alarm, bell, chime or clock, including, but not limited to, bells, chimes, or clocks in schools, houses of religious worship, or governmental buildings that fail to meet the standards in section 5-3-11 of this chapter for longer than five (5) minutes in any hour.

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Q. Fixed Siren, Whistles And Horns: Sounding or causing the sounding of any whistle, horn or siren as a signal for commencing or suspending work or for any other purpose in violation of section 5-3-11 of this chapter, except as a sound signal of imminent danger.

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R. Domestic Power Equipment: Operating or permitting the operation of any power equipment in residential or commercial zones, including, but not limited to, power saw, sander, lawn mower, or garden equipment for home or building repair or ground maintenance outdoors between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. of the following day and before nine o'clock (9:00) A.M. on Sunday.

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**5-3-10: MOTOR VEHICLE NOISE:**

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No person shall operate or cause to be operated any motor vehicle unless the exhaust

system is free from defects that affect sound reduction, equipped with a muffler or other noise dissipative device, and not equipped with any cutout, bypass or similar device.

**5-3-11: NOISE LEVELS:**

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The making and/or creating of excessive or unusually loud noise or sound within the county as identified in subsection A of this section, or identified and measured in the manner prescribed in subsection B of this section, or in violation of restricted hours as outlined in subsection C of this section is unlawful.

- A. On the public right of way or upon public property, from the source or device as to be plainly audible at a distance of fifty feet (50') or on private property, as to be plainly audible at the property line.
- B. The noise shall be measured at a distance of at least twenty five feet (25') from the source or the device upon public property or within the public right of way or twenty five feet (25') from the property line if upon private property, and shall be measured on a decibel or sound level meter of standard design and quality operated on the "A" weighing scale. A measurement of sixty five (65) decibels shall be considered to be excessive and unusually loud.
- C. Hours of restriction are as follows: nine o'clock (9:00) P.M. to seven o'clock (7:00) A.M., Monday through Saturday, not before nine o'clock (9:00) A.M. Sunday.

**5-3-12: EXEMPTIONS:**

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The following uses and activities shall be exempt from this chapter:

- A. Noise of safety signals, warning devices, and emergency pressure relief valves;
- B. Noise resulting from any authorized emergency vehicle when responding to an emergency call or in time of an emergency;
- C. Noise resulting from emergency work;
- D. Noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday if regulated by local ordinance;

E. Any noise resulting from activities of a temporary nature during periods permitted by law for which a license or permit has been approved by the county manager in accordance with section 5-3-13 of this chapter;

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F. Any noise resulting from snowmaking activities at ski areas;

G. Any noise resulting from any snow removal equipment or from snowplowing or removal services on public or private streets, or in commercial zones;

H. Any noise resulting from agricultural land operations and uses on private or public property, including crop-dusting operations;

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I. Any noise resulting from railway locomotives and cars;

J. Any noise resulting from medical helicopter operations; and

**5-3-13: RELIEF FROM RESTRICTIONS:**

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Requests for relief from the noise restrictions in these rules and regulations may be made to the county manager. Upon granting relief, any conditions outlined and agreed upon shall be obeyed by the applicant and failure to do so will cause the grant of relief to be revoked. Such requests and grants of relief may be accomplished as part of the express conditions placed upon any large public assembly license issued by the county manager in accordance with the ordinance governing such licenses.

**5-3-14: ENFORCEMENT:**

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A. Responsibility: Enforcement responsibility will reside jointly with the Sheriff's Office and the Community Development Department.

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B. Citation; Report: The Sheriff's Office and the Community Development Department may, upon discovery or report of a violation or violations of this chapter, issue a written citation for the violation requiring an appearance in court to answer the charges, or may file a report with the county attorney for review and issuance of an information and summons to court to answer the charges.

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**5-3-15: PENALTY:**

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A. Any person who is found guilty of violating any of the provisions of these rules and regulations, either by failing to do those acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Utah Code Annotated section

26A-1-123, as amended. If a person is found guilty of a subsequent similar violation within two (2) years, he/she is guilty of a class A misdemeanor, pursuant to Utah Code Annotated section 26A-1-123, as amended. Each day such violation is committed or permitted to continue shall constitute a separate violation.

- B. The county attorney may initiate legal action, civil or criminal, to abate any condition that exists in violation of these rules and regulations. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of these rules and regulations shall be liable for all expenses incurred by the county in removing or abating any nuisance or other noise disturbance.

PASSED, APPROVED, AND ENACTED this \_\_\_\_ day of \_\_\_\_\_, 2011,  
by the County Council of Summit County, State of Utah.

\_\_\_\_\_  
Christopher F. Robinson  
Chairperson

ATTEST:

\_\_\_\_\_  
County Clerk

DRAFT