

# Summit County Risk Finance Program Evaluation

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# Project Scope

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- Evaluate the County's appetite and ability to retain risk.
- Recommend appropriate self-insured retentions (SIRs) or deductibles to reduce risk costs.
- Evaluate the County's existing coverage program to:
  - Identify and compare alternative coverage programs; and
  - Consider whether a combined insurance program with Snyderville Basin Recreation District, Mountain Regional Water District, Park City Fire Service District, and North Summit Fire Protection District could produce significant savings.
- Evaluate the County's current risk management protocols and make recommendations for improvement.

# Work Steps

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We interviewed:

- County Manager, Auditor, Accountant, and Chief Civil Attorney;
- Representatives from the four Districts; and
- Representatives from:
  - Utah Local Governments Trust (ULGT);
  - Utah Counties Indemnity Pool (UCIP);
  - States Self-Insurers Risk Retention Group (States);
  - Workers' Compensation Fund of Utah (WCF); and
  - Contacts in the commercial insurance market.

# Work Steps

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- Reviewed numerous County/Districts documents, including:
  - Property and casualty claims history;
  - Payroll, employee count, and property/vehicle schedules; and
  - Financial statements.

Reviewed ULGT and UCIP documents, including:

- Trust documents;
- Coverage documents; and
- Financial statements.

# Work Steps

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- Obtained pricing indications.
- Evaluated options, including self-insurance and a combined insurance program with County and Districts.
- Prepared this presentation.

# Overall Findings

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- County and Districts spend approximately \$1 million annually on property/casualty insurance.
- County spends approximately \$655,000 annually.
- County and Districts transfer risk of loss to their insurers essentially from “first dollar.”
- County and most Districts do not have well developed risk management programs and do not consistently avail themselves of the services offered by their coverage providers.

# Risk Management

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- While risk costs are not substantial, a risk management resource is needed to assist the County with:
  - Identifying training needs and accessing existing resources;
  - Communicating with ULGT personnel on large claims;
  - Handling the annual insurance renewals;
  - Report program results to senior management/Council; and
  - Periodically testing the insurance market.
- An FTE resource of 0.25 to 0.50 is appropriate, depending on the risk financing program selected.
- A combined program and/or a self-insured program would require closer to a 0.50 FTE.

# Self-Insurance

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- County reports \$1 million is the most it could incur in a single year without negatively impacting operations.
- No more than 10-25% of that amount should be exposed to any one loss.
- We therefore evaluated insurance pricing with self-insured retentions up to \$250,000 per loss.

# Comparison of Pool/Risk Retention Group Options

	ULGT	UCIP	States
Per Occurrence Liability Limits	\$20MM available	\$20MM available	\$20MM available
Defense Costs In Addition to Liability Limits?	No	Yes	No
Liability Deductibles Offered	\$0 to \$250,000 for County \$0 to \$100,000 for Districts	\$0	\$250,000 (may start with \$100,000)
Pool Liability Retention	\$500,000	\$250,000	Not applicable
Net Assets (all programs)	\$38,474,401	\$5,643,171	\$8,939,417
Liability Coverage includes GL, AL, POL, LEL, EPL?	Yes	Yes	Yes
Occurrence Based Liability Coverage?	Yes	Yes, except POL and EBL are claims made	Yes
Property Coverage Option	Yes	Property program not optional	No
Workers' Compensation Coverage Option	Yes	Yes, through WCF	No
Offer Combined County/District Program - Liability, Property & WC?	Yes	County and Snyderville Basin Recreation District Only	Yes

# Comparison of Pool/Risk Retention Group Options

	ULGT	UCIP	States
<b>Liability Program Features:</b>			
Claims Administration Included	Yes	Yes	No
Select own Liability TPA	No	No	Yes
Select own Defense Counsel	Must be approved	Must be approved	Yes – approval not required
Minimum Period of Participation	No	1 year	No
Notice of Withdraw	No	120 days (rescindable at 90 days)	“advance written notice”
Withdrawal Penalty	Leave equity	No	No
Assessable	No	No	No
Dividends	Yes	None paid historically	No
Total Membership	496	35	50

# Findings - Liability Exposures

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- Sovereign immunity for liability arising from governmental functions.
  - No immunity for proprietary functions such as water distribution or recreational activities.
- Statutory tort caps established biennially by the State risk manager.
- Current caps for personal injury: \$674,000 for one person in any one occurrence, and \$2,308,400 aggregate.
- Current caps for property damage (excluding damages awarded as compensation when a government has taken/damaged private property for public use without just compensation): \$269,700 in any one occurrence.
- Exposure to loss may exceed cap where liability arises from federal causes of action or out-of-state occurrences.

# Conclusions - Liability Coverage

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- Liability coverage is broad.
- Limits should be increased.
  - The County should purchase coverage for extra territorial claims with limits of \$10 million.
- Current coverage does not address County/District exposure to cyber liability, or fiduciary liability of Snyderville Basin Recreation District. Consider purchasing insurance for these risks.
- No coverage provider will insure “land use.” However:
  - ULGT reports it will provide a defense in a land use claim where at least one cause of action in a complaint is covered.
  - UCIP provides \$35,000/occurrence defense cost sublimit on land use claims.

# County-Only Liability Program - Guaranteed Cost

	Proposed Program as of 1/1/13 (ULGT)	Proposed Program as of 1/1/13 (UCIP)	Proposed Program as of 1/1/13 (Commercial)
Limits	\$10,000,000	\$10,000,000	\$10,000,000
Deductible / SIR	0	0	0 GL, AL, POL 2,500 EPL, LEL
Risk Management Staff	20,000	20,000	20,000
Premium	328,500	368,322	316,719
Total	\$348,500	\$388,322	\$336,719

RM Staffing assumes contracted (non-benefitted) professional at an annualized cost of \$80,000.  
Proposed program assumes 0.25 FTE.

# County-Only Liability Program - Guaranteed Cost

- Program Change Not Indicated.
  - Alternatives do not provide substantial premium savings.
  - Coverage with ULGT comparable to alternative programs.
  - ULGT and alternative pool have strong net asset positions.
  - ULGT service offerings competitive.

# Combined Liability Program - Guaranteed Cost

	Current Program as of 1/1/12	Proposed Combined Program as of 1/1/13 (ULGT)	Proposed Combined Program as of 1/1/13 (Commercial)
Per Occurrence Limits	\$2,000,000 to \$11,000,000	\$10,000,000	\$10,000,000
Deductible / SIR	0 to 1,000	1,000	0 GL & AL 2,500 EPL, POL, LEL
Risk Management Staffing	20,000	26,400	26,400
Premium	484,840	473,300	427,327
Total Cost	\$504,840	\$499,700	\$453,727

Note: UCIP declined to provide indications for a combined program. RM Staffing assumes contracted (non-benefitted) professional at an annualized cost of \$80,000. Current program assumes 0.25 FTE; Proposed combined program assumes 0.33 FTE.

# Combined Liability Program - Guaranteed Cost

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Change to combined guaranteed cost program not indicated.

- Savings not substantial.
- Lowest cost estimate offset by higher deductibles.
- Additional resources required to administer a group program.
- Group purchase removes the fire districts from a program well-suited to their unique risks.

# County-Only Liability Program - Guaranteed Cost vs. Self-Insurance

	Proposed Guaranteed Cost Program as of 1/1/13 (ULGT)	Lowest Cost Self-Insurance Alternative as of 1/1/13 (Commercial)
Limits	\$10,000,000	\$10,000,000
Deductible / SIR	1,000	250,000
Self-Insured Losses	0	80,000
Claims Administration	0	16,000
Risk Management Staff	20,000	32,000
Actuarial Services	0	5,000
Premium	311,500	98,183
Total	\$331,500	\$231,183

RM Staffing assumes contracted (non-benefitted) professional at an annualized cost of \$80,000. Current program assumes 0.25 FTE. County-only self-insurance program assumes 0.40 FTE.

# Combined Liability Program - Guaranteed Cost vs. Self-Insurance

	Current Program as of 1/1/12	Lowest Cost Alternative as of 1/1/13 (Commercial)
Limits	\$2,000,000 to \$11,000,000	\$10,000,000
Deductible / SIR	0 to \$1,000	250,000
Self-Insured Losses	0	120,000
Claims Administration	0	24,000
Risk Management Staff	20,000	40,000
Actuarial Services	0	5,000
Premium	484,840	132,471
Total	\$504,840	\$321,471

Note: ULGT and UCIP declined to provide indications for a combined program at a high SIR. RM Staff costs assumes a contract professional (non-benefitted) at an annualized cost of \$80,000. Current program assumes 0.25 FTE; Combined self-insurance program assumes 0.50 FTE.

# Self-Insured Program

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- Advantages:
  - Approximate savings: \$100,000 to 180,000;
  - Extended cash flow - losses paid out over period of years;  
and
  - Greater control over claims decisions and loss prevention program.

# Self-Insured Program

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- Disadvantages:
  - A single loss in one year could negate savings or worse;
  - Need to contribute more in early years of program to ensure funding stability for the long term;
  - One-time costs associated with formation of a self-insurance program; and
  - Additional resources to administer (e.g. actuarial, claims handling, loss prevention, cost allocation).

# Self-Insured Liability Program

## Conclusions

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- No right or wrong answer.
- Long-term savings.
- Year-to-year fluctuation.
- County's decision should be based on:
  - Risk Appetite; and
  - Commitment to control claims and prevent losses.
- If opt for self-insurance, retain services of a risk management professional for January 1, 2014 implementation.

# Findings - Property Exposures

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- County Property values are just under \$59 million.
- Combined County/District Property values are approximately \$129 million.
- Values are exposed to fire, flood, and earthquake, among other perils.

# Findings - Property Coverage

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- Coverage is broad, addressing the major risks of loss.
- Limits equal total values and apply on a blanket basis.

## Exception:

- Park City Fire Service District; and
- North Summit Fire Protection District.

# County-Only Property Program - Guaranteed Cost

	ULGT (Current Program)	UCIP	Commercial
Limits	\$58,700,000	\$58,700,000	\$58,700,000
EQ Limit	100,000,000 (Shared Among Members)	1,000,000	58,700,000
Flood Limit	100,000,000 (Shared among members)	5,870,000	58,700,000
Deductible	1,000	500	5,000
EQ Deductible	1,000	500	25,000 to 100,000
Flood Deductible	1,000 to 100,000	500	25,000
Premium	\$80,000	\$61,641	\$46,965

# Combined Property Program - Guaranteed Cost

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- Experience suggests that combining the risks will yield additional savings.
- Commercial indications suggest potential annual savings of approximately 30%, or \$50,000

# Conclusions - Property Coverage

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- Due to premium size, self-insurance not advised.
- Since property represents the smallest placement, decision where to place should be influenced by the liability program decision.
- If they remain in current program, Fire Districts should obtain blanket property coverage.

# Findings - Workers' Compensation Exposures

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- Total County/District Payroll = \$14,672,229.
- Largest concentration of employees located in the Justice Center.

# Findings - Workers' Compensation Coverage

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- Coverage is provided to County, Snyderville Basin Recreation District, and North Summit Fire Protection District by ULGT.
- Coverage is provided to Mountain Regional Water District and Park City Fire Service District by WCF.
- All policies provide “first dollar” coverage with statutory limits.

# Conclusions - Workers' Compensation Coverage

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- At current premium levels, self-insurance does not appear to be warranted.
- Indications suggest savings may be achieved by placing the County and all Districts with a single coverage provider.
- Obtain workers' compensation quotations from commercial markets, the Workers' Compensation Fund of Utah, and ULGT.
- Marketing should begin as early as September 2012.

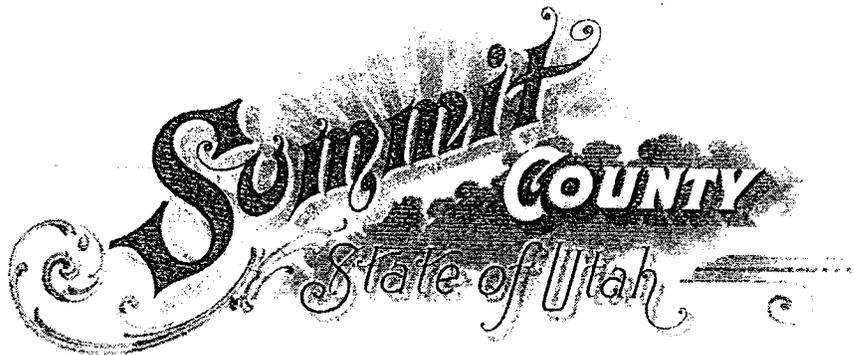
# Next Steps

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- Add risk management resource of 0.25 FTE.
- Fully market group purchase of workers' compensation coverage.
- Decide whether or not to establish a liability self-insurance program (group or County only).
- Implement coverage recommendations as appropriate.

Auditor

Blake Frazier



September 25, 2012

County Council;

Please consider approving the BOE Stipulations on October 3rd. They will be prepared for your review by Travis Lewis prior to that date.

Thank You,

A handwritten signature in black ink that reads "Kathryn Rockhill". The signature is written in a cursive style with a large initial 'K'.

Kathryn Rockhill  
BOE Clerk

# 2012 BOE Adjustments

Serial #	New Market Value	Old Market Value	MV Difference	New Taxable Value	Old Taxable Value
AF-75	\$ 1,226,420.00	\$ 1,824,685.00	\$ (598,265.00)	\$ 674,531.00	\$ 9,580.15
BH-23	\$ 350,000.00	\$ 569,101.00	\$ (219,101.00)	\$ 225,624.00	\$ 3,210.36
BH-8	\$ 355,000.00	\$ 612,090.00	\$ (257,090.00)	\$ 238,405.00	\$ 3,522.69
BHVS-40	\$ 465,000.00	\$ 500,000.00	\$ (35,000.00)	\$ 465,000.00	\$ 4,627.00
BHVS-T27	\$ 410,000.00	\$ 410,000.00	\$ -	\$ 225,500.00	\$ 3,794.14
BJUMP-27	\$ 115,000.00	\$ 200,000.00	\$ (85,000.00)	\$ 115,000.00	\$ 2,174.60
BJUMP-31	\$ 115,000.00	\$ 200,000.00	\$ (85,000.00)	\$ 115,000.00	\$ 2,174.60
BN-A-3-63	\$ 165,000.00	\$ 200,000.00	\$ (35,000.00)	\$ 165,000.00	\$ 1,971.80
CCR-33	\$ 285,000.00	\$ 450,000.00	\$ (165,000.00)	\$ 285,000.00	\$ 4,295.70
CD-525-B	\$ 254,726.00	\$ 254,726.00	\$ -	\$ 140,099.00	\$ 2,468.29
CHC-121	\$ 45,010.00	\$ 45,010.00	\$ -	\$ 24,755.00	\$ 429.67
CHC-205	\$ 90,010.00	\$ 110,010.00	\$ (20,000.00)	\$ 90,010.00	\$ 1,050.16
CHC-212	\$ 90,010.00	\$ 110,010.00	\$ (20,000.00)	\$ 49,505.00	\$ 577.59
CLJR-1-20	\$ 405,000.00	\$ 475,000.00	\$ (70,000.00)	\$ 222,750.00	\$ 2,575.66
CLJR-1-30	\$ 405,000.00	\$ 475,000.00	\$ (70,000.00)	\$ 405,000.00	\$ 4,683.03
CLJR-1-36	\$ 405,000.00	\$ 475,000.00	\$ (70,000.00)	\$ 222,750.00	\$ 2,575.66
CLJR-1-44	\$ 365,000.00	\$ 475,000.00	\$ (110,000.00)	\$ 200,750.00	\$ 2,575.66
CLJR-1-5	\$ 405,000.00	\$ 475,000.00	\$ (70,000.00)	\$ 222,750.00	\$ 2,575.66
CLJR-1-53	\$ 405,000.00	\$ 475,000.00	\$ (70,000.00)	\$ 405,000.00	\$ 4,683.03
CQVC-42	\$ 275,000.00	\$ 340,000.00	\$ (65,000.00)	\$ 151,250.00	\$ 1,730.50
CR-8-A-2AM	\$ 450,000.00	\$ 540,000.00	\$ (90,000.00)	\$ 450,000.00	\$ 5,154.84
CSLC-A-A418-AM	\$ 1,100,000.00	\$ 1,600,000.00	\$ (500,000.00)	\$ 1,100,000.00	\$ 15,273.60
CT-163	\$ 143,051.00	\$ 143,051.00	\$ -	\$ 78,678.00	\$ 1,678.85
CWPC-4A-160A-AM	\$ 3,548,959.00	\$ 5,917,383.00	\$ (2,368,424.00)	\$ 353,812.00	\$ 30,639.49
DVPC-601	\$ 650,000.00	\$ 650,000.00	\$ -	\$ 650,000.00	\$ 5,775.33
FHE-II-70	\$ 835,000.00	\$ 984,111.00	\$ (149,111.00)	\$ 459,250.00	\$ 5,166.88
FHE-II-71	\$ 490,000.00	\$ 630,000.00	\$ (140,000.00)	\$ 490,000.00	\$ 6,013.98
FT-27-A	\$ 105,000.00	\$ 142,945.00	\$ (37,945.00)	\$ 57,750.00	\$ 1,636.43
FT-89-A	\$ 182,000.00	\$ 209,346.00	\$ (27,346.00)	\$ 100,100.00	\$ 1,318.12
GCC-17	\$ 858,140.00	\$ 949,706.00	\$ (91,566.00)	\$ 858,140.00	\$ 10,326.15
HE-A-360	\$ 110,000.00	\$ 195,250.00	\$ (85,250.00)	\$ 110,000.00	\$ 1,924.97
IHI-1	\$ 1,099,014.00	\$ 790,000.00	\$ 309,014.00	\$ 1,099,014.00	\$ 7,541.34
KE-A-2	\$ 263,329.00	\$ 263,329.00	\$ -	\$ 152,557.00	\$ 2,551.66
KE-A-33	\$ 20,000.00	\$ 59,500.00	\$ (39,500.00)	\$ 20,000.00	\$ 576.56
KE-A-33-A	\$ 22,000.00	\$ 59,500.00	\$ (37,500.00)	\$ 22,000.00	\$ 576.56

KE-A-35-A	\$	15,000.00	\$	59,500.00	\$	(44,500.00)	\$	15,000.00	\$	576.56
KE-A-37	\$	38,000.00	\$	59,500.00	\$	(21,500.00)	\$	38,000.00	\$	576.56
KE-A-59	\$	23,500.00	\$	36,900.00	\$	(13,400.00)	\$	23,500.00	\$	357.56
KE-A-61-A	\$	23,500.00	\$	36,900.00	\$	(13,400.00)	\$	23,500.00	\$	357.56
KE-A-61	\$	23,500.00	\$	36,900.00	\$	(13,400.00)	\$	23,500.00	\$	357.56
KE-A-62	\$	283,155.00	\$	296,555.00	\$	(13,400.00)	\$	283,155.00	\$	2,873.62
KE-A-63-A	\$	23,500.00	\$	36,900.00	\$	(13,400.00)	\$	23,500.00	\$	357.56
KE-A-63	\$	23,500.00	\$	36,900.00	\$	(13,400.00)	\$	23,500.00	\$	357.56
KE-A-64	\$	23,500.00	\$	36,900.00	\$	(13,400.00)	\$	23,500.00	\$	357.56
KT-216	\$	160,000.00	\$	189,496.00	\$	(29,496.00)	\$	88,000.00	\$	1,135.93
LKSD-12-B	\$	555,000.00	\$	650,000.00	\$	(95,000.00)	\$	555,000.00	\$	6,204.90
LOR-1	\$	190,000.00	\$	190,000.00	\$	-	\$	190,000.00	\$	2,158.59
LWPCRS-4608-AM	\$	627,000.00	\$	800,000.00	\$	(173,000.00)	\$	627,000.00	\$	7,403.20
MRE-8	\$	1,060,000.00	\$	1,216,163.00	\$	(156,163.00)	\$	583,000.00	\$	6,594.59
MVSO-I-22-AM	\$	207,000.00	\$	338,555.00	\$	(131,555.00)	\$	2,183.00	\$	19.87
NBF-7	\$	266,000.00	\$	307,517.00	\$	(41,517.00)	\$	146,300.00	\$	3,168.35
NPKTH-3-56	\$	305,000.00	\$	305,000.00	\$	-	\$	167,750.00	\$	2,822.47
NS-125-B-1	\$	356,535.00	\$	435,969.00	\$	(79,434.00)	\$	212,013.00	\$	2,357.83
NS-604-I-2	\$	178,657.00	\$	178,657.00	\$	-	\$	151,136.00	\$	1,647.40
PALSDS-70	\$	1,606,860.00	\$	1,903,437.00	\$	(296,577.00)	\$	884,232.00	\$	11,898.93
PDR-3	\$	454,000.00	\$	490,000.00	\$	(36,000.00)	\$	154,000.00	\$	4,677.54
PI-D-30	\$	261,624.00	\$	261,624.00	\$	-	\$	261,624.00	\$	2,291.56
PI-G-46	\$	42,500.00	\$	87,500.00	\$	(45,000.00)	\$	42,500.00	\$	766.41
PKM-3-12	\$	380,000.00	\$	559,651.00	\$	(179,651.00)	\$	380,000.00	\$	5,342.43
PR-31	\$	202,206.00	\$	294,161.00	\$	(91,955.00)	\$	111,213.00	\$	1,544.44
PRUN-A-33	\$	800,000.00	\$	880,000.00	\$	(80,000.00)	\$	800,000.00	\$	8,400.48
RCCS-1	\$	916,560.00	\$	1,477,200.00	\$	(560,640.00)	\$	916,560.00	\$	16,061.60
RCCS-13	\$	1,626,345.00	\$	1,970,023.00	\$	(343,678.00)	\$	1,626,345.00	\$	19,462.92
RP-2-N-2	\$	120,000.00	\$	120,000.00	\$	-	\$	120,000.00	\$	1,183.08
RP-2-T-8	\$	200,000.00	\$	200,000.00	\$	-	\$	110,000.00	\$	1,971.80
RPL-IV-198	\$	850,000.00	\$	908,225.00	\$	(58,225.00)	\$	467,500.00	\$	4,622.60
RR-A-39	\$	34,580.00	\$	69,870.00	\$	(35,290.00)	\$	34,580.00	\$	835.85
RRS1GF-G-AM	\$	6,260.00	\$	108,603.00	\$	(102,343.00)	\$	6,260.00	\$	1,007.29
RRS-II-G	\$	2,300.00	\$	53,625.00	\$	(51,325.00)	\$	2,300.00	\$	497.37
RT-1	\$	185,000.00	\$	230,000.00	\$	(45,000.00)	\$	101,750.00	\$	2,195.58
RT-2	\$	185,000.00	\$	230,000.00	\$	(45,000.00)	\$	101,750.00	\$	2,195.58
RT-4	\$	185,000.00	\$	230,000.00	\$	(45,000.00)	\$	101,750.00	\$	2,195.58
SA-166-A	\$	783,375.00	\$	783,375.00	\$	-	\$	430,856.00	\$	7,478.10
SBLDV-6101	\$	650,000.00	\$	675,000.00	\$	(25,000.00)	\$	675,000.00	\$	6,443.55
SLS-1-E-202	\$	590,000.00	\$	602,697.00	\$	(12,697.00)	\$	324,500.00	\$	3,268.09

SNC-1024	\$	95,000.00	\$	95,000.00	\$	-	\$	95,000.00	\$	906.87
SPH-4B-AM	\$	248,324.00	\$	248,324.00	\$	-	\$	137,928.00	\$	4,206.26
TCS-10	\$	748,000.00	\$	811,755.00	\$	(63,755.00)	\$	748,000.00	\$	9,222.35
TCS-14	\$	784,000.00	\$	860,292.00	\$	(76,292.00)	\$	784,000.00	\$	9,773.78
TCS-22	\$	784,000.00	\$	899,937.00	\$	(115,937.00)	\$	784,000.00	\$	10,224.18
TCS-3	\$	852,000.00	\$	899,937.00	\$	(47,937.00)	\$	852,000.00	\$	10,224.18
TCS-54	\$	704,704.00	\$	812,101.00	\$	(107,397.00)	\$	704,704.00	\$	9,226.28
TH-2-28	\$	547,000.00	\$	626,392.00	\$	(79,392.00)	\$	300,850.00	\$	3,288.75
TH-4-4	\$	851,709.00	\$	935,968.00	\$	(84,259.00)	\$	468,439.00	\$	4,914.11
TWNPT-B-301	\$	845,000.00	\$	880,000.00	\$	(35,000.00)	\$	845,000.00	\$	8,400.48
WV-26	\$	1,160,000.00	\$	1,316,091.00	\$	(156,091.00)	\$	1,160,000.00	\$	14,952.11
<b>Totals for 10-3-2012</b>	<b>\$</b>	<b>38,591,363.00</b>	<b>\$</b>	<b>47,578,853.00</b>	<b>\$</b>	<b>(8,987,490.00)</b>	<b>\$</b>	<b>28,377,158.00</b>	<b>\$</b>	<b>386,796.07</b>
<b>Totals for 9-26-2012</b>	<b>\$</b>	<b>59,278,729.00</b>	<b>\$</b>	<b>69,288,965.00</b>	<b>\$</b>	<b>(10,010,236.00)</b>	<b>\$</b>	<b>42,301,770.00</b>	<b>\$</b>	<b>69,288,965.00</b>
<b>Totals for 9/19/2012</b>	<b>\$</b>	<b>61,834,634.00</b>	<b>\$</b>	<b>58,697,816.00</b>	<b>\$</b>	<b>3,136,818.00</b>	<b>\$</b>	<b>52,024,580.00</b>	<b>\$</b>	<b>58,697,816.00</b>
<b>Totals For 9/12/2012</b>	<b>\$</b>	<b>85,543,866.00</b>	<b>\$</b>	<b>91,568,057.00</b>	<b>\$</b>	<b>(6,024,171.00)</b>	<b>\$</b>	<b>66,650,057.00</b>	<b>\$</b>	<b>91,568,057.00</b>
<b>Totals For 8/29/2012</b>	<b>\$</b>	<b>46,659,094.00</b>	<b>\$</b>	<b>48,620,199.00</b>	<b>\$</b>	<b>(1,961,105.00)</b>	<b>\$</b>	<b>37,170,923.00</b>	<b>\$</b>	<b>48,620,199.00</b>
<b>RunningTotal</b>	<b>\$</b>	<b>291,907,686.00</b>	<b>\$</b>	<b>315,753,890.00</b>	<b>\$</b>	<b>(23,846,184.00)</b>	<b>\$</b>	<b>226,524,488.00</b>	<b>\$</b>	<b>268,561,833.07</b>

Annette,

So far this year(2012)the Market value decrease is (\$ 23,846,184) As of 10/3/2012



Kimber Gabryszak  
Planner III

## STAFF REPORT

**To:** Summit County Council (SCC)  
**Report Date:** Thursday, September 27, 2012  
**Meeting Date:** Wednesday, October 3, 2012  
**Author:** Kimber Gabryszak, AICP  
**Project Name & Type:** Ridge at Red Hawk Entry Gate, appeal

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**EXECUTIVE SUMMARY:** The appellant, Paxton Guyman, representing Brad Krassner and the Ranches at the Preserve (Ridge at Red Hawk) Homeowners Association, has appealed the denial by the Snyderville Basin Planning Commission (SBPC) of a conditional use permit (CUP) to allow a vehicle control gate on their western entry. The guardhouse entry feature was installed under an approved building permit in 2004; however the gate was installed without obtaining any required permits.

**Staff recommends that the SCC review the appeal and vote to DENY the appeal and UPHOLD the SBPC denial of a CUP for the vehicle control gate.**

### A. Project Description

- **Project Name:** Ridge at Red Hawk Entry Gate - Appeal
- **Applicant(s):** Ridge at Red Hawk Development
- **Property Owner(s):** Red Hawk Wildlife Preserve Foundation (HOA)
- **Location:** See location map exhibit
- **Zone District & Setbacks:** Hillside Stewardship (HS)
- **Adjacent Land Uses:** Low-density residential
- **Existing Uses:** Residential, HOA
- **Parcel Number and Size:** RRH-6-A, 0.19 acres
- **Lot of Record Status:** No
- **Type of Item:** Appeal of Administrative Action: denial of Conditional Use Permit by the Snyderville Basin Planning Commission (SBPC)
- **Future Routing:** None
- **Type of Process:** Quasi-judicial

### B. Background

The Ridge at Red Hawk subdivision, renamed internally as the Ranches at the Preserve, contains 40 residential lots ranging in size from 10 acres to 60 acres, and was recorded May 28, 1997 under the Red Hawk Preserve Consent Agreement. This consent agreement was finalized April 21, 1997 and allowed 116 units in the Ridge at Red Hawk and the various phases of the Preserve. The Ridge at Red Hawk and the Preserve later separated, and individual amendments were done to the settlement agreements. Allowances were made for gates on private driveways, but not to manage access to the entire development.

## **History of Gate Regulations in Summit County**

- 1985 - 1993 Development Code – gates not mentioned; anything not mentioned was prohibited unless expressly permitted upon request by the Board of County Commissioners.
- 1993 – 1998 Code – gates still not mentioned; anything not mentioned was still not allowed unless expressly permitted upon request by the Board of County Commissioners.
- 1998 – 2004 Code – Everything was developed through the Specially Planned Area (SPA) process, and used not mentioned in the individual SPA agreements or in the Code separately were not allowed.
- 2004 – 2006 Code – Uses added again to the Code, and uses not mentioned were prohibited.
- 2006, Ordinance 647 – added Section 10-8-12 to the Code, permitting vehicle control gates in limited circumstances and containing the criteria in place today.

## **Timeline of Ridge at Red Hawk Guard House and Gate installation**

- November 20, 2001, building permit no. 01802, issued on lot RRH-6, for placement of a guardhouse.
  - Vehicle control gates not permitted under the Consent Agreement; permit only for a guardhouse with no gate, to serve as an entry feature.
  - Permit expired with no construction having taken place.
- April 23, 2004, guardhouse permit renewed, permit no. 03137. Guardhouse constructed, no gate.
- November 30, 2004, building permit was issued on RRH-6 to construct a new home. No references to the guardhouse in the building permit file for Lot 6.
- April 22, 2008 - quit claim deed was recorded to divide off the portion of lot 6 surrounding the guardhouse, causing Lot 6 to lose its legally platted status; the newly created piece also was not considered a legally created Lot of Record.
- 2008-2010, date unknown - Bart Carlson of Yukon Construction showed the Building Division drawings showing landscaping, an island planter, additional pavement, and gates. Staff informed him that gates were not allowed and that Engineering review would be needed for the island planter and additional pavement. The drawings were shown but never actually submitted; therefore Staff does not have copies. The appellants went ahead and installed gate arms.
- 2010-2011, multiple dates - Staff had conversations with Bart Carlson and Patty Winterer, representing the HOA, informing them that they would need to either apply for a CUP or remove the gate arms. In the meantime, Staff monitored the guardhouse

to ensure that the gate arms were left open, and that no electrical permits were issued to enable operation of the arms.

- June 11, 2011 - the Summit County Code Enforcement officer began enforcement of the gate issue. Staff continued to monitor the area to ensure that the gates were open and no electrical permit was issued. At some point, motors were also installed to operate the gate, but with no electrical power the gate is currently inoperable and remains open.
- March 22, 2012 – the Code Enforcement officer sent an official Notice of Violation to the HOA to apply for a CUP or remove the gates. The HOA submitted the application as directed.

### **Conditional Use Permit Process**

The SBPC held a public hearing on the CUP application on May 22, 2012, closed the public hearing, and continued their decision to a future date with direction to the appellant and Staff on further information required for them to render a decision. (Exhibit E)

The SBPC continued the discussion on June 26, 2012, and voted to deny the CUP, finding that the gate did not meet the criteria as outlined in Section F of the report (Exhibit F).

### **C. Community Review**

Appeals are not public hearings, therefore no public notice has been sent. At the request of the Trails of Jeremy Ranch HOA, notice was provided to them of the appeal meeting. The SBPC held a publicly noticed hearing on May 22, 2012, at which time public comment in support of the gate was received.

### **D. Identification and Analysis of Issues**

#### **Lot of Record status**

Lot 6 of the subdivision was recorded in 1997 along with the rest of the development; as outlined above, in 2008, Lot 6-A was deeded off of Lot 6. This parcel separation occurred without going through the subdivision process, therefore both Lot 6 and Lot 6-A are not considered to be Lots of Record (LOR). As such, they do not have development rights and are not eligible for the issuance of building permits. The construction of the gate would require an electrical permit and possibly other building permits.

In order for the appellant to obtain the required permits, Lot 6-A and Lot 6 must be recombined to recreate the original legal parcel. Authorization from the owner of Lot 6 must also be provided.

Staff and the appellant have discussed this issue; the property can be recombined to fix the LOR issue, and an easement recorded to allow the HOA to have the gate on Lot 6 while separating ownership of the property and the structures. If this happens, the LOR issue will be addressed.

### **Service Providers**

The application was sent to Service Providers for review and comment. Several providers gave comment, and a few were concerned with ensuring that they have full access to the development. Issues with other gated communities were mentioned. The Park City Fire District permits gates subject to design requirements but has stated a preference to not have gates, as even gates that meet Fire District standards slow emergency access. (See attached comments.)

### **Nearby Gates**

The SBPC asked for clarification of the history of gates in the area.

- *The Preserve obtained Low Impact Permits for their gates through their consent agreement.*
- *Glenwild was permitted the two (2) gates currently existing at the front and back entrances.*
- *Stagecoach received a Conditional Use Permit for their gates in 2010.*
- *The Trails at Jeremy Ranch constructed their gate without permits. Due to the length of time the gate has been in existence, the County will not require the gate to be removed. Instead, a notice of noncompliance has been issued, and the gate will not be considered legally nonconforming. Therefore, if the gate is damaged or destroyed, it may not be rebuilt unless appropriate permits are obtained.*
- *Fire access gates between the Preserve and Glenwild, and other fire access gates are not considered “vehicle control gates,” as they permanently obstruct roads that were not intended for use except in emergencies. These gates are closed at all times and do not see regular traffic.*

### **Impacts of Gates**

In the criteria section of this report, Staff asserted that gates are inherently harmful, and supporting information on the various Staff conclusions was requested by the SBPC. There are many studies that have been done over the past decades, with some of the key findings and comments summarized below:

- Increased fear by residents of overall “outside” community, leading to a false sense of security within the community.
- Gates have inconsistent impacts on crime: decreases of some rates of crime in some places, and increases in other locations / types of crime.
- Perceptions by the community at large that gated residents are more disinterested in the community or feel superior.
- Gates used to mark social status and attempt to increase property values more than they are used for safety.
- Increased social, racial, and economic segregation.
- In general decreasing connectivity for vehicles (forcing motorists to go around such communities).

For further reading, here are links to several national and international studies and articles, and newspaper articles / pieces spurred by recent events in a gated community:

- <http://www.iss.co.za/pubs/ASR/11No4/Landman.pdf>
- <http://www.nhi.org/online/issues/93/gates.html>
- <http://www.communities.gov.uk/documents/corporate/pdf/142547.pdf>
- <http://www.international.ucla.edu/article.asp?parentid=4664>

- [http://www.nytimes.com/2012/03/30/opinion/the-gated-community-mentality.html?\\_r=1](http://www.nytimes.com/2012/03/30/opinion/the-gated-community-mentality.html?_r=1)
- <http://americacity.org/daily/entry/anxiety-and-isolation-how-gated-communities-enable-vigilantes>
  - ‘Furthermore, she points out that while a security gate “can provide a refuge from people who are deviant or unusual... the vigilance necessary to patrol these borders actually heightens residents’ anxiety and sense of isolation, rather than making them feel safer.” (Low, Behind the Gates..., 2003)
  - “intensify social segregation, racism, and exclusionary land use practices, and raise a number of conflicting values”

E. **Consistency with the General Plan**

The General Plan addresses goal standards for transportation and connectivity, however does not currently express goals to prevent exclusivity, nor to prevent gates. The language in the North Mountain Neighborhood Planning Area also contains standards for the rural roads in large lot subdivisions (attached); however there is nothing that would prohibit a gate.

F. **Appellant Case**

The appellants have appealed the SBPC decision with the argument that the Development Code requirements for gates are illegal and unreasonably vague and ambiguous (Exhibit G). The appellants requested an advisory opinion from the State Property Rights Ombudsman on this matter.

**Gate requirements**

When the Board of County Commissioners approved Section 10-8-12 of the Development Code, permitting vehicle control gates to be considered, they stated that their intention was to make it very difficult for gates to be permitted; the goal was to only allow consideration in cases where it was clearly necessary for health, safety, and welfare, and not to simply allow gated communities in the Basin. As a result, there are three (3) sections of the Development Code applicable to vehicle control gates: 10-8-12, 10-3-5(B), and 10-3-5(C). Section 10-8-12 contains criteria specific to gates, which must be met before reviewing the criteria for Conditional Use permits. **All of the criteria in all three sections must be met in order for a gate to be approved.**

**Ombudsman’s Advisory Opinion**

As outlined above, the appellants requested an advisory opinion from the State Property Rights Ombudsman, concerning whether or not the criteria in Section 10-8-2 were required in order for the CUP to proceed. On September 20, 2012 the Ombudsman issued an opinion upholding Staff’s determination that the criteria in Section 10-8-12 of the Code are conditions precedent to applying the typical Conditional Use Permit criteria (Exhibit H).

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

In an appeal of an administrative decision, the role of the SCC is to determine whether Staff correctly applied the applicable Code section or DA section. Below, Staff has outlined the three (3) Code sections applicable to Vehicle Control Gates and CUPs, and the findings presented to and used by the SBPC.

Section 10-8-12 outlines the criteria specific to entry gates, which must be met before the general standards for Conditional Use Permits are reviewed. The criteria are copied verbatim from the Code, with the comments in italics added for this item:

**10-8-12: VEHICLE CONTROL GATES:**

A. Purpose: Vehicle Control Gates are generally not appropriate in any zone. In the event that a vehicle control gate is necessary to protect the public's health, safety, and welfare, a vehicle control gate may be approved in residential zones on private streets as a conditional use. In order to approve a conditional use for a vehicle control gate, all applicable findings and review standards as required for a Conditional Use Permit in Section 10-3-5 shall be met. In addition, all of the following review criteria shall be met:

1. The applicants have demonstrated a need for a vehicle control gate to effectively control an ongoing health, safety, and welfare situation or in unique circumstances, to mitigate traffic, parking congestion, or through traffic on Streets within a neighborhood.  
*SBPC finding: not met. Alleged incidents were referenced in the appellant packet, however these incidents did not appear to constitute an ongoing health, safety, and welfare situation; nor did it appear that there are unique circumstances that require mitigation of traffic, parking congestion, or through traffic. Staff received no documentation of these incidents; additionally, members of the public represented concern over bicyclists that encounter trouble while passing through the neighborhood. As public trails that are accessed elsewhere pass through the area, a gate to control automobiles will have no impact on bicyclists passing through.*
2. The street is a private street, is a cul-de-sac, and is not a through street. The proposed vehicle control gate does not impact traffic circulation through the neighborhood.  
*SBPC finding: not met. The street is a private street, but it is not a cul-de-sac, and there is an option for through traffic through the area. The surrounding neighborhoods are gated, however the roads do connect and traffic moves both directions. The intent of the SBPC and Board of County Commissioners when approving Section 10-8-12 was to prohibit gates in all instances except those where the gate would serve an already separated neighborhood (by virtue of being on a cul-de-sac with no through traffic) and in which there was a clear health, safety, or welfare issue. In this case, not only is there no clear health, safety, or welfare issue, but the road has been verified to be a through street by the Engineering Department.*
3. The private street serves primarily single family or duplex residences with individual or shared driveways.  
*SBPC finding: met. The neighborhood is single family in nature with individual driveways.*
4. There is a major traffic or parking generator or use within a nine hundred (900) foot walking distance of the private street entrance and there is evidence of spill over parking or other vehicular activity on a regular basis throughout the season..  
*SBPC finding: not met. While there is a trail crossing nearby, vehicles park and access the trail from locations elsewhere in the Basin, such as the Glenwild or Jeremy Ranch trailheads. These access points are more than 900 feet away.*

5. The vehicle control gate is located outside of the County right-of-way and maintains all setbacks of the zone.  
*SBPC finding: met, and to be verified through the building permit site plan provision.*
6. The vehicle control gate does not impact existing utility easements.  
*SBPC finding: met, and to be verified through the building permit site plan provision. From initial review it appears that this criterion is met, but an accurate survey is needed to verify.*
7. The vehicle control gate is designed to permit unimpeded pedestrian, bicycle and equestrian access through the neighborhood and to existing public trails and walkways. A minimum gap of four (4) feet shall be allowed for these non-vehicular Uses.  
*SBPC finding: met. The gate is designed as required.*
8. The vehicle control gate is designed to be minimal in height, scale, and mass to accomplish the goal of preventing unauthorized vehicle traffic, parking, and/or other impacts on the neighborhood. There shall be a minimum bottom clearance of two (2), feet from the bottom of the gate rail to the road surface. A diagonal structural support may cross through the two (2) foot opening to provide additional structural strength for the cantilevered gate and keep the overall gate mass to a minimum. The gate shall be no more than three (3) feet or thirty-six (36) inches in height from the bottom rail to the top rail, although allowance may be made for decorative elements. The gate shall open inward allowing a vehicle to stop while not obstructing traffic on the roads. Design and materials shall result in a visually open gate. Any walls associated with the entry gate shall be pedestrian in scale and shall generally not exceed a height of five (5) feet. Column elements may be added for architectural interest, but these column elements shall not exceed a height of nine (9) feet.  
*SBPC finding: met. The design elements comply with these standards.*
9. The method of access for emergency, service, and delivery vehicles shall meet all requirements of the County Planning, Engineering, and Building Departments and the Park City Fire Service District prior to issuance of a building permit for the gate construction.  
*SBPC finding: met. The gate would be electronically operated, as well as having siren operation for emergency access. Fire District sign off would be required prior to building / electrical permit.*
10. If the gate is electronically operated, a receiver shall be installed that will permit emergency services access with a transmitter. If the gate can be locked, a lock box approved and provided by PCFSD and the County Sheriff will be located on the exterior side of the gate to provide for emergency equipment access to the property through the gate.  
*SBPC finding: met. The gate would be electronically operated, as well as having siren operation for emergency access. Fire District sign off will be required prior to building / electrical permit. The gate also will not be able to be manually locked.*
11. Vehicle control gates on private streets are not permitted in all zones. Gates on private streets are allowed as a conditional use in the following Zoning Districts: RR, HS, MR, RC. *SBPC finding: met. The area is zoned Mountain Remote (MR).*

12. Any signs associated with the gate and/or walls are subject to Section 10-8-2.  
*SBPC finding: to be verified through the Low Impact Permit review process, and any modifications necessary to bring the signs into compliance will be required prior to sign permit issuance.*

13. A vehicle control gate management plan shall be submitted for approval to address times and situations when the gate will be closed. Applicants shall agree to leave the gate open at all times, except as specified in the approved management plan.  
***SBPC finding: not met. The applicants currently propose keeping the gate closed at all times, only opened when authorized vehicles approach. The SBPC discussed the possibility of making the finding that a plan to close the gate at all times meets this criterion by simply providing a plan; however Staff still finds that keeping the gate closed at all times does not comply with the intent of this criterion.***

If the specific gate standards above are met, the SBPC then applies Section 10-3-5(B) of the Development Code (referenced in the above criteria), which outlines the general standards for all Conditional Use Permits. The criteria are copied verbatim from the Code, with the comments in italics added for this item:

**B. Criteria for Approval:** No Conditional Use Permit shall be approved unless the applicant demonstrates that:

1. The use is in accordance with the General Plan;  
*Met. See section E of this report.*
2. The use conforms to all applicable provisions of this Title, including, but not limited to, any applicable provisions of this Section and Chapter 4 of this Title, the General Plan, and State and Federal regulations;  
***Not met. The use does not comply with several of the standards specific to gates that are outlined in Section 10-8-12 (outlined above). The gate would also be reviewed for compliance with lighting and landscaping standards, sensitive lands criteria, as well as all other provisions of the Code; however, the property is not a Lot of Record, and therefore does not comply with the requirement for parcels to be Lots of Record in order to have development rights and obtain building permits. Correcting the Lot of Record issue as outlined in this report would address part of this criterion, however the remaining standards in Section 10-8-12 are still not met; therefore, the use still does not meet this criterion.***
3. The use is not detrimental to public health, safety and welfare;  
***Not met. Unless there is a serious ongoing health or safety problem that a gate is needed to address, gates are inherently detrimental to public health, safety, and welfare through the division of neighborhoods, the creation of a false sense of security, and encouraging exclusivity. Service providers also have concerns over ensuring access. Additionally, both sides of the subdivision are already gated further down the hill, and adding extra gates will further limit access.***

4. The use is appropriately located with respect to public facilities; and  
*Met. The gate is proposed for an existing residential development, and is therefore appropriately located.*
5. The use is compatible with the existing neighborhood character and with the character and purpose provision of the applicable zoning district, and will not adversely affect surrounding land uses.  
*Met. The three neighboring developments are currently gated, and therefore the use is compatible with the existing neighborhood character.*

Section 10-3-5(C) outlines additional special standards for Conditional Use Permits. The criteria are copied verbatim from the Code, with the comments in italics added for this item:

**C. Special Standards for Conditional Uses:** In addition to the standards established in this Section and in Chapter 4 of this Title for particular uses, all conditional uses within a zoning district shall conform to the following standards and criteria:

1. The Commission may require the applicant or the owner of the property subject to an application for development approval for a Conditional Use Permit to establish an escrow account, post a bond or provide other financial security, in such form and sum as the Commission shall determine, with sufficient surety running to the County to offset any extraordinary costs or expenses associated with the following: a) construction of any highways, roads, water or sewer mains, drainage facilities, or other public infrastructure; b) landscaping; c) compliance with the requirements of this Section, any applicable special requirements set forth in this Section and Chapter 4 of this Title, and the conditions attached to the development permit; and d) any expense requirements set forth in this Section and Chapter 4 of this Title, and the conditions attached to the development permit, including the provision of facilities or structures, maintenance or construction work, or the execution or fulfillment of conditions of a continuing nature.  
*Met: a landscaping bond may be required.*
2. The proposed development shall not cause a reduction in the adopted level of service for any public facility.  
***Not met: service providers have expressed concern with difficulties accessing other gated communities in the area, and if the gate is approved, will then have to go through multiple gates to access the subdivision.***
3. Lighting shall not be directed or reflected upon adjoining land and shall meet all other related requirements of Section 10-4-22 of this Title with respect to exterior lighting.  
*Met: lighting shall be required to be directed downward to comply with this standard.*
4. The natural topography, soils, critical areas, watercourses and vegetation shall be preserved and used, where possible, through careful location and design of circulation ways, buildings and other structures, parking areas, recreation areas, open space, utilities and drainage facilities.  
*Met: the gate is proposed for an existing road with little to no additional disturbed area.*
5. All roads shall provide free movement for safe and efficient use within the development. Local roads shall provide access to the site in a manner that discourages unsafe and

congested conditions, and which provides convenient accessibility to parking areas, arterial and collector roads that shall be free of backing movement from adjoining parking areas and free from congestion and public safety problems.

***Not met: a gate kept closed at all times does not provide for free movement. Inability to pass through a gate may also cause backing movement from the gate, which could be a safety hazard.***

6. Vehicular and pedestrian passageways shall be separated from public rights of way. Where appropriate, a system of walkways and bicycle paths connecting buildings, open spaces, recreation areas, public facilities, and parking areas shall be provided and appropriately lighted for night use.  
*Met: a pedestrian walkway is allowed through the gate but within the right of way, however it is a private road.*
7. Buildings and other structures shall provide a human scale consistent with adjacent development and appropriate to residential uses in the RR, HS, MR, CC, SC, and NC zoning districts, and consistent with adjacent conforming development in the zoning districts. The massing, scale and architectural design shall be consistent with the design guidelines established in Section 10-4-20 of this Title.  
*Met: buildings are small in scale, and pedestrian access maintained.*
8. Site design shall avoid, to the extent practicable, the placement of obstructions in any sensitive lands, other watercourses, and shall be maintained free from any obstruction not authorized by a site plan, and any pool of standing water which is formed in any watercourse within the County on account of any unauthorized obstruction shall be deemed to be a public nuisance.  
*Met: sensitive lands are not disturbed and there are no standing bodies of water.*
9. The volume rate of post development runoff shall not exceed predevelopment runoff. Runoff calculations shall be submitted with the application for site plan approval and shall be based upon: a) the 25-year, twenty four (24) hour design storm event; b) a fully developed contributing drainage area; c) the specific location of the proposed development; d) the proposed land use and use density or intensity; and e) the specific location and amount of impervious surfaces, in square feet.  
*Met: this is not applicable as there is no new grading to be done.*
10. The site shall be landscaped in accordance with the requirements of Section 10-4-21 of this Title.  
*Could be met: if approved, landscaping should be required as a condition of approval.*

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

Staff recommends that the SCC discuss the information in this report and vote to **deny** the appeal and **uphold** the SBPC's decision to deny the Conditional Use Permit for the Ridge at Red Hawk Gate, based upon the following findings:

**Findings**

1. The SBPC correctly determined that the gate does not comply with the standards of Section 10-8-12 of the Development Code. More specifically, the application does not comply with:
  - a. Criterion 1 – there is not a demonstrated need.
  - b. Criterion 2 – the street is a through street and is not a cul-de-sac.
  - c. Criterion 4 – there is not a major traffic generator within 900 feet.
  - d. Criterion 13 – the applicant does not intend to keep the gate open for the majority of time.
2. The SBPC correctly determined that the gate does not comply with the standards of Section 10-3-5(B) of the Development Code. More specifically, the application does not comply with:
  - a. Criterion 2 – the property is not a Lot of Record, nor does the use comply with the criteria in Section 10-8-12.
  - b. Criterion 3 – the use may be detrimental to public health, safety, and welfare.
3. The SBPC correctly determined that the gate does not comply with the standards of Section 10-3-5(C) of the Development Code. More specifically, the application does not comply with:
  - a. Criterion 2 – there may be a reduction in the level of service.
  - b. Criterion 5 – free movement and circulation are not provided.

### **ALTERNATIVES**

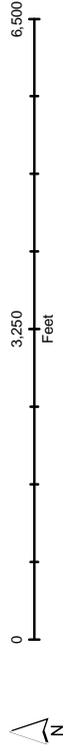
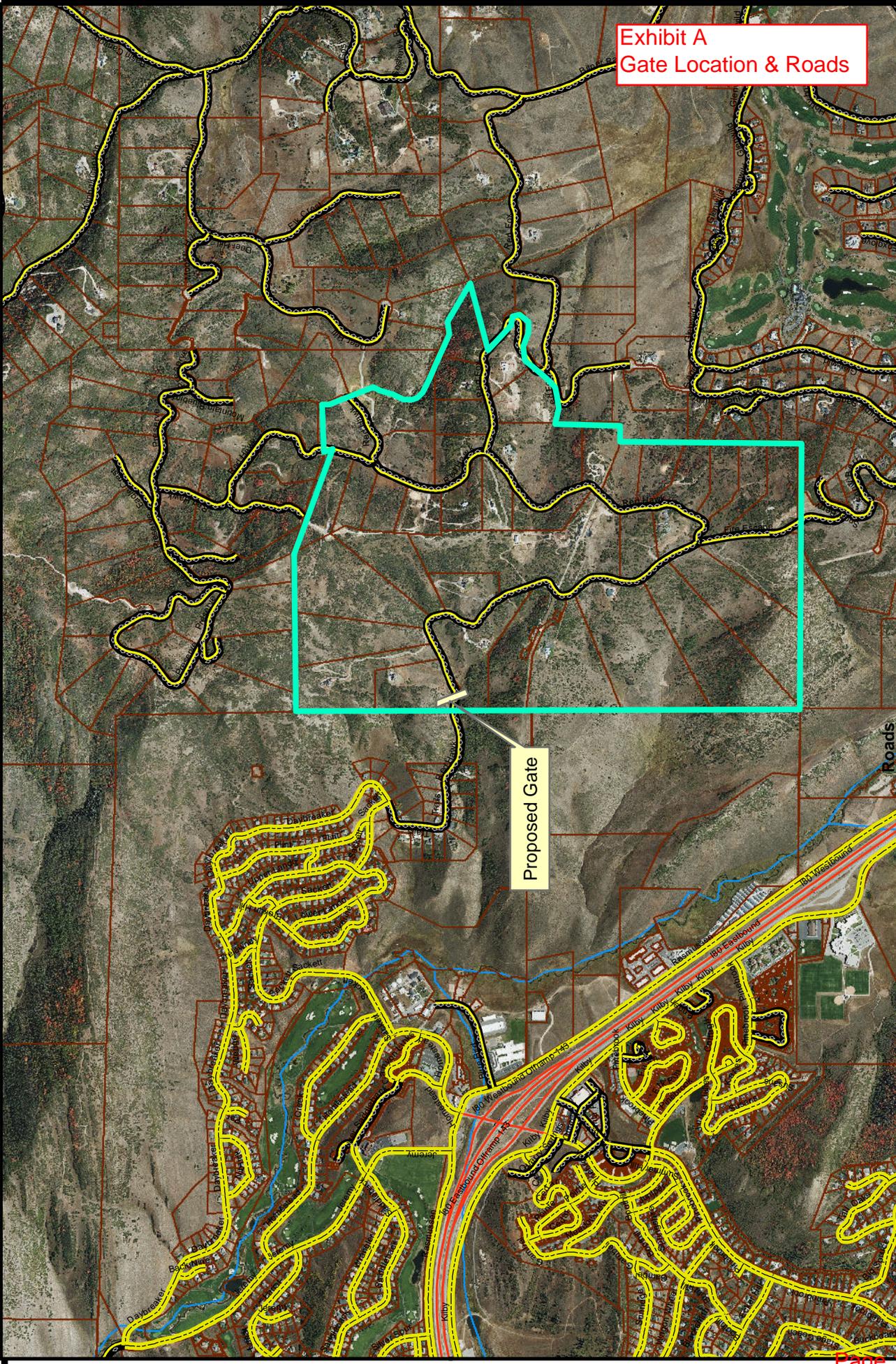
The SCC may instead choose to **continue** the item to another meeting with specific direction to Staff and the appellant on information needed to render a decision.

The SCC may instead choose to **uphold** the appeal and reverse the SBPC’s decision to deny the Conditional Use Permit, and instead **approve** the Conditional Use Permit for the Ridge at Red Hawk Gate, based upon findings articulated to Staff as to how the SBPC did not correctly apply the Code requirements. Specifically, the SCC may choose this option upon articulating how application complies with every criterion outlined in Section, such findings to be reviewed and finalized at a future meeting. Staff also recommends the inclusion of conditions of approval, which would be provided for review along with the findings at a later meeting.

### **Exhibits(s)**

- |             |   |
|-------------|---|
| Exhibit A – | Gate Location and roads through the project (page 12) |
| Exhibit B – | Aerial (page 13)                                      |
| Exhibit C – | Building permit background information                |
|             | 1. 2001 Building Permit package (pages 14-17)         |
|             | 2. 2003 Building Permit renewal (page 18)             |
| Exhibit D – | Original applicant packet                             |
|             | 1. Justification (pages 19-21)                        |
|             | 2. site plan (pages 22-24)                            |
|             | 3. Guard House elevation drawing (page 25)            |
|             | 4. photos (pages 26-29)                               |
|             | 5. Gate Management Plan (page 30)                     |
| Exhibit E – | SBPC minutes, May 22, 2012 (pages 31-40)              |
| Exhibit F – | SBPC minutes, June 26, 2012 (pages 41-43)             |
| Exhibit G – | Appellant appeal application (pages 44-45)            |
| Exhibit H – | Ombudsman’s Opinion (pages 46-62)                     |

**Exhibit A  
Gate Location & Roads**



This drawing is neither a legally recorded map, nor a survey, and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources including Summit County. Summit County is not responsible for the timeliness or accuracy of information shown.

- S\_JURIS**
- Major Roads
  - County Roads
  - County Class D
  - City Roads
  - Private Roads

Proposed Gate

**Summit County, Utah  
Vicinity Map**

Prepared by Summit County  
Community Development Department



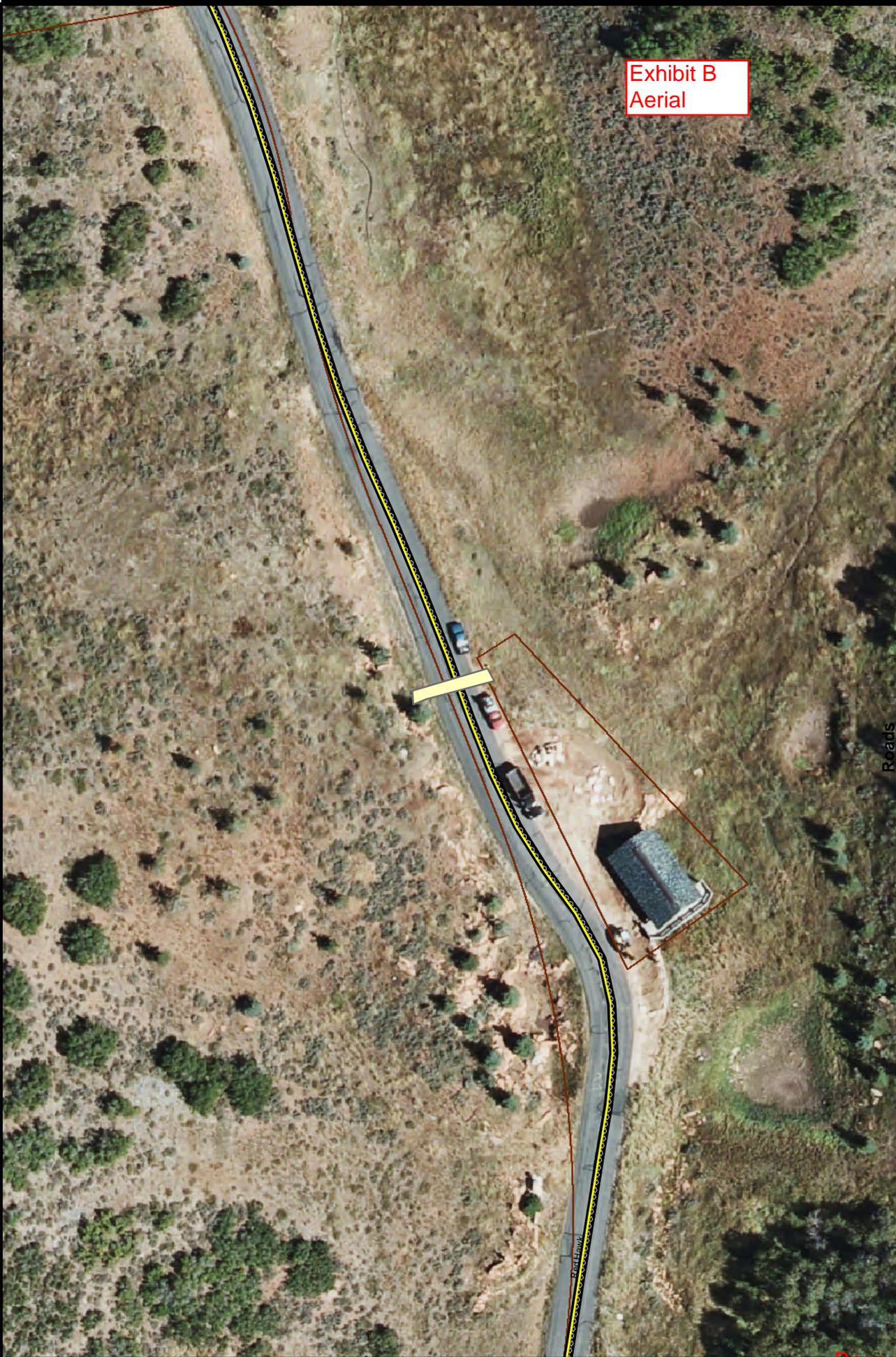


Exhibit B  
Aerial



This drawing is neither a legally recorded map, nor a survey, and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources including Summit County. Summit County is not responsible for the timeliness or accuracy of information shown.

- Roads**
- S\_JURIS Major Roads
  - County Roads
  - County Class D
  - City Roads
  - Private Roads

# Summit County, Utah Vicinity Map

Prepared by Summit County  
Community Development Department



PL  
386

SUMMIT COUNTY BUILDING

PHONE 435-336-3122 NOTE: 24 hours notice is required for all inspections

Applicant to fill out left side only

Owner of Property <i>Rep AAWSK/Kent Gunderson</i>	
Phone	
Mailing Address	
Building Address <i>Libby @ Red Hawk</i>	
Proposed Use of Structure <i>Guard House</i>	Assessor's Parcel No. <i>RRH-6</i>
Total Property Area in Acres or Sq. Ft.	Total Bldg Site Area used
Dwelling Units Now on Lot?	Accessory Bldgs. Now on Lot?
Number of Offstreet Parking Spaces: Covered: _____ Uncovered: _____	
Architect/Engineer	Phone
Address <i>Bob Young</i>	
General Contractor <i>NEW FRONTIER CONSTR.</i>	Phone <i>435-901-9361</i>
Address <i>6324 STARBUCK DR.</i>	State Lic. No. <i>91-250254-5501</i>
Electrical Contractor	Phone
Address	State Lic. No.
Plumbing Contractor	Phone
Address	State Lic. No.
Mechanical Contractor	Phone
Address	State Lic. No.

OFFICE USE ONLY

Date Issued <i>11-20-01</i>	Permit Number <i>01802</i>
--------------------------------	-------------------------------

\$200.00 Application Fee Paid Yes  No

Building Fee Schedule

Sq. Ft of Bldg:	Valuation
Main Floor <i>680</i>	Building Fee <i>3024.40</i>
2nd Floor <i>—</i>	Plan Check Fee <i>442.25</i>
Unfinished Bsmt <i>—</i>	Electrical Fee <i>10.00</i>
Finished Bsmt <i>—</i>	Plumbing Fee
Other <i>—</i>	Mechanical Fee
Building Discription:	
No. of Dwellings <i>—</i>	Demolition Fee
No. of Buildings <i>1</i>	Double Fee
No. of Stories <i>1</i>	
Occ. Group <i>B</i>	
Type of Construction <i>V-N</i>	
Roof Snow Load <i>30</i>	
No. of Bathrooms <i>—</i>	1% Surcharge <i>4.52</i>
Fire Sprinklers Required:	
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Total <i>456.71</i>

Permit issuance approved by:

*E. J. [Signature]* 11/20/01  
Building Department's Representative Date

SPECIAL APPROVALS	REQUIRED	RECEIVED
Fire Department		
Water or Well Permit		
Sewer or Septic Tank		
Road Approach Permit	<i>CSB</i>	<i>CSB</i>
Recreation District		
Other (specify)		

Special Requirements or Comments:

*Guard House - No  
sewer or water*

Zoning Approval:

Zone: *SPT* Setbacks:  
Front: *20'* Rear: *12'*  
Side: \_\_\_\_\_  
Left: *12'* Right: *12'*

*Daniel [Signature]* 11/19/01  
Zoning Department's Representative Date

County Engineer:

Flood Zone: \_\_\_\_\_ A \_\_\_\_\_ C   
*[Signature]* 11-6-01  
County Engineer's Representative Date

NOTICE:

Construction may require installation of underground utilities. Summit County will not allow open excavation of roadways after October 1st. This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days anytime after work is commenced. I hereby certify that I have read and examined and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction and that I make this statement under penalty of perjury.

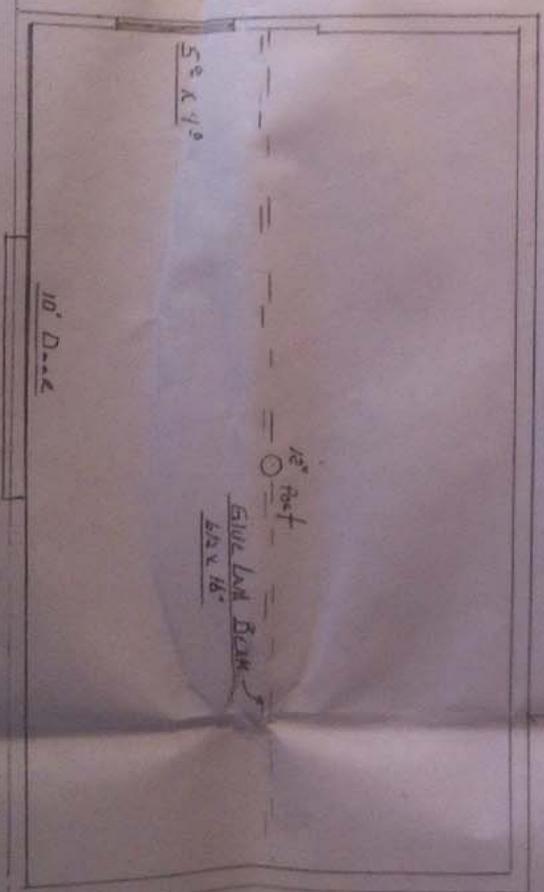
*[Signature]*  
Signature of Contractor Date *11-6-01*  
Signature of Owner(s) Date

15th Nov 2011  
MOUNTAINVIEW

2-4199

288 #09  
2-4199

FOOTINGS: 12" x 24" 3' BELOW GRADE  
2 #4 REBAR IN FOOTINGS  
#4 STEEL RN WALL 30" OC  
VERT & HOR.  
TIE DOWNS 8" O.C.



PARKING

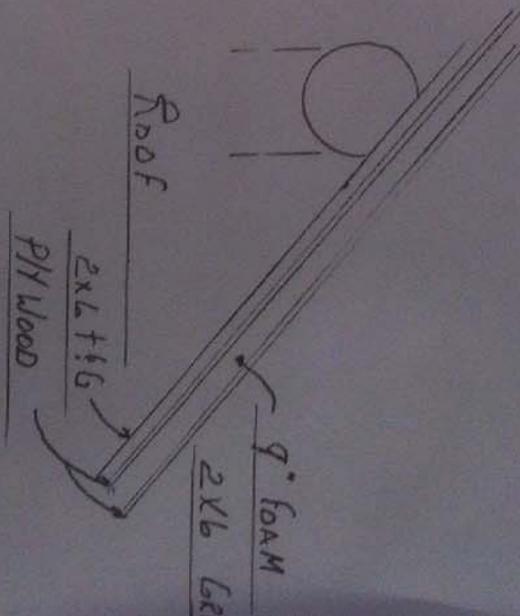
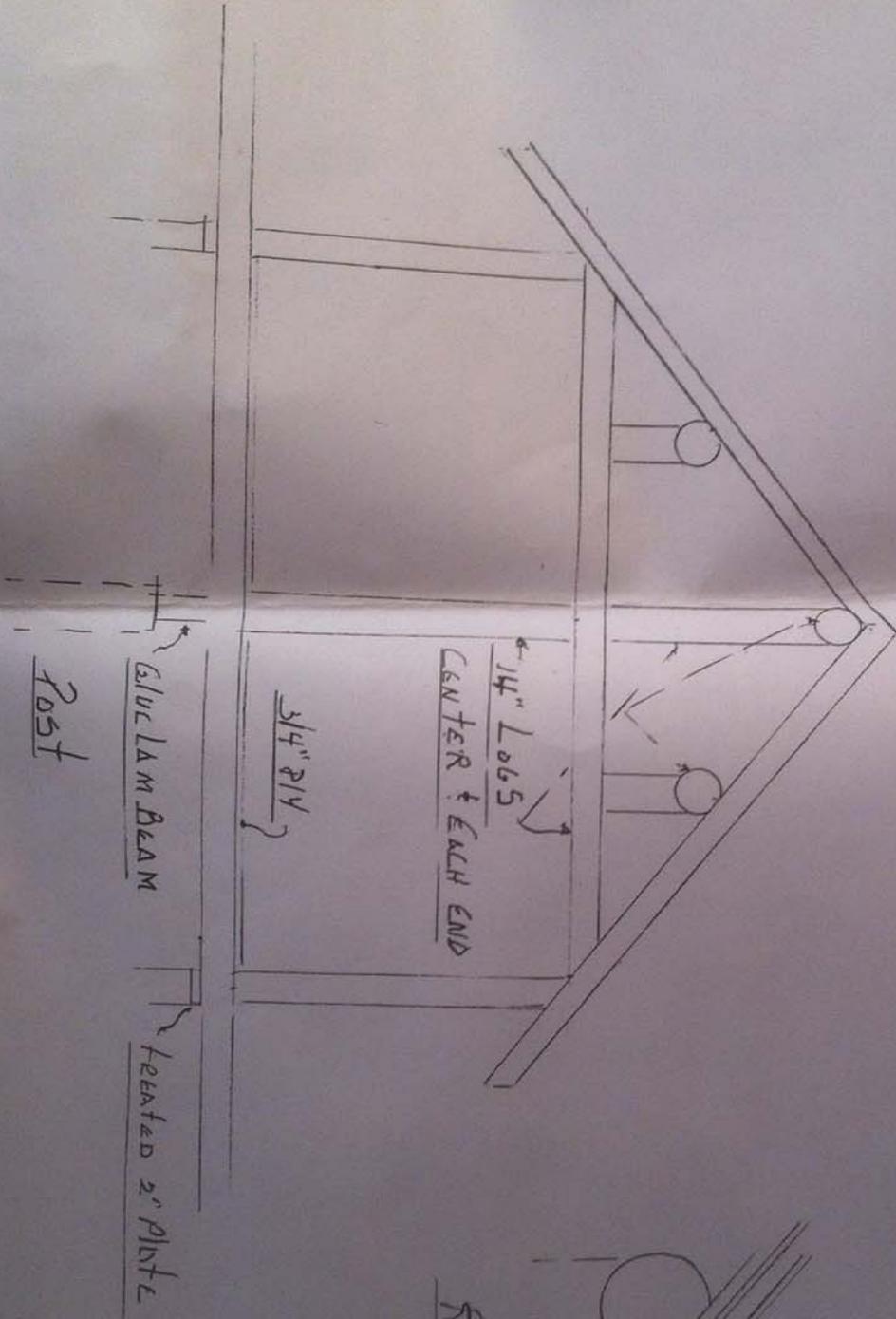
to BACK TOP

9' CEMENT WATS 8' THICK

ALL CONSTRUCTION TO COMPLY WITH  
UNIFORM BUILDING CODE  
NATIONAL ELECTRICAL CODE  
INTERNATIONAL MECHANICAL CODE  
INTERNATIONAL PLUMBING CODE



Deck & FLOOR 2x12 Joists 16" O.C.



ALL CONSTRUCTION TO CONFORM TO CURRENT  
 INTERNATIONAL BUILDING CODE  
 NATIONAL ELECTRICAL CODE  
 INTERNATIONAL MECHANICAL CODE  
 INTERNATIONAL PLUMBING CODE

# SUMMIT COUNTY BUILDING PERMIT APPLICATION

PHONE 435-336-3122 NOTE: 24 hours notice is required for all inspections

Applicant to fill out left side only

OFFICE USE ONLY

Owner of Property <b>RED HAWK</b>	
Phone <b>435-658-4488</b>	
Mailing Address	
Building Address <b>LOT 6 RED HAWK</b>	
Subdivision Name <b>RED HAWK</b>	
Proposed Use of Structure <b>GUARD HOUSE</b>	Assessor's Parcel No. <b>RPH-6</b>
Total Property Area in Acres or Sq. Ft. <b>25</b>	Total Bldg Site Area used
Dwelling Units Now on Lot? <b>0</b>	Accessory Bldgs. Now on Lot?
Architect/Engineer <b>CARSEN ENG</b>	Phone <b>296 2784</b>
Address <b>CENTERTVILLE, UT</b>	
General Contractor <b>YUKON CONSTRUCTION</b>	Phone <b>295-9651</b>
Address <b>750 S. MAIN</b>	State Lic. No.
Electrical Contractor <b>CHESLEY ELECT</b>	Phone <b>435658 8706</b>
Address <b>PARK CITY</b>	State Lic. No.
Plumbing Contractor <b>CPC PLUMBING</b>	Phone
Address <b>NSL. UT</b>	State Lic. No.
Mechanical Contractor	Phone
Address	State Lic. No.

Plan Check No.	Date Issued <b>4-23-03</b>	Permit Number <b>03137</b>
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\$200.00 Application Fee Paid Yes  No

### Building Fee Schedule

Sq. Ft of Bldg:	Valuation:	<b>30,240</b>
Main Floor <b>1680</b>	Building Fee	<b>22.15</b>
2nd Floor	Plan Check Fee	
Finished Basement	Electrical Fee	
Garage	Plumbing Fee	<b>30.40</b>
Decks	Mechanical Fee	
Other	Demolition Fee	
Building Description:	Double Fee	
No. of Dwellings		
No. of Buildings <b>1</b>		
No. of Stories <b>1</b>		
Occ. Group <b>U</b>		
Type of Construction <b>V-B</b>		
Roof Snow Load <b>58</b>		
No. of Bathrooms	1% Surcharge	<b>2.51</b>
Fire Sprinklers Required:		
Yes No	Total	<b>254.06</b>

Permit Issuance Approved By:  
*Bill Yundt* **4-23-03**  
Building Department's Representative Date

SPECIAL APPROVALS	REQUIRED	RECEIVED
Fire Department		
Water or Well Permit		
Sewer or Septic Tank		
Road Approach Permit		
Recreation District		

Special Requirements or Comments:  
**ISSUE New permit to finish REARRANGED project. 1/2 of original fee charged.**  
Zoning Approval: *see attached*

Zone: **HA** Front: **20'** Rear: **10'**  
Side: **10'** Left: **10'** Right: **12'**  
*W. Lane Northrup* **4-23-03**  
Zoning Department's Representative Date

County Engineer:  
Flood Zone: A  C

**NOTICE:**  
Construction may require installation of underground utilities. Summit County will not allow open excavation of roadways after October 1st. This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days anytime after work is commenced. I hereby certify that I have read and examined and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction and that I make this statement under penalty of perjury.

Signature of Contractor *[Signature]* Date **4/23**

Signature of Owner(s) \_\_\_\_\_ Date \_\_\_\_\_

County Engineer's Representative \_\_\_\_\_ Date \_\_\_\_\_

**Community:** Ridge at Redhawk Subdivision  
(dba: The Ranches at The Preserve)

**Re:** Conditional Use Permit: Vehicle Control Gate

**Date:** April 12, 2012

**Code Requirement:** Section 10-8-12 Additional Permit Criteria

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*Code Section restatement and responses:*

1. The applicants have demonstrated a need for a vehicle control gate to effectively control an ongoing health, safety, and welfare situation or in unique circumstances, to mitigate traffic, parking congestion, or through on streets within a neighborhood.

*Response:* The Ridge at Redhawk Association has continued to experience consistent episodes of both pedestrian and vehicular trespass along with criminal property damage. Association members have had repeated occurrences of 'close calls' by and between association members and unauthorized individuals that have entered the community via vehicle or 'on foot'; including the need to administer first aid on several occasions to injured trespassers. The Association members continue to be **extremely concerned** about vehicular and pedestrian safety.

The increased vehicle trespass continues to degrade the community roadways; the roadways involved are entirely private and thus privately financed and maintained. Increased, unauthorized access continues to accelerate road damages at the expense of the private community owners.

Within the last 5 years, the community has been victim to multiple acts of criminal property damage. (i.e.: common area electrical transformer destroyed, community entry cabin vandalized, damage to community dumpster).

Owners continue to experience pedestrian trespass on individual lots within the community.

2. The street is a private street, is a cul-de-sac, and is not a through street. The proposed vehicle control gate does not impact traffic circulation through the neighborhood.

*Response:* All roadways within the subdivision are private, as identified on recorded plat. Said roadway(s) is not a through street. The proposed vehicle control gate does not impact traffic circulation through the neighborhood. Vehicle control gate would be located at NW entry location, within the legally platted community area.

3. The private street serves primarily single family or duplex residences with individual or shared driveways

*Response:* private street serves single family residences as evidences on recorded plat.

4. There is a major traffic or parking generator or use within a nine hundred (900) foot walking distance of the private street entrance and there is evidence of spill over parking or other vehicular activity on a regular basis throughout the season.

*Response:* Public trail crossing within 900 feet of proposed gate. Significant generator of trespass. The neighboring 'gated' community contributes overflow traffic within the Ridge at Redhawk community. Unauthorized users continue to park vehicles at entry cabin as 'trailhead' parking to begin walks through the community.

5. The vehicle control gate is located outside of the County right-of-way and maintains all setbacks of the zone.

*Response:* Please see attached maps. Vehicle control gate is located outside of County right-of-way and maintains all setbacks of the zone. (private roads)

6. The vehicle control gate does not impact existing utility easements.

*Response:* utility easements not impacted.

7. The vehicle control gate is designed to permit unimpeded pedestrian, bicycle and equestrian access through the neighborhood and to existing public trails and walkways. A minimum gap of four (4) feet shall be allowed for these non-vehicular Uses.

*Response:* Please see submitted photos of structure and surrounding topography; 4' minimum gap has been provided. Please note that the public trail system is prior to proposed gate. Roadways are private, thus pedestrian, bicycle and equestrian access is limited to association members and authorized guests.

8. The vehicle control gate is designed to be minimal in height, scale and mass to accomplish the goal of preventing unauthorized vehicle traffic, parking, and/or other impacts on the neighborhood. There shall be a minimum bottom clearance of two (2), feet from the bottom of the gate rail to the road surface. A diagonal structural support may cross through the two (2) foot opening to provide additional structural strength for the cantilevered gate and keep the overall gate mass to a minimum. The gate shall be no more than three (3) feet or thirty-six (36) inches in height from the bottom rail to the top rail, although allowance may be made for decorative elements. The gate shall open inward allowing a vehicle to stop while not obstructing traffic on roads. Design and materials shall result in a visually open gate. Any walls associated with the entry gate shall be pedestrian in scale and shall generally not exceed five (5) feet. Column elements may be added for architectural interest, but these column elements shall not exceed a height of nine (9) feet.

*Response:* Please see submitted photos and renderings of existing structures. All elements in compliance with stated requirements.

9. The method of access for emergency, service, and delivery vehicles shall meet all requirements of the County Planning, Engineering, and Building Departments and the Park City Fire Service District prior to issuance of a building permit for the gate construction.

*Response:* Gate Access system specifications will comply with all EMS and County departmental requirements. Current specifications included.  
Proposed Access System: SOS siren initiated system. Door King 1834 access components.

10. If the gate is electronically operated, a receiver shall be installed that will permit emergency services access with a transmitter. If the gate can be locked, a lock box approved and provided by PCFSD and the County Sheriff will be located on the exterior side of the gate to provide for emergency equipment access to the property through the gate.

*Response:* Gate will be electronically operated. Gate will not be able to be manually locked. All emergency access requirements will be met and access provided to all requisite agencies.

11. Vehicle control gates on private streets are not permitted in all zones. Gates on private streets are allowed as a conditional use in the following Zoning Districts: RR, HS, MR, RC

*Response:* Ridge at Redhawk Subdivision is within allowable zone. All 3 contiguous communities are gated communities.

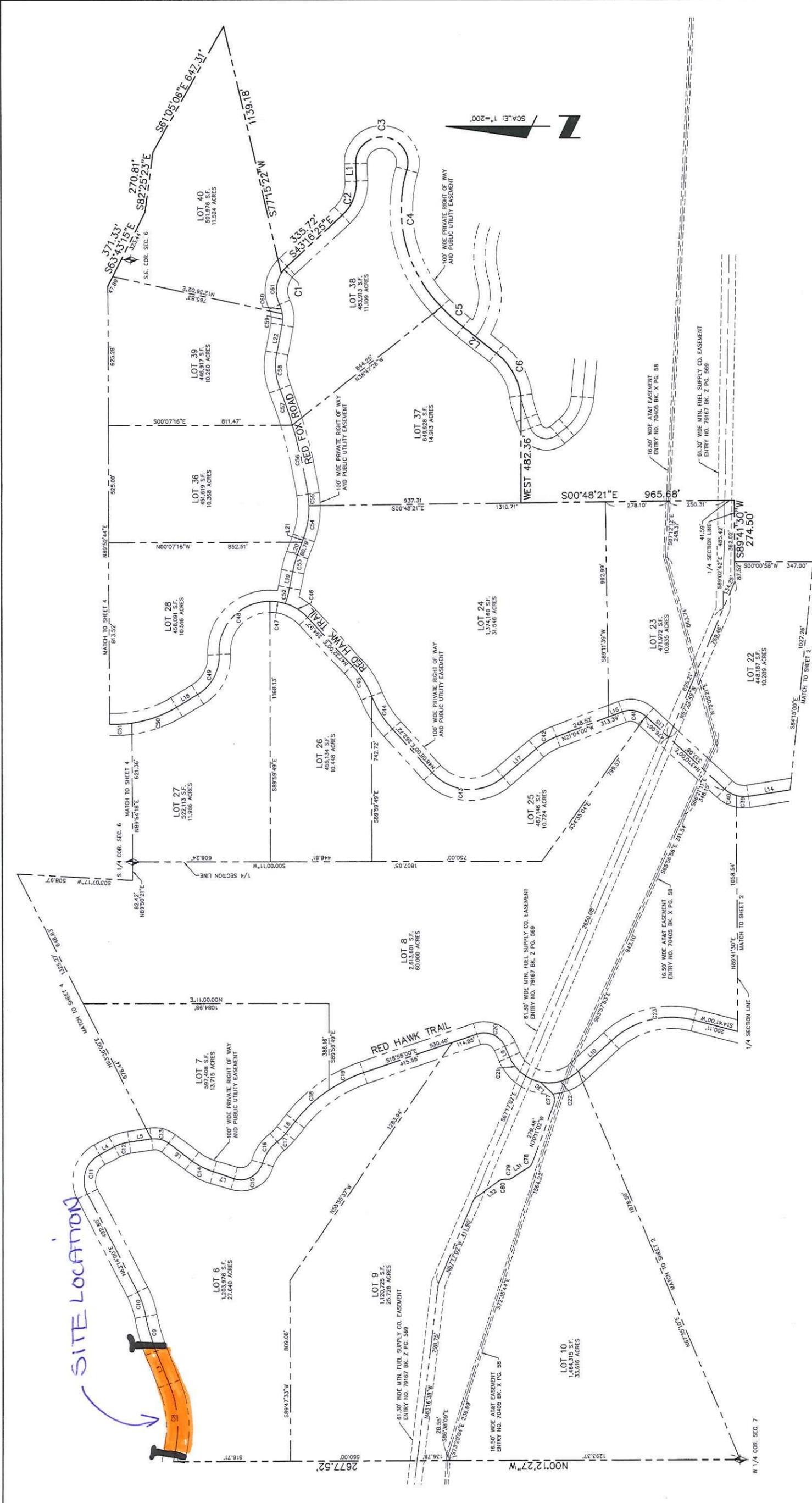
12. Any signs associated with the gate and/or walls are subject to Section 10-8-2

*Response:* Separate Low Impact Sign permit has been submitted to Summit County for review. Please see/review submitted permit for applicable information.

13. A vehicle control gate management plan shall be submitted for approval to address times and situations when the gate will be closed. Applicants shall agree to leave the gate open at all times, except as specified in the approved management plan.

*Response:* Vehicle control gate is proposed for the private roadway with the intent to be close at all times and electronically operated with owner's access cards/remotes. All EMS/Safety/Law enforcement protocols to be implemented.





**THE RIDGE AT RED HAWK**  
 A UTAH SUBDIVISION LOCATED IN A PORTION  
 OF SECTIONS 5, 6, 7, & 8, TOWNSHIP 1 SOUTH,  
 RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN  
 SUMMIT COUNTY, UTAH

**SHEET 3 OF 4**

**RECORDED**  
 No. 472632  
 STATE OF UTAH, COUNTY OF SUMMIT, RECORDED  
 AND FILED AT THE REQUEST OF *Michael L. Aldrich*  
 DATE: 5-28-27 TIME: 16:53:24

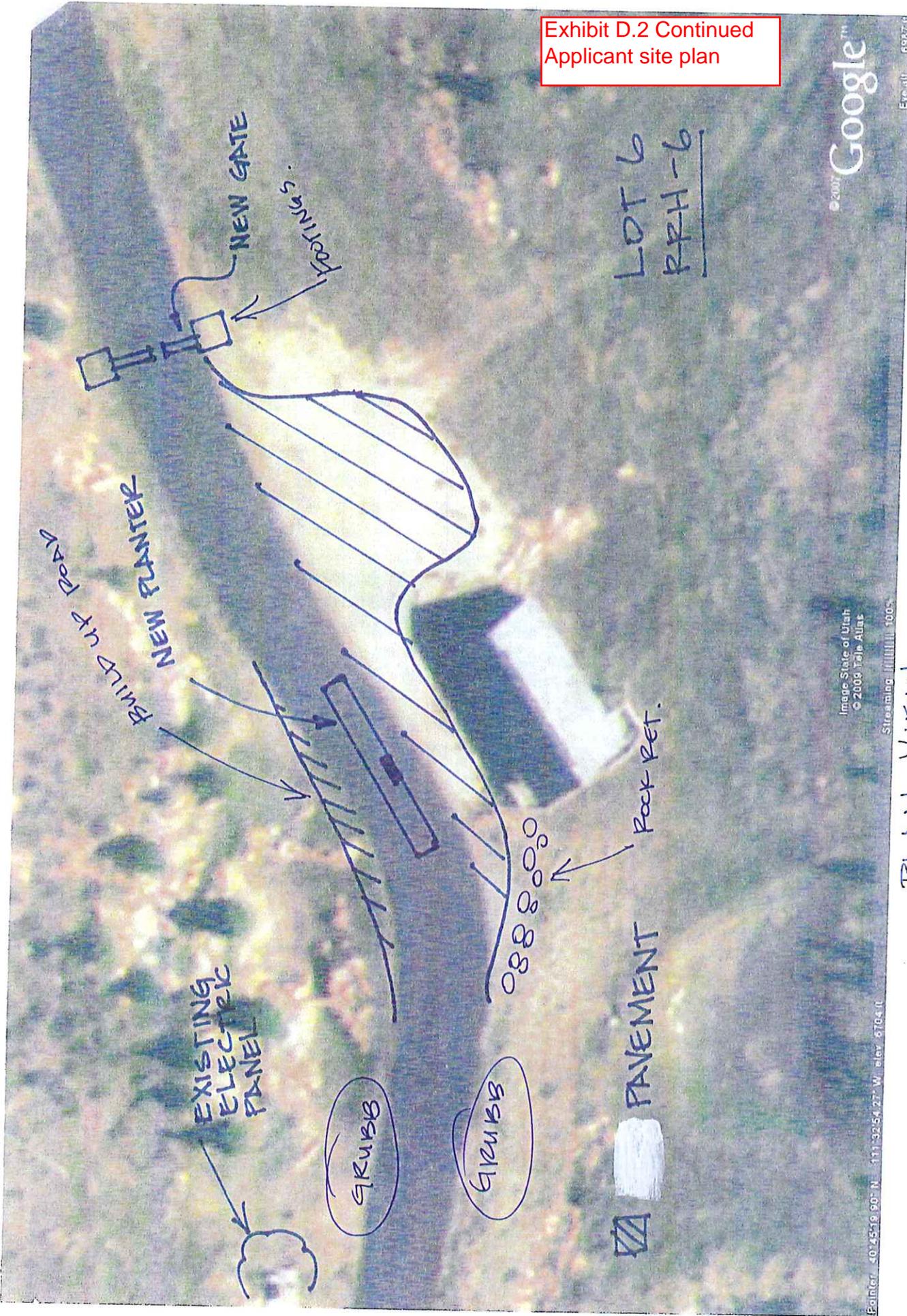
**PREPARED BY**  
**MICHAEL L. ALDRICH**  
**AND ASSOCIATES**  
**CONSULTING ENGINEERS**  
 2142 SOUTH HOSEA ROAD SUITE 170, SALT LAKE CITY, UTAH 84108  
 PHONE NO. 313-968-1199 FAX NO. 313-968-1199  
 E-MAIL: *Michael.L.Aldrich@maae.com*

LINE	DESCRIPTION	DISTANCE
L1	16.50' WIDE AT&T EASEMENT	188.50
L2	16.50' WIDE AT&T EASEMENT	188.50
L3	16.50' WIDE AT&T EASEMENT	188.50
L4	16.50' WIDE AT&T EASEMENT	188.50
L5	16.50' WIDE AT&T EASEMENT	188.50
L6	16.50' WIDE AT&T EASEMENT	188.50
L7	16.50' WIDE AT&T EASEMENT	188.50
L8	16.50' WIDE AT&T EASEMENT	188.50
L9	16.50' WIDE AT&T EASEMENT	188.50
L10	16.50' WIDE AT&T EASEMENT	188.50
L11	16.50' WIDE AT&T EASEMENT	188.50
L12	16.50' WIDE AT&T EASEMENT	188.50
L13	16.50' WIDE AT&T EASEMENT	188.50
L14	16.50' WIDE AT&T EASEMENT	188.50
L15	16.50' WIDE AT&T EASEMENT	188.50
L16	16.50' WIDE AT&T EASEMENT	188.50
L17	16.50' WIDE AT&T EASEMENT	188.50
L18	16.50' WIDE AT&T EASEMENT	188.50
L19	16.50' WIDE AT&T EASEMENT	188.50
L20	16.50' WIDE AT&T EASEMENT	188.50
L21	16.50' WIDE AT&T EASEMENT	188.50
L22	16.50' WIDE AT&T EASEMENT	188.50
L23	16.50' WIDE AT&T EASEMENT	188.50
L24	16.50' WIDE AT&T EASEMENT	188.50
L25	16.50' WIDE AT&T EASEMENT	188.50
L26	16.50' WIDE AT&T EASEMENT	188.50
L27	16.50' WIDE AT&T EASEMENT	188.50
L28	16.50' WIDE AT&T EASEMENT	188.50
L29	16.50' WIDE AT&T EASEMENT	188.50
L30	16.50' WIDE AT&T EASEMENT	188.50
L31	16.50' WIDE AT&T EASEMENT	188.50
L32	16.50' WIDE AT&T EASEMENT	188.50
L33	16.50' WIDE AT&T EASEMENT	188.50
L34	16.50' WIDE AT&T EASEMENT	188.50
L35	16.50' WIDE AT&T EASEMENT	188.50
L36	16.50' WIDE AT&T EASEMENT	188.50

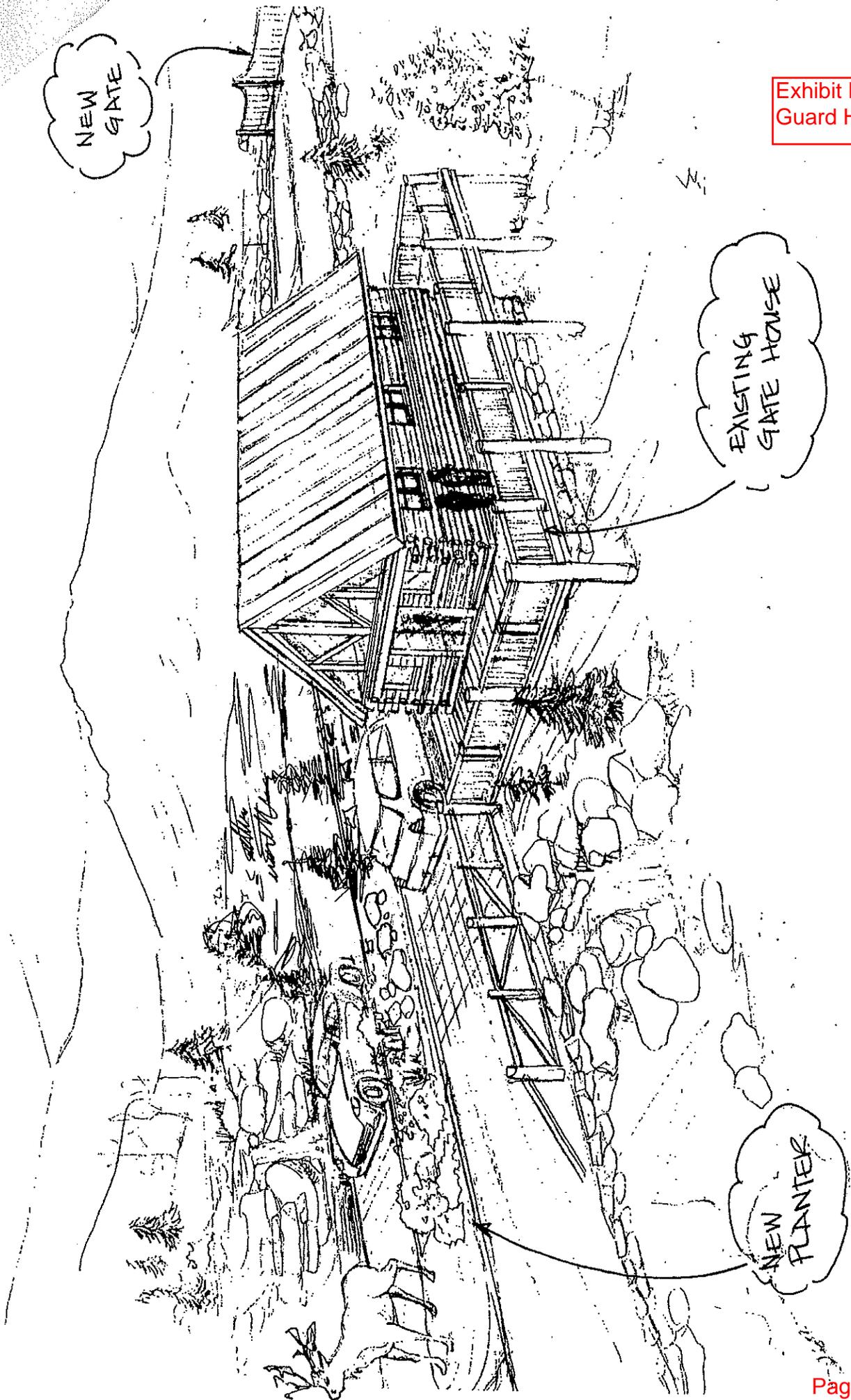
CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C14	485.00	174.87	88.39	174.87	S58°27'45"W	20.39°29'
C15	430.00	158.54	80.70	158.54	S58°27'45"W	21°15'29"
C16	430.00	158.54	80.70	158.54	S58°27'45"W	21°15'29"
C17	225.00	69.50	35.03	69.50	S48°21'06"E	17°41'49"
C18	225.00	69.50	35.03	69.50	S48°21'06"E	17°41'49"
C19	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C20	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C21	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C22	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C23	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C24	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C25	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C26	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C27	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C28	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C29	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C30	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C31	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C32	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C33	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C34	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C35	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C36	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C37	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C38	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C39	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C40	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C41	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C42	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C43	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C44	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C45	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C46	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C47	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C48	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C49	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C50	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C51	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C52	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C53	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C54	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C55	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C56	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C57	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C58	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C59	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C60	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C61	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C62	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C63	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C64	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C65	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C66	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C67	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C68	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C69	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C70	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C71	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C72	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C73	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C74	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C75	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C76	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C77	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C78	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C79	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C80	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C81	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C82	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C83	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C84	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C85	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C86	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"
C87	200.00	61.50	30.75	61.50	S48°21'06"E	16°50'21"

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	1500.00	40.80	20.40	40.80	S51°03'55"E	16°30'01"
C2	115.00	39.45	19.73	39.45	S70°02'34"W	19°01'07"
C3	115.00	39.45	19.73	39.45	S70°02'34"W	19°01'07"
C4	635.00	63.50	31.75	63.50	S74°14'03"W	69°02'08"
C5	1000.00	131.19	65.60	131.19	S42°32'30"W	67°30'59"
C6	310.00	58.18	29.09	58.18	N81°05'59"W	67°03'21"
C7	310.00	58.18	29.09	58.18	N81°05'59"W	67°03'21"
C8	530.00	316.67	158.34	316.67	N81°05'59"W	34°14'02"
C9	800.00	161.84	80.92	161.84	S73°59'43"W	11°33'26"
C10	1500.00	40.80	20.40	40.80	S51°03'55"E	16°30'01"
C11	1500.00	40.80	20.40	40.80	S51°03'55"E	16°30'01"
C12	200.00	61.50	30.75	61.50	N16°14'30"W	19°51'00"
C13	1000.00	78.86	39.43	78.86	N14°43'42"E	45°33'25"
C14	1000.00	78.86	39.43	78.86	N14°43'42"E	45°33'25"
C15	1000.00	78.86	39.43	78.86	N14°43'42"E	45°33'25"
C16	1000.00	78.86	39.43	78.86	N14°43'42"E	45°33'25"
C17	650.00	171.31	85.66	171.31	S77°48'59"E	49°43'57"
C18	650.00	171.31	85.66	171.31	S77°48'59"E	49°43'57"
C19	650.00	171.31	85.66	171.31	S77°48'59"E	49°43'57"
C20	1000.00	149.20	74.60	149.20	N23°46'30"E	85°29'00"
C21	1000.00	149.20	74.60	149.20	N23°46'30"E	85°29'00"
C22	1000.00	149.20	74.60	149.20	N23°46'30"E	85°29'00"
C23	391.50	393.92	196.96	393.92	N14°08'30"W	57°39'00"
C24	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C25	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C26	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C27	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C28	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C29	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C30	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C31	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C32	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C33	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C34	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C35	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C36	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C37	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C38	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C39	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C40	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C41	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C42	125.00	54.16	27.08	54.16	S03°25'02"W	24°50'03"
C43	225.00	349.70	174.85	349.70	S03°36'30"W	89°03'00"

RIDGE AT RED HAWK



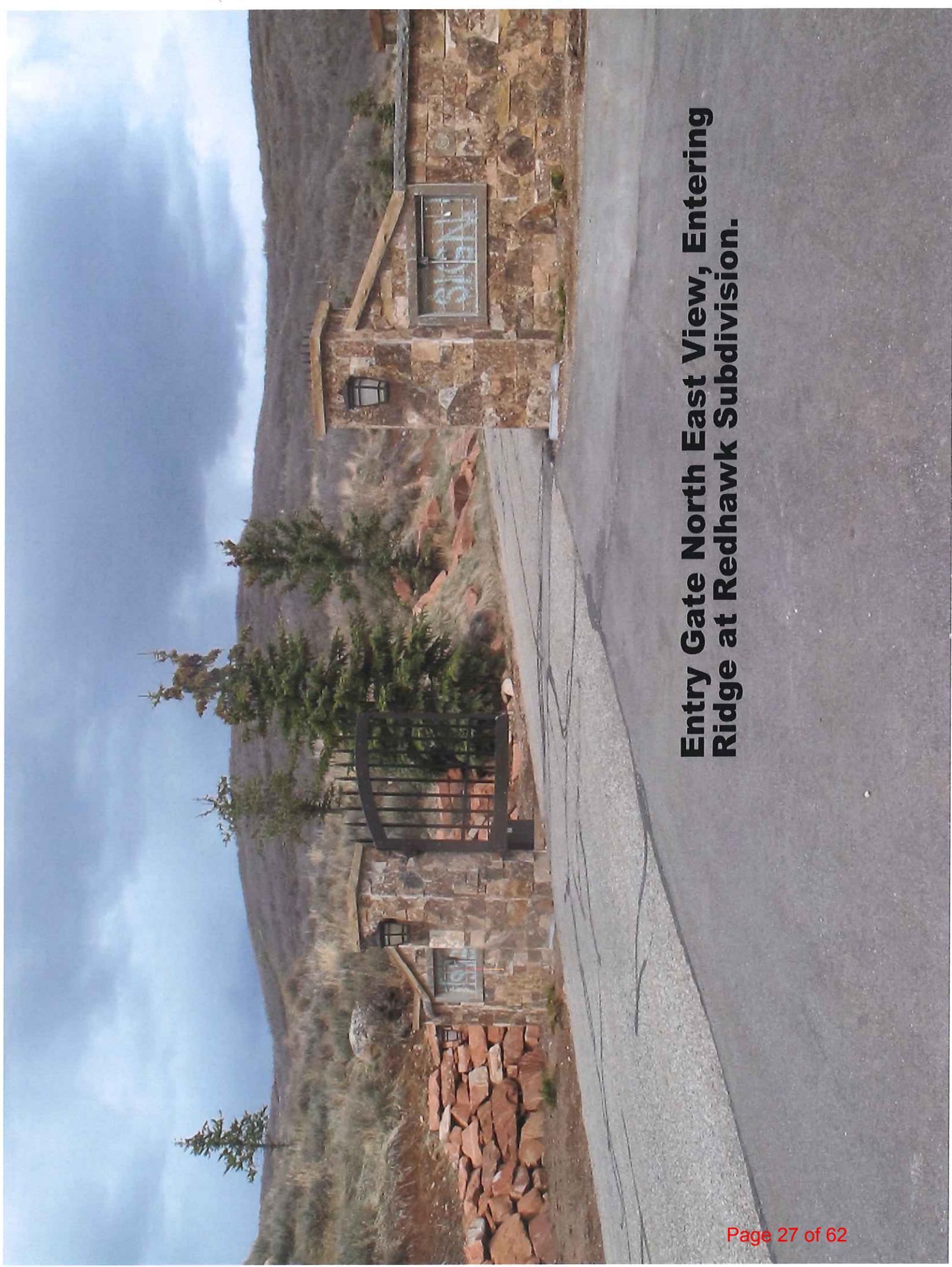
PLAN VIEW  
RANCHES AT THE PRESERVE  
GATE HOUSE



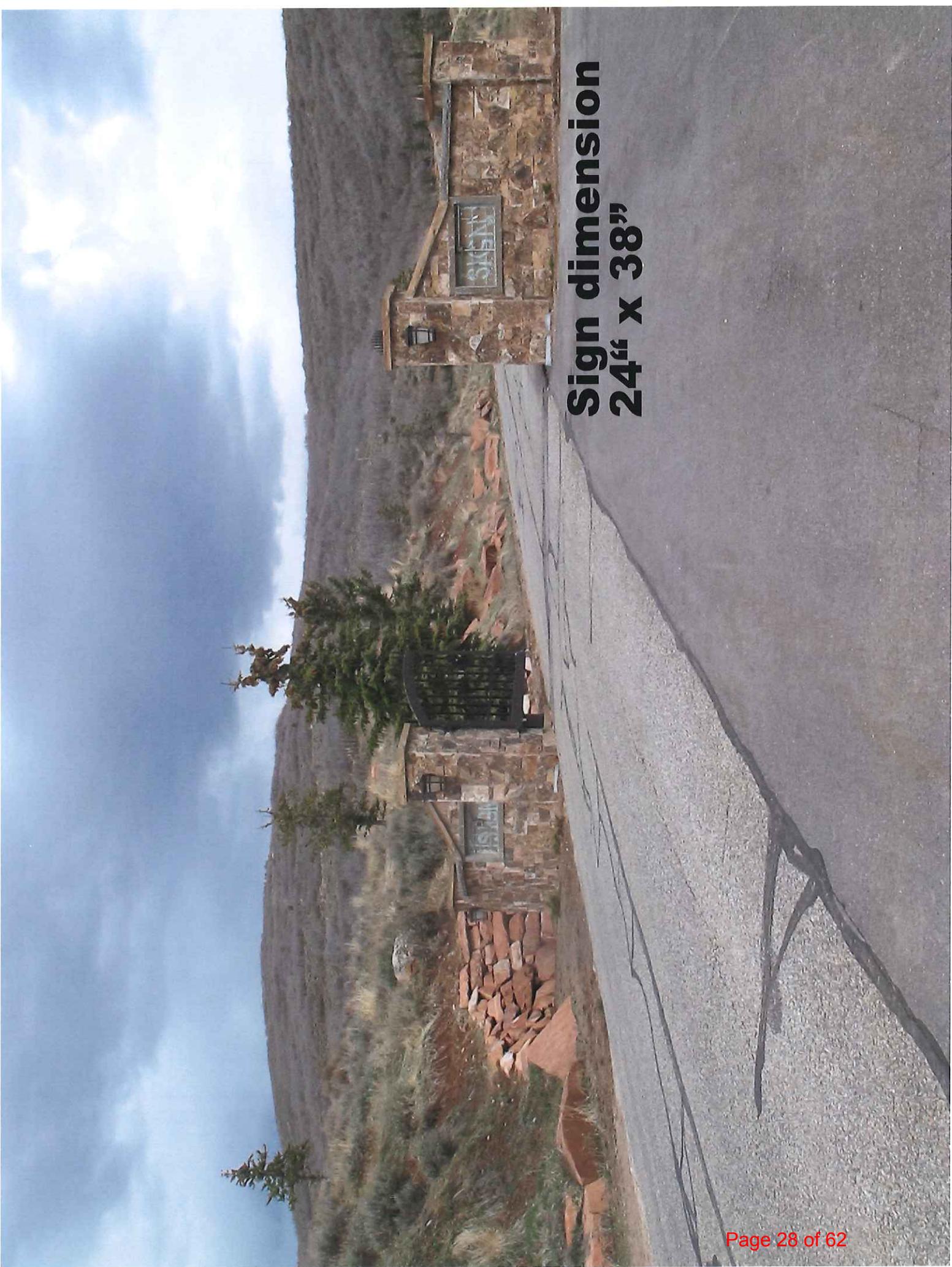
ELEVATION  
RANCHES AT THE PRESERVE  
GATE AND PLANTER ADDITION

Exhibit D.4  
Applicant Photos

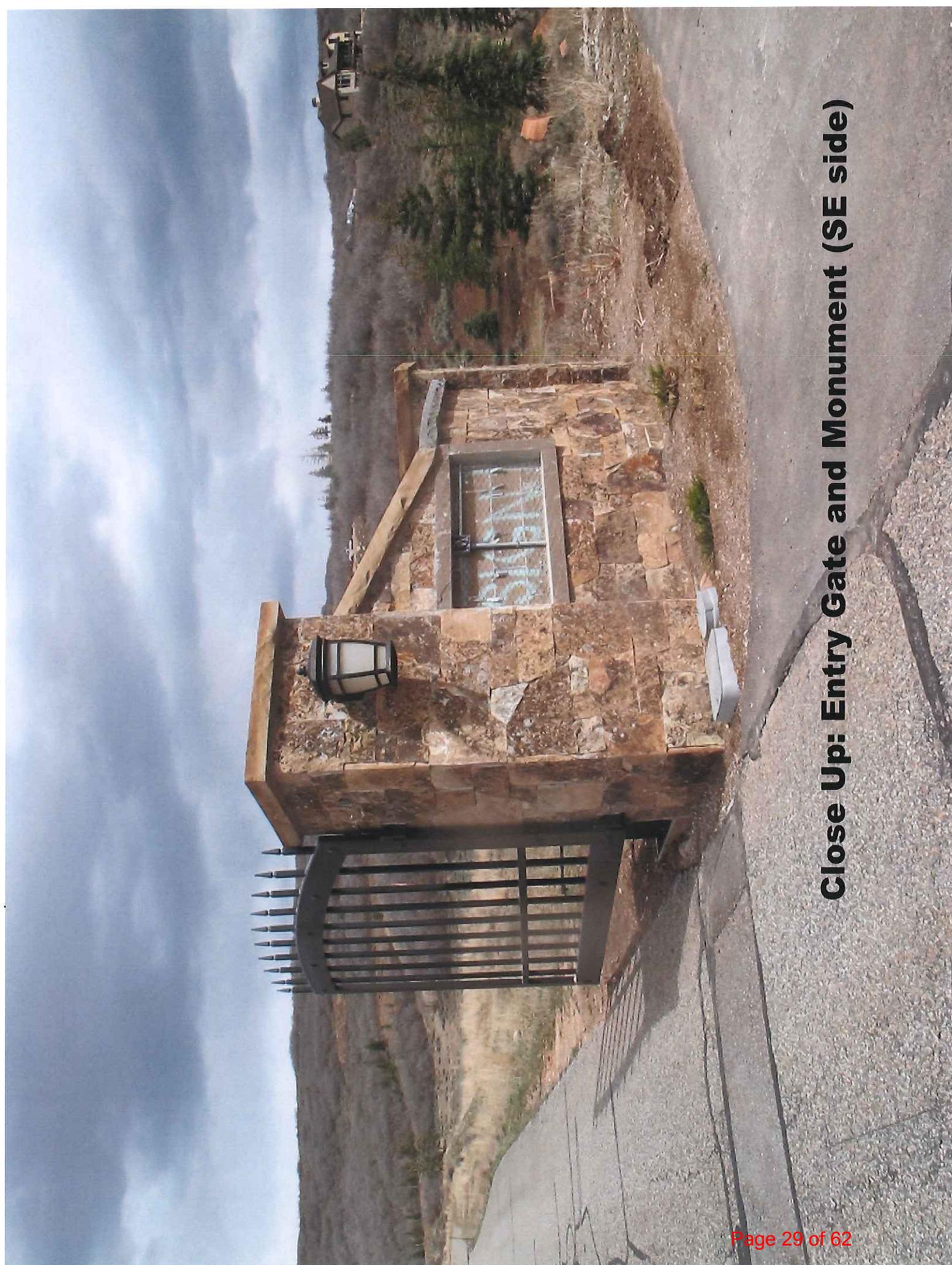
**Entry Gate Looking West. Dual Arm  
Electric Gates leading to existing-approve  
Gatehouse.**



**Entry Gate North East View, Entering Ridge at Redhawk Subdivision.**



**Sign dimension  
24" x 38"**



**Close Up: Entry Gate and Monument (SE side)**



## Vehicle Control Gate Management Plan

### **Ridge at Redhawk Wildlife Preserve Foundation (dba: The Ranches at The Preserve)**

#### **Gate Location:**

Vehicle Control Gate located on westerly end of Red Hawk Trail within Ridge at Redhawk Subdivision. Vehicle Control gate located on private, community roadway; adjacent to Lot RRH-6-A and currently sited and approved community gatehouse.

#### **Gate Specifications**

Proposed swing arm operators: Door King 1834 access components with SOS siren initiation. Gate operators will be equipped with full manual bypass and siren initiation as required for all EMS/Fire/Life-Safety/Police Access.

Ingress will be initiated by road mounted sensor activated by proximity card and/or remote device. Egress will be initiated by in road, weighted auto loop for automatic opening. All emergency access can be initiated by siren. Additional 'key-pad' entry installed for single use ingress.

Swing operators to be equipped with default programming to allow for automatic ingress/egress as a result of any interruption in power supply.

#### **Hours of Operation**

Ridge at Redhawk Subdivision is a private community located on privately funded and maintained roadways. Vehicle Control Gate will be closed at all times except as activated by approved users. *(see additional approved users listed below with access devices provided)*

Winter Season: during times of heavy snow fall- Association may determine to keep gate arms open to assist with snow removal demands.

Maintenance: Association may determine to keep gate arms open to facilitate requisite road/property repairs and community construction activities as needed.

#### **Access**

The following entities will be provided with authorized access and access devices to enter community as needed.

- Park City Fire Services
- Summit County Sheriff
- EMS/Life Safety
- Utah State Troopers
- Dept. of Natural Resources
- Dept of Wildlife and Fisheries
- Summit County: Community Development (Planning, Building, Engineering, Code Enforcement)
  - Animal Control
  - Health Department
  - Weed Department
  - Search and Rescue
- Mountain Regional Water
- Questar Gas
- Rocky Mountain Power
- Allied Waste/PC Municipal Services

The Association will work with all neighboring communities and Park City Fire Services to implement formal wildfire evacuation plan.

#### **Maintenance**

Association will contract with service provider for annual maintenance inspections and servicing on all components and will maintain requisite service logs.

**property owners or the public interest will be materially injured by the proposed amendment as evidenced by applying for the amendment,” and with the following findings and conditions outlined in the staff report:**

**Findings:**

- 1. The proposal meets the terms of the Canyons SPA and the Snyderville Basin Development Code. All owners involved are in agreement with the proposed amendment.**
- 2. No individual person or the general public will be materially injured by the proposed amendment. The proposed amendment includes modifications that will help ensure safety.**
- 3. There is good cause for the proposed amendment. The proposed amendment will better match the operation needs that are in place.**
- 4. The density will not be increased. No additional density will be acquired with the proposed amendment.**

**Conditions:**

- 1. All service provider requirements shall be met prior to recordation of the amended Final Plat.**
- 2. All open space shall be collectively placed in a conservation easement as part of the final Phase 5 plat approval.**

**The motion was seconded by Commissioner Taylor and passed unanimously, 7 to 0.**

**3. Public hearing and possible decision regarding Ridge at Redhawk Subdivision vehicle control gate; Patty Winterer on behalf of the Ridge at Redhawk HOA – Kimber Gabryszak, County Planner**

County Planner Kimber Gabryszak presented the staff report and explained that the applicant has sent a different representative this evening.

Brad Krassner stated that he is the President of the Redhawk Wildlife Preserve Homeowners Association, which has changed its name to Ranches at the Preserve.

Planner Gabryszak indicated the Ranches at the Preserve, which is platted as The Ridge at Redhawk, on a site map. She also indicated the location of the proposed gate, the roadways in the area, and the roads that pass through the project. She noted that most of the gate structure already exists, including the guardhouse, gate pillars, monument sign, and gate arms. She provided background information regarding the subdivision and explained that it was formerly part of the Redhawk Preserve Consent Agreement. The Ridge at Redhawk separated from The Preserve in 2003, with subsequent amendments to the language for each development. The guardhouse was constructed in 2004 based on a building permit that did not contain the gates but was intended to be an entry feature to the development. The gates and signage were installed later without permits, and the signage was installed recently. The applicant has an application requesting a sign permit for the sign placed on the gate, but the permit has not been issued pending a decision on whether the gates can remain. She provided a summary of the various enforcement

actions that have occurred with the applicants. The applicant is requesting a CUP to allow the vehicle control gate to remain and become operational. One option available to the applicants would be to allow the gate to remain if the gates are welded open, but the applicants want to use this as an operational gate. She reviewed issues related to the gate, including the fact that the property on which the gate sits was created through a Quit Claim Deed which did not go through a subdivision process and is considered to be an illegal subdivision. The County cannot issue a permit for the gate, because it is on a parcel that does not have development rights. In order to receive approval from the County, the applicant would have to restore the lot of record status to the parcel by recombining Lots 6 and 6A. Planner Gabryszak noted that there are a number of gates in the Snyderville Basin, but until 2008 gates were prohibited except through a development agreement or consent agreement. Staff conducted research to determine the legality of existing gates, and she provided the status of each of the existing gates.

Mr. Krassner provided a history of the Preserve at Redhawk and the Ranches at the Preserve. He explained that it was originally one development, but the two partners sued each other, and the Ranches at the Preserve was divided off. He stated that they were supposed to have a combined agreement with the Preserve to have the proposed gate that would have tied the whole development together to combine their security gates to interface with one another. The declarant for the Ranches at the Preserve went bankrupt and turned everything over to the HOA with the guardhouse sitting on the property. The HOA has now come up with a budget to finish the gate and amenities.

Commissioner DeFord asked about the back gate on Glenwild and asked if it is illegal. Planner Gabryszak explained that a gate is allowed if it is not a through street, such as a fire access road. Commissioner DeFord explained that road does connect through to the Preserve. Planner Gabryszak offered to research that gate further and determine whether that is a through road or an emergency access.

Planner Gabryszak reported that the gate at The Trails at Jeremy Ranch appears to not have been permitted, and the County is trying to determine what to do about that gate.

Chair Salem asked what legal options the applicants would have to address the illegal subdivision of Lots 6 and 6A. He stated that it does not seem reasonable to have a gate structure on someone's property. Planner Gabryszak explained that the gate is on HOA property, but the portion that was divided off was done through a Quit-Claim Deed, not through the subdivision process. Mr. Krassner explained that the original declarant who owned the property built the guardhouse. When the HOA installed the gate, the owner of Lot 6 sued the HOA saying that the guardhouse belonged to him. They went to court over it, and in the settlement, the owner of Lot 6 gave the HOA an easement for the guardhouse and agreed that it was not his property, and they paid his attorney's fees so they would have an easement. However, they are now hearing that the Quit Claim Deed created a new lot, which they never intended. Chair Salem clarified with Planner Gabryszak that the property on which the gate sits is HOA property because of the Quit Claim Deed. Ms. Brackin clarified that was what made the illegal lot. Chair Salem

asked how they could fix that. Planner Gabryszak explained that under State law, a plat amendment cannot be used to increase the number of lots and can only be used to alter lot lines, combine lots, adjust road easements, etc. They could get an easement, but Lot 6A would have to be recombined with Lot 6 in order to do that.

Paxton Guymon, legal counsel for the applicant, stated that the Quit Claim Deed can be corrected easily to explain that the HOA owns the improvements but not the underlying ground. They could separate the improvements from the ground, which would get rid of the illegal lot issue. Ms. Brackin clarified that would be the same thing as recombining the lots and creating an easement and verified that the issue can be resolved.

Planner Gabryszak explained that, between the gate at The Trails at Jeremy Ranch and the proposed gate, the proposed gate would only close 20 parcels out of the applicant's development. She explained that the service providers are concerned about having to go through two gates to get into the development and have had issues with gate codes in general, because the gate codes provided by the owners associations do not function. In this situation, there would be two gates within .7 mile of each other blocking out only 20 units. She noted that nothing in the General Plan prohibits gates, so this application would comply with the General Plan. However, the Snyderville Basin Development Code contains a number of criteria that apply to gates and 13 criteria that are specific to gates. Any application for a gate must fully meet all the criteria that are specific to gates as well as the general and special criteria for a CUP. She reviewed the criteria in Section 10-8-12 of the Development Code that must be met and indicated which have and have not been met as shown in the staff report. With regard to general criteria for CUPs, the application does not meet Criteria 2 and 3, and with regard to the special standards for CUPs, criteria 2 and 5 are not met, as shown in the staff report. Staff recommended that the Planning Commission conduct a public hearing and deny the CUP for the gate based on the findings in the staff report. The Planning Commission could choose to continue a decision to another meeting with specific direction to Staff and the applicant regarding any information needed or choose to approve it based on findings and conditions that the Planning Commission would articulate to Staff. She reported that there has been public input from residents in the community in support of the gate, which has either been included in the packet or e-mailed to the Planning Commissioners.

Chair Salem asked if there are any circumstances under which the conditions in the staff report would not apply or if they apply in all circumstances. Ms. Brackin explained that this is a CUP and has a conditional precedent. The list of requirements is in the Code, and they must be met before moving to the next step. It is an administrative decision to apply the Code and determine whether the criteria have been met. Staff feels that some criteria have been met and that some have not, but the Planning Commission must make a finding that all the criteria have been met before a CUP can be approved. Chair Salem commented that it has been acknowledge that other gates may have been installed without meeting these criteria and asked if the applicant would be in a different situation if they had built the gate and the County had not noticed. Planner Gabryszak stated that this is a situation of getting approval after the fact, which does not mean the County will

not enforce on the gate at The Trails at Jeremy Ranch. They are still trying to determine their options. That gate may have to come through the CUP process, or other legal circumstances may allow it to remain. Chair Salem stated that he is trying to understand from a legal perspective whether there is a precedent or mitigating circumstances that may apply in this situation. Ms. Brackin explained that this is a situation of whether it is easier to gain forgiveness than permission. It has always been the County's position that it is easier to get permission, and that is how they enforce. The County is in a position of needing to enforce on illegal gates. This applicant started down that road by building without permits, and the County was able to stop that and ask the applicant to come in and go through the correct process. However, the Code still must be met.

Mr. Krassner stated that the builder who applied for this in 2004 is here and has the permits they originally applied for. Planner Gabryszak explained that was only for the gatehouse. Mr. Krassner stated that what they submitted included the guardhouse and exactly what they planned to build, and they built exactly what they applied for in 2004. The only reason they did not build it at the time is that they were sued by the landowner, which held them back. He verified that there is documentation of the plans that were submitted. Planner Gabryszak confirmed that the County has record of the building permit for the guardhouse but nothing showing a gate.

Commissioner Klingenstein commented that usually two sets of plans are stamped "approved" when a building permit is issued. One set stays with the County, and the other stays with the applicant. He asked whether the County's set of plans show any gates. Planner Gabryszak replied that it was her understanding they did not; but she had not seen the plans herself. The enforcement officer has been handling that and has that information.

Commissioner Taylor commented that, if an applicant does not request a building inspection within six months, he believed the building permit lapses unless there is a directive in writing to the building official to extend it. If the gate structure was shown on the original plans but was not built within that inspection time frame, he believed the permit would expire, which could have led to the gate structure being built without a permit.

Commissioner Velarde stated that she would like to hear from the applicant as to how they could construe some of the criteria as being met. Patty Winterer, representing the Homeowners Association, stated that the information is in the packet. She explained that the Ridge at Redhawk has continued to experience episodes of pedestrian and vehicular trespass and criminal property damage. There have been close calls between association members and unauthorized individuals who have entered the community by vehicle or on foot. They have had to administer first aid on several occasions to injured trespassers. The association members are extremely concerned about vehicular and pedestrian safety. Commissioner Velarde asked if there are rabble rousers in the 20 lots between the two gates. Ms. Winterer replied that the general public is coming through, not just the 20 lots. Commissioner DeFord asked how this gate would stop that, because people would have

to go through The Trails. Mr. Krassner explained that they do not own or control The Trails gate, which is open more than it is closed. It has frequently been broken, and they experience a lot of people coming into their area who are not supposed to be there, and they would like their own gate tied in with the other two gates in The Preserve. This was supposed to be a planned community, and the developers left them with two gates on one side and no gate on the other side. Ms. Winterer stated that the association would argue that this is not technically a through street, since the property is landlocked. They also believe there have been multiple episodes of people parking above The Trails gate and significant overflow from the public trail system itself. She verified that it is intended that the vehicle control gate will be closed.

Commissioner Franklin commented that, based on the information, he did not believe a new gate in this area would solve any problems. People will go around it, and they will get tired on the trails and cut through the property because it is the shortest way home. He stated that he has passed through the gate at The Trails fairly often, and most of the time it has been functional. He did not believe approving a CUP for a gate would improve the applicant's situation.

Commissioner Kingston commented that the applicant would have to make up a lot of ground to get through all the criteria. He could see the rationale for a gate if everything beyond the gate were nothing but private roads. He could also see why the community believes all the roads are privately held, and he would need to better understand how they have met Criterion 1. He understands that exclusivity is a problem, but private property rights are another matter. He would need a better explanation from both Staff and the applicants as to whether the road is or is not a through road. He asked if it would be possible to see the Ranches at Trailside as a source of traffic or usage that would justify meeting Criterion 3. He questioned whether Criterion 13 makes sense, because the applicant is trying to protect their interests.

Commissioner DeFord asked if the applicant could amend the consent agreement in order to get a gate. Ms. Brackin stated that she was not certain of the consent agreement status, but she believed it may have expired. If so, they cannot amend it. Commissioner DeFord referred to the site map and explained that the gate would only protect the applicant from 20 lots, and the entire remainder of the development would be exposed. All they would have is a front feature gate. Mr. Krassner stated that they have a joint agreement with The Preserve to maintain all the roads, which was supposed to include security on The Ridge's side of the development, and they were not able to get their guard gate up in time. The other two gates were put in by the developer, but the developer of The Ridge left them high and dry. He explained that the Bitner road side is protected from vehicular traffic, and the side coming from The Trails is not. They are responsible for all the roads and the insurance on the roads. Commissioner DeFord maintained that this subdivision would only be protecting itself from 20 lots on The Trails side of the development, and they would be exposed to a large number of lots on the other side. He stated that he looked at the original consent agreement, and it did not say anything about a gate on this side of the development. Planner Gabryszak confirmed that the original consent

agreement did not show a gate in this location and that the gates on The Preserve side were only shown in the agreement after the two developments were split. Commissioner DeFord explained that he would have to apply what is in the Code unless the applicant can provide evidence that they have met the 13 criteria.

Commissioner Klingenstein commented that this has opened a can of worms, and he was relieved to know that the Quit Claim Deed issue is relatively easy to fix. He suggested that they not make a decision tonight and give Staff clear direction. He did not understand how this got so far without a permit and expressed concern that they are now finding that other gates may be out of compliance. He wanted to have the plan sets compared to find out why there are discrepancies and what the building permit was issued for. He understands wanting to restrict the use of private roads and liability issues, but a deal was a deal when the consent agreement was entered into. He felt there was a lot of bad information flying around that they do not have time to wade through tonight.

Chair Salem recalled that he struggled with the Gate Code when it was adopted, because he felt some of the language was ambiguous. He acknowledged that they must adhere to the letter of the law, but he knows how he feels, and he wanted to think about this from three different angles. First was one of fairness, and he struggles with the concept of a subdivision completely surrounded by gated subdivisions not being allowed to have a gate. Second is that they cannot hold this applicant responsible for the gate at The Trails, and it would be difficult to say that he would not let this applicant put up a gate because someone else put up a gate that is too close to this. The third thing is that he is trying to keep in perspective the circumstances and complexity of an old subdivision that has been through litigation and was separated from the original subdivision and the history of the guardhouse, which seems like a relatively complex situation. His feeling about gates comes down to three questions; whether the gate is to private roads that are paid for and maintained by the HOA, whether there is anywhere to go past the gate which would impact the public by excluding access, and whether the gate would detract from the property values of neighboring properties. He believed the answer to all those questions is no, and he struggles with applying the letter of the law given the circumstances. Ms. Brackin explained that she will always advise the Planning Commission to apply the Code as written, whether or not the result may seem equitable.

Commissioner Kingston commented that the criteria are not clear and are subject to interpretation. He believed it is a question of coming up with a fair and equitable decision that is right for the public in terms of the criteria as stated. He asked Staff and the applicant to come up with a more reasoned explanation for their findings based on the 13 criteria.

Commissioner Taylor noted that there are two lots at the top of the hill where the excavation appears to have cut off the top of the hill and thrown it over the edge. He stated that he is leaning toward staying with the letter of the law. He did not believe it would be unreasonable to ask that those two construction sites be cleaned up. The applicant is asking for the community to give them a break, and he believed the

community also ought to ask the applicant to give them a break, because the community has to look at that terrible thing on the side of the hill.

Chair Salem opened the public hearing.

Matt Hollingsworth stated that he has lived in The Ranches at The Preserve for less than a year, and during that time he has taken one bicyclist to the hospital and another to his house with a broken bone so his wife could pick him up. These people did not live in The Preserve or in The Ranches. He has also had to winch out two teenagers who were not residents of the area. He stated that somehow people are getting access into there and are getting injured, and young people are in danger of getting stuck in the snow.

Bart Carlson stated that he has lived in Redhawk for 10 years and was the contractor involved with the project. With regard to forgiveness versus permission, he has done about \$150 million of construction in Park City, and he does everything by the letter of the law. This is not new to him, and he understands very well. The applicant paid for and received a permit and provided a drawing of the gate in 2003. They were given a permit for a guardhouse, what he represents as the gate, and its construction in 2004, and they did everything by the book. In 2008-2009, the County wanted a plot plan, because they gave the County another fee to move forward with the project. That was also shown at the time. He acknowledged that there are some arguments as to who has stamped plans, but he was very aware. They were not given a stop work order on this project until the gates were hung, but they did everything above the law, and nothing was underhanded. With regard to safety, he explained that this does not function like they might think. At least 10-15 cars are parked at the beginning of the trails on any given weekend, and their project has become a national park. Everyone drives up there, walks their dogs, and gets their bikes, and he believed a gate would solve a lot of that. He stated that arsonists have thrown bombs into their yards trying to start fires, and if they had not been there, everything would have been on fire. He believed a gate would also help that. He noted that the roads are 18 feet wide, and everyone drives up there to do their own thing, ride their bikes, and walk five abreast. They have big, open lots, and it is a beautiful area to be in, but there are safety concerns that he believed a gate would solve.

Chair Salem closed the public hearing.

Commissioner Klingenstein suggested that Staff meet with the applicants and compare permits. He wanted to know whether the evidence the applicant held up is actually stamped. He believed health, safety, and welfare issues are being brought out loud and clear. He stated that the letter of the law does prevail, and the question is whether by working together Staff and the applicant could try to meet the intent of the law and come up with substantive information. Chair Salem asked if it would be logical to say that this should be judged by the standards in 2004 if it can be shown that the 2004 application was legitimate rather than by the 2008 standards. Commissioner Klingenstein noted that, if the inspection was not done in six months, that becomes a non-issue. A lot of information is needed, and both sides need to do a lot of work to figure out a remedy. He

suggested that it might be possible for both groups to get together and put in one gate that functions in the right place rather than having dueling gates. He did not have a list of specific points, but he believed more work would be required for the Planning Commission to understand what is accurate and what is not.

Chair Salem asked if this is a situation where the Board of Adjustment could grant an exception if the Planning Commission finds they cannot do anything about it because of the letter of the law. Ms. Brackin replied that they could not. She cannot tie a gate application for an HOA to a private property owner's building of their home. Planner Gabryszak explained that, if the Planning Commission were to deny the permit, it could be appealed to the County Council. The Board of Adjustment can only issue variances based on setbacks, height, etc., and is very limited in its scope. Chair Salem stated that, for him, this hinges on whether they apply the 2008 Code, which was written to preclude additional gates, or whether they could apply the pre-2008 Code.

Commissioner Kingston stated that he has enough concerns about Staff's findings for the first four criteria that he would ask for more time and due process. Chair Salem stated that, unless the Commission wants to amend the Code again, it appears they would have to apply this language. Commissioner Kingston commented that Staff does not know what the enforcement officer has, and they need to ask Staff what enforcement shows on their records regarding permits. He also asked for clarification of when everything was built and what took place with regard to inspections.

Commissioner DeFord stated that he would like to know whether the consent agreement is still in place and whether it can be amended. With regard to health and safety, he felt the testimony had described what happens in Summit Park, which has basically the same issues, and people are able to live up there year round. Chair Salem stated that it could be argued that the liability in Summit Park is on the County rather than the HOA. He also requested clarification of the permit which was previously issued.

Commissioner Velarde commented that their hands are tied if the applicant wants a decision tonight, because there is only one decision they could make. She personally did not find the applicant's arguments for having met the conditions to be compelling. It sounded to her like the real problem is people entering through the trails, and she did not believe the gate would solve that problem. If they want to put together a presentation that is more compelling, it would at least be good practice if the CUP is denied and they go to the County Council as their last resort.

Mr. Krassner stated that they started a project and had to stop in the middle. The permit may have lapsed, but they were given a permit before the guidelines were written. He asked that they look at when the project was started and the guidelines at that time and make a decision based on that. He did not believe they could meet the current conditions if they stay the same.

Commissioner Velarde asked if the applicant's permit could be considered under the 2004 Code. Ms. Brackin explained that gates were prohibited in the 2004 Code. Mr. Krassner argued that between 2004 and 2009, probably 100 gates were built for every major subdivision, so they could not have been prohibited or the other gates are all illegal.

With regard to Criterion 13, Chair Salem asked if an applicant could put together a vehicle control gate management plan that would specify that the gate is closed 24 hours a day. Ms. Brackin replied that the applicant could propose that, but one concern is that, if there are trails or other public access points, the gate should be left open or at least available during daytime hours. The applicant could specify a management plan, and the Planning Commission would approve it. If there are reasons for the gate to be closed 24 hours a day and the applicant convinces the Planning Commission of that, they could propose that. Chair Salem stated that he believed the 40 property owners in this subdivision should have the right to deny public access to their private land. Ms. Brackin confirmed that they can prohibit any access on private lands. Chair Salem commented that, with the exception of the public trails through the property, all of the property, including the roads, is private. He believed the argument is difficult, because the applicant is just enforcing their right as a property owner to not provide access to their private roads. He believed it was akin to a private driveway and that the property owner has the right to say it is their driveway. Ms. Brackin noted that, in this case, it is a homeowner's association, not an individual's private driveway.

Commissioner DeFord commented that he believes a gate provides a false sense of security. He made a site visit with Planner Gabryszak, and she had five gate codes, none of which worked. By happenstance, someone came through the gate. Planner Gabryszak asked for the gate code, and the person coming through the gate readily gave her the code. He tried it again on the Bitner Road side of the Preserve and followed someone through the gate and got access all the way through the subdivision.

Mr. Krassner stated that their only other alternative is to call the Sheriff every time they have trespassers, and the Sheriff does not want to hear about trespassers on private roads. He felt it would be easier for everyone if they put up a gate and stop as many people as they can so they can say to the insurance company that they did as much as they possibly could to restrict access to the community. He stated that liability insurance is a major concern. If the County wants to take over the roads and their maintenance, they would not ask for gates. He stated that it is not a matter of false security, it is one of rights. If they are not going to have a gate, the question is whether they have access to the Sheriff's Department to come and arrest people who come onto their property.

Commissioner Klingenstein stated that the Planning Commission could deny this right now, because their hands are tied by the Code, and the applicant could appeal to the County Council. The other option would be for the applicant to work with Staff and get the history straight. He would be willing to give them time to get everything in order better so that, if this does go to the Council, the applicant would be better rehearsed for

an appeal. Chair Salem stated that he believed they should provide that option only if the Planning Commission in good conscience can give the applicant a shot at an approval. Commissioner Klingenstein stated that he does not have enough facts to make that determination. Chair Salem stated that the questions seem to be what happened in 2004 and whether the permit lapsed, whether they can still adhere to the Code as it was dealt with in 2004, and whether there is an interpretation of Criterion 13 that could apply to any existing gates in the County. Commissioner DeFord added that they should check the consent agreement to see if it can be amended. Commissioner Kingston stated that he would be in favor of giving the applicant additional time. Commissioner Taylor concurred with giving the applicant more time but asked specifically that they find out what happened with the building permit. He believed there must be drawings to substantiate what was to be built, and it should be easy to see if there is a gate detail on the drawing.

**Commissioner DeFord made a motion to continue this item to a date uncertain based on the requests made of Staff and the applicant. The motion was seconded by Commissioner Taylor and passed unanimously, 7 to 0.**

**4. Discussion/possible decision regarding Park City Tech Center Comprehensive Sign Plan – Kimber Gabryszak, County Planner**

Planner Gabryszak recalled that at the end of the last meeting with the Planning Commission and the applicant, there were a few concerns, including signage facing Highway 224. The applicant has revised the request and proposes only one sign facing toward Highway 224 for buildings within 500 feet of Highway 224. They also propose that secondary signs for tenants with a separate entry be limited to four per building. She recalled that the Planning Commission had concerns about whether the applicant could build up the base of a monument sign to get one that is much taller. The language has been clarified to state that the height would be measured from the grade identified on the final site plan. She noted that there seemed to be no consensus regarding window signs. The applicant still proposes that they allow contiguous windows to be combined and limit the number of window signs per building. She provided graphics showing what would happen if they were to allow signage of 10% in each window and what 25% of the contiguous windows would look like. She explained that the applicant would have to get a permit for the signs, including the window signs. She summarized that the applicant is proposing four primary façade signs per building regardless of the number of tenants, with two signs up to 50 square feet and two signs up to 40 square feet, allowing a smaller 15-square-foot sign to identify secondary commercial uses with a separate entrance but limiting them to no more than four per building, slight changes to leasing signs, and the rest of the signs being as allowed under the 2008 Code. The main items of discussion are whether signage should face Highway 224 and the size and scope of the window signage. She noted that the applicant has not yet removed the sentence which would give them the flexibility of using either the proposed 2012 Sign Code or their sign plan. Staff has explained to the applicant that is not possible, and once the comprehensive sign plan is in place, it will become the governing language. If the Code is modified to be more

MINUTES

SNYDERVILLE BASIN PLANNING COMMISSION

REGULAR MEETING

TUESDAY, JUNE 26, 2012

BITNER FIRE STATION

736 BITNER ROAD, PARK CITY, UTAH

The regular meeting of the Snyderville Basin Planning Commission was called to order Tuesday, June 26, 2012, at 6:00 p.m.

**PRESENT:** Bruce Taylor—Chair, Colin DeFord, Mike Franklin, Chuck Klingenstein, Annette Velarde

**STAFF:** Don Sargent—Community Development Director, Adryan Slaght—Principal Planner, Amir Caus—County Planner, Kimber Gabryszak—County Planner, Jami Brackin—Deputy County Attorney, Steven Hartvigsen—Secretary

REGULAR MEETING

1. **Public input for items not on the agenda or pending applications**

Chair Taylor opened the public input.

Sheila Raboy stated that she would like to talk about the General Plan. Chair Taylor noted that the General Plan is on the agenda and cannot be addressed during public input.

Chair Taylor closed the public input.

2. **Continued Discussion and possible decision regarding Ridge at Redhawk Subdivision vehicle control gate; Patty Winterer on behalf of the Ridge at Redhawk HOA – Kimber Gabryszak, County Planner**

County Planner Kimber Gabryszak recalled that this is a continued discussion and that the public hearing was closed at the last meeting with the applicant. She indicated the location of the proposed gate. She reviewed the history of the gate and guardhouse and the enforcement from 2011 and 2012. She noted that the staff report addresses the Commissioners' questions and summarized that the Commission asked Staff to return with clarification of what was provided in the 2001 and 2004 building permits, a more thorough review of Staff's findings that the gate did not comply with the criteria in the Code, more information on the history of gates in the area and in general, and the status of the consent agreement and whether it has expired or can be amended. The Planning Commission also requested that the applicant provide a copy of the HOA records for the building permit history and more complete reasoning of their findings that the gate and

guardhouse comply with the criteria, and Planner Gabryszak reported that Staff has not received any additional information or communication from the applicant concerning that information. She noted that any information presented by the applicants this evening has not been reviewed by Staff. She stated that she has brought the building permit files with her and included images in the packet of what was contained in the building permits. She noted that the file contains only the floor plan and site plan for the building, which did not include a gate. The County Attorney's Office has twice researched the consent agreement and has verified that it has expired. Because it has expired, it cannot be amended. She presented a history of how gates were dealt with in previous development codes. She explained that anything not mentioned in the Code was prohibited, and gates were not mentioned, so they were prohibited. In 2006, there was an amendment to Section 10-8-12 of the Code which permitted vehicle control gates in limited circumstances, and that section contains the criteria the Commissioners have reviewed relative to the proposed gate. She explained that fire access gates are different from vehicle control gates; they are intended to be used only in emergencies and on roads that are not intended to be used on a regular basis.

She briefly reviewed Staff's findings regarding the issues with the gate. She noted that three sections of the Code apply to this project, and she briefly reviewed the criteria that apply to gates and Staff's analysis of why the application does not comply with the criteria. Staff recommended that the Planning Commission deny the Conditional Use Permit for the gate with the findings in the staff report. Alternatives would be to continue this item to another meeting with specific direction to Staff and the applicant or to approve the permit with findings and conditions that address how it complies with all the criteria outlined in Section F of the staff report.

Paxton Guymon, representing the applicant, stated that it is interesting to see the simplicity of the request compared to the complexity of the Code criteria. He noted that this has been identified as a conditional use, and State Code says conditional uses shall be granted if the applicant can identify the reasonably anticipated detrimental effects of the use and the imposed conditions to mitigate those. In asking what the reasonably anticipated detrimental effects are, they are talking about an area where people have to already pass through a private gate to get to this area. It is all private road, and there are no reasonably anticipated detrimental impacts to the public or to the County from the proposed gate. He submitted that what has been identified as a conditional use, when compared against the complex multiple criteria of the Code, is actually an impossible use. He stated that it is not possible to satisfy all of the criteria and that they are not going to try to make up arguments to show that they comply with the criteria, because it is impossible to comply with them. He stated that their application cannot comply with every set of the Code criteria. Sometimes the County's attorney will tell the Planning Commission they have to deny an application because the applicant cannot meet the criteria, which may be legally correct as far as the County may think those standards are valid and can be enforced. Then the question is what is the right thing to do and where is the harm in this application. He submitted that, under State Code, there is no reasonably anticipated detrimental effect from this proposed gate, and it should be approved under

the State standards. He maintained that there is a conflict between the simplicity of the State standard and what they see as the County Code. He stated that the HOA proceeded in good faith, believing it had a permit. The contractor told them they had a permit; the drawing did show a gate. He asked the Planning Commission to apply some leniency with the Code criteria to do what the applicant believes is the right thing to do.

**Commissioner Franklin** explained that the Planning Commission is required to look at the application and apply the land use ordinances. If there is any violation of that, the Planning Commission is held to the ordinances. The applicant might appeal to the County Council, but he did not see any way around the criteria.

**Commissioner Franklin made a motion to deny the Conditional Use Permit for the Ridge at Red Hawk Gate based upon the following findings contained in the staff report dated Wednesday, June 20, 2012:**

**Findings:**

1. **The application does not comply with the standards of Section 10-8-12 of the Development Code. More specifically, the application does not comply with:**
    - a. **Criterion 1 – There is not a demonstrated need.**
    - b. **Criterion 2 – The street is a through street and is not a cul-de-sac.**
    - c. **Criterion 4 – There is not a major traffic generator within 900 feet.**
    - d. **Criterion 13 – The applicant does not intend to keep the gate open for the majority of the time.**
  2. **The application does not comply with the standards of Section 10-3-5(B) of the Development Code. More specifically, the application does not comply with:**
    - a. **Criterion 2 – The property is not a Lot of Record, nor does the use comply with the criteria in Section 10-8-12.**
    - b. **Criterion 3 – The use may be detrimental to public health, safety, and welfare.**
  3. **The application does not comply with the standards of Section 10-3-5(C) of the Development Code. More specifically, the application does not comply with:**
    - a. **Criterion 2 – There may be a reduction in the level of service.**
    - b. **Criterion 5 – Free movement and circulation are not provided.**

**The motion was seconded by Commissioner Velarde and passed unanimously, 5 to 0.**
3. **Public hearing and possible action regarding Pineridge Lots 99, 100, and 101 plat amendment, 7145 Canyon Drive, Andrew O’Pry, applicant – Amir Caus, County Planner**



WWW.MILLERGUYMON.COM

P-801.363.5600

F-801.363.5601

Exhibit G  
Appellant packet

165 REGENT STREET, SALT LAKE CITY, UTAH 84111

Paxton R. Guymon  
guymon@millerguymon.com

July 6, 2012



Summit County, Community Development Department  
Attn: Community Development Director  
P.O. Box 128  
60 North Main Street  
Coalville, UT 84017

Re: *Appeal of Planning Commission Decision*

Dear Director,

We are legal counsel for the Red Hawk HOA. Enclosed is a completed Appeal of Decision Application Form, together with a check for the appeal fee in the amount of \$400.00.

Red Hawk appeals the June 26, 2012 decision of the Snyderville Basin Planning Commission denying its application for a conditional use permit relating to a proposed entry gate on Red Hawk's private road. Red Hawk asserts that the Commission's decision was illegal in that it applied the County's ordinances concerning gates as conditional uses, which: (a) conflict with and are preempted by state law concerning the approval of conditional uses; and (b) are so vague, ambiguous and complex that they are impossible to comply with.

The County's ordinances concerning gates as conditional uses are superseded by Utah state law concerning conditional uses. Utah Code Ann. § 17-27a-506 states that a conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use. It is important for the County to follow the mandate that, since land use ordinance are in derogation of a property owner's rights, any such ordinances must be strictly construed in favor of allowing proposed uses.

The Commission's decision ran far astray of these governing state law standards. The County's analysis should be as follows:

1. What are the reasonably anticipated detrimental effects of the proposed use (i.e., the entry gate); and

2. What conditions can be imposed to mitigate such anticipated detrimental effects of the proposed use.

In other words, the County is prohibited by State law from imposing conditions and requirements that do not relate to, and mitigate, the reasonably anticipated detrimental effects of the proposed use. Unfortunately, this is exactly what the Commission did in its attempt to apply the County's own gate-related conditional use ordinances.

The conditional use ordinances applied by the Commission are also unreasonably vague and ambiguous, to the point that it is not reasonably possible for the applicant to comply with the ordinances. The effect of this is to make decisions rendered under the ordinances completely arbitrary. In this respect, the ordinances and the Commission's decision also run afoul of State law.

We firmly believe that Red Hawk will succeed in a legal challenge on this matter. In fact, we already have discussed the issue with the State Property Rights Ombudsman, Brent Bateman, who agrees with our reasoning. Accordingly, we appeal the Commission's decision and seek approval of the requested conditional use.

Finally, another potential solution to this situation may be pursued via the Consent Agreement concerning this development. We would be happy to discuss the possibility of utilizing the Consent Agreement, via an amendment or otherwise, to allow for the entry gate.

Sincerely,

MILLER GUYMON, P.C.



Paxton R. Guymon

Enclosures

c: Red Hawk



GARY R. HERBERT  
Governor

GREG BELL  
Lieutenant Governor

State of Utah  
Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

Exhibit H  
Ombudsman's Opinion

## ADVISORY OPINION

Advisory Opinion Requested by: Red Hawk Wildlife Preserve Foundation  
Local Government Entity: Summit County  
Applicant for the Land Use Approval: Red Hawk Wildlife Preserve Foundation  
Type of Property: Residential Subdivision  
Date of this Advisory Opinion: September 20, 2012  
Opinion Authored By: Elliot R. Lawrence  
Office of the Property Rights Ombudsman

### Issues

Is a County obligated by State law to approve an application for a conditional use regardless of qualifying requirements established in a zoning ordinance?

### Summary of Advisory Opinion

A local government may designate uses as permitted or conditional, and may adopt requirements that each use must satisfy in order to be eligible for further consideration. Section 17-27a-506 of the Utah Code impacts, but does not supplant, local authority to designate, regulate, and consider conditional use applications. A local government may impose minimum "threshold" requirements that must be met before an application for a conditional use may be considered. These requirements are no different than minimum requirements for permitted uses, and if the threshold standards cannot be satisfied, the use is not eligible to be considered as a conditional use, even if there are no detrimental impacts.

### Review

A Request for an Advisory Opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of UTAH CODE ANN. § 13-43-205. An advisory opinion is meant to provide an early review, before any duty to exhaust administrative remedies, of significant land use questions so that those involved in a land use

application or other specific land use disputes can have an independent review of an issue. It is hoped that such a review can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts.

A Request for an Advisory Opinion was received from Paxton R. Guymon, on behalf of Red Hawk Wildlife Preserve Foundation on July 20, 2012. A copy of that request was sent via certified mail to Bob Jasper, Summit County Manager, at 60 North Main Street, Coalville, Utah. 84017. The County received that copy on July 25, 2012.

## Evidence

The following documents and information with relevance to the issue involved in this Advisory Opinion were reviewed prior to its completion:

1. Request for an Advisory Opinion, with attachments, submitted by Red Hawk Wildlife Preserve Foundation, received by the Office of the Property Rights Ombudsman on July 20, 2012.
2. Response from Summit County, submitted by Jami R. Brackin, Deputy County Attorney, received August 27, 2012.
3. Reply from Red Hawk via email, dated August 29, 2012, with attachments.

## Background

The Red Hawk Wildlife Foundation (“Red Hawk”) operates as a Homeowner’s Association for “Ranches at the Preserve,” a residential development in the Snyderville Basin area of Summit County. The development consists of several large lots (ranging from 10 to 60 acres) on a hilly area above Kimball Junction.<sup>1</sup> The internal roads within the Ranches are all owned and maintained by Red Hawk on behalf of the lot owners. Although the internal roads are private, they eventually connect to public roads on more than one side of the development, so it is possible for traffic to pass through the subdivision.

The subdivision plat was approved in 1997, along with a consent agreement which governed development. In November of 2001, the County issued a building permit to construct a small guard house along Red Fox Trail, near the western entrance to the development. The guard house was constructed on Lot 6 of the subdivision. The County states that it understood that the guard house was an “entry feature,” marking the boundary of the Ranches at the Preserve development. In 2004, the County issued a building permit to construct a home on Lot 6.<sup>2</sup> The County states that the permit application for the home did not refer to the guard house which had already been constructed. In April of 2008, the owner of Lot 6 quit claimed a small portion of

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<sup>1</sup> Kimball Junction is the intersection of Interstate 80 and State Road 224 near Park City.

<sup>2</sup> According to the subdivision plat, Lot 6 contains about 27.64 acres.

the lot where the guard house stood.<sup>3</sup> The County notes that this division was a plat amendment which was not approved by the County.

Sometime after the guard house was constructed, Red Hawk approached the County with plans to improve the entrance with landscaping and a planter which divided the travel lanes, along with a rock wall and a gate across the road to control vehicle access to the subdivision.<sup>4</sup> The County acknowledges that the plans were discussed, but that Red Hawk was told that additional review was needed, and that a gate would not be allowed. According to the County, there was no additional review, and no approvals given for the improvements. Nevertheless, Red Hawk completed the improvements, including the rock wall and gate.<sup>5</sup>

By 2010, the County became aware that the improvements had been installed. Red Hawk was informed that the gates had to be removed, unless the County granted approval for them. The County began to monitor the guard house and gates, to ensure that they remained open.<sup>6</sup> Since then, Red Hawk has not used the gate to restrict entry, and has sought approval from the County.

Vehicle control gates are listed as conditional uses in the HS and MR zones, and are governed by § 10-8-12 of the County Code.<sup>7</sup> In addition to compliance with the standards listed for any conditional use permit, § 10-8-12 lists 13 review criteria that must be met before control gates may be approved.<sup>8</sup> The first criteria requires that the applicant demonstrate “a need for a vehicle control gate to effectively control an ongoing health, safety, and welfare situation, or, in unique circumstances, to mitigate traffic, parking congestion, or through traffic on streets within a neighborhood.” SUMMIT COUNTY CODE, § 10-8-12(A)(1). The section also states that “[v]ehicle control gates are generally not appropriate in any zone.” *Id.* § 10-8-12(A). There are control gates in the vicinity, apparently on cul-de-sac roads.

Red Hawk applied for a conditional use permit to obtain permission to use the gate. On June 26, 2012, the Snyderville Basin Planning Commission denied the permit. The planning commission found that Red Hawk did not satisfy all of the criteria required for a vehicle control gate permit. Specifically, the commission found that Red Hawk had not shown that a gate was necessary to promote the health, safety, or welfare of the area; that the gate was not appropriate on a through road; that a gate was not necessary because it was not close to a major traffic or parking facility; and Red Hawk did not have an approved gate management plan. The commission also found

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<sup>3</sup> Presumably, the smaller portion was quit-claimed to Red Hawk, which operates as an HOA. This small portion was later designated “Lot 6A.”

<sup>4</sup> The County states that a construction company brought the proposal for discussion.

<sup>5</sup> The materials submitted for this Opinion do not clearly state when the gate and other improvements were completed.

<sup>6</sup> The gates are motorized, but are inoperative because they have not yet been connected to electrical service. The County requires a permit for electrical connections.

<sup>7</sup> The County states that the subdivision is located in the Mountain Remote (MR) zone. The property owners indicate that the zoning is Hillside Stewardship (HS). A vehicle control gate is a conditional use in either zone.

<sup>8</sup> In addition, there is a “general” conditional use permit ordinance. See SUMMIT COUNTY CODE, § 10-3-5. The language of §§ 10-3-5 and 10-8-12 are included in this Opinion as Attachment A.

that Red Hawk had not satisfied aspects of the "general" conditional use permit ordinance.<sup>9</sup> Red Hawk appealed that decision.

Red Hawk argues that it is entitled to the conditional use permit, because the County did not identify any detrimental affects of the gate or any conditions meant to mitigate those affects, as required by § 17-27a-507 of the Utah Code. Red Hawk states the Utah Code section requires approval of its application, unless the County can show that the detrimental impacts of the gate cannot be mitigated with reasonable conditions.

## Analysis

### **The County's Zoning Ordinance Establishing Standards for Vehicle Control Gates is Consistent With State Law, and Within the County's Discretion.**

Because the Utah Code requires local governments to adopt standards for conditional uses, § 10-8-12 is consistent with state law, and the standards chosen are within the County's discretion. Section 17-27a-506 authorizes counties to designate conditional uses, provided that standards are also adopted to guide decisions on whether or not to grant the uses.

- (1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.
- (2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.  
(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

UTAH CODE ANN. § 17-27a-506. The standards apply to the uses, and establish guidelines that each use must meet. The standards are no different than development guidelines or standards imposed on permitted uses. All property is subject to land use regulation, and local governments may impose controls or standards which regulate how, where, and when a use may be carried out. *See Western Land Equities v. City of Logan*, 617 P.2d 388, 390 (Utah 1980); *see also* UTAH CODE ANN. § 17-27a-102(1)(b).

A conditional use is a land use with unique characteristics or impacts that warrants special consideration, and conditions to mitigate the impacts. *See* UTAH CODE ANN. § 17-27a-103(6). Designating a use as conditional, however, does not remove it from a local government's authority to impose development standards and guidelines. While § 17-27a-506 generally

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<sup>9</sup> The County noted that because the application did not comply with § 10-8-12, it also did not satisfy § 10-3-5(B)(2), which requires compliance with other ordinances and statutes. In addition, the County stated that the gate would interfere with service providers and the free flow of traffic, both of which are standards established in § 10-3-5(C).

dictates the type of conditions that may be imposed, it does not supplant local authority to adopt qualifying requirements or standards which must be satisfied in order for a conditional use to be considered. An application for a conditional use permit must first meet any threshold requirements before there is any consideration of detrimental impacts or reasonable conditions to mitigate those impacts.<sup>10</sup> If a proposed land use cannot satisfy the standards imposed by local ordinance, it cannot be approved, regardless of whether the use is permitted or conditional.

To illustrate, consider this example: A local ordinance establishes that commercial buildings up to 50 feet high are conditional uses, if the building is located at least 1,000 feet from a residential property. If the building is less than 1,000 feet from a residential property, a 40 foot building cannot be built, even if there are no detrimental impacts. The 1,000 foot separation is a threshold requirement that must be satisfied before the conditional use analysis starts.

Summit County adopted an ordinance governing how, when, and where vehicle control gates may be installed. The County decided that such gates should be discouraged, and chose to allow them as conditional uses only in certain zones. The County also adopted strict requirements that must be satisfied before a gate is eligible to be considered. Among other things, the County's ordinances require that a gate be placed only on cul-de-sacs, not on through streets. SUMMIT COUNTY CODE, § 10-8-12(A)(2). The proposed gate does not meet this requirement, because it is proposed to be installed on a through street.<sup>11</sup>

Secondly, there must be a "major traffic or parking generator" within 900 feet of the private street. *Id.*, § 10-8-12(A)(4). The term "major traffic or parking generator" is not defined, but it apparently means a site or amenity that attracts people (and their vehicles), causing traffic or parking congestion. The County states that there is no traffic or parking generator within 900 feet of the proposed gate.<sup>12</sup> Third, a vehicle control gate management plan must be submitted and approved, and the owner must agree to keep the gate open at all times, except as provided in the agreement. *Id.*, § 10-8-12(A)(13). Red Hawk submitted a plan, which stated that the gate would be closed at all times, except to authorized users. The County rejected the plan, stating that closing the gate at all times does not comply with the intent of the ordinance.

Finally, the applicants must show that a gate is needed to control an ongoing health, safety, or welfare situation, or to control traffic or parking. Red Hawk explained that the property owners are concerned about trespassers and criminal activity, and that the gate is needed to address those

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<sup>10</sup> In addition, the County is obligated to comply with its own ordinances. UTAH CODE ANN. § 17-27a-508(2).

<sup>11</sup> A map of the subdivision shows that there are at least three entrances to the subdivision, even though the interior roads are all private. The proposed gate would block the road at the northwest entrance, on a road which continues through the subdivision, into other developments, and eventually back to public roads. In other words, a person is able to drive from a public road through the Ranches at the Preserve back to a public road. The County noted that the road is used by pedestrians and cyclists as well as automobiles, and that the gate would allow pedestrian, bicycle, and equestrian traffic. *See* SUMMIT COUNTY CODE, § 10-8-12(A)(7).

<sup>12</sup> According to the County, the nearest potential "major traffic or parking generator" is a trail crossing which does not generate much parking congestion. Red Hawk argues that this trail crossing generates unauthorized *pedestrians*, but evidently it does not claim that parking or traffic congestion is a problem.

problems.<sup>13</sup> The County stated that the reports did not constitute a sufficient threat to the public welfare, and that there were no unique traffic or parking circumstances that warranted a vehicle control gate. This Opinion does not attempt to determine if Red Hawk has established that a gate is needed to control an ongoing public health, safety, or welfare situation, but it only notes that as long as the question is not fully resolved, the gate cannot be considered as a conditional use.

Since these basic, threshold standards cannot be met, the application is not eligible to be a conditional use, even if there are no detrimental impacts.<sup>14</sup> Until those basic standards are met, the County is not obligated to consider or approve the application.

### Conclusion

A local government may designate uses as conditional, as long as it adopts standards which apply to those uses. Those standards may include threshold requirements that an application must satisfy in order to be eligible as a conditional use. This is no different than minimum requirements for permitted uses. Section 17-27a-506 of the Utah Code does not supplant the County's authority to adopt ordinances and standards applicable to conditional uses. Although the state statute mandates that a conditional use may only be denied if the detrimental impacts cannot be mitigated, a use must meet threshold requirements to *be* conditional before there is a consideration of any detrimental impacts. A local government is not obligated to consider an application for a conditional use that does not satisfy the threshold requirements.



Brent N. Bateman, Lead Attorney  
Office of the Property Rights Ombudsman

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<sup>13</sup> Red Hawk stated that the trespassers are on foot as well as in vehicles. As already noted, the proposed gate would not restrict pedestrian, bicycle, or equestrian traffic, although the gate may discourage entry. Red Hawk argues that since the interior roads are private, pedestrians may be excluded.

<sup>14</sup> In addition, the County argues that the application does not satisfy aspects of the "general" conditional use statute (§ 10-3-5 of the County Code). Specifically, the application does not comply with § 10-8-12, a gate would be detrimental to the public welfare, and it would impact service providers as well as traffic flow. These criteria must also be met in order for an application to be considered as a conditional use.

# **ATTACHMENT A**

**SUMMIT COUNTY CODE, §§ 10-8-12 and 10-3-5**

## 10-8-12: VEHICLE CONTROL GATES:

A. Purpose: Vehicle control gates are generally not appropriate in any zone. In the event that a vehicle control gate is necessary to protect the public's health, safety, and welfare, a vehicle control gate may be approved in residential zones on private streets as a conditional use. In order to approve a conditional use for a vehicle control gate, all applicable findings and review standards as required for a conditional use permit in section 10-3-5 of this title shall be met. In addition, all of the following review criteria shall be met:

1. The applicants have demonstrated a need for a vehicle control gate to effectively control an ongoing health, safety, and welfare situation or, in unique circumstances, to mitigate traffic, parking congestion, or through traffic on streets within a neighborhood.
2. The street is a private street, is a cul-de-sac, and is not a through street. The proposed vehicle control gate does not impact traffic circulation through the neighborhood.
3. The private street serves primarily single-family or duplex residences with individual or shared driveways.
4. There is a major traffic or parking generator or use within a nine hundred foot (900') walking distance of the private street entrance and there is evidence of spillover parking or other vehicular activity on a regular basis throughout the season.
5. The vehicle control gate is located outside of the county right of way and maintains all setbacks of the zone.
6. The vehicle control gate does not impact existing utility easements.
7. The vehicle control gate is designed to permit unimpeded pedestrian, bicycle and equestrian access through the neighborhood and to existing public trails and walkways. A minimum gap of four feet (4') shall be allowed for these nonvehicular uses.
8. The vehicle control gate is designed to be minimal in height, scale, and mass to accomplish the goal of preventing unauthorized vehicle traffic, parking, and/or other impacts on the neighborhood. There shall be a minimum bottom clearance of two feet (2') from the bottom of the gate rail to the road surface. A diagonal structural support may cross through the two foot (2') opening to provide additional structural strength for the cantilevered gate and keep the overall gate mass to a minimum. The gate shall be no more than three feet (3') or thirty six inches (36") in height from the bottom rail to the top rail, although allowance may be made for decorative elements. The gate shall open inward allowing a vehicle to stop while not obstructing traffic on the roads. Design and materials shall result in a visually open gate. Any walls associated with the entry gate shall be pedestrian in scale and shall generally not exceed a height of five feet (5').

Column elements may be added for architectural interest, but these column elements shall not exceed a height of nine feet (9').

9. The method of access for emergency, service, and delivery vehicles shall meet all requirements of the county planning, engineering, and building departments and the Park City fire service district prior to issuance of a building permit for the gate construction.
10. If the gate is electronically operated, a receiver shall be installed that will permit emergency services access with a transmitter. If the gate can be locked, a lock box approved and provided by PCFSD and the county sheriff will be located on the exterior side of the gate to provide for emergency equipment access to the property through the gate.
11. Vehicle control gates on private streets are not permitted in all zones. Gates on private streets are allowed as a conditional use in the following zoning districts: RR, HS, MR, RC.
12. Any signs associated with the gate and/or walls are subject to section 10-8-2 of this chapter.
13. A vehicle control gate management plan shall be submitted for approval to address times and situations when the gate will be closed. Applicants shall agree to leave the gate open at all times, except as specified in the approved management plan. (Ord. 708, 12-10-2008)

### 10-3-5: CONDITIONAL USE PERMIT:

#### A. Applicability:

1. Conditional uses are those uses which are generally compatible with the permitted uses in a zoning district, but which, because of their size, scale, intensity of use, traffic generation, or other characteristics, require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zoning district.
2. Only those uses that are enumerated as conditional uses in a zoning district (section 10-2-10 of this title) shall be authorized by the commission.
3. Conditional uses may be established only upon approval of a conditional use permit pursuant to this section.

#### B. Criteria For Approval: No conditional use permit shall be approved unless the applicant demonstrates that:

1. The use is in accordance with the general plan;
2. The use conforms to all applicable provisions of this title, including, but not limited to, any applicable provisions of this section and chapter 4 of this title, the general plan, and state and federal regulations;
3. The use is not detrimental to public health, safety and welfare;
4. The use is appropriately located with respect to public facilities; and
5. The use is compatible with the existing neighborhood character and with the character and purpose provision of the applicable zoning district, and will not adversely affect surrounding land uses

#### C. Special Standards For Conditional Uses: In addition to the standards established in this section and in chapter 4 of this title for particular uses, all conditional uses within a zoning district shall conform to the following standards and criteria:

1. The commission may require the applicant or the owner of the property subject to an application for development approval for a conditional use permit to establish an escrow account, post a bond or provide other financial security, in such form and sum as the commission shall determine, with sufficient surety running to the county to offset any extraordinary costs or expenses associated with the following: a) construction of any highways, roads, water or sewer mains, drainage facilities, or other public infrastructure;

- b) landscaping; c) compliance with the requirements of this section, any applicable special requirements set forth in this section and chapter 4 of this title, and the conditions attached to the development permit; and d) any expense requirements set forth in this section and chapter 4 of this title, and the conditions attached to the development permit, including the provision of facilities or structures, maintenance or construction work, or the execution or fulfillment of conditions of a continuing nature.
2. The proposed development shall not cause a reduction in the adopted level of service for any public facility.
  3. Lighting shall not be directed or reflected upon adjoining land and shall meet all other related requirements of section 10-4-21 of this title with respect to exterior lighting.
  4. The natural topography, soils, critical areas, watercourses and vegetation shall be preserved and used, where possible, through careful location and design of circulation ways, buildings and other structures, parking areas, recreation areas, open space, utilities and drainage facilities.
  5. All roads shall provide free movement for safe and efficient use within the development. Local roads shall provide access to the site in a manner that discourages unsafe and congested conditions, and which provides convenient accessibility to parking areas, arterial and collector roads that shall be free of backing movement from adjoining parking areas and free from congestion and public safety problems.
  6. Vehicular and pedestrian passageways shall be separated from public rights of way. Where appropriate, a system of walkways and bicycle paths connecting buildings, open spaces, recreation areas, public facilities, and parking areas shall be provided and appropriately lighted for night use.
  7. Buildings and other structures shall provide a human scale consistent with adjacent development and appropriate to residential uses in the RR, HS, MR, CC, SC, and NC zoning districts, and consistent with adjacent conforming development in the zoning districts. The massing, scale and architectural design shall be consistent with the design guidelines established in section 10-4-19 of this title.
  8. Site design shall avoid, to the extent practicable, the placement of obstructions in any sensitive lands, other watercourses, and shall be maintained free from any obstruction not authorized by a site plan, and any pool of standing water which is formed in any watercourse within the county on account of any unauthorized obstruction shall be deemed to be a public nuisance.
  9. The volume rate of post development runoff shall not exceed predevelopment runoff. Runoff calculations shall be submitted with the application for site plan approval and shall be based upon: a) the 25-year, twenty four (24) hour design storm event; b) a fully developed contributing drainage area; c) the specific location of the proposed

development; d) the proposed land use and use density or intensity; and e) the specific location and amount of impervious surfaces, in square feet.

10. The site shall be landscaped in accordance with the requirements of section 10-4-20 of this title.

D. Submission Requirements: An applicant shall submit a conditional use permit application and pay the fee for the review thereof; the conditional use permit shall contain enough information, in graphic and text form to adequately describe the applicant's intentions with regard to site layout and compliance with the general plan, this title, and any applicable development permit, consent agreement or development agreement, including, but not limited to:

1. A detailed site plan, drawn to a scale, of not more than one inch equals one hundred feet (1" = 100') that includes:

- a. A vicinity map and north arrow;
- b. The location and arrangement of all proposed uses, including the building area;
- c. The height and number of floors of all buildings, other than single-family dwellings, both above and below or partially below the finished grade;
- d. A cross section elevation plat depicting all buildings, structures, monuments, and other significant natural and manmade features of the proposed development;
- e. Setbacks from the property lines for all structures;
- f. The traffic and pedestrian circulation system, including the location and width of all roads, driveways, entrances to parking areas, trails, and pedestrian pathways;
- g. Off road parking and loading areas and structures, and landscaping for parking areas;
- h. Architectural elevations and features of typical proposed structures, including lighting fixtures, signs and landscaping;
- i. When the development is to be constructed in stages or units, a final sequence of development schedule showing the order of construction of such stages or units, and approximate completion date for the construction of each stage or unit;
- j. A final statement in tabular form which sets forth the following data, when such data is applicable to a given development plan:

(1) The area of the parcel, including total acreage of roads or other easements;

- (2) Total number of dwelling units, by development phase or total amount of square footage for nonresidential uses;
- (3) Residential and/or nonresidential density and units per acre;
- (4) Total floor area and floor area ratio for each type of use;
- (5) Total area in open space and trails;
- (6) Total area in development recreational open space; and
- (7) Total number of off road parking and loading spaces

E. Review Procedure:

1. The CDD or designated planning staff member shall review the conditional use permit application and make preliminary findings as to whether the application complies with the development approval criteria established in this title and all applicable provisions of the general plan.
2. The CDD or designated planning staff member shall secure input regarding the proposed development from all affected agencies and service providers. Upon receiving such information, the CDD or designated planning staff member shall prepare a report and make findings and recommendations and shall schedule a public hearing before the commission as soon thereafter as may be practicable.
3. The commission shall review the application and staff report. After conducting a public hearing, the commission shall approve, approve with conditions, or deny the proposed conditional use permit. The commission may impose conditions or requirements in addition to those prescribed in this section and chapter 4 of this title in order to ensure that the proposed use is compatible with other uses permitted in the applicable zoning district and to mitigate or eliminate the adverse impacts of the proposed use, as set forth in subsection D of this section

F. Time Limit For Action:

1. An approval of a conditional use permit shall be valid for a period of time not to exceed one year from the date of such approval, but said approval may be extended for a period not to exceed one year by the commission upon the property owner submitting to the commission satisfactory evidence indicating that reasonable progress is being made to provide project infrastructure and to complete construction. If a conditional use permit is allowed to expire, the applicant or property owner will be required to submit a new proposal for review and approval under the development regulations in place at that time.

#### G. Mandatory Review Process:

1. Conditional use permits are subject to periodic reviews by the CDD or designated planning staff member to assess if the conditions of approval are being satisfied. If the original conditions associated with the conditional use permit are not being satisfied, the commission may commence the conditional use permit revocation process.

H. Establishment Of A Conditional Use Permit: Final approval of a conditional use permit shall be in the form of a letter to the applicant specifically identifying each condition together with the approved site plan and any other accompanying documents determined to be relevant by the CDD or designated planning staff member and stamped approved.

#### I. Amendments To Conditional Use Permits:

1. Minor Amendment: A "minor amendment" is defined as an amendment that does not increase the square footage, density, or intensity of a previously approved conditional use permit, which may be approved administratively. A minor amendment may be commenced by filing a low impact permit application and paying the fee for the review thereof. Refer to section 10-3-4 of this chapter for detailed submission requirements and review process.
2. Major Amendment: A "major amendment" is defined as an amendment that increases square footage, density, and/or intensity of a previously approved conditional use permit. A major amendment may be commenced by filing a conditional use permit application and paying the fee for the review thereof. Refer to this title for detailed submission requirements and review process.

#### J. Adult/Sex Oriented Facilities And Businesses:

1. Findings; Zones Permitted As Conditional Use: The county council finds that the appropriate location for adult/sex oriented facilities and businesses within the county is within concentrated areas of the county where it can be better regulated by county officials and law enforcement, and outside of residential or recreational (park) areas where the quality of life will not be as greatly impacted. Within the unincorporated county, adult/sex oriented facilities and businesses shall be allowed as specified herein, and shall conform to the criteria mandated under this subsection and title 3, chapter 5 of this code, governing such activities. This title is hereby amended to allow adult/sex oriented facilities and businesses as outlined in section 10-2-10 of this title.
2. Conditional Use Permit Required: Adult/sex oriented facilities and businesses must be approved in accordance with the provisions of this subsection and title 3, chapter 5 of this code. In all cases, a design and site plan diagramming the premises shall be provided as part of the application process. A public hearing shall be required in all cases prior to the issuance of a conditional use permit. The applicant shall receive notice of the public hearing. The procedures for issuance of conditional use permits, as

found in the appropriate development code, shall be followed in all cases. A final decision by the county as to the issuance of a conditional use permit for an adult/sex oriented facility or business shall be made within ninety (90) days of receipt of a completed application by the department of community development, unless a delay is requested or agreed upon by the applicant, or where the applicant is causing the delay by not providing needed information. The CDD or designated planning staff member shall communicate the final decision to the applicant.

3. Nonconforming Uses:

- a. Right To Continue: Adult/sex oriented facilities and businesses already existing within the unincorporated area of the county shall have the right to continue in their businesses without a conditional use permit. However, all such businesses shall be subject to compliance with the criteria, mandatory general conditions, and mandatory design of premises conditions, as provided in this subsection and title 3, chapter 5 of this code, within ninety (90) days of the adoption of the ordinance codified herein. A time extension may be granted where the county manager determines, on a case by case basis, that a hardship exists for a business owner/operator.
  - b. Change Or Extension/Enlargement Of Use: Any nonconforming use herein may not be materially changed, nor extended/enlarged unless it comes into compliance with the then existing development code.
  - c. Cessation Of Use: If active and continuous operations are not carried on in a nonconforming use during a continuous period of one year, the building or land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing.
4. Right Of Appeal: All appeals from denials by the planning commission or county manager of conditional use permit applications shall be as provided in this title, the Eastern Summit County development code (as applicable), and Utah Code Annotated, section 17-27a-801, to the district court within thirty (30) days of the planning commission/county manager's final action.
5. Penalty: Violations of any of the provisions of this subsection J shall subject the offender to the penalties as provided in this title, other applicable state law, or where no penalty is otherwise provided, a fine of not more than seven hundred fifty dollars (\$750.00) and a ninety (90) day jail sentence. (Ord. 708, 12-10-2008)

**NOTE:**

This is an advisory opinion as defined in § 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.

While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution.

Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.

## MAILING CERTIFICATE

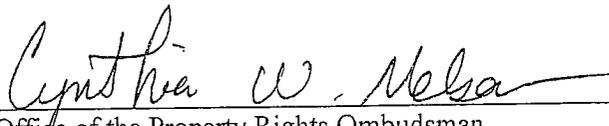
Section 13-43-206(10)(b) of the Utah Code requires delivery of the attached advisory opinion to the government entity involved in this matter in a manner that complies with Utah Code Ann. § 63-30d-401 (Notices Filed Under the Governmental Immunity Act).

These provisions of state code require that the advisory opinion be delivered to the agent designated by the governmental entity to receive notices on behalf of the governmental entity in the Governmental Immunity Act database maintained by the Utah State Department of Commerce, Division of Corporations and Commercial Code, and to the address shown is as designated in that database.

The person and address designated in the Governmental Immunity Act database is as follows:

Bob Jasper, County Manager  
Summit County  
60 N. Main Street  
Coalville, UT 84017

On this 20<sup>th</sup> day of September, 2012, I caused the attached Advisory Opinion to be delivered to the governmental office by delivering the same to the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the person shown above.

  
\_\_\_\_\_  
Office of the Property Rights Ombudsman



## Memorandum

**To:** Summit County Council (SCC)  
**Memo Date:** Thursday, September 27, 2012  
**Meeting Date:** Wednesday, October 3, 2012  
**Author:** Kimber Gabryszak, AICP  
**Regarding:** Biennial Report to the State – Moderate Income Housing

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State Code Section 17-27a-408, “Biennial review of moderate income housing element of general plan,” requires each county with a population over 25,000 to:

- biennially review the moderate income housing plan element of its general plan and its implementation; and
- prepare a report setting forth the findings of the review.

The last report was submitted in December, 2010. The next update is due December, 2012 however the State has requested that the Summit County update be provided earlier to be shown as an example to other communities.

Staff has prepared the attached report outlining the progress of the County in compliance with State requirements, and recommends that the SCC review and discuss the report, give any feedback and comments to Staff, and vote to forward the report to the State Department of Community and Culture as required by State Code Section 17-27a-408.

### Attachments:

1. Moderate-Income Housing Plan Biennial Report

## **Moderate-Income Housing Plan Biennial Report**

As established by **Utah Code 17-27a-408**, “the legislative body of each county with a population over 25,000 shall biennially review the moderate income housing plan element of its general plan and its implementation; and prepare a report setting forth the findings of the review.”

The following form was created by the Division of Housing and Community Development (HCD) to provide a convenient reporting mechanism for Utah’s municipalities. Your county may either complete and return this form or submit a moderate-income housing plan biennial report of its own format, provided that the report addresses the items required by 10-9a-408.

Please return a completed copy of this form or submit your county’s own biennial report using the following address:

Division of Housing and Community Development  
Attn: Nick Baker  
140 East 300 South  
Salt Lake City, Utah 84111

If you need any assistance with your biennial report or in developing your local moderate-income housing plan, please contact Nick Baker at (801) 526-4313, or by e-mail at [nbaker@utah.gov](mailto:nbaker@utah.gov).

## Moderate-Income Housing Plan Biennial Report

**Name of County:** Summit County, UT

**Date Prepared:** October 3, 2012

**Respondent:** Kimber Gabryszak, AICP, on behalf of the Summit County Council (SCC)

**Position:** County Planner, Community Development Department

**The following questions are based on requirements regarding moderate-income housing plans for Utah counties, as established throughout Utah Code Title 17, Chapter 27a.**

*(Please attach additional pages for your responses, as needed.)*

1. When did your county complete its moderate-income housing plan?

- 2006

2. Has the moderate-income housing plan been adopted as part of your general plan by the county's legislative body?

Yes                       No

a. **If No:** Please include an explanation of why the plan has not yet been completed, an outline of the steps you will take to complete the plan, and a description of any assistance HCD can provide.

3. Has your county updated its moderate-income housing plan's estimate of the need for moderate-income housing in the county for the next five years?

Yes                       No

a. **If No:** Please include an explanation of your county's plans and efforts to update this estimate and a description of any assistance HCD can provide.

b. **If Yes:** Please submit a copy of your updated housing plan to HCD. (Counties that submit a quality housing plan and a current biennial report by June 30, 2012 will be considered for participation in HCD's Community-Driven Housing Program)

4. Describe your county's efforts "to reduce, mitigate, or eliminate local regulatory barriers to moderate-income housing" during the past two years.

- *The County has adopted an inclusionary zoning process, where all new development is required to provide moderate-income housing. The density for such*

*housing is added on top of allowed market rate density, so it does not take away from the development's base density. Fee-waivers are also available for some moderate income units. Incentives are available to reduce the inclusionary requirement in cases where the developer provides units that target a lower income.*

5. Describe the “actions taken by [your] county to encourage the preservation of existing moderate-income housing and development of new moderate-income housing” during the past two years.
  - *The County adopted an ordinance making affordable housing fraud a criminal offense. The County also contracts with Mountainlands Community Housing Trust, a local housing non-profit, to monitor occupancy, rental, and resale of affordable units.*
6. Describe “progress made within [your] county to provide moderate-income housing, as measured by permits issued for new units of moderate-income housing” during the past two years.

**Complete or final approval:**

- *150 studio and 1-2 bedroom rental units constructed at the Liberty Peak Apartments. Final certificates of occupancy issued in summer 2012.*
- *34 studio and 1-bedroom units required for a redevelopment at the Village at Kimball Junction. Final approval and plan recordation complete; site currently being prepared, and final construction depending on local non-profit timing.*

**Preliminary approval:**

- *A mixed development of 105 units given preliminary approval at the Discovery CORE, of which ~40 will be moderate income. Final approval dependent on applicant submittal of final plats and other documents.*
- *~220 units given preliminary approval for the Silver Creek Village Center, to be developed at a future time, date uncertain.*

7. Describe “efforts made by [your] county to coordinate moderate-income housing plans and actions with neighboring municipalities” during the last two years.
  - *Meet regularly with Park City Municipal Corporation housing planners and managers.*
  - *Work with Mountainlands Community Housing Trust and other stakeholders to create a new housing needs assessment that looks comprehensively at the region*

*(Park City, Eastern Summit County, and the Snyderville Basin).*

8. Please indicate which moderate-income populations your moderate-income housing plan addresses (check all that apply):

- |   |   |
|---|---|
| a. <input type="checkbox"/> 80-100% AMI           | f. <input checked="" type="checkbox"/> Elderly                  |
| b. <input checked="" type="checkbox"/> 50-80% AMI | g. <input type="checkbox"/> Disabled                            |
| c. <input checked="" type="checkbox"/> 30-50% AMI | h. <input checked="" type="checkbox"/> Other (please indicate): |
| d. <input checked="" type="checkbox"/> 0-30% AM   | - <i>Seasonal, to a limited extent</i>                          |
| e. <input checked="" type="checkbox"/> Homeless   |   |

9. Please attach a copy of the section in your housing plan that describes your county's goals and actions to facilitate the development of moderate-income housing in your community, including the use of RDA/EDA funds for affordable housing, if applicable. If additional description or explanation is necessary, please use the space below:

- *Current General Plan Housing Element attached as part of packet. This element is due to be updated in 2012, and work is in process.*

10. Would you like to receive additional information about the Olene Walker Housing Loan Fund (OWHLF)?

Yes                       No

11. Would you like to receive additional information about the HCD Community-Driven Housing Program (CDHP)?

Yes                       No

12. Is there anything that HCD can do to assist your county in the further development and implementation of its moderate-income housing plan?

- *Yes - we run into difficulty with the public asking why the County has to provide housing. They instead request that the County's plan is to simply have Park City, Heber, Wasatch County, and other nearby communities provide the housing. If there is some way to add clarity, that the County must provide housing for its estimated needs (the State Code language is apparently not clear enough), that would be very helpful.*

13. Are you aware of any other barriers to Fair Housing on the basis of race, color, national origin, religion, sex, disability, or familial status?

Yes                       No

- a. **If Yes:** Please describe those barriers and what steps are being taken to provide an adequate supply of Fair Housing in your community.

14. Does the stock of housing designed to accommodate disabled individuals meet the needs of the disabled population of your county?

X  Yes                      \_\_\_ No

- a. **If Yes:** Please provide additional detail and describe how the current housing stock meets the needs of disabled residents in your community.

*A portion of the affordable housing units in the County have been designed to be ADA compliant (2 units at Liberty Peak Apartments, a few units at Bear Hollow Village). There are also several market rate units that are ADA compliant (Pinebrook Pointe, others). The disabled population has not yet been identified as a large component of need.*

**If No:** Please describe the efforts you are making to obtain this information and any plans you have to provide Fair Housing for the disabled.

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Exhibits:

- A. 2012 Housing Needs Assessment
- B. Chapter 10-5 of the Snyderville Basin Development Code – as amended 10/3/2012

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# MINUTES

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**SUMMIT COUNTY**  
**BOARD OF COUNTY COUNCIL**  
**WEDNESDAY, AUGUST 15, 2012**  
**COUNCIL CHAMBERS**  
**COALVILLE, UTAH**

**PRESENT:**

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

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

**CLOSED SESSION**

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

The Summit County Council met in closed session from 3:30 p.m. to 4:55 p.m. to discuss litigation. Those in attendance were:

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

**Robert Jasper, Manager**  
**Anita Lewis, Assistant Manager**  
**Dave Thomas, Deputy Attorney**  
**Don Sargent, Community Development Director**

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

**REGULAR SESSION**

Chair Ure called the regular meeting to order at 4:55 p.m.

- **Pledge of Allegiance**

Chair Ure announced that the strategic issues and goals discussion scheduled for work session would be postponed to the August 22 meeting.

**DISCUSSION AND POSSIBLE ADOPTION OF RFP FOR FAIRGROUND FACILITY;**  
**ROBERT JASPER, COUNTY MANAGER**

County Manager Bob Jasper stated that he agrees with the wording of the RFP, but he does not want to tie a consultant's hands. He wants to hire someone who knows how to design a good fairground and not restrict them to trying to fit the fairground into just one place. He would like to look at options other than just the current footprint.

Council Member Hanrahan asked if they could have a comparison showing plans for what currently exists, what currently exists with how it could be improved, and an alternative plan. He verified with Mr. Jasper that they could pay for the study out of TRT funds and that they would address ADA requirements for accessibility.

Chair Ure asked if they are getting the cart before the horse with the RFP. He suggested that they get a report from the fair board about last week's fair and the challenges they had. He stated that he is tired of fair board members working so hard in a facility where they cannot make the fair successful.

Council Member McMullin asked if new issues arose this year that were unexpected. Marla Howard, a member of the fair board, stated that from her experience in past years, the issues seem to be consistent, such as the Quonset hut, no air conditioning, inadequate facilities, insufficient room for all the displays, parking issues, and insufficient space for the carnival. Council Member McMullin stated that the fair board has worked hard this year to develop a strategic plan, and the next step going forward is to issue an RFP. The overarching issues remain the same.

Ms. Howard explained that the fair board is not made up of fair facility experts. Their intent as a board is to find an expert to guide them, give them ideas, and share successes from other communities that will improve the success of this fair. Chair Ure stated that he does not want to consider only the fair with a seven-day event tying up all the facilities. Ms. Howard explained that the RFP asks for a community facility that can be used year round. She believed the facility could be used for many opportunities they are not aware of.

Council Member Robinson noted that the RFP calls for an assessment of the expansion and modernization of aspects of the existing site, which leads him to believe they are asking the consultant to evaluate the existing fairground. It is not broad enough to say they want a fair somewhere, and they want the consultant's ideas on the feasibility of a fairground somewhere in the County. He suggested that they write the RFP to ask for what they want.

Mr. Jasper stated that he would work with Staff to rewrite the RFP and get it out.

Chair Ure stated that he would like a report on this year's fair once the board has had an opportunity to meet and do its debriefing.

**CONTINUED DISCUSSION AND POSSIBLE DECISION REGARDING THE APPLICANTS, MEAGAN FERRIN AND RICH SONNTAG, ON BEHALF OF PROMONTORY DEVELOPMENT, LLC, WHO ARE REQUESTING A SPECIAL EXCEPTION TO ALLOW FOR A BOND RELEASE FOR THE PROMONTORY RANCHES SPA DEVELOPMENT IMPROVEMENT AGREEMENT; AMIR CAUS, COUNTY PLANNER**

Rich Sonntag reported that he has provided the documents that were requested last week, and they have been signed by the applicants.

Council Member Robinson noted that Staff is still promoting a plat amendment. County Planner Kimber Gabryszak replied that it is still Staff's recommendation that the applicant go through a plat amendment to put a note on the plat. That would be an administrative decision by the Planning Commission which would protect potential buyers of the lots. Community Development Director Don Sargent explained that is a cleaner way to track changes over time.

Council Member Robinson stated that he would like the release provision in paragraph 3 to state that it will only be released when the parties to the agreement, Promontory and Summit County, mutually execute a written instrument releasing it. Until that time it is in full force and effect, so there is no way it can be argued that some letter from the County Engineer would somehow satisfy the requirement. He would prefer that the affidavit state that the lots are unbuildable and that no building permit will be granted until this document has been released by the mutual consent of Summit County and the owner or successor to the owner pursuant to the other agreement. The test or proof will be when the County releases it, and it is very important that the release be done properly.

Council Member Elliott asked if Council Member Robinson's language would include a plat amendment. Council Member Robinson replied that he did not feel strongly about a plat amendment. Council Member Elliott stated that she feels very strongly about a plat amendment and is prepared to support everything else if it includes recordation on the plat that says the lots are unbuildable. Council Member McMullin stated that she would be fine without a plat amendment. Council Member Robinson explained that it takes a lot of work and months to amend a plat, and they would have to go through the same process to take the note off the plat.

Council Member Robinson requested that the applicant make the changes he suggested and return later in the meeting for a motion. Planner Gabryszak noted that the affidavit states that a plat note will be added to the plat and asked if it should be reworded to state that it is in lieu of a plat note. Council Member Robinson stated that he believed the intent was that the affidavit would serve as a plat note, not that a note would be added to the plat.

**MANAGER COMMENTS**

Mr. Jasper recalled that the previous trash collection contract included funds for education, but the current agreement does not require recycling education. He has been working with Recycle Utah to negotiate a specific service agreement to purchase certain services from them. The budget included \$48,000 for Recycle Utah, but they want \$80,000, and there is enough left in the budget due to the savings in the trash collection contract. He reviewed items that would be covered by the contract and stated that he would proceed unless the Council has concerns.

## COUNCIL COMMENTS

Council Member Hanrahan stated that he would like to get a memo from the staff regarding trash collection and recycling that explains the rationale for what they did and the purchase of second cans for trash or recycling which they can send to people who call and e-mail with problems. He also asked for an update on the removal of the silt fencing along Highway 224.

Council Member Elliott stated that she enjoyed the fair. She reported that Mountainlands Community Housing Trust met Tuesday and is on schedule with taking the needs assessment to the Planning Commission. The Landmarks and Preservation committee will hold its awards presentations on October 6 at the Harvest Fest at 1:00 p.m. and will make a budget request to add to their revolving fund. She stated that she would like to have a ribbon cutting for the trestle over the County highway in Echo to bring public awareness to people that they can now use it.

Chair Ure requested an update on the Echo Special Service District. Mr. Jasper explained that he has asked Rich Bullough to be in charge of that, and he could ask him to make a presentation to the Council. Chair Ure asked about the response to Craig Vernon's letter. Mr. Jasper reported that County Engineer Derrick Radke drafted a letter responding to Mr. Vernon's issues, and before he had received the letter, Mr. Vernon came to the office saying he had not heard from them. Mr. Vernon will meet with Mr. Jasper and Mr. Radke tomorrow and address the issues.

## APPROVAL OF COUNCIL MINUTES

JUNE 27, 2012

JULY 5, 2012

JULY 9, 2012

**Council Member McMullin made a motion to approve the minutes of the June 27, 2012, County Council meeting with corrections. The motion was seconded by Council Member Robinson and passed unanimously, 3 to 0. Council Members Hanrahan and Ure abstained from the vote, as they did not attend the June 27 meeting.**

**Council Member McMullin made a motion to approve the minutes of the July 5, 2012, County Council meeting as written. The motion was seconded by Council Member Elliott and passed unanimously, 4 to 0. Council Member Hanrahan abstained from the vote, as he did not attend the July 5 meeting.**

**Council Member McMullin made a motion to approve the minutes of the July 9, 2012, County Council meeting as written. The motion was seconded by Council Member Elliott and passed unanimously, 2 to 0. Council Members Hanrahan, Robinson, and Ure abstained from the vote, as they did not attend the July 9 meeting.**

## CLOSED SESSION

**Council Member McMullin 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 5:50 p.m. to 6:00 p.m. to discuss personnel. Those in attendance were:

**David Ure, Council Chair**

**Robert Jasper, Manager**

**Claudia McMullin, Council Vice Chair**

**Sally Elliott, Council Member**

**John Hanrahan, Council Member**

**Chris Robinson, Council Member**

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

**EXCEPTION TO ALLOW FOR A BOND RELEASE FOR THE PROMONTORY RANCHES SPA DEVELOPMENT IMPROVEMENT AGREEMENT; AMIR CAUS, COUNTY PLANNER - (Continued)**

**Council Member Robinson made a motion to approve the bond release for the Promontory Ranches SPA Development Improvement Agreement, which will be evidenced by the approval and execution of the Special Exception Agreement for Promontory Ranches and Affidavit of Improvement Status as amended, both of which will be recorded against the title of all the lots in the Promontory Ranches Subdivision, with no plat amendment required. The motion was seconded by Council Member McMullin.**

Council Member Elliott asked if this would include a note on the plat. Planner Gabryszak explained that Staff would prefer a note on the plat, because that is what people look at. Council Member Robinson noted that the affidavit explains that it is in lieu of a notice on the plat.

**The motion passed by a vote of 4 to 1, with Council Members Hanrahan, McMullin, Robinson, and Ure voting in favor of the motion and Council Member Elliott voting against the motion.**

**PUBLIC INPUT**

Chair Ure opened the public input.

There was no public input.

Chair Ure closed the public input.

**PUBLIC HEARING REGARDING NOTICE OF PROPOSED TAX INCREASE FOR SERVICE AREA #6; BLAKE FRAZIER, AUDITOR**

**PUBLIC HEARING REGARDING NOTICE OF PROPOSED TAX INCREASE FOR SUMMIT COUNTY MUNICIPAL FUND; BLAKE FRAZIER, AUDITOR**

County Auditor Blake Frazier explained that this is the second hearing in the process of a tax rate increase. The County adopted a budget in December which anticipated a tax increase that

required a truth in taxation hearing at the budget hearing, and he confirmed that the truth in taxation hearing was held at that time. The next step in the process is to hold another public hearing between 10 and 30 days after disclosure notices are mailed, which is the hearing on the agenda this evening. The reason for both proposed increases is the recession over the last few years, and he explained that the County loses money just like businesses do, but in a compound manner. The County has cut staff, delayed projects, and tapped into the tax stability fund and general fund. He clarified that they are talking about a tax increase for municipal services, which are services provided in the unincorporated County only, which includes everything outside of incorporated cities. They are also looking at a tax increase in Service Area #6, which is a road improvement area that covers certain subdivisions in unincorporated Summit County. The purpose of the Service Area is that the County did not have the ability to maintain roads within subdivisions, and they were able to provide a higher level of service to those areas through the Service Area. Mr. Frazier explained that the money from both tax increases will go toward road improvements in the County. When the County has to delay road projects, it costs more to do them in future years, and the tax increase would keep the County and Service Area at status quo with where they are currently.

Mr. Jasper explained that the concept of the legislature was to allow counties to set up funds for County-wide services and areas that receive more than just County-wide services. If a person lives outside the city limits, they pay far less in property taxes than those who live in the city. He noted that the Snyderville Basin is an urban area and receives urban services. After a couple of consecutive years of deficits in the general fund, the Council decided that the general fund should not subsidize the municipal fund to provide municipal services in the County. An important issue the Council considered when looking at the budget was that they did not have the resources in the municipal fund to maintain the major roads, and if they are not maintained, it costs a lot more to fix them later. When the Council approved the new tax rate, they committed to spend those funds to maintain the roads, and the County has already spent or committed that money by either doing the work or signing contracts to do the work. Mr. Jasper stated that Summit County's overall tax rate is close to the lowest in the State. They grew so fast for so many years with assessed values continuing to rapidly increase, that they have not had to adjust the tax rate since the municipal fund was established in 1988. Service Area 6 was started in 1977, and that tax rate has also never been adjusted.

Deputy County Attorney Dave Thomas explained that Service Area 6 is more than just subdivisions, it is areas outside the city that have streets or improvements.

Council Member Robinson asked if the municipal fund boundaries include Service Area 6. Mr. Radke confirmed that some money from the municipal fund is spent on roads in Service Area 6. For instance, the County gets Class B gas tax money for every road mile in the County. Even if a road is in Service Area 6, it is claimed for gas tax money, and that money goes into the municipal fund and is spent on Service Area 6 roads in addition to Service Area 6 money. He explained that when the County had large overlay projects in Service Area 6 and did not have enough funds to complete the project, they used money from Class B to pay for the overlay project.

Council Member Robinson recalled that Mr. Radke believed the County was not keeping up with the annual road maintenance, and if they continue to defer maintenance, it would cost much more in the long run due to road deterioration. The same is true for Service Area 6. Although this may seem like a large percentage increase, it needs to be understood in the context of the purpose of the fund and the fact that they have not raised the municipal fund rate since 1988 because of the expansion due to growth in the County. That has now changed, and without an increase like this, the County will not be able to adequately maintain the roads. The same circumstance applies to Service Area 6.

Public Works Director Kevin Callahan explained that the County has continued to add lane miles to its roads over the years but has not added staff. They are reaching the point where the ability to take care of the increasing volume of roads with the existing staff has become more and more challenging. Neither of these tax rates have been raised for 24 or 35 years, and the cost of construction materials has gone up dramatically during that time. They were only able to keep up because of growth, but they are no longer in a growth cycle. In order to maintain an adequate level of service on the roads and keep them in good repair, they need a small increment of additional revenue. If they do not have that, they will pay much more later on, so this is a very prudent and necessary request.

Chair Ure stated that it is his understanding that, usually when values go down, the mill levy goes up, but in the case of Service Area 6 that is not true. Mr. Frazier clarified that all property taxes work on the basis that, if values go up, tax rates go down and vice versa. In a service area, there is a statutory maximum that can be reached, and that is the case of Service Area 6.

Council Member Robinson explained that in the municipal fund, the tax increase on a \$480,000 primary residence would be \$64.41. In Service Area 6, on a \$498,000 primary residence, the increase would be \$29.33. The figures for a non-primary residence are about 45% higher.

Mr. Frazier explained that the 51% increase the County is required to put on the public notice is very misleading when it comes to actual dollar amounts. He noted that the 51% increase in the municipal fund would be \$1.3 million, but the Park City School District is proposing an 8.9% increase that would equate to more than \$4 million.

Chair Ure opened the public hearing.

Carsten Mortensen stated that everyone has a budget they have to live with, and he had to cut back significantly on budget items in his business a few years ago. He commented that taxes usually go up but never seem to find their way back down, but his budget and his income go up and down. He asked if the tax increase is strictly for roadwork or if it is for roadwork and the Sheriff's Office. Mr. Jasper replied that the biggest components are Sheriff's patrol and roadwork, and there are overhead costs related to those. Mr. Mortensen stated that most people in the County use County roads, and most people in the County use city roads. Only two cities in the County have police departments, and most cities in the County are served by the Sheriff's Department, so he believed public safety should come from the general fund. He commented that he has to raise prices once in a while, and he does not lower his prices, either. Council Member Robinson noted that many sources of income go into the municipal fund, and this tax is only part of what constitutes the entire municipal fund. Mr. Mortensen asked about the Council revenue of \$3 million. Matt Leavitt with the County Auditor's Office replied that is a misprint.

Dennis Wright asked if the County ever comingles money from Service Area 6 and Service Area 8. Mr. Callahan replied that they do not; they are two separate budgets. Mr. Wright asked if Service Area 8 money has ever been used to purchase equipment, such as a grader. Chair Ure replied that State law does not allow money from one Service Area to be used to subsidize another Service Area. Mr. Wright asked how the County mingled money from another Service Area and raise taxes in one while they are still mingling funds from another Service Area. He believes the County does intermingle equipment purchased from different Service Areas. Mr. Frazier stated that the County has never purchased any equipment from Service Area 8 funds. They have purchased equipment for Service Area 6 because it requires specialized equipment they do not need anywhere else in the County, and it may be used in other places in the County. The majority of the equipment is purchased from the general or municipal funds, depending on the type of equipment, and the costs are charged to the appropriate County department. Mr. Wright stated that what bothers him the most is that the Manager says one thing and the Attorney says something else, and then the Auditor says something else. He believed if the County had one policy that everyone follows, they could save a lot of money, but they can never get a straight answer from anyone. It sounded to him like the Manger took it upon himself to do the work without getting permission from the Council, because he said he did the work, and it is not funded. Council Member Hanrahan explained that the Council set the budget in December, and the Council authorized it.

Bill Wilde stated that he respects the job the Council is doing, but he has concerns when he hears they have the lowest tax rate in the State. He believed they should take that in the context of being a good thing, not with the idea that they have the right to raise taxes because they are the lowest. He recalled that Wasatch County claimed two weeks ago that their tax rate was the lowest. He expressed concern that they are hearing that this is a small amount, but it is not a small amount out of his pocket. He stated that he runs a business and was planning to build new offices, but they have had to table that and stay in a building that is run down. They have had to make some tough choices. It could be that it may cost more to fix the roads rather than repair them now, but times are getting better. They can fix them when they get the money, but raising taxes is not the way to do it.

Marci Hansen complimented the North Summit School District and the Wanship Cemetery District on her tax bill going down. She stated that she was astonished when she got her tax bill and saw a 51% increase in the municipal fund and learned it was only for the unincorporated areas of the County. She stated that they cannot subdivide their property and asked why they cannot get primary residency status on all their acreage rather than on just one acre and their home. Mr. Thomas explained that only one acre can be counted for primary residency according to State statute, and the remainder of the land is valued at fair market value. Council Member Robinson stated that, if the property owner believes the residual value on the portion of that property that is not in the one acre is incorrect, they could challenge the valuation.

John Hellander stated that, if a home is on more than one acre, they cannot appeal the remainder of the property to the Board of Equalization, because the property is all on one deed. Chair Ure requested that they return to the topic of the tax rate.

Ms. Hansen stated that they cut back in their household when they see that things are getting tighter. No one goes to their boss and says they need more money because they spent everything they have, and she believes that is what has happened in the County. Mr. Frazier explained that the total budget for the County in 2008 was \$52 to \$53 million. They have cut back \$45 million this year. They have also cut 20+ employees in the last three years, and they have been trying to cut back. Ms. Hansen stated that she believed more could be done, such as not allowing Sheriff's deputies to take their patrol cars home or using inmates to maintain the trails. She stated that there other ways to cut back without raising taxes. The County needs to quit spending, and if they don't have it, they shouldn't spend it.

Jacqueline Smith asked how much the shortfall was when this tax increase was proposed. She stated that it does not sound like there was a shortfall as much as it was just a decision that they wanted to do this work on the roads, and the money has already been spent. She believed it was extremely irresponsible to spend the money before it was officially heard by the public. Council Member Hanrahan explained that the County must adhere to State Code, which requires them to adopt their budget by the end of the year, and then they have a truth in taxation hearing after the notices go out. He recalled that the County had to borrow about \$2 million from the tax stability fund and then asked the voters to give the County that money rather than using it as a loan from the tax stability fund. The County was short about \$800,000 in the unrestricted general fund as required by State statute. He explained that the general fund has subsidized the municipal fund for more than 20 years. Mr. Jasper explained that the budget starts January 1, and the road construction season starts as soon as the snow melts. Every year the County has started road maintenance as soon as the weather will allow based on what was budgeted. He clarified that this is the second truth in taxation hearing. The first one was held as part of the budget adoption process last December. Staff proposed the projects to the Council, and if they do not maintain the roads adequately, they will deteriorate and have to be rebuilt, which costs much more. Ms. Smith asked the Council where they cut in other areas that were non-essential to make up some of the shortfall. Council Member Hanrahan noted that they have cut the budget by \$7.5 or \$8 million over the last three years. Council Member Elliott explained that they have lost a lot of staff by attrition and have tried to not fire anyone, but they have reduced the staff by 20 people. Ms. Smith stated that other businesses in the County have taken huge cuts and that County employees make more than private sector wages in most of the positions. She expressed concern that they are not cutting where they could be cutting, and the private sector is not seeing the increases that continually happen in the public sector. Everyone needs to tighten their belt, and it seems like they keep getting squeezed while the County continues to pay for whatever they want.

Mr. Hellander stated that when he opens his tax notice and sees a 51% increase that seems to be going to the unincorporated areas, it seems that they are using resources in other areas, and he questioned why that tax burden should be allocated 51% to the unincorporated areas. He believed the tax burden should be equalized. Council Member Elliott explained that they are trying to even the tax burden so that people who actually receive the services pay for them. Mr. Hellander claimed that some areas such as Tollgate Canyon do not receive the services everyone else receives and asked if it is fair to increase their taxes 51%. Chair Ure explained that when people leave those subdivisions, they use County roads. Mr. Hanrahan clarified that the County is currently subsidizing the municipal fund with general fund money, and everyone in the County pays into the general fund, including people who live in the cities. The city residents also pay taxes to the cities to maintain their roads. This means that people in the cities who have been subsidizing road maintenance in the County will no longer subsidize it.

Preston Tolman stated that he would like to know how the money is allocated and stated that in 15 years his road has never been redone. He noted that there are a lot of bike paths going in at Silver Creek and asked if that money comes out of this same allocation. Council Member Elliott explained those are done through a special district, and people in that district voted to tax themselves to provide those trails. Mr. Tolman stated that, in looking at the budget, he could not see that the County has suffered any decreases, and it seems to go up every year. He did not believe the County has been cut 16+% in their income as many people have, and they are being asked to pay more taxes when the County seems to be pretty flush with money. They are buying up a lot of green space. Council Member Elliott explained that the people voted to tax themselves to do that in the Snyderville Basin, and the conservation easements in eastern Summit County are purchased through the agricultural preservation fund with funds contributed by Promontory for each lot they sell due to the rangeland that was lost when Promontory developed. Mr. Tolman asked if those conservation easements are taxed. Chair Ure replied that they are taxed at the same rate as greenbelt.

Kathleen Jasenovic asked about the justification behind raising property values every year. She stated that she has lived here for nine years, and every year the property value increases substantially. Chair Ure explained that is not in the Council's purview and she would have to ask the Assessor about that. He recommended that she speak with the County Assessor.

Bill Benelli, a resident of Tollgate Canyon, calculated that his neighborhood would pay about \$76,000 in increased taxes, and the County does not maintain their road, so he wanted to know what they are getting for \$76,000. Chair Ure stated that he did not believe that area would be paying \$76,000 in increased taxes. That area came into the County with the property owners knowing those roads were private roads they would have to maintain themselves. However, anytime someone leaves Tollgate and drives on any other County road, that is what they are getting for their dollar, and they also get some police protection. It may not seem fair, but government never has been totally fair. Mr. Benelli maintained that they are not getting their money's worth. Council Member Robinson explained that when a developer chooses to develop, he can build roads to County standards and make them County roads or build private roads that are not to County standards. When a development has private roads, the residents pay twice, but the developer made that choice, and people who purchase a home or lot in that subdivision come in with their eyes wide open that the roads are private. Fair or not, that is the way it works. Mr. Jasper explained that he is meeting with the homeowners association in that area to see how the County can work with them on roads and bring them up to County standards.

Cleve Smith commented that people from Coalville and Park City drive on County roads as well and asked how that valuation is fair. Chair Ure explained that the residents of those cities pay a municipal tax in their cities to maintain their roads, and residents of other parts of the County use their roads as well.

Carsten Mortensen referred to the County's comprehensive annual financial report from 2003 to 2011, which shows total tax revenues ranging from \$26 million in 2003 to \$36 million in 2011, which is the highest the County has ever had. According to the County's records, the taxes have not gone down, and revenues have actually gone up each year. Council Member Robinson explained that it is not fair to look at the aggregate number, because some of the funds can only be used for certain things. They need to look at general property taxes. Mr. Mortensen looked at

the general property taxes and noted that they have consistently gone up from 2003 to \$21 million in 2011. Chair Robinson noted that the numbers are fairly consistent during that time, because when assessed values go up, the tax rate goes down, and when assessed values go down, the tax rate goes up, making property taxes a stable source of income. Mr. Mortensen noted that the Council has been saying that their revenues have gone down, but their reports do not show that, and they still have more money than they have had before. Council Member Hanrahan explained that they have more homes and businesses that require the same services, and they need to take into account the population growth and new growth.

Marci Hansen verified with the Council Members that they are in favor of the tax increase except for Chair Ure.

Russ Judd stated that he lives on Border Station Road. In the past, they have come down the road with a truck and patch material and filled the potholes. This year they went to the main holes with a piece of equipment with a heating device. It took several hours with several men watching to patch one hole. If that happens throughout the County, he believed it must cost quite a bit to repair the roads. Mr. Callahan explained that Mr. Judd is referring to the heat works machine, which takes up the asphalt material, grinds it, heats it, and lays it back down. It makes a much better patch that is longer lasting. It involves more staff, but it means the road will not have to be patched continually as they have done in the past, and it is more cost effective.

Max Greenhalgh stated that he was involved when Service Area 6 was formed. Growth was coming into the County fast, and the biggest concern was that city residents did not want to be double taxed. They came up with the service area, which did not require that the properties being serviced be contiguous. The municipal fund was also an attempt to protect taxpayers from services they did not use, particularly the residents in cities. The State required a municipal fund for properties outside the cities that receive services similar to the services cities pay for through their municipal taxes. He stated that he could make a case for the major County roads being part of the general fund rather than the municipal fund, which would spread the costs more evenly and fairly rather than those funds being attributable just to residents outside the city limits, because city residents use the roads as well. He hoped the County would try to minimize taxes during hard times rather than increase them.

Ted Smith, a resident of Wanship, stated that he goes from his subdivision on State highways to go shopping. He stated that previous Councils turned them down when they asked the County to maintain their private roads, and he did not know why they are being singled out to pay the 51% increase. Council Member Robinson stated that it is erroneous to think they pay for roads because they drive on them outside of their homes. The best way they have come up with following State law is to create the municipal fund that assesses every property within it to maintain the County's roads. If people live in a private development, they may not believe they are getting value out of it, but that is the way the system is set up. People use those other roads, even though they may not get the roads in their neighborhood maintained. Mr. Smith stated that he believed their area should be re-thought. He commented that he has paid taxes for the last 18 years on a cemetery where all the lots are sold, and he will never be able to use it. Chair Ure explained that they are working on reconstituting the cemetery district and purchasing new land. Mr. Smith explained that his taxes have gone up \$1,500 and have doubled in three years, which is a lot. Council Member Robinson explained that the Council has approved many stipulations in

the last few years for people who have appealed their property valuations and suggested that Mr. Smith consider filing an appeal.

Christy Waterson asked what fund the curbside recycling comes from. Council Member Hanrahan replied that all of it comes from the General Fund. The new contract that started July 1 kept the same solid waste services but expanded recycling County-wide at a savings of \$900,000 a year. That is one specific area where the County has been cutting costs.

Jim McIntosh asked how far in advance the County budgets for road maintenance. Mr. Radke explained that they have a 10-year projected capital annual maintenance plan. Mr. McIntosh asked if the proposed tax increase is permanent and commented that, if they project two years on road repairs, he did not understand why they would have a tax increase that extends past that indefinitely. Mr. Callahan explained that the County has been running at a deficit for what has been needed for many years. They fall short of funding for what is needed every year, and that continues to build up. Mr. McIntosh claimed that at some point in time, they would have to get back to where things are even. Mr. Jasper explained that every year the Council considers the tax rate, and in any given year they could choose to reduce it. If they continue to find more efficient ways to do things and can reduce the rate, they will recommend that for the Council to decide. Mr. McIntosh explained that he moved here from another state that is in a critical financial situation because when times were good and they had the money, they spent it. When they did that, they put into effect programs that they now cannot fund. He had no problem with fixing the roads if they need to be fixed, but long term, if the County has the money and does not need it, he wanted to be sure it would not be spent just because they have it. Council Member Robinson explained that the County needs to get into a position of sustainably maintaining the roads in a manner that is smart and cost effective. Mr. McIntosh expressed concern that there is no light at the end of the tunnel for reducing taxes and no end to tax increases in general. Council Member Robinson noted that this is the first time since 1977 and 1988 that there has been a tax increase of any kind for the municipal fund or Service Area 6. If the County were to see fast growth again, it is possible that they might be able to reduce the tax rate.

Rhonda Francis stated that she lives on Chalk Creek Road, which has been repaved every year. She asked about the cost of the roundabouts. Mr. Radke replied that they cost about \$400,000, but they are paid for by the developer. Council Member Robinson explained that Chalk Creek Road has its own source of money from oil leases. Ms. Francis stated that she feels like every time she walks down West Hoytsville Road, another six inches drop off the side of the road, and they get a half of a patch on that road. She stated that they need that road repaired. Council Member Robinson explained that there is a plan, and that road will come up in the rotation. Ms. Francis asked that they drive the roads and look at what they are driving on. Chair Ure noted that this is a public hearing on the tax rate, and staff will take Ms. Francis's concerns under advisement.

Thomas Rees, a resident on Icy Springs Road, commented that he knows roads cost money and that oil prices have gone up. He believed the biggest complaint is the disproportionate amount of money spent on the west side of the County getting overlaid or Chalk Creek Road being overlaid, and everyone else is lucky if they get potholes filled. He stated that the County has known for a number of years that they were getting behind on road maintenance and asked why they waited this long to get hit with a 50% increase rather than doing something earlier and having a smaller increase. Council Member Robinson explained that in the past they have had

large fund balances and paid for a lot of capital projects with those fund balances. Those balances are now low and are not keeping up, and they need this money to get back on course where the roads can be regularly maintained. Mr. Rees questioned whether they will get their money's worth.

Chuck Olson commented that the Council has already decided on this tax, and he did not understand why it is being done backward by holding a public hearing on a decision that was made when the budget was adopted. He asked if they could change this from property tax to a sales tax. Chair Ure explained that State law specifically states that this is to be property tax. Mr. Frazier explained that they do not have any leeway on using property tax for this fund. Mr. Leavitt explained that the percentage of sales and use tax that can go into the municipal fund is capped at 1%, and it is already at 1%. Council Member Hanrahan noted that there are many second homes and investment homes in the County that pay 100% of their assessed value, and raising the property is a way to protect people who live in the County from higher taxes, because so much of it is paid by people who have these second home properties. Mr. Olson stated that he hates property taxes, because they continue to go up, and they do not go down. He stated that when he lived in Coalville, his taxes went up from \$500 to \$1,400, with both his valuation and tax rate going up, so he does not believe tax rates go down when property values go up.

Dennis Pace commented that no one likes to pay taxes. He stated that he worked for the County at one time and was in charge of purchasing to be sure they got value for their money. He asked if there is a policy in the County today for efficiency and if someone is responsible for purchases made. Mr. Jasper explained that there is a purchasing policy but not a centralized purchasing office. Mr. Pace stated that he did not understand how anyone could keep track of the millions of dollars that are spent in the County. He claimed that the road department is a rat hole, and there is no way to keep track of it. When he worked for the County, there was no coordination in purchasing in the road department, and it was left up to the option of the employees. At the time there was a State bid, but the County employees did not take advantage of it. He asked who is responsible for expenditures in the road department. Mr. Callahan explained that he is responsible for public works. Mr. Pace stated that it is his experience that there is a lot of waste, and department heads have a lot going on, so they might want to look at enforcing that policy better. He asked if Mr. Callahan is telling him there is no waste in his department. Mr. Callahan replied that he is not, and everything can always be improved, but they have procedures that they follow. Mr. Jasper explained the County's procedures and equipment maintenance and verified that the County continually adds processes they believe will save money. He acknowledged that they are not perfect, and they may have more work to do, but they are committed to doing it.

Dennis Wright commented that they are hearing from the grass roots. He stated that when the Promontory settlement was made, that money came out of the general fund. He recalled that at the last public hearing, \$500,000 had to be given to Mountain Regional Water, but now all of a sudden the County needs money for the road department, and they can't find any anywhere. It seemed to him that whenever something big comes up, they can find the money, but now when they are talking about a small amount of money for roads outside the municipalities, they can't ever find any money. Council Member Robinson explained that the \$500,000 was a loan to Mountain Regional, and the County will earn more money on the loan proceeds than they would by keeping it in the public treasurer's fund. It will also save Mountain Regional money. Mr. Wright stated that he did not believe they would ever collect that money.

Chair Ure reminded the public that they are taking public comment specifically on the tax rate, not on other issues and concerns.

Glenn Wright stated that they have heard that these two taxes have not increased in the last 24 and 35 years. He asked how many times they have had a tax increase in general. Mr. Frazier replied that the only time the County has had a tax hearing was when they split the municipal fund from the general fund. It was not a tax increase, but the State required a public hearing. Mr. Jasper noted that they did increase the tax rate for the wildland fire fund. Mr. Wright stated that he has lived in eight different states, and what he sees here is a pretty efficient method of taxation. The truth in taxation process keeps them from getting large fluctuations. He believed splitting up the service districts and making them pay their fair share is the proper way to do it, and he appreciated the Council's diligence in this process.

Mr. Benelli recalled that the Council explained to him that by being in Tollgate, he gets onto County roads, and that is why the taxes were justified. He asked if the rest of the County is also paying this tax. Chair Ure replied that everyone except those who live in municipalities pay the municipal tax. Those who live in Service Area 6 are the only ones who will pay the Service Area 6 tax. Mr. Benelli asked why the whole County is not paying these taxes. Mr. Jasper explained that all the people who live in cities pay city taxes, and they are all paying more than the municipal tax rate. People who live in the cities and who pay a higher rate to maintain their own municipalities should not have to pay to maintain the roads outside the cities, and that is the way the State Legislature set it up. He explained that there are other service areas in the County that are separate from Service Area 6. They have a separate tax rate for their service areas and will not pay the Service Area 6 rate. Council Member Hanrahan clarified that those other service areas do pay into the municipal fund.

Chair Ure closed the public hearing.

The County Council meeting adjourned at 8:35 p.m.

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*Council Chair*, David Ure

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*County Clerk*, Kent Jones

**ECHO SEWER SPECIAL SERVICE DISTRICT,  
SUMMIT COUNTY, UTAH**

**SEWER RATE RESOLUTION  
OCTOBER 3, 2012**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ESTABLISHING AND FIXING RATES FOR SEWER SERVICES TO ADEQUATELY SERVICE SEWER REVENUE BONDS.

WHEREAS, the Echo Sewer Special Service District, Summit County, Utah (the “District”) desires to acquire and construct sewer system improvements to the District’s sewer system, and related matters (the “System”) (the “Project”); and

WHEREAS, the District desires to finance the Project by issuing Sewer Revenue Bonds in the anticipated amount of \$218,000 (“Bonds”) with a grant in the anticipated amount of \$251,000, which the District will receive but not be required to repay; and

WHEREAS the Revenue from the System is necessary to pay for operations and maintenance expenses and to service the District’s sewer revenue bonds; and

WHEREAS pursuant to Utah Code Section 17B-1-643, the rates charged for sewer services may be increased after a public hearing; and

WHEREAS the Echo Sewer Special Service District has previously complied with the Notice requirements of Section 17B-1-634 and has held a public hearing;

NOW, THEREFORE, BE IT RESOLVED by the Summit County Council acting as the Governing Authority of the Echo Sewer Special Service District, Summit County, Utah, as follows:

Section 1: The Governing Authority hereby adopts the attached Echo Sewer Special Service District Summary of Fees.

Section 2: The rate contained on EXHIBIT A of the attached Summary of Fees will become effective November 1, 2012. The Governing Board may also from time to time, and by resolution, establish various classes of users and enact rules for levying, billing, guaranteeing and collecting charges for sewer services, amend sewer system rates, and

enact or amend all other rules, charges, or assessments necessary for the management and control of the sewer system.

Section 3. The Governing Board may from time to time fix by agreement or resolution special rates and conditions upon such terms as they may deem proper for users of the sewer service making use thereof under exceptional circumstances.

Section 4. The Governing Authority is constituted as a board of equalization of sewer rates to hear complaints and make corrections of any assessments or charges deemed to be illegal, unequal, or unjust.

Section 5. Irrespective of the occupant, user, tenant, co-tenant, permissive user, contract purchaser, or any other person, firm, partnership, corporation or entity being in possession of the premises to which a sewer connection is supplied or service is made available, the owner of the premises according to the records of the Summit County Recorder as of the date the charge, fee, or assessment is made, unless designated otherwise, shall be legally responsible for the payment of all charges, fees, assessments, obligations or liabilities of a sewer system user.

Adopted and approved this October 3, 2012.

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County Chair acting as Chair of the SSD

ATTEST:

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County Clerk

( S E A L )

EXHIBIT A

Summary of Fees

ALL FEES ARE TO BE PAID UPON INVOICING

Sewer Utilities Rate

Base Sewer Rate      \$45.00 per month per ERU

EXHIBIT B

RECORD OF PROCEEDINGS  
ECHO SEWER SPECIAL SERVICE DISTRICT, SUMMIT COUNTY, UTAH  
OCTOBER 3, 2012

The County Council of Summit County, Utah, acting as the governing authority of the Echo Sewer Special Service District (the "Issuer") met in public session at its regular meeting place in the Council Chambers at the Sheldon Richins Building, 1885 West Ute Blvd., Park City, Utah 84098 at 6:00 p.m., or as soon thereafter as feasible, on October 3, 2012, with the following members present:

David Ure	Chair
Claudia McMullin	Vice Chair
Christopher Robinson	Council Member
John Hanrahan, M.D.	Council Member
Sally Elliott	Council Member

Also present:

Kent Jones	County Clerk
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Absent:

After the meeting had been duly called to order and the minutes of the preceding meeting read and approved, and after other matters not pertinent to this resolution had been discussed, the County Clerk presented to the County Council a Certificate of Compliance With Open Meeting Law with respect to this October 3, 2012 meeting, a copy of which is attached hereto as Exhibit C.

Council member \_\_\_\_\_ then introduced and moved the adoption of the foregoing resolution, which motion was seconded by Council member \_\_\_\_\_, and the motion was passed as follow:

AYE:

NAY:

ABSTAIN:



EXHIBIT C

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, Kent Jones, the undersigned County Clerk of Summit County, Utah (the "Issuer"), do hereby certify, according to the records of Summit County in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Utah Code Annotated § 52-4-202, I gave not less than twenty-four (24) hours public notice of the agenda, date, time, and place of the October 3, 2012 public meeting held by the Issuer as follows:

(a) By causing a Notice, in the form attached hereto to be posted at the Issuer's principal offices at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

(b) By causing a copy of such Notice, in the form attached hereto to be delivered to a newspaper of general circulation within the Issuer at least twenty-four (24) hours prior to the convening of the meeting.

(c) By causing a copy of the Meeting Notice to be posted on the Utah Public Notice Website at least 24 hours prior to the convening of the meeting.

In addition, the Notice of 2012 Annual Meeting Schedule for the County Council attached hereto was given specifying the date, time and place of the regular meetings of the County Commission to be held during the year, by causing said Notice to be (1) posted on December 20, 2011, at the principal office of the County and (2) by causing a copy of said Notice to be provided to at least one newspaper of general circulation within the County on January 13, 2012, and (3) posted on the Utah Public Notice Website on January 17, 2012.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this October 3, 2012.

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

( S E A L )

(Attach Meeting Notice and Notice of 2012 Annual Meeting Schedule, including proof of posting thereof on the Utah Public Notice Website)



Kimber Gabryszak, AICP  
County Planner III

## STAFF REPORT

**To:** Summit County Council (SCC)  
**Report Date:** Thursday, September 27, 2012  
**Meeting Date:** Wednesday, October 3, 2012  
**Author:** Kimber Gabryszak, AICP  
**Project Name & Type:** Moderate Income Housing – Model and 2012 Needs Assessment

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**EXECUTIVE SUMMARY:** Per State Code Section 17.27a.403, each Planning Commission is required to have an *estimate of the need* for moderate-income housing, and a *plan to provide a realistic opportunity to meet estimated needs*. The SCC adopted a needs assessment for the Snyderville Basin in 2006 (2006 Assessment). The 2012 Needs Assessment and Model (2012 Assessment) is the proposed update to and replacement of the 2006 Assessment.

The Snyderville Basin Planning Commission (SBPC) held a public hearing on July 31, 2012, and voted unanimously to forward a positive recommendation to the SCC on the 2012 Assessment. The SCC held a work session on September 12, 2012, and had no negative comment on the model.

**Staff recommends that the SCC review the 2012 Needs Assessment, conduct a public hearing, and take public input. Based on the methodology, previous public input, and the SBPC recommendation, Staff further recommends that the SCC vote to approve the 2012 Assessment.**

### A. Project Description

- **Project Name:** 2012 Needs Assessment and Model
- **Type of Item:** Legislative
- **Type of Meeting:** Public Hearing
- **Future Routing:** None – SCC final decision

### B. Background

#### **Current Needs Assessment (2006)**

In 2005, Summit County began an effort to update the Snyderville Basin General Plan (GP) and Development Code (Code) to bring the County into compliance with Utah State affordable housing requirements as modified by Senate Bill 60 and codified in Section 17.27a.403 of the State Code.

The Snyderville Basin Needs Assessment was completed by a consultant and adopted by the Summit County Board of Commissioners (BCC) on October 5, 2005. Work was then done to incorporate the findings into the General Plan, and on December 13, 2006, the BCC adopted the amended General Plan Housing Element (Chapter 7 of the Snyderville Basin General Plan) and technical appendix (2006 Affordable Housing Needs Assessment), which set a goal of 250 units of affordable housing by 2011.

### **2010 Draft Assessment**

In 2010, a consultant, Jim Wood of the University of Utah Bureau of Economic and Business Research, provide the County with a draft updated Needs Assessment (2010 Assessment) for the Snyderville Basin and Eastern Summit County. The SBPC and SCC reviewed the 2010 Assessment several times:

- September 28, 2010 – work session
- October 12, 2010 – public hearing, continued to a future meeting due to concerns with methodology and information provided
- November 9, 2010 – continued discussion, recommendation tabled pending additional information
- April 12, 2011 – public hearing, recommendation to reject the 2010 assessment
- May 4, 2011 – work session by Summit County Council (SCC), direction given to not move forward with the 2010 Assessment

With the rejection of the 2010 Assessment, the 2006 Assessment remained in effect as it was still contained in the General Plan as a technical appendix.

### **Strategic Plan**

In 2010, the SCC began a Strategic Planning effort, and the overall Summit County Strategic Plan was adopted in July 2011. In September 2011, the SCC created Strategic Plan Committees to address each priority in the Strategic Plan; one of the priorities in the Strategic Plan was affordable housing. Scott Loomis of Mountainlands Community Housing Trust (MCHT) was named as chairman of the Summit County Strategic Plan Affordable Housing Committee (committee). In September 2011 he assembled a group of stakeholders including County Planners, members of the public, representatives from other housing nonprofits, an Eastern Summit County municipality planner, representatives from Park City Municipal Corporation (PCMC), and housing consultant Bob Rosenthal.

The primary issue with the 2010 Assessment was disagreement about the methodology and assumptions that went into the Assessment. Using this as a starting point, the committee worked first to create a methodology upon which they reached consensus, and then used the methodology to draft an assessment for Summit County (2012 Assessment).

### **C. Community Review**

This item has ben noticed in the Park Record and online as a public hearing. As of the date of this report, no public input beyond what was provided at the SBPC has been received.

### **D. Identification and Analysis of Issues**

#### **2012 Model and Assessment**

The 2012 Assessment takes into account the County region as a whole, including PCMC and Eastern Summit County as well as the Snyderville Basin, with information specific to each area within the larger context.

The 2012 Assessment can be used as a model for future housing needs assessments, which will provide consistency and clarity when comparing future, present, and past conditions. The methodology and results differ from the 2006 Assessment in that there is no identified number of needed units going forward, and does not identify a number for “pent up demand.” Instead, it provides a snapshot of the potential maximum demand for housing among

different categories such as income, employment type, household type and size, and age. This statement from page 1 of the 2012 Assessment sums up the intent of the model:

*“You will note that the component demand estimates in Figure 1 are not summed – a hypothetical total demand number is not presented. This report is not intended to provide that kind of estimate. Rather it is intended to provide an order of magnitude estimate of various categories of demand which can be separately evaluated, and as appropriate planned for further, more detailed analysis. Simply put, the thinking is to make this a working tool rather than a report formalizing an estimate of a possible affordable housing deficit in Summit County.”*

With this order of magnitude information, the SBPC and SCC can use the indicators in each category to help guide policy, such as identifying which categories should take priority, what programs should be utilized, setting short and long term housing goals, prioritizing Code amendments, and more.

### **General Content**

As mentioned above, the 2012 Assessment does not identify a total number or type of units, nor a date by which units should be created / obtained. Instead, the 2012 Assessment does identify several key items:

- For households making more than \$50,000 a year, there are few cost burdened households. The majority of demand occurs for households making less than \$50,000 a year, with almost all households being cost burdened. *(The Federal definition of cost burdened is that the household spends more than 30% of its annual income on housing. Highly or extremely cost burdened households spend more than 50% of their annual income on housing.)*
- There were very few seniors identified as cost burdened.
- Cost burdened owners are difficult to address as they may be locked into a current house, unable to sell & get financing for a new unit, or otherwise assisted in non-financial contribution ways.
- The need is broken down into categories that may or may not be identified as priorities by the SBPC and SCC during future policy discussions (Figure 1 of the 2012 Assessment):
  - Cost burdened renter households
  - Local government essential service employees, public safety, school district and fire district employees who live out of area but prefer to live locally if affordable housing of the proper type and price were available
  - Locally employed private-sector workers who live out of area but would like to live locally if affordable housing were available (as above)
  - Local area renters with income adequate to support home purchase
  - Cost burdened renters 65 years and older
  - Cost burdened homeowners.

### **April 10, 2012 SBPC work session**

The SBPC reviewed the 2012 Assessment during their April 10, 2012 meeting. The SBPC also took some public comment during the work session. Generally, the methodology seemed to be supported, with the primary questions and concerns as follows:

- A. How to address seasonality in the assessment  
*The seasonal employees are difficult to capture in any assessment, as they don't show up clearly in the Census and update surveys, and there isn't Federal or State funding available to specifically target this group. Currently, the best avenue is to create housing for other categories of need. This will indirectly provide housing for the seasonal group either by occupancy of this housing by seasonal employees, or by freeing up other housing for seasonal employees.*
- B. Which groups to target, and a question about how to determine which groups get priority as well as the unintended consequences of choosing one group over another  
*The 2012 Assessment provides a snapshot of need in different categories, and then it is a policy call for the SBPC and SCC to choose which groups are priorities and which may be less so. There may certainly be unintended consequences by making such a decision, however it is important to remember that when resources are limited, it is not possible to meet the needs of every group equally.*
- C. Providing an escape valve to enable requirements to change earlier than on a 5-year basis if the economy changes  
*The SBPC recently reviewed draft Code amendments that would provide an option for the SBPC or SCC to request an updated Needs Assessment sooner than the 5-year timeframe. Staff will be presenting these Code amendments in the future, incorporating other suggestions of the SBPC and guided by the information in the 2012 Assessment.*
- D. Potential amendments to target lower incomes  
*See item C – this will be addressed in the Code amendments.*
- E. Verification of what the State actually requires  
*Staff has attached Section 17.27a.403, which contains the requirements for the General Plan. State Code requires an estimate of need in the County per Planning Commission – the Assessment – and a plan to provide a realistic opportunity to meet estimated needs. The language pertinent to the Needs Assessment is in Section (2)(a)(iii) below (emphasis added), while section (2)(b) below will be more applicable to the General Plan Housing Element itself:*

(2)

(a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that [...]

(ii) a transportation and circulation element consisting of [...]

(iii) **an estimate of the need** for the development of additional moderate income housing within the unincorporated area of the county, and a **plan to provide a realistic opportunity to meet estimated needs** for additional moderate income housing if long-term projections for land use and development occur.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

F. How to factor in current housing stock

*The 2012 Assessment does not include platted and unbuilt parcels or future predictions of housing stock, but does include a snapshot of housing stock at the time the assessment was done. Through the County's contract with MCHT, information is available on current vacancy rates, resales, and other identifiable factors.*

G. Creating a tracking system to verify and monitor vacancy rates and turnover in affordable units

*Through the contract with MCHT, this system is in place for ownership units, but not yet for rental vacancy. They are working on expansion of this tracking to include rental units, which will eventually provide a useful history of rental trends and may help capture information on seasonal employees as well.*

H. Follow up with an online survey for employees and employers as an appendix

*At this time, that portion of the 2012 Assessment is no longer contemplated, as the employers contacted by Mr. Rosenthal supplied information. MCHT would like to follow up with a survey independently of the 2012 Assessment to gain this additional information, much like PCMC is currently doing.*

- I. A plan and timeline for more specific research  
*Unless the SCC feels that specific research should be contained in the assessment, Staff would prefer to delve into this research as part of future policy decisions, guided by the 2012 Assessment.*

**July 31, 2012 SBPC hearing and recommendation**

The SBPC reviewed the above information, and discussed the model. The SBPC voted unanimously to forward a positive recommendation to the SCC on the 2012 Assessment as presented.

**E. Consistency with the General Plan**

The current Housing Element can be found in Chapter 5 of the Snyderville Basin General Plan. The purpose of the element is stated as:

Facilitate a reasonable opportunity for a variety of housing, including low and moderate income housing in order to meet the needs of people desiring to in Summit County and to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life.

The stated goals to achieve this purpose are:

*Goal 1: Ensure an adequate supply of housing to meet the needs of all income groups in the Snyderville Basin*

*Goal 2: Remove or mitigate avoidable constraints to the maintenance, improvement and development of affordable housing.*

*Goal 3: Balance the need and provision of housing in the community with its impacts on the environment and needed public facilities and services.*

*Goal 4: Provide equal housing opportunities for all residents of Summit County.*

*Goal 5: Provide housing affordable to all segments of the community.*

Most of these goals have to do with the actual provision of housing, not the identification of needs. Instead, the 2012 Needs Assessment will provide the estimate of the needs outlined in the purpose statement. It provides a snapshot in time of this need in various categories to help policymakers decide where to set priorities as these goals are pursued. Therefore, the 2012 Assessment complies with the purpose of the Housing Element of the General Plan.

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

Section 10-7-2(D) of the Code outlines the criteria for amendments to the General Plan. As the 2012 Assessment will eventually become an appendix to the General Plan, Staff has outlined the criteria below:

1. The proposed amendment will not affect the existing character of the surrounding area in an adverse or unreasonable manner;  
*The amendment affects the Basin as a whole, therefore there is no surrounding area. That being said, the Assessment gives information to guide future amendments to the*

*General Plan and Development Code, and does not itself have any regulatory effect.*

2. The amendment is consistent with the General Plan Land Use Map, the goals, objectives and policies of the General Plan and neighborhood planning areas, and the Program for Resort and Mountain Development established in Chapter 1 of this Title; *There is currently no General Plan Land Use Map. The 2012 Assessment complies with the Housing Element of the General Plan. Staff has attached Chapter 1 of the Development Code for SCC review. Staff has found that the 2012 Assessment does not contradict Chapter 1; updates to the General Plan Housing Element and related Code amendments will be reviewed for compliance with this chapter as they go through the approval process.*
3. The amendment is consistent with the uses of properties nearby; *The 2012 Assessment is a guiding document that will aid in future General Plan and Code amendments. The Assessment itself does not affect the uses of properties, and individual Code and General Plan amendments will be reviewed for compliance with this criterion as they are adopted.*
4. The property for which the amendment is proposed is suitable for the intensity of use which will be permitted on the property if the amendment is allowed; *There is no specific property for which the amendment is proposed.*
5. The removal of the then existing restrictions will not unduly affect nearby property; and  
*The 2012 Assessment does not remove any existing restrictions.*
6. The public health, safety and welfare will not be adversely impacted by the proposed amendment.  
*The 2012 Assessment will enhance and protect public health, safety, and welfare by providing accurate information to guide future policy decisions.*

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

Staff recommends that the SCC review the Needs Assessment, conduct a public hearing, and take public input. Based on the methodology, previous public input, and the SBPC recommendation, and unless public input brings to light issues that would change Staff's findings, Staff further recommends that the SCC vote to approve the 2012 Assessment and adopt it as a technical appendix to the Snyderville Basin General Plan, through adoption of an ordinance.

**Findings:**

1. The 2012 Assessment complies with Section 17.27a.403 of the State Code.
2. The 2012 Assessment complies with the Snyderville Basin General Plan, as outlined in Section E of this report.
3. The 2012 Assessment complies with the Snyderville Basin Development Code, as outlined in Section F of this report.

**Exhibit(s)**

- Exhibit A – 2012 Assessment and Model (pages 8-38)
- Exhibit B – State Code Section 17.27a.403 (pages 39-40)
- Exhibit C – July 31, 2012 SBPC minutes (pages 41-46)

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# SUMMIT COUNTY HOUSING AFFORDABILITY ANALYSIS

An analysis of shelter cost burden for employee and resident households in three study areas that include Snyderville Basin, Park City and East County

April 3, 2012

Rosenthal & Assoc. Inc.  
435.658.3700



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## EXECUTIVE SUMMARY

This report is an analysis of housing cost burden<sup>1</sup> and potential affordable housing demand in three study areas that comprise Summit County – Snyderville Basin, East County and Park City<sup>2</sup>. It is directed towards current conditions and does not address projected future conditions.

Methodology in this analysis is different from the more typical approach of aggregate analysis. This analysis is based on examination of potential housing demand characteristic of certain key affordable housing constituencies, termed “demand indicators”. Demand indicators are intended to be a representative subset of the kind and quantity of overall affordable housing demand. In the case of this analysis the demand indicators are comprehensive because the selected constituencies make up a large part of potential demand. This report also includes an aggregate analysis of demand which looks at the “economic mismatch” between the price of the housing stock and purchasing power of residents. This “mismatch” is not an affordable housing deficit. It is useful to give context to the cost burden analysis, and as another perspective to evaluate potential intervention measures and inform the policy discussion.

This analysis is intended to provide actionable intelligence for decision-makers. It looks at discrete categories of demand which are more readily quantifiable, are verifiable (focus groups, surveys, interviews, etc.) and are easier to understand and conceptualize. It provides a framework and focal point for understanding the current state of housing affordability. And it is the first step in a process of evaluation that will lead to an affordable housing policy and implementation plan – whether that plan be building units, providing financial assistance such as mortgage or down payment assistance or other forms of intervention that will provide affordable shelter for targeted beneficiaries. To remain useful, the picture of affordable housing demand presented here must be monitored and updated regularly.

The analytical approach used in this analysis stems from a different view as to the most effective way to meet affordable housing demand. In a given year only a limited number of units can be planned, funded, built, and occupied. This implies limited resources and a limited ability to impact affordable housing need. In turn, this requires a willingness to prioritize one constituency over another – an approach under which “all” demand (were that to be both static and quantifiable) will not be met, immediately. Instead the progress of the program will be guided, and clearly guided, by community priorities as to what type of housing and what type of resident will be of most benefit, now. Such an approach stands a better chance of achieving “buy-in”, which allows for the possibility that the program will be ongoing.

You will note that the component demand estimates in Figure 1 are not summed – a hypothetical total demand number is not presented. This report is not intended to provide that kind of estimate. Rather it is intended to provide an order of magnitude estimate of various categories of demand which can be separately evaluated, and as appropriate planned for further, more detailed analysis. Simply put, the thinking is to make this a working tool rather than a report formalizing an estimate of a possible affordable housing deficit in Summit County.

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<sup>1</sup> A shelter cost burdened household is one that pays more than 30% of income for owner cost or rent.

<sup>2</sup> Snyderville Basin and East County refer to County defined a planning areas.

# DEMAND INDICATORS

## INTRODUCTION

Demand indicators provide a way of estimating housing cost burden<sup>3</sup> and potential affordable housing demand, based on analysis of certain representative subsets of the population of affordable housing beneficiaries. Demand indicators in this analysis include the following:

1. Cost burdened renter households.
2. Local government essential service employees, public safety, school district and fire district employees who live out of area but prefer to live locally if affordable housing of the proper type and price were available.
3. Locally employed private-sector workers who live out of area but would to live locally if affordable housing were available (as above).
4. Local area renters with income adequate to support home purchase.
5. Cost burdened renters 65 years and older
6. Cost burdened homeowners.

Demand indicators represent an improved methodology compared to aggregate analysis because this approach looks at discrete and actionable categories of demand which are more readily quantifiable, and are verifiable (by means of focus groups, surveys, interviews, etc.). In the case of this analysis the demand indicators are comprehensive because the selected constituencies include most potential beneficiaries of an affordable housing program.

Cost burden and demand estimates developed here are intended to be followed up by further, more detailed, site and topic specific research, which includes the following:

- *Interviews with employers* to discuss the housing needs of employees in their particular business or business sector – characteristics that impact the kind of housing that should be provided such as family size, unit type, price range, tenure (rent or own) credit worthiness, down payment ability, etc.
- *Interview with multiple employers* across one sector of the local economy (retail, restaurant, recreation, etc.) to estimate aggregate demand and later at a more detailed level and perhaps accompanied by a survey, to validate that estimate if housing implementation plans are developed.
- *Focus groups* with interested community members to solicit input, discuss the implementation plan, and revise the plan so that it more closely aligns with community expectations.
- *Meetings with potential affordable housing beneficiaries* to confirm their level of interest, identify housing needs, financial challenges etc.
- *Neighborhood meetings* to discuss specific development proposals, their impact on the neighborhood, and their desirability.
- *Market studies* to evaluate specific development plans.

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<sup>3</sup> A shelter cost burdened household is one that pays more than 30% of income for owner cost or rent.

## SUMMARY OF AFFORDABLE HOUSING DEMAND

FIGURE 1

<b>AFFORDABLE HOUSING ANALYSIS</b>							
<i>Potential Demand Presented by Selected Affordable Housing Constituencies</i>							
Category of Affordable Housing Demand	Current Residence	Household Income	Income Category	Affordable Purchase Price		Number of Households	
				Single Family	Multi Family		
Cost Burdened Renter Households (households that earn less than \$50,000 per year)	Park City	\$42,500	42% of AMI	\$163,900	\$127,600	189	
	Park City	\$27,500	27% of AMI	\$95,800	\$59,500	357	
	Park City	\$20,000	20% of AMI	\$61,800	\$25,500	238	
	Snyderville Basin	\$27,500	27% of AMI	\$95,800	\$59,500	46	
	Snyderville Basin	\$20,000	20% of AMI	\$61,800	\$25,500	210	
	East County	\$42,500	42% of AMI	\$163,900	\$127,600	190	
	East County	\$27,500	27% of AMI	\$95,800	\$59,500	172	
Public Sector Employees	East County	\$20,000	20% of AMI	\$61,800	\$25,500	84	
	Park City Municipal (Public Safety, Transit, Streets, Water,	\$60,093	60% of AMI	\$243,700	\$207,400	25	
	Summit County (Public Safety, Public Works, Health, Government Services, General Government	Outside of Summit County	\$64,359	64% of AMI	\$42,598	\$64,359	19
	Park City Fire Service District	\$56,305	56% of AMI	\$226,500	\$190,200	10	
Park City School District	\$57,895	58% of AMI	\$233,700	\$197,400	70		
Non-Resident Private Sector Employees	Salt Lake County, Wasatch County and other	Income \$15,000 or Less	\$32,224	32% of AMI	\$117,200	\$80,900	4,099
		Income \$15,000 to \$40,000	\$48,355	48% of AMI	\$190,400	\$154,100	2,530
		Income Greater than \$40,000	\$61,605	61% of AMI	\$250,500	\$214,200	1,784
Renters with Income Adequate to Support Home purchase	Park City, Snyderville Basin, East County	Income \$50,000 to \$75,000	\$62,500	62% of AMI	\$254,600	\$218,300	548
		Income \$75,000 to \$100,000	\$87,500	87% of AMI	\$368,000	\$331,700	439
		Income Greater than \$100,000	\$100,000	100% of AMI	\$424,700	\$388,400	474
Cost Burdened Renters 65 Years and Older	Park City, Snyderville Basin, East County					12	
Cost Burdened Home Owners	Park City					760	
	Snyderville Basin					1,678	
	East County					803	

Source – Renter cost burden from Figure 2. Public sector demand shown in Figure 5. Non-resident worker demand from Figure 6. High income renters from Figure 8. Cost burdened renters 65 years and older from Figure 9. Homeowner cost burden from Figure 10. AMI is HUD Area Median Income. 2012 AMI is \$100,300.

Figure 1 shows the components of potential affordable housing demand. For various reasons, actual demand in each category is almost certainly less than shown. The degree to which demand is overstated will be tested by further research. As written though, Figure 1 does it serve its intended purpose – to bound the affordable housing problem (it identifies relevant categories of demanders and an upside estimate for each) and to provide a focal point for discussion leading to the definition of policy, and an action plan.

The categories of demand analyzed in this report include existing residents who are cost burdened and two categories of “external demand” – public and private sector workers who are locally employed and who live out of area. External demand is a valid affordable housing constituency because resident employees are invested in the community, contribute to a stable labor force and are more readily available (especially important for essential service workers). As regards a resort area, resident employees are desirable because they are more effective in providing a continuing high level of service that will protect and enhance the reputation of the resort. A stable (resident) labor force is also most cost effective for employers.

As regards renters – cost burdened renters are a prime target of an affordable housing program. Low-end and very low end renters who are highly cost burdened (30% to 50%) live an impaired life. Whether they are in relatively more expensive Summit County or less expensive areas elsewhere, at the very low end of the scale, the degree of cost burden is so high that locale is less than significant. Some Summit County renters are at an income level that makes them capable of home purchase. Of course there are reasons why a financially able household does not purchase a home. However, given the possibility of an affordable purchase some may find it advantageous, and in so doing will contribute to the affordable housing program in that, as renters they may occupy units that are affordable to lower income households. As they move out of these units, the supply of affordable units effectively increases (at no cost to the affordable housing program).

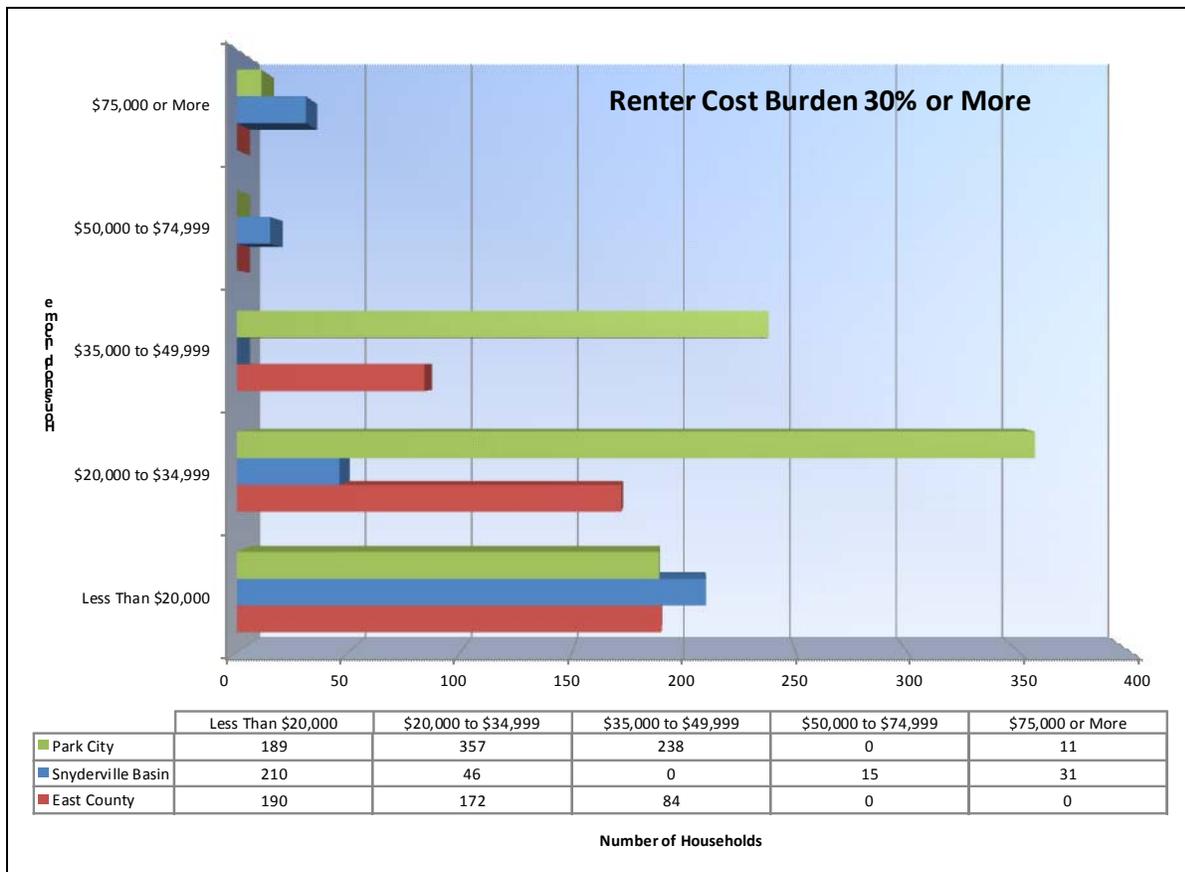
Cost burdened owners may not be addressed as a primary constituency in the affordable housing action plan. Their number is included here for reference.

## RENTER COST BURDEN

Figure 2 shows cost burden and income for renter households.

- Of households that earn more than \$50,000, very few are cost burdened (11 of 468<sup>4</sup> in Park City, and 46 of 677 in Snyderville Basin).
- For households that earn less than \$50,000, most are cost burdened (784 in Park City 256 in Snyderville Basin and 446 in East County).
- Some low-end renters are able to reduce their cost burden by obtaining subsidized units. However the supply is limited and as Figure 1 shows, there may be a number of these households, with income of only 22% or 27% of AMI<sup>5</sup>, that are in market rate units at very high cost.

FIGURE 2



Source – 2006-2010 American Community Survey 5-Year Estimates, Table B25074.

<sup>4</sup> Cost burden analysis is based on the Census Bureau 2006 to 2010 American Community Survey. Cost burden tables the ACS includes a category for which cost burden is not computed. This is usually the same number as shown in complementary tables, for households that pay no cash rent. Because households that do not pay rent are not cost burdened, cost burden analysis in Figure 2 and elsewhere in this report excludes “Not Computed”.

<sup>5</sup> 2012 Area Median Income.

In Figure 2 \$50,000 is selected as a cutoff point for low income renter households because at about \$50,000 renters earn too much to qualify for subsidies, and at the same time earn enough to potentially qualify for an affordable home purchase.

Figure 3 shows number of households with cost burden of 30% to 35% and greater than 35%.

FIGURE 3

<b>RENTER COST BURDEN</b>			
<i>Household Income \$50,000 or Less</i>			
	30% to 35%	Greater Than 35%	Total
	(cost burden)		
Park City	102	682	784
Snyderville Basin	0	256	256
East County	76	370	446

Source – 2006-2010 American Community Survey 5-Year Estimates, Table B25074.

Figure 4 shows rent affordable to various categories of employment, and rent if cost burden is 50% of income.

FIGURE 4

<b>AFFORDABLE RENT</b>						
<i>Household Income \$50,000 or Less</i>						
Job Description	Wages	Household Income	Affordable Shelter Cost (30% of income)	Utilities	Affordable Rent	Rent at 50% Cost Burden
			(per month)			
Minimum Wage (\$7.31 per hour)	\$15,200	\$32,224	\$806	(\$106)	\$699	\$1,236
Hospitality, Retail and service sector	\$23,144	\$43,738	\$1,093	(\$106)	\$987	\$1,716
Administrative and support services	\$33,180	\$54,376	\$1,359	(\$106)	\$1,253	\$2,159
Teacher, firefighter, PCMC public safety/streets/water/transit, county general government, health, sheriff	\$35,832	\$57,187	\$1,430	(\$106)	\$1,323	\$2,277

Source – income from Figure 12. Utilities cost from Figure 28.

## LOCAL GOVERNMENT, EMERGENCY SERVICE WORKERS AND SCHOOL DISTRICT EMPLOYEES

Figure 5 shows one of the two categories of affordable housing “external demand” – demand from public sector employees. The number of these employees that have an interest in living in Summit County is as estimated by human resource and department managers. The estimates are knowledgeable but informal. There are plans, shortly, to develop an online survey for employees that have an interest in affordable housing in Summit County, to answer detailed questions about housing preference, financial capability, location, housing type, number of bedrooms, and other. By means of this survey housing planners can begin to distinguish between households with casual or unrealistic expectations, and those with a committed desire to live locally, realistic expectations and the wherewithal to purchase.

Figure 5

<b>NONRESIDENT PUBLIC SECTOR EMPLOYEE HOUSEHOLDS</b>								
<i>Potential Affordable Housing Demand</i>								
	Number of Staff			Average Wages	Household Income		Affordable Purchase Price	
	Total	Live Outside Summit County	Want to Live Locally		Income	% of HUD Area Median Income	Single Family	Multi Family
Park City Municipal (Public Safety, Transit, Streets, Water)	186	124	25	\$38,574	\$60,093	60%	\$243,700	\$207,400
Summit County (Public Safety, Public Works, Health, Govt. Services, General Government)	275	64	19	\$42,598	\$64,359	64%	\$263,000	\$226,700
Park City Fire Service District	92	62	10	\$35,000	\$56,305	56%	\$226,500	\$190,200
Park City School District (experienced teacher)	350	125	70	\$36,500	\$57,895	58%	\$233,700	\$197,400
<b>Total</b>	<b>903</b>	<b>375</b>	<b>124</b>					

Source – interview with department supervisors and human resource managers, January to March 2012.

Affordable purchase price in Figure 5 is calculated as shown in Figure 11 based on estimating assumptions which include down payment, current mortgage rate, closing costs, utility expense, real estate taxes, and property insurance, along with estimated household income. Surprisingly, Figure 5 shows that affordable multifamily price is less than single-family. Households can afford a higher single family price because the price of a multifamily unit is has the extra expense of a monthly condominium fee.

Household income and is calculated as shown in Figure 12. In general, the calculation assumes 1.5 workers per household; primary income corresponding average wages for the subject employee type; secondary income based on Summit County average wage as reported by the Utah Department of Workforce Services; and an estimate of additional income to recognize investments, non-cash benefits, tips, and other. Estimating assumptions are detailed in Figure 26.

## NON-RESIDENT PRIVATE SECTOR WORKERS

Figure 6 shows the second category of “external demand” – that from nonresident private sector employees. Figure 6 is based on an employee home area destination analysis prepared by the Census Bureau that shows where workers live who are employed in Summit County (the report is summarized in Figure 7). Figure 6 shows that there are a number of nonresident employees – though how many have potential to live locally is not clear. Figure 6 does serve the purpose of highlighting this constituency and makes it clear that it is an appropriate subject for further, more detailed and topic-specific research.

FIGURE 6

<b>NON-RESIDENT PRIVATE SECTOR EMPLOYEE HOUSEHOLDS</b>									
<i>Potential Affordable Housing Demand</i>									
Employment Income	Park City	Snyderville Basin	East County	Total	Average Wages	Household Income		Affordable Purchase Price	
	(number of non-resident employees)					Income	% of HUD Area Median	Single Family	Multi Family
Income \$15,000 or Less	2,585	1,262	252	4,099	\$15,200	\$32,224	32%	\$117,200	\$80,900
Income \$15,000 to \$40,000	970	1,198	362	2,530	\$27,500	\$48,355	48%	\$190,400	\$154,100
Income Greater than \$40,000	832	702	251	1,784	\$40,000	\$61,605	61%	\$250,500	\$214,200
<b>Total</b>	<b>4,387</b>	<b>3,161</b>	<b>865</b>	<b>8,413</b>					

Source – wages and number of nonresident workers from US Census Bureau Local Employment Dynamics (LED), LED on the Map, Work Area Profile, Home destination and work destination reports. Calculation of the number of non-resident workers is detailed in Figure 25. Number of workers is adjusted to delete nonresident public sector employees. <http://lehd.did.census.gov/led/datatools/datatools.html>

FIGURE 7

<b>WHERE WORKERS LIVE</b>				
<i>Summit County Housing Affordability Analysis</i>				
	Park City	Snyderville Basin Planning Area	East County Planning Area	County Total
	(number of employees)			
Total Jobs (workers) in The Study Area	9,431	5,303	2,076	16,810
Place of Residence for Study Area Workers				
Summit County, UT	4,733	2,142	1,147	8,022
Salt Lake County, UT	2,150	1,646	380	4,176
Wasatch County, UT	991	380	157	1,528
Other (Utah, Davis, Weber, Cache, Toole, Morgan and other)	1,557	1,135	392	3,084
Non-Resident Workers	4,698	3,161	929	8,788
Less - Non-Resident Public Sector Employees	(311)	0	(64)	(375)
Net Out of Area Employees	4,387	3,161	865	8,413

Source – number of employees is from Figure 23. Non-resident public-sector employees is from Figure 5 (allocation by area of residence is estimated).

The analysis in Figure 7 is based on primary jobs. It excludes secondary jobs which are thought to be primarily seasonal, resort related employees.

## RENTERS WITH INCOME ADEQUATE TO SUPPORT HOME PURCHASE

A sizeable number of renter households appear to be financially able to afford home purchase (Figure 13).

In the Snyderville Basin (and similarly in Park City and East County) 695 renter households– 2/3 of the total – have income at or above \$50,000. These households could afford to purchase an affordable single family unit priced at or above \$197,900.

380 renter households – about 1/3 of the total – earn more than \$75,000. These households could afford a single family purchase of \$312,300. 22% of the housing stock is valued at or below this price which suggests that a number of these purchases could be for market rate units. These sales would not compete with lower income purchasers, for more affordable units.

There are 253 renter households – 1/4 of the total – that earn more than median income (\$100,300). Affordable price for these households is \$426,100 (the value of the median priced single-family unit in Snyderville basin). Presumably all or most of these purchases would be at market rate, again reducing competition for lesser priced and subsidized, affordable units.

FIGURE 8

<b>INCOME OF RENTER HOUSEHOLDS</b>				
<i>Summit County Housing Affordability Analysis</i>				
	Park City	Snyderville CDP	East County	Total
Total Renters	1,507	1,035	935	3,477
Renter households that earn 50% or more of AMI (\$50,150 per year)	468	695	298	1,461
Renter households that earn 75% or more of AMI (\$75,225 per year)	388	380	145	913
Renter households that earn 100% or more of AMI \$100,300 per year)	143	253	78	474

Source – 2006-2010 American Community Survey 5-Year Estimates, Table B250118..

## COST BURDENED RENTERS 65 YEARS AND OLDER

There are very few cost burdened renter households among the population 65 years and older – 12, in Snyderville Basin as shown below in Figure 9.<sup>6</sup>

There are no seniors in group quarters, and based on the demographic profile, no other special housing needs are associated with this population.

FIGURE 9

<b>DEMOGRAPHIC PROFILE OF THE POPULATION 65 YEARS AND OLDER</b>						
<i>Summit County Housing Affordability Analysis</i>						
	Park City	Snyderville Basin	East County	Total	County	% of County
Population						
in Households	639	729	1,006	2,374	35,295	7%
In Group Quarters	0	0	0	0		
Housing Units						
Total	394	452	697	1,543	13,600	11%
Single Family Owned	343	373	661	1,377	9,269	15%
Rental Units						
With Cash Rent	0	27	4	31	3,257	1%
No Rent	22	25	0	47		
Renter Cost Burden						
More than 30%	0	12	0	12		
Less than 30%	0	15	4	19		
Household Size	1.62	1.61	1.44	1.54	2.59	
Household Type						
Married	259	335	324	918		
Male householder, no wife present:	0	14	29	43		
Female householder, no husband present:	7	27	46	80		
Living alone:	116	76	283	475		
Income						
Less than \$25,000	25%	13%	26%	22%		
\$25,000 to \$50,000	18%	15%	36%	25%		
More than \$50,000	56%	73%	38%	53%		

Source – 2006-2010 American Community Survey 5-Year Estimates, Tabs b09017, b25125, b25055, b25052, b25011, b19037..

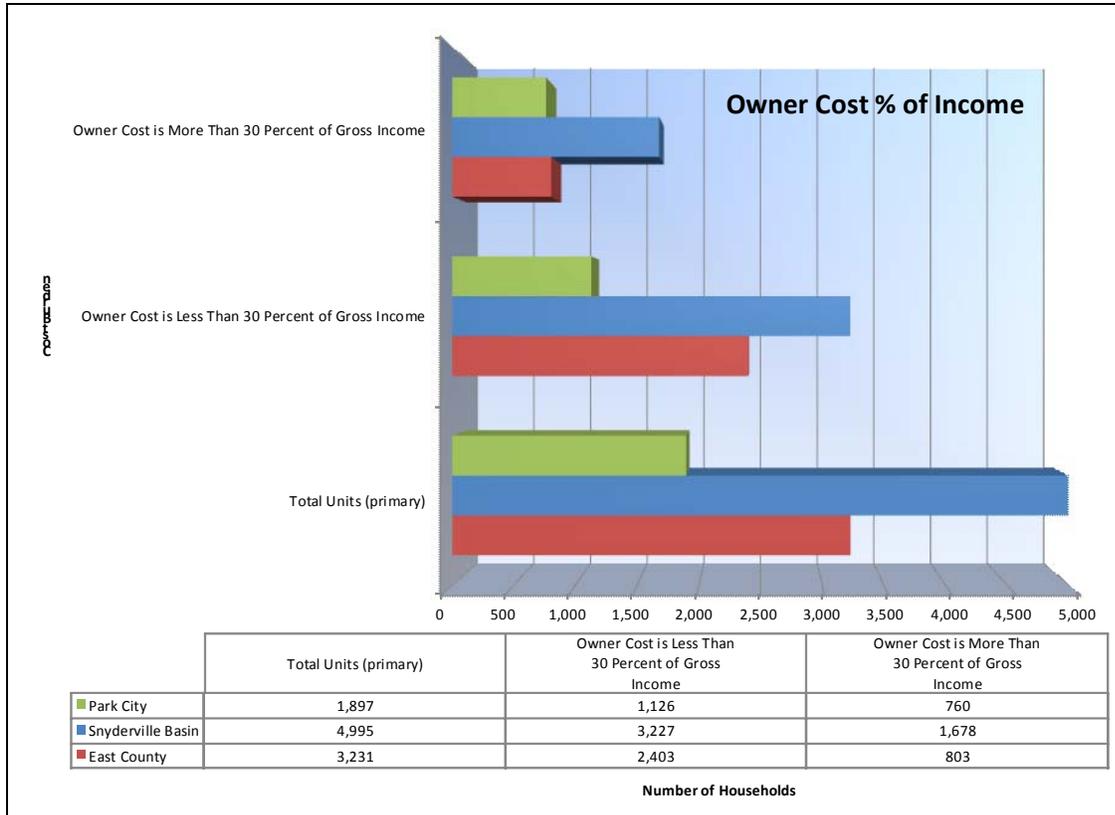
<sup>6</sup> These 12 households are included in the earlier described category of renter households with cost burden in excess of 30%. They are highlighted here because this is a noteworthy segment of the population.

## OWNER COST BURDEN

About one third of homeowners in the study area are cost burdened at least than 30% of income – 34% Snyderville Basin, 25% in East County, and 40% in Park City. More than 10% pay more than 50% of income for housing expense.

Cost burdened owners may not be addressed as a primary constituency, in an affordable housing action plan. Their number is included here for reference.

FIGURE 10



Source – 2006-2010 American Community Survey 5-Year Estimates, Table B25091..

# HOUSING AFFORDABILITY

## PRICE GAP

The housing affordability “price gap” is a comparison of affordable purchase price against home value. The magnitude of the gap is indicative of the degree to which income is outstripped by housing cost. Figure 11 shows the price gap for Park City and the Snyderville Basin, and shows that there is no price gap in the East County (meaning that in that study area, average income is adequate purchase the median priced home)..

FIGURE 11

<b>HOUSING PRICE GAP</b>				
<i>Market Value Compared to Affordable Purchase Price</i>				
	Estimating Assumptions	Single Family & Multi Family (Primary)		
		Park City	Snyderville CDP	East County
<b>Household Income</b>				
Summit County Average Monthly Wage (Utah DWS 2011	\$2,986	\$35,832		
Other Earnings (tips, bonus, overtime, incentives	3.0%	\$1,075		
Other Income (investments, non-cash benefits	3.0%	\$1,075		
Workers per Household (# FTE)	1.51	\$57,187		
<b>Purchase Price Assumptions</b>				
Shelter Cost % of income	30.0%			
Property Insurance				
Insured Value (value of improvements)	60.0%			
Average Cost (% of insurable value)	0.75%			
Real Estate Tax				
Estimated Average Tax Rate	0.92%			
Taxable value (primary res.) % of Market Value	55%			
Utilities (gas, elec. Telephone - per month)	\$147			
Down Payment (% of purchase price)	5.0%			
Mortgage Rate	4.33%			
Mortgage Term	30			
Condominium Fee (per month)	\$200			
Closing Cost	\$2,500			
<b>Affordable Purchase Price</b>				
Household Income (per month)		\$4,766	\$4,766	\$4,766
Shelter Cost % of income		30%	30%	30%
Maximum Monthly Housing Cost		\$1,430	\$1,430	\$1,430
Property Insurance		(\$86)	(\$86)	(\$86)
Real Estate Tax		(\$97)	(\$97)	(\$97)
Utilities		(\$147)	(\$147)	(\$147)
Condominium Fee		\$0	\$0	\$0
Monthly Mortgage Payment		\$1,099	\$1,099	\$1,099
Mortgage Amount		\$221,460	\$221,460	\$221,460
Down Payment		\$11,524	\$11,524	\$11,524
Closing Cost		(\$2,500)	(\$2,500)	(\$2,500)
Affordable Purchase Price (rounded)		\$230,484	\$230,484	\$230,484
<b>Housing Unit Market Value</b>				
2011 Average of Median Market Value 600 to 1,599 sq. ft. Units (value per sq. ft.)		\$395	\$387	\$195
Summit County Assessor's Office dataset)				
Unit Area (unit equivalent, sq. ft.)		900	900	900
Market Value (rounded)		\$355,500	\$348,500	\$175,500
<b>Price Gap (per UE) Affordable Purchase Price</b>				
Compared to Median Market Value		(\$125,016)	(\$118,016)	\$0

Source – estimating assumptions are detailed in Figure 26. Affordable purchase price is calculated based on average income for a Summit County employed household (\$57,187). Purchase price is calculated as the percent value of monthly Mortgage Payment.

Affordable price is calculated as shown below in Figure 12. Market value is calculated based on data provided by the Summit County Assessor’s Office. The price gap is expressed in terms of cost per U.E (“unit equivalent”). A unit equivalent is the planning definition of one residential equivalent unit of development, and is 900 square feet.

## INCOME AND AFFORDABLE PURCHASE PRICE

Figure 12 illustrates affordable purchase price for typical categories of local employment. Its purpose is to give context to the earnings/price disparity that exists in the local market. It shows that most local employees that support basic Summit County businesses cannot afford local home purchase – even including emergency service workers who should live close to their place of employment. As shown below, jobs at 79% of maximum earning potential – most jobs in the County – generate annual household income of about \$57,187. This will support a purchase price of about \$230,500 which is about 1% of the housing stock in the Snyderville Basin. These potential purchasers are prime candidates for an affordable housing program.

FIGURE 12

HOUSEHOLD INCOME AND AFFORDABLE PURCHASE PRICE																																		
<i>Jobs in Summit County</i>																																		
Household Income % of HUD AMI	Wages				Other Income			Household Income	Notes																									
	Primary Job		Part-time Job		Tips, Overtime and Other Earnings	Investments, Non-Cash Benefits & Other Income																												
	Wages (annual)	FTE	FTE	Wages (annual)																														
32%	\$15,200	1.0	0.51	\$15,200	3%	3%	\$32,224	Primary jobs in this group comprise 72% of all private sector jobs in the County  14% of jobs 75% of Median Income 5% of jobs HUD Median Income (2012) 2% of jobs Income required to purchase Snyderville Basin Median Single Family																										
44%	\$23,144	1.0	0.51	\$18,118	3%	3%	\$43,738																											
54%	\$33,180	1.0	0.51	\$18,118	3%	3%	\$54,376																											
<i>Utah DWS Average for Summit County</i>	\$35,832	1.0	0.51	\$18,118	3%	3%	\$57,187																											
75%	\$52,849	1.0	0.51	\$18,118	3%	3%	\$75,225																											
100%	\$76,505	1.0	0.51	\$18,118	3%	3%	\$100,300																											
122%	\$96,911	1.0	0.51	\$18,118	3%	3%	\$121,930																											
								<table border="1"> <thead> <tr> <th colspan="2">Affordable Purchase Price</th> </tr> <tr> <th>Single Family</th> <th>Multi Family</th> </tr> </thead> <tbody> <tr> <td>\$32,224 Minimum Wage Household</td> <td>\$117,200</td> <td>\$80,900</td> </tr> <tr> <td>\$43,738</td> <td>\$169,500</td> <td>\$133,200</td> </tr> <tr> <td>\$54,376</td> <td>\$217,700</td> <td>\$181,400</td> </tr> <tr> <td>\$57,187 <i>Summit County Average Wages</i></td> <td>\$230,500</td> <td>\$194,200</td> </tr> <tr> <td>\$75,225</td> <td>\$312,300</td> <td>\$276,000</td> </tr> <tr> <td>\$100,300</td> <td>\$426,100</td> <td>\$389,800</td> </tr> <tr> <td>\$121,930 Income required to purchase Snyderville Basin Median Single Family</td> <td>\$524,300</td> <td>\$488,000</td> </tr> </tbody> </table>		Affordable Purchase Price		Single Family	Multi Family	\$32,224 Minimum Wage Household	\$117,200	\$80,900	\$43,738	\$169,500	\$133,200	\$54,376	\$217,700	\$181,400	\$57,187 <i>Summit County Average Wages</i>	\$230,500	\$194,200	\$75,225	\$312,300	\$276,000	\$100,300	\$426,100	\$389,800	\$121,930 Income required to purchase Snyderville Basin Median Single Family	\$524,300	\$488,000
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Source – estimating assumptions are detailed in Figure 26. Utah DWS wages is the average for Summit County, 2011 Q2 and is typical of earnings for public sector employees. Hospitality and Administrative wages are from Figure 29. Median single family market value in Park City and East County is \$615,300 and \$238,300, respectively. Requisite annual primary job earnings are \$116,000 and \$38,000.

In Figure 12 income shown as a percent of HUD AMI is an analytical convention used to characterize the degree of difficulty in providing affordable shelter. Standard analytical categories are 30%, 50%, and 80% of AMI. 2012 Summit County AMI is \$100,300. As a point of reference, a fully employed minimum wage household earns about \$32,224, which is 32% of AMI. This is nearly the lowest defined income category and is the most difficult to serve. Most local employees (teachers, firefighters, local government, essential service workers, hospitality employees, etc.) earn at or below 57% of AMI. The top 7% of the highest paying jobs earn 100% of AMI.

## AGGREGATE COST BURDEN ANALYSIS

Aggregate analysis of a housing market provides a way of illustrating the “economic mismatch” that exists between income and value – i.e. the difference between the profile of market value and that of purchasing power based on income. This mismatch is often termed an affordable housing “deficit”. This is misleading because by definition every household that exists in a housing market lives in a housing unit, meaning that there is no physical shortage of units<sup>7</sup> even though there may be a significant dislocation between prices and income.

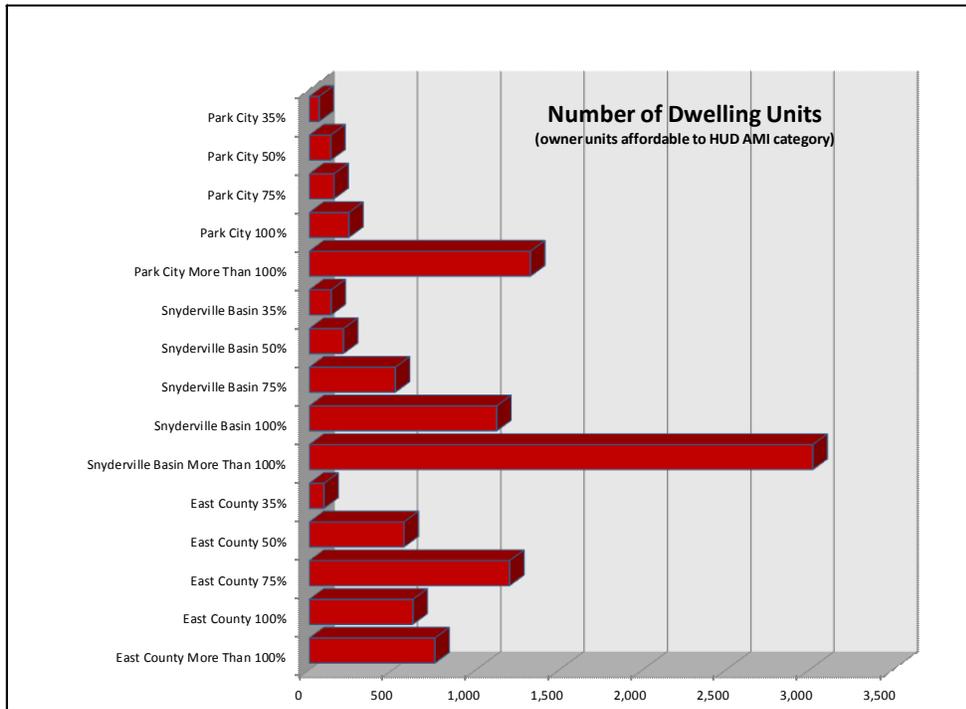
Although not a measure of affordable housing deficit, aggregate analysis is useful as an indicator of the potential for physical rehab and other intervention measures such as mortgage or down payment assistance, that could be used to reduce the effective cost of housing, and in so doing reduce the cost burden and better align the market with income. Aggregate analysis is a maximum estimate of “economic mismatch”. Some of this apparent dislocation is intentional and desirable – fixed income households that occupy high value seemingly unaffordable, but paid-for units; households that occupy units that have appreciated over time (high value, but an affordable mortgage payment); households that intentionally spend more than 30% of income for shelter cost.

Figure 13 shows the price profile of the housing stock in Summit County (number of units that are affordable to households in each income category). Figure 14 shows the income profile of households (number of households in each income category). A comparison of the two in Figure 15 shows the “economic mismatch”.

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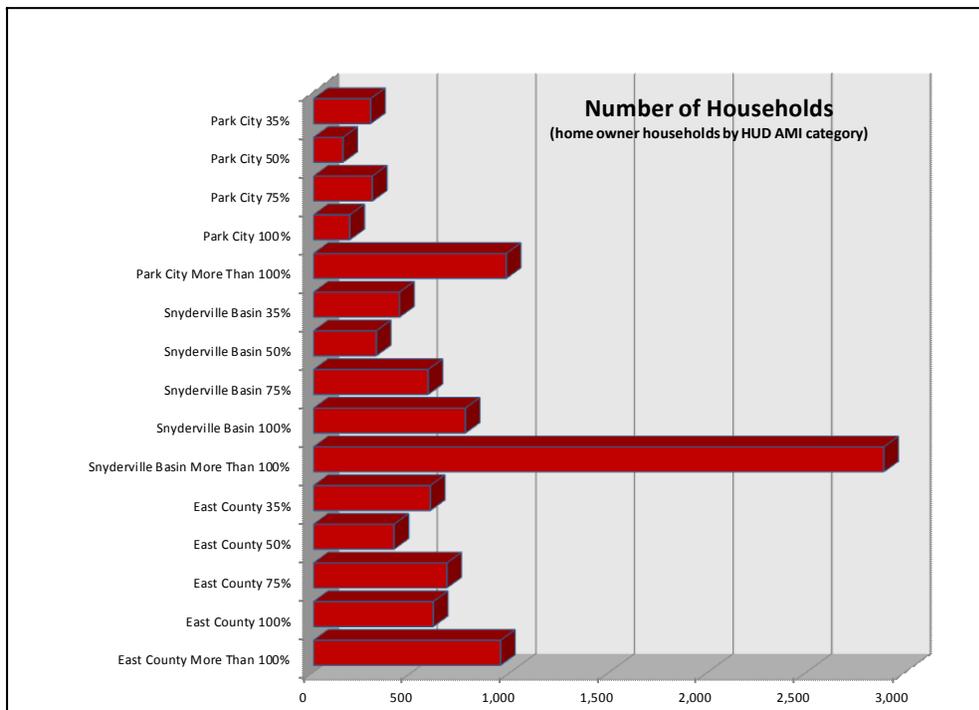
<sup>7</sup> With obvious exceptions that fall outside this particular analysis.

FIGURE 13



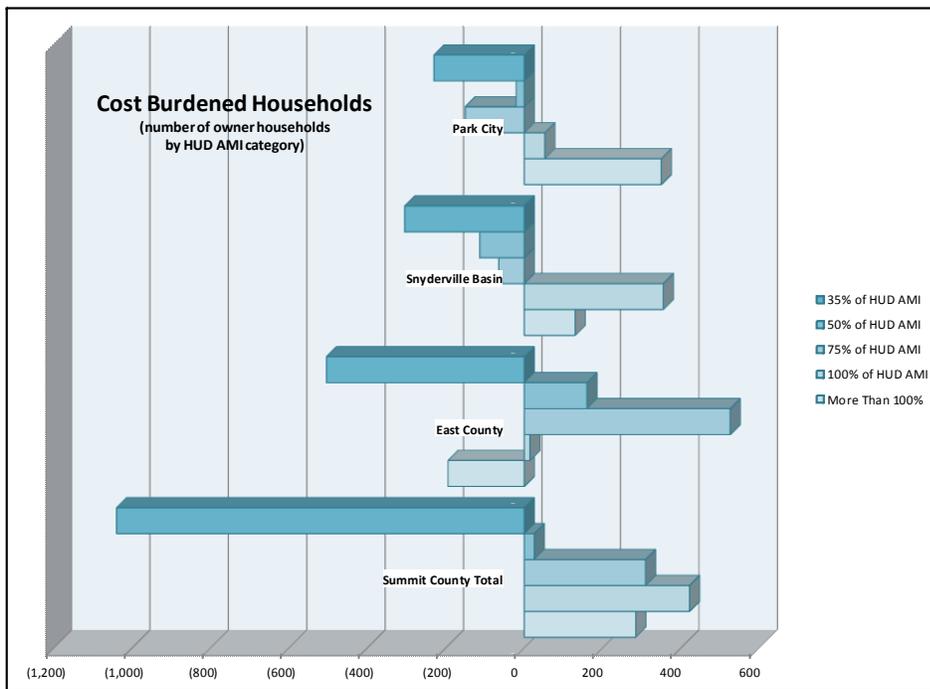
Source – analysis of 2011 market value data provided by the Summit County Assessor's Office.

FIGURE 14



Source – 2006-2010 American Community Survey 5-Year Estimates, Table 25118. 2010 dollars. Census data is provided for Summit County, Park City, and the Park City School District. The data is recast to show totals for the three affordable housing study areas – Park City, Snyderville Basin and East County.

FIGURE 15



Source – Figure 13 and Figure 14. Household income is expressed in 2010 dollars. Market Value is for 2011. Given the low-growth housing market, the difference is assumed to be negligible.

## PLANNED NEW AFFORDABLE UNITS

Following is a list of affordable units that currently under construction, or are approved for construction.

FIGURE 16

POTENTIAL FUTURE AFFORDABLE UNITS		
<i>Units Provided by Private Sector Developers (uncertain timing)</i>		
Type	Approved or Under Construction	
(as of March 2012)		
Units Committed to Park City Municipal		
Flagstaff Mountain/Empire Pass Annexation		42
IHC/USSA Annexation		28
Park City Heights Annexation		16
Marsac Avenue (Habitat for Humanity)		2
Park City Heights		35
1440 Empire Avenue (Bonanza Park AUEs)		
Lower Park Avenue RDA		
Treasure Hill		
<b>Total</b>		<b>123</b>
Units Committed to Summit County		
Liberty Peak Apartments	Rental	152
<b>Total</b>		<b>398</b>

Source – Park City Sustainability Department and Summit Planning Department.

## DEMOGRAPHIC PROFILE

Demographic characteristics shown here do not directly support the foregoing analysis, but are included here as a reference in service of further analysis, as policy and action plan discussions proceed.

FIGURE 17

<b>DEMOGRAPHIC PROFILE</b>			
<i>Summit County Housing Affordability Analysis</i>			
	Park City	Snyderville Basin	East County
Population	7,553	15,828	11,914
Housing Units	9,444	8,072	7,505
Housing Unit Occupancy Status			
Total	9,444	8,072	7,505
Occupied	3,404	6,030	4,166
Vacant	6,040	2,042	3,339
Housing Unit Vacancy Status			
Total	6,040	2,042	3,339
For rent	232	341	69
Rented, not occupied	0	9	59
For sale only	226	49	49
Sold, not occupied	68	118	165
For seasonal, recreational, or occasional use	5,465	1,525	2,926
For migrant workers	0	0	0
Other vacant	49	0	71
Population in Occupied Housing Units			
Total	7,553	15,774	11,914
Owner occupied	4,361	13,699	9,014
Renter occupied	3,192	2,075	2,900
Households			
Total	3,404	6,030	4,166
Owner Occupied	1,897	4,995	3,231
Renter Occupied	1,507	1,035	935
Household Size			
Total	2.22	2.62	2.86
Owner Occupied	2.30	2.74	2.79
Renter Occupied	2.12	2.00	3.10
Households by Family Type			
Total	3,404	6,030	4,166
Owner Households	1,897	4,995	3,231
Non family	563	973	629
Family	1,334	4,022	2,602
Renter Households	1,507	1,035	935
Non family	660	556	147
Family	847	479	788

Source – . 2006-2010 American Community Survey 5-Year Estimates, Table,,tbd

FIGURE 18

<b>HOUSEHOLD SIZE BY NUMBER OF BEDROOMS</b>				
<i>Summit County Housing Affordability Analysis</i>				
Census PUMA 400		PUMA 400 Extrapolated for Affordable Housing Study Areas Planning		
# Bedrooms	Household Size	Park City	Snyderville Basin	East County
<b>Owner Units - Single Family</b>				
1	1.74	1.34	1.60	1.63
2	2.01	1.55	1.85	1.89
3	2.70	2.08	2.48	2.53
4	3.24	2.50	2.99	3.04
5	3.87	2.99	3.57	3.63
Census Actual (average)	2.97	2.30	2.74	2.79
<b>Rental Unit - Single Family</b>				
1	1.36	1.00	0.94	1.46
2	2.12	1.55	1.47	2.27
3	3.09	2.26	2.14	3.31
4	3.42	2.51	2.38	3.67
5	4.49	3.29	3.11	4.81
Census Actual (average)	2.89	2.12	2.00	3.10
<b>Rental Unit - Multi Family</b>				
1	1.43	1.18	1.12	1.73
2	2.55	2.10	1.99	3.08
3	3.46	2.86	2.70	4.18
4	4.08	3.37	3.19	4.94
Census Actual (average)	2.56	2.12	2.00	3.10

Source – calculated based on *Public Use Microdata Sample, (PUMS)*, United States, prepared by the U.S. Census Bureau

FIGURE 19

<b>HOUSEHOLD INCOME FOR RENTERS</b>				
<i>Summit County Housing Affordability Analysis</i>				
Census PUMA 400		PUMA 400 Extrapolated for Affordable Housing Study Areas Planning		
Household Size (persons)	Average Income (2010)	Park City	Snyderville Basin	East County
<b>All Renter Households</b>				
1	\$29,780	\$32,462	\$48,596	\$28,085
2	\$47,311	\$51,572	\$77,205	\$44,619
3	\$44,515	\$48,524	\$72,643	\$41,982
4	\$61,975	\$67,556	\$101,134	\$58,448
5	\$48,431	\$52,793	\$79,033	\$45,675
<b>Renter Households That Earn \$50,000 or Less</b>				
1	\$19,380	\$38,669	\$57,889	\$33,455
2	\$22,684	\$45,260	\$67,756	\$39,158
3	\$29,825	\$59,508	\$89,086	\$51,485
4	\$29,448	\$58,756	\$87,960	\$50,834
5	\$33,498	\$66,837	\$100,058	\$57,826
<b>Renter Households That Earn More Than \$50,000</b>				
1	\$84,450	\$49,039	\$73,413	\$42,427
2	\$86,734	\$50,365	\$75,399	\$43,575
3	\$87,237	\$50,657	\$75,836	\$43,827
4	\$85,882	\$49,870	\$74,658	\$43,146
5	\$74,756	\$43,410	\$64,986	\$37,557

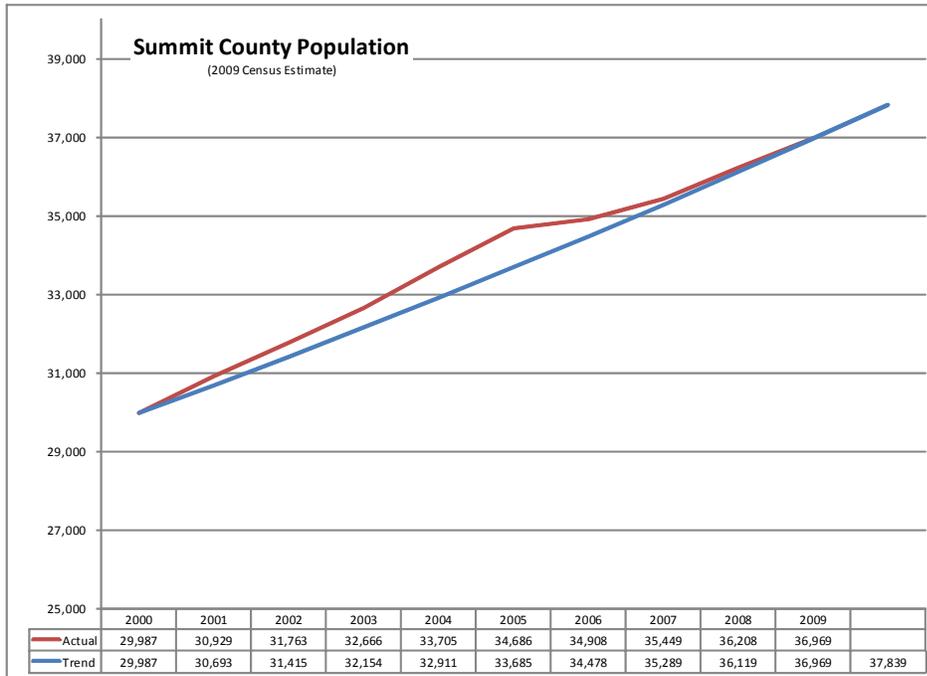
Source – calculated based on 2006-2010 American Community Survey 5-Year Estimates , *Public Use Microdata Sample*, (PUMS), United States, prepared by the. U.S. *Census Bureau*

FIGURE 20

<b>UTAH COUNTIES IN PUMA 400</b>	
<i>2006-2010 ACS 5-year Public Use Microdata Samples (PUMS)</i>	
	Population
Carbon County	19,989
Daggett County	941
Duchesne County	17,948
Emery County	10,629
Grand County	9,660
Morgan County	8,908
San Juan County	15,049
Summit County	36,969
Uintah County	31,536
Wasatch County	21,600
Total	173,229

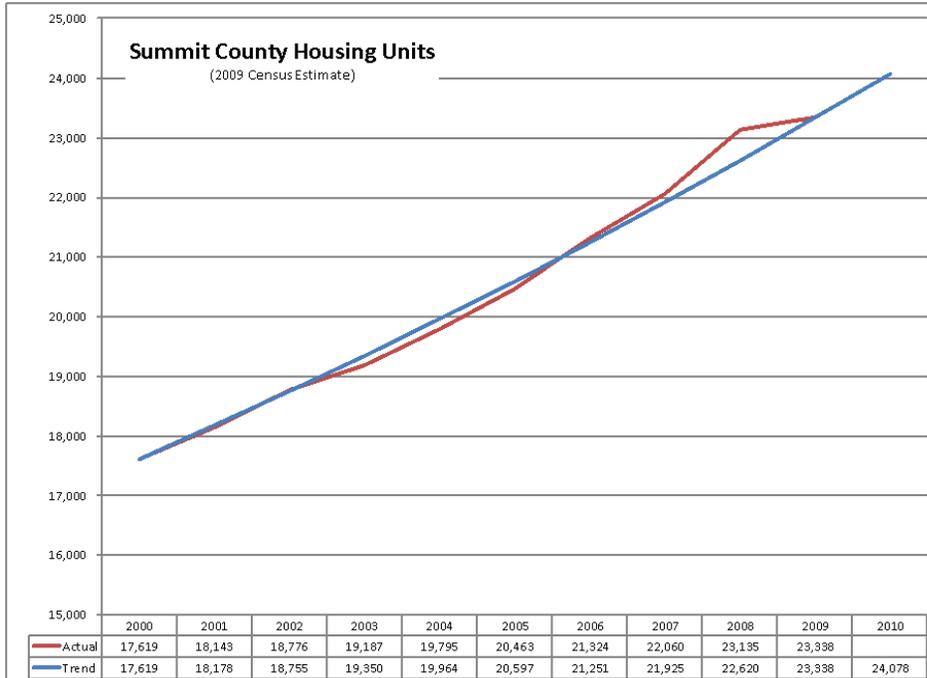
Source – 2006-2010 American Community Survey 5-Year Estimates , *Public Use Microdata Sample*, (PUMS), United States, prepared by the. U.S. *Census Bureau*

FIGURE 21



Source – .US Census Bureau Population Estimates, Intercensal Estimates for Summit County population, 2009 - <http://www.census.gov/popest/data/datasets.html>

FIGURE 22



Source – .US Census Bureau Population Estimates, Intercensal Estimates for Summit County population, 2009 - <http://www.census.gov/popest/data/datasets.html>

## APPENDIX

### EMPLOYEE HOME AND DESTINATION

FIGURE 23

<b>WHERE WORKERS LIVE</b>						
<i>Summary of LED Home Area Destination Report for Summit County</i>						
	Park City		Snyderville Basin Planning Area		East County Planning Area	
	(number of workers in each study area)					
Total Jobs (workers) in The Study Area	9,431		5,303		2,076	
Study Area Residents Who Have Jobs	3,906		7,589		3,450	
Live & Work in The Study Area	1,911		1,182		923	
<b>Place of Residence for Study Area Workers</b>						
Summit County, UT	4,733		2,142		1,147	
Salt Lake County, UT	2,150		1,646		380	
Wasatch County, UT	991		380		157	
Other	1,557		1,135		392	
Total	9,431		5,303		2,076	
<b>Detailed Place of Residence for Study Area Workers</b>						
Summit County, UT						
Park City city, UT	1,911		556		70	
Snyderville CDP, UT	908		427		56	
Summit Park CDP, UT	778		529		64	
Silver Summit CDP, UT	496		226		34	
Kamas city, UT			0		243	
Other Summit County	640		404		680	
Salt Lake County, UT						
Salt Lake City , UT	712		448		81	
Millcreek CDP, UT	325		232		51	
Sandy city, UT	197		143		35	
West Valley City , UT	111		109		26	
Other Salt Lake County	805		714		187	
Wasatch County, UT						
Heber city, UT	723		293		112	
Other Wasatch County	268		87		45	
Utah County, UT	476		352		83	
Davis County, UT	251		224		96	
Weber County, UT	104		115		92	
Cache County, UT	91		85		17	
Tooele County, UT	60		60		14	
Morgan County, UT	47		32		23	
All Other Locations	528		267		67	
Total	9,431		5,303		2,076	
<b>Characteristics of Workers</b>						
Male	5,273	56%	2,971	56%	1,346	65%
Female	4,158	44%	2,332	44%	730	35%
Age 29 or younger	3,427	36%	2,124	36%	609	29%
Age 30 to 54	4,563	48%	2,568	48%	1,181	57%
Age 55 or older	1,441	15%	611	15%	286	14%
Income \$15,000 or Less	5,190	55%	2,117	40%	563	27%
Income \$15,000 to \$40,000	2,571	27%	2,009	38%	810	39%
Income More than \$40,000	1,670	18%	1,177	22%	703	34%

Source – .US Census Bureau Local Employment Dynamics (LED), LED on the Map, Work Area Profile, Home destination and work destination reports. <http://lehd.did.census.gov/led/datatools/datatools.html>. The LED analysis is reported in terms of Park City, Park City School District and Summit County, and is here recast in terms of the three affordable housing study areas.

FIGURE 24

<b>WHERE RESIDENTS ARE EMPLOYED</b>			
<i>Summit County Housing Affordability Analysis</i>			
	Park City	Snyderville Basin Planning Area	East County Planning Area
	(number of workers in each study area)		
Total Jobs (workers) in The Study Area	9,431	5,303	2,076
Study Area Residents Who Have Jobs	3,906	7,589	3,450
Live & Work in The Study Area	1,911	687	790
<b>Place of Work for Study Area Residents</b>			
Summit County, UT	2,537	3,825	1,660
Salt Lake County, UT	882	2,780	876
Wasatch County, UT	25	76	107
Other	462	908	807
Total	3,906	7,589	3,450
<b>Detailed Place of Work for Study Area Resic</b>			
Summit County, UT			
Park City city, UT	1,911	2,362	460
Snyderville CDP, UT	329	687	157
Silver Summit CDP, UT	76	183	203
Summit Park CDP, UT	70	229	50
Kamas city, UT		0	247
Other Summit County	151	364	543
Salt Lake County, UT			
Salt Lake City city, UT	443	1,319	323
Murray city, UT	69	220	61
West Valley City city, UT	61	272	103
Sandy city, UT	60	150	60
Millcreek CDP, UT	49	170	47
Other Salt Lake County	200	649	282
Utah County, UT			
Provo city, UT			0
Other Utah County	135	257	197
Davis County, UT	91	193	124
Weber County, UT	54	147	116
Cache County, UT	37	80	52
Wasatch County, UT	25	76	107
Uintah County, UT		35	22
Uinta County, WY		0	61
Sweetwater County, WY		0	47
All Other Locations	145	196	188
Total	3,906	7,589	3,450
<b>Characteristics of Residents</b>			
Male	2,124		1,953
Female	1,782		1,497
Age 29 or younger	1,271		1,153
Age 30 to 54	2,053		1,775
Age 55 or older	582		522
Income \$15,000 or Less	1,839		1,179
Income \$15,000 to \$40,000	1,075		1,305
Income More than \$40,000	992		966

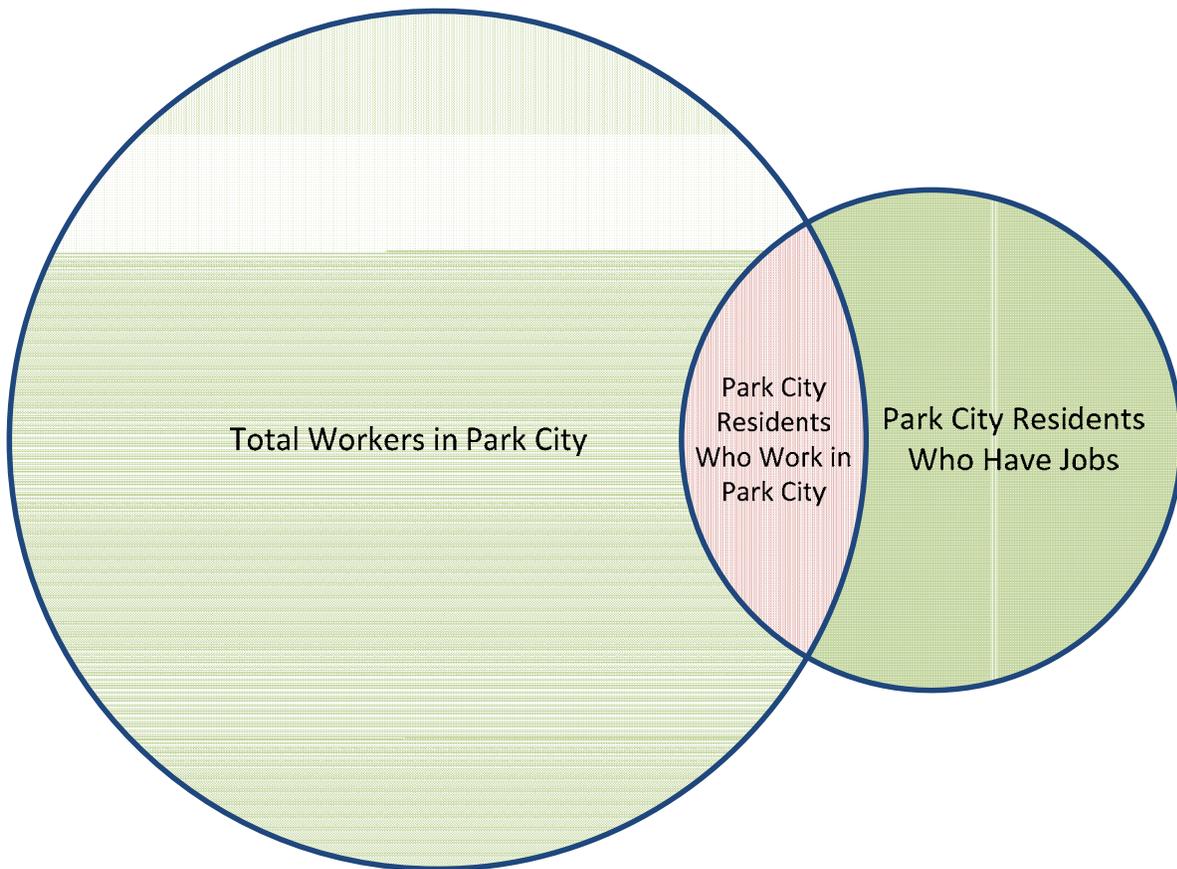
*Private sector primary jobs - 2009*

Source – .US Census Bureau Local Employment Dynamics (LED), LED on the Map, Work Area Profile, Home destination and work destination reports. <http://lehd.did.census.gov/led/datatools/datatools.html>

Figure 25 illustrates the concept of home area/work area destination reports.

FIGURE 25

Illustration of A Work Area Origin and Destination  
Profile  
Using Park City as An Example



# HOUSING PRICE GAP SOURCE NOTES

This section shows source notes and supporting calculations for the housing affordability “price” gap calculated in Figure 11.

FIGURE 26

HOUSING PRICE GAP SOURCE NOTES	
Summit County Housing Affordability Analysis	
Description	Estimating Assumptions Source Notes
<b>Household Income</b>	Income is calculated assuming employment in Summit County, and based on the average
Summit County Average Monthly Wage	Average monthly wages for Summit County - Q2 2011 - State of Utah Workforce Services. <a href="http://jobs.utah.gov/jsp/wi/utalmis/gotoCounties.do">http://jobs.utah.gov/jsp/wi/utalmis/gotoCounties.do</a>
Other Earnings (tips, bonus, overtime, incentives)	Estimate
Other Income (investments, non-cash benefits)	Estimate
Workers per Household (# FTE)	Data source is Census Transportation Planning Products - calculated value using Tables 14100 and 13100 - workers per household and number of households for Utah urban, 2009 - <a href="http://data.ctpp.transportation.org/CTPP/TableViewer/document.aspx?ReportId=1786">http://data.ctpp.transportation.org/CTPP/TableViewer/document.aspx?ReportId=1786</a>
Part-time job earnings	Part-time wages are 50% of Summit County average wages.
<b>Purchase Price Assumptions</b>	
Shelter Cost % of Income	This is a commonly used measure of shelter cost burden
Estimated Property Insurance	
Insured Value (improvements % of market value)	Estimate. Assumes that homeowners insurance is calculated based on the value of improvements, not including land.
Estimated Average Rate (% of insurable value)	This is an estimate.
Estimated Real Estate Tax	
Est. Avg Tax Rate	Estimated as the average of 2011 tax rates for assessment districts 10, 13, 27, 29. Estimate is calculated as shown in the Appendix, Figure labeled "Estimated Real Estate Tax")
Taxable value (primary res.) % of Market Value	Summit County primary residential taxable value % of market value
Utilities (gas, and electricity)	The estimate is calculated as shown in the Appendix, Figure labeled "Estimated Average Utility Expense")
Down Payment (% of purchase price)	Estimate of typical down payment for affordable unit, from Mountainlands Community Housing
Mortgage Rate	MCHT estimate
Mortgage Term	MCHT estimate
Condominium Fee (per month)	MCHT estimate. This is not used in the calculation of the single family price gap.
Closing Cost	MCHT estimate
<b>Affordable Purchase Price</b>	
Household Income (per month)	Monthly household income (from annual income as calculated as above).
Shelter Cost % of Income	From Shelter Cost % of Income, above
Maximum Housing Payment (per month)	Calculated as the product of income and shelter cost burden.
Property Insurance	Calculated as the product of affordable purchase price, insured value, and estimated rate.
Real Estate Tax	Calculated as the product of affordable purchase price, taxable value, and estimated rate.
Utilities	From utilities cost as calculated above
Condominium Fee	Used only for the calculation of of multi family price gap.
Monthly Mortgage Payment	Calculated as Maximum Monthly Housing Cost less Property Insurance, Real Estate Tax and utilities and Condominium Fee (multi family only)
Mortgage Amount	Calculated as the present value of Monthly Mortgage Payment, Mortgage Rate and Term
Down Payment	Calculated as the product of Affordable Purchase Price and Down Payment %.
Closing Cost	From Closing Cost, above
Affordable Purchase Price (rounded)	Calculated as the sum of Mortgage Amount and Down Payment, less Closing Cost.
<b>Housing Unit Market Value</b>	Housing unit value is calculated using 2011 market value from the Summit County Assessor's Office.
2011 median market value per sq. ft.,	The average of median per square foot market values for single family/multi family units 600 to 1,599 square feet. Square foot value is calculated as the quotient of market value and square footage. Square footage includes basement and living area. Market value for the Snyderville Basin Planning Area is calculated based real estate assessment districts for the Park City School District (not including Park City) - assessment districts include 10,11,12,13,14,28,29,30,56,57. Market value for the East County planning area includes all Summit County assessment districts, less the Snyderville Basing Planning Area and Park City (districts 6,7,8,9,60,61,61)
Unit Area (unit equivalent, sq. ft.)	Square footage from the Planning Department for a unit equivalent residential unit.
Market Value	Calculated as the product of Market Value per Sq. Ft. and UE square footage.

FIGURE 27

<b>ESTIMATED REAL ESTATE TAX RATE</b>		
<i>Estimated Average Tax Rate</i>		
Tax District Number	Name	2011 Real Estate Tax
10	Canyons	0.00853800
13	Jeremy	0.00902700
27	Silver Creek	0.01003000
29	Highland Estates	0.00902700
Example Market Value		\$320,400
Taxable % OF Value		55%
Taxable Value		\$176,220
<b>Tax Revenue</b>		
10	Canyons	\$1,505
13	Jeremy	\$1,591
27	Silver Creek	\$1,767
29	Highland Estates	\$1,591
Average		\$1,613
Average Tax Revenue % of Taxable Value		0.92%

Source – tax rates from Summit County Assessor’s Office. Example Market Value is Snyderville Basin single family value from Figure 11.

FIGURE 28

<b>ESTIMATED AVERAGE UTILITIES EXPENSE</b>		
<i>Summit County Housing Affordability Analysis</i>		
	Total	Per Month
Single Family (3 and 3 bedroom)		
Electricity	\$1,132	\$94
Natural Gas	\$636	\$53
Total	\$1,768	\$147
Apartment (2 bedroom)		
Electricity	\$842	\$70
Natural Gas	\$433	\$36
Total	\$1,275	\$106

Source – U.S. Energy Information Administration microdata, 2005 (data updated to 2009). Utility expense for mountain division, 2 and 3 bedroom single family units.

<http://www.eia.gov/consumption/residential/data/2005/index.cfm#tabs-2>

# SUMMIT COUNTY JOBS

FIGURE 29

<b>SUMMIT COUNTY JOBS</b>						
<i>Ranked by Earnings (2010 Q1, Q2, Q3 and 2011 Q1)</i>						
Salary Rank	NAICS Category and Description	Average Annual Earnings	Monthly	Hourly	Number of Jobs	% of Jobs
1	334 Computer and Electronic Product Manufacturing	\$161,040	\$13,420	\$78.63	131	1%
2	522 Credit Intermediation and Related Activities	\$87,336	\$7,278	\$42.64	167	1%
3	423 Merchant Wholesalers, Durable Goods	\$72,600	\$6,050	\$35.45	97	1%
4	524 Insurance Carriers and Related Activities	\$71,304	\$5,942	\$34.82	92	1%
5	541 Professional, Scientific, and Technical Services	\$64,920	\$5,410	\$31.70	692	4%
6	517 Telecommunications	\$63,096	\$5,258	\$30.81	86	0%
7	237 Heavy and Civil Engineering Construction	\$51,924	\$4,327	\$25.35	335	2%
8	236 Construction of Buildings	\$46,860	\$3,905	\$22.88	274	2%
9	621 Ambulatory Health Care Services	\$44,376	\$3,698	\$21.67	472	3%
10	813 Religious, Grantmaking, Civic, Professional, and Similar Organizations	\$42,276	\$3,523	\$20.64	272	1%
11	531 Real Estate	\$39,744	\$3,312	\$19.41	1,010	6%
12	454 Nonstore Retailers	\$39,432	\$3,286	\$19.25	174	1%
13	441 Motor Vehicle and Parts Dealers	\$36,516	\$3,043	\$17.83	91	0%
14	611 Educational Services	\$34,968	\$2,914	\$17.07	342	2%
15	238 Specialty Trade Contractors	\$34,068	\$2,839	\$16.63	535	3%
16	711 Performing Arts, Spectator Sports, and Related Industries	\$33,216	\$2,768	\$16.22	411	2%
17	561 Administrative and Support Services	\$33,180	\$2,765	\$16.20	604	3%
18	713 Amusement, Gambling, and Recreation Industries	\$32,868	\$2,739	\$16.05	2,794	15%
19	451 Sporting Goods, Hobby, Book, and Music Stores	\$30,144	\$2,512	\$14.72	292	2%
20	444 Building Material and Garden Equipment and Supplies Dealers	\$28,788	\$2,399	\$14.06	182	1%
21	721 Accommodation	\$28,488	\$2,374	\$13.91	2,262	12%
22	445 Food and Beverage Stores	\$25,536	\$2,128	\$12.47	594	3%
23	812 Personal and Laundry Services	\$25,404	\$2,117	\$12.40	208	1%
24	485 Transit and Ground Passenger Transportation	\$24,804	\$2,067	\$12.11	202	1%
25	442 Furniture and Home Furnishings Stores	\$24,648	\$2,054	\$12.04	95	1%
26	453 Miscellaneous Store Retailers	\$24,480	\$2,040	\$11.95	180	1%
27	452 General Merchandise Stores	\$23,088	\$1,924	\$11.27	235	1%
28	624 Social Assistance	\$22,344	\$1,862	\$10.91	178	1%
29	448 Clothing and Clothing Accessories Stores	\$20,304	\$1,692	\$9.91	862	5%
30	722 Food Services and Drinking Places	\$18,048	\$1,504	\$8.81	2,426	13%
31	447 Gasoline Stations	\$17,172	\$1,431	\$8.38	168	1%
	Not Specified			\$0.00	1,761	10%
	All NAICS subsectors	\$36,384	\$3,032	\$17.77	18,224	100%

Source – .US Census Bureau, Local Employment Dynamics, Industry Focus. High Growth Industries. All 31 eligible industries. State=Utah, County=043 Summit, Sex=Male and Female, Age=14-99. Private Firms Only. Group: NAICS 3-digit industry name. Average Quarterly Employment (2010Q2,2010Q3, 2010Q4,2011Q1).

FIGURE 30

<b>SUMMIT COUNTY JOBS</b>						
<i>Ranked by # Jobs (2010 Q1, Q2, Q3 and 2011 Q1)</i>						
Salary Rank	NAICS Category and Description	Average Annual Earnings	Monthly	Hourly	Number of Jobs	% of Jobs
	6 517 Telecommunications	\$63,096	\$5,258	\$30.81	86	0%
	13 441 Motor Vehicle and Parts Dealers	\$36,516	\$3,043	\$17.83	91	0%
	4 524 Insurance Carriers and Related Activities	\$71,304	\$5,942	\$34.82	92	1%
	25 442 Furniture and Home Furnishings Stores	\$24,648	\$2,054	\$12.04	95	1%
	3 423 Merchant Wholesalers, Durable Goods	\$72,600	\$6,050	\$35.45	97	1%
	1 334 Computer and Electronic Product Manufacturing	\$161,040	\$13,420	\$78.63	131	1%
	2 522 Credit Intermediation and Related Activities	\$87,336	\$7,278	\$42.64	167	1%
	31 447 Gasoline Stations	\$17,172	\$1,431	\$8.38	168	1%
	12 454 Nonstore Retailers	\$39,432	\$3,286	\$19.25	174	1%
	28 624 Social Assistance	\$22,344	\$1,862	\$10.91	178	1%
	26 453 Miscellaneous Store Retailers	\$24,480	\$2,040	\$11.95	180	1%
	20 444 Building Material and Garden Equipment and Supplies Dealers	\$28,788	\$2,399	\$14.06	182	1%
	24 485 Transit and Ground Passenger Transportation	\$24,804	\$2,067	\$12.11	202	1%
	23 812 Personal and Laundry Services	\$25,404	\$2,117	\$12.40	208	1%
	27 452 General Merchandise Stores	\$23,088	\$1,924	\$11.27	235	1%
	10 813 Religious, Grantmaking, Civic, Professional, and Similar Organizations	\$42,276	\$3,523	\$20.64	272	1%
	8 236 Construction of Buildings	\$46,860	\$3,905	\$22.88	274	2%
	19 451 Sporting Goods, Hobby, Book, and Music Stores	\$30,144	\$2,512	\$14.72	292	2%
	7 237 Heavy and Civil Engineering Construction	\$51,924	\$4,327	\$25.35	335	2%
	14 611 Educational Services	\$34,968	\$2,914	\$17.07	342	2%
	16 711 Performing Arts, Spectator Sports, and Related Industries	\$33,216	\$2,768	\$16.22	411	2%
	9 621 Ambulatory Health Care Services	\$44,376	\$3,698	\$21.67	472	3%
	15 238 Specialty Trade Contractors	\$34,068	\$2,839	\$16.63	535	3%
	22 445 Food and Beverage Stores	\$25,536	\$2,128	\$12.47	594	3%
	17 561 Administrative and Support Services	\$33,180	\$2,765	\$16.20	604	3%
	5 541 Professional, Scientific, and Technical Services	\$64,920	\$5,410	\$31.70	692	4%
	29 448 Clothing and Clothing Accessories Stores	\$20,304	\$1,692	\$9.91	862	5%
	11 531 Real Estate	\$39,744	\$3,312	\$19.41	1,010	6%
	21 721 Accommodation	\$28,488	\$2,374	\$13.91	2,262	12%
	30 722 Food Services and Drinking Places	\$18,048	\$1,504	\$8.81	2,426	13%
	18 713 Amusement, Gambling, and Recreation Industries	\$32,868	\$2,739	\$16.05	2,794	15%
	Not Specified			\$0.00	1,761	10%
	All NAICS subsectors	\$36,384	\$3,032	\$17.77	18,224	100%

Source – .see Figure 29

Title/Chapter/Section:  [Search Code by Key Word](#)[<< Previous Section \(17-27a-402\)](#)[Next Section \(17-27a-404\) >>](#)[Utah  
Code](#)[Title 17](#) Counties[Chapter  
27a](#) County Land Use, Development, and Management ActSection  
403 Plan preparation.**17-27a-403. Plan preparation.**

(1) (a) The planning commission shall provide notice, as provided in Section [17-27a-203](#), of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the unincorporated area within the county.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and

(iii) an estimate of the need for the development of additional moderate income housing within the unincorporated area of the county, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate

income housing;

(D) consider general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of blight; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection [17-27a-401](#)(2); and

(g) any other element the county considers appropriate.

Amended by Chapter 212, 2012 General Session

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7. **Public hearing and possible action regarding the 2012 Affordable Housing Needs Assessment and model** – *Kimber Gabryszak, County Planner*

County Planner Kimber Gabryszak presented the staff report and recalled that the Planning Commission has seen this in previous work sessions. She commented that the 2006 needs assessment is very much out of date and needs to be updated to reflect change in the economy and building market and how the Planning Commission and the County Council would like to move forward with housing. The 2006 assessment included hard numbers of pent-up units, which made it difficult for the County to react to changes in the housing situation. A draft needs assessment was prepared in 2010, but the Planning Commission and Council had concerns about the methodology of that assessment. The current assessment provides a methodology that can be used consistently going forward, can be easily compared assessment to assessment, and addresses the Planning Commission's and Council's concerns regarding the 2010 assessment. This assessment resulted from Mountainlands and a number of stakeholders, including members of the public, meeting with a consultant to develop the assessment. This assessment takes into consideration the region as a whole, acts as a model for future assessments, and does not contain a specific number of units needed but shows a snapshot of potential demand for housing in different categories. The assessment shows that the greatest need is at the lower income levels, not at the Federal standard of 80% of Area Median Income (AMI), and it can be used to set policy, such as amending the Code to encourage more units at the lower income level. She noted that the staff report contains Staff's responses to questions and concerns raised at the previous work sessions. Staff has found that this needs assessment is consistent with the current goals in the housing element of the General Plan and complies with the Development Code criteria. It will become a technical appendix to the General Plan. Staff recommended that the Planning Commission forward a positive recommendation to the County Council with the findings in the staff report.

**Commissioner Lawson** stated that he believes the needs assessment is a good approach to addressing affordable housing needs. Since it covers the eastern part of the County and Park City, he asked if it would apply only to the Snyderville Basin and not to other portions of the County. He asked how it would be shared throughout the County in a coordinated effort to deal with the County-wide issue of affordable housing. Scott Loomis with Mountainlands Community Housing Trust explained that the Snyderville Basin Planning Commission is required by law to determine the need in their community so zoning cannot be used to exclude people who want to live here. Therefore, the study identifies the Snyderville Basin, and that is one element the policy makers would look at. There were complaints that the previous needs assessment covered only the Snyderville Basin and did not account for what is happening elsewhere in the County. Eastern Summit County and Park City are included in this needs assessment, but they are broken down separately. Park City has a similar needs assessment using much the same model, but all the jurisdictions in eastern Summit County, Park City, and the Snyderville Basin will have to look at the needs in the entire County as they make decisions about their own policies. **Commissioner Lawson** asked what is being done to combine the efforts of Park City, the eastern part of the County, and the Snyderville Basin to work together in an effective way to deal with affordable housing throughout the County.

Planner Gabryszak explained that the Eastern Summit County Planning Commission is also beginning to reopen their General Plan, and they will have an element in their General Plan to address housing. However, the need cannot be pushed from one planning area to another.

**Commissioner Kingston** stated that there seems to be an assumption that it is wise to have a diverse community living and working in the same area, which makes sense environmentally by reducing car trips and in other ways. He believed it is critical to have cross-jurisdictional conversations and agreements, because he would assume other jurisdictions' goals are the same as the Snyderville Basin's. He felt it was a question of

trying to figure out the need across jurisdictions and how that is reflected in the needs assessment and will be better reflected in the General Plan.

**Chair Taylor** opened the public hearing.

Richard Thomas, a resident on Old Ranch Road, commented that this has been a long, drawn out process. He believed the needs assessment identifies where people work and live, and he thought they had been in trouble before by having a hard number. He believed they should anticipate that someone will say they need 35 more units or more apartments and synthesize a number. He stated that the community involves a big County as well as Wasatch County, and this assessment is missing Wasatch County data. When thinking about the greater Park City area, he noted that Heber is right in the middle of it. He believed they should be wary when someone wants to quantify a number, because that is where they got in trouble before. He congratulated Staff and Mr. Loomis and stated that he hoped this would not get as heated as it was before.

Max Greenhalgh agreed that they are on the right track, and instead of having a hard number, they have information decision makers can take under advisement to set specific goals. They can calibrate the ordinances and Development Code to incentivize the kinds of units they hope to obtain. He stated that they are all in this together. Park City has indicated that they intend to continue with resort-type development that will add to their tax base and expect that workforce housing will occur outside the city limits. He believed it is not too soon for the County to get involved with discussions about how to approach that together. If Snyderville Basin is expected to accept some of the workforce housing for Park City, then maybe the resort development that occurs should have a fee in lieu program to help acquire some of the properties in the Snyderville Basin or elsewhere in the County where workforce housing could occur. He believed they should consider fee in lieu for all kinds of development, including residential. He did not believe they should have to provide the type of housing that everybody wants in the community, especially if they adopt the approach of concentrating density in centers.

Most development with that kind of approach would be clustered in community type development. He did not believe they are obligated to provide 1/3-acre lots with a 3-bedroom, 2-car garage home for everyone who wants it in the community. There are places close by where people would be able to have that. He believed there should be discussion about that approach and to what extent the County should be obligated to provide the type of housing that a lot of people might want to obtain and whether it would be difficult or bad if people had to drive another 10 or 12 miles to achieve that kind of housing. He believed this was headed in the right direction.

**Chair Taylor** closed the public hearing.

**Commissioner Velarde** stated that she believed they had done a good job with this needs assessment and that it is time to move it forward. At some point, she would like to address the need for seasonal employee housing, which this does not address.

**Commissioner Kingston** agreed with Commissioner Velarde and noted that some resorts are already trying to work on employee housing, but they need to do more. He would like to hear from Staff about the legal defensibility of this approach. He believed the public comments indicate that they now have some latitude and flexibility to not get locked into a numerically driven plan. He hoped they could plan regionally to satisfy the need for diverse housing and take into account the conflicting goals of defending against suburbanization and adding journey to work miles. They need to figure out which is the bigger evil, and there seems to be a consensus against suburbanization and sprawl. That may mean they are trying to find a home for particular types of housing, and it may not be in their vision to have certain types of development continue to be in the Snyderville Basin. He believed they have made excellent progress and are ready for the public to take a look at this.

**Commissioner Franklin** thanked Mr. Loomis and Staff for all the hard work that has been done on the needs assessment.

**Commissioner Lawson** stated that he is ready to take action on this tonight. He requested an update on the plans for the next step. Mr. Loomis explained that they have discussed potential Code changes with the Planning Commission and have evolved somewhat on Planning Commission and public comments. He explained that the City recently conducted a survey, and the results of that should be available in August. When they see that, they can determine whether it needs to be expanded or whether to utilize the information in the survey as a first step. He explained that they made a conscious decision to focus only on Summit County and not include Salt Lake County or Wasatch County. It is the same with the various jurisdictions. Each city and town in the County has its own views of what it wants to be, and they do not want to be the affordable housing outlet for Park City or the Snyderville Basin. They have their own needs and concerns, and Snyderville Basin's needs cannot be imposed on Wasatch County or the cities and towns in eastern Summit County. That may change over time, and he believed they have made great strides in the last few years regarding a regional plan discussion about affordable housing, but they have a long way to go.

**Commissioner DeFord** commented that one of their big goals is regional planning, and it is important that they work with Park City. He asked when a tracking system would be available to track existing and approved affordable housing. Mr. Loomis replied that they already have that information and recently received a new grant to track restricted for-sale units. The Urban Institute is also doing a five-year study to evaluate the effects of affordable home ownership programs. **Commissioner DeFord** asked if that program also tracks units that have been approved and not yet built. Mr. Loomis replied that he did not believe they have on the web site what has been approved, but it is all identified, and they could put it on the web site.

**Chair Taylor** stated that he liked the approach of assembling analysis and facts rather than coming up with a hard number. He was unclear, however, as to how an estimate of need as required by the State would be met by saying that a certain number of households

are cost-burdened. He asked if that meets the State's intent. Planner Gabryszak replied that it does by identifying a number of households according to methodology supported by data in different categories, but it is not a specific number of units the County must provide. She verified that it does meet the intent. Mr. Loomis explained that, when the State passed this legislation, they came up with a model for smaller communities to use, which is the basis of this model that includes much more than the State model. **Chair Taylor** asked how they would meet the requirement to plan to provide a realistic opportunity to meet the estimated needs. Planner Gabryszak explained that they currently comply with that with the 20% affordable housing requirement, which insures the provision of affordable housing. She explained that the County is required to provide a biennial report to the State on their compliance with this section of the State Code, and she is currently working on that report. By reporting the number of units that have been provided, it shows that the County has a reasonable plan.

**Commissioner Franklin made a motion to forward a positive recommendation to the Summit County Council for the moderate income housing model and 2012 needs assessment based on the following findings in the staff report dated July 25, 2012:**

**Findings:**

- 1. The 2012 Assessment complies with Section 17.27a.403 of the State Code.**
- 2. The 2012 Assessment complies with the Snyderville Basin General Plan, as outlined in Section E of this report.**
- 3. The 2012 Assessment complies with the Snyderville Basin Development Code, as outlined in Section F of this report.**

**The motion was seconded by Commissioner Velarde and passed unanimously, 6 to 0.**

**8. Approval of minutes: May 8, 2012**



## STAFF REPORT

**To:** Summit County Council (SCC)  
**Report Date:** Thursday, September 27, 2012  
**Meeting Date:** Wednesday, October 3, 2012  
**Author:** Kimber Gabryszak, AICP  
**Title:** Amendments to Snyderville Basin Development Code Chapter 10-5

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**EXECUTIVE SUMMARY:** The Snyderville Basin Planning Commission (SBPC) and Staff have been working on amendments to clean up, clarify, and update the affordable housing chapter of the Snyderville Basin Development Code (Code), Chapter 10-5. The SBPC forwarded a positive recommendation to the SCC after a public hearing on August 28, 2012.

**Staff recommends that the SCC review the proposed amendments, conduct a public hearing, and vote to approve the amendments.**

### A. Project Description

- **Project Name:** Code Section 10-5, general amendments
- **Type of process:** Legislative
- **Type of Action:** Public Hearing
- **Future Routing:** None - final decision by SCC

### B. Background

In December 2007, Summit County adopted the inclusionary housing language now contained in Section 10-5 of the Snyderville Basin Development Code: Workforce Housing. This portion requires all new development in the Snyderville Basin to provide some affordable housing. In July 2008, the incentive portion, Section 10-5-16 (aka CORE) was adopted.

In June of 2011, the SCC placed the CORE program under moratorium; the SBPC held a public hearing on November 15, 2011, and voted to forward a positive recommendation to the SCC on amendments to Chapter 10-5 repealing the CORE program.

After three (3) years of applying the mandatory requirements to various developments, several other amendments were proposed to clean up and clarify various sections of the mandatory language. These amendments were discussed at the November 15, 2011 hearing, and the SBPC voted to continue the decision pending further edits recommended

to Staff. The SBPC discussed the amendments again at their February 28, 2012 meeting, and suggested several other minor changes. They again discussed the amendments at a meeting on March 13, 2012. Following that meeting, Staff placed the amendments on hold pending the 2012 Affordable Housing Needs Assessment and Model, which was recently reviewed and recommended by the SBPC.

The 2012 Needs Assessment was recently recommended to the SCC, who is scheduled to review the 2012 Needs Assessment on September 6, 2012 and potentially make a decision concerning its adoption later in September. Some of the proposed amendments to the Code are intended to incorporate the information in the 2012 Needs Assessment.

After the Needs Assessment recommendation, the SBPC held a work session on the code amendments on August 14, 2012 and a public hearing on August 28, 2012. The SBPC voted unanimously to forward a positive recommendation on the amendments to the SCC, with several suggested changes.

In short, the SBPC discussed these amendments:

- in public hearing on November 15, 2011
- in continued discussion on February 28, 2012
- in continued discussion on March 13, 2012
- in work session July 31, 2012
- in work session on August 14, 2012
- in public hearing on August 28, 2012, at which time they made a positive recommendation

The SCC held a work session on November 12, 2012 and reviewed the amendments.

C. **Community Review**

This item has been noticed in the Park Record and online as public hearing. As of the date of this report, no public comment beyond that provided to the SBPC has been received.

D. **Identification and Analysis of Issues**

The proposed amendments include the following:

- Change “workforce” to “affordable” per SBPC discussion
- Edit the Affordable Unit Equivalent (AUE) formulas to help people work backward and forward, and changing the format from a table to a list
- Edit the AUE formulas to lessen the incentive for building all larger units, and encourage smaller units (the total square footage requirement gets less as smaller units are proposed)

- Increase the reductions in requirements that are available to developers when they target lower income households to incentivize the development of housing targeting incomes of less than 50% of the Area Median Income
- Modify the fee-in-lieu and how it is calculated
- Remove the income percentages and replace them with the HUD definitions of Low Income, Very Low Income, and Extremely Low Income
- Add seniors to the target population
- Remove the maximum number of AUEs for commercial and residential projects to qualify for fees-in-lieu
- Provide more options for off-site housing for both residential and commercial developments
- Exempt the first 5,000 square feet of commercial from the housing requirement
- Make off-site housing more feasible, and make it easier for developers to work with housing non-profits
- Change the allowable sales and rental price calculations to be more in line with Federal standards (30% annual income rather than 35%).
- Add needs assessment timeline
- Other minor changes

### **Mandatory percentage**

At the July 31, 2012 and August 14, 2012 work sessions, the SBPC discussed whether or not to reduce the mandatory requirement from 20% to 15%. At the August 28, 2012 hearing, the SBPC voted to reduce the requirement to 15% for commercial development, and keep the residential requirement at 20%.

At the SBPC request, Staff provided Park City Municipal Corporation's housing ordinance as Exhibit C. PCMC requires 15% of residential development to be affordable, and for commercial developers to provide housing for 20% of their predicted employee generation.

Staff has been working with various commercial developers, which has indicated that one of the most difficult components for project approvals has been the provision of affordable housing.

For reference, Staff has done the calculation on an example 20,000 square foot development of general office, both with and without the proposed exemption for the first 5,000 s.f.. The results are outlined in tables 1 and 2 below.

**Table 1: Impacts without exempting the first 5,000 s.f. from the obligation:**

Proposal	20,000 s.f medium office	20,000 s.f medium office	20,000 s.f medium office
Est. employees per 1000 s.f.	3.7	3.7	3.7
Estimated total employees	$20 \times 3.7 = 74$	$20 \times 3.7 = 74$	$20 \times 3.7 = 74$
Obligation rate	20% of employees	15% of employees	10% of employees
Employees to house	$74 \times .20 = 14.8$	$74 \times .15 = 11.1$	$74 \times 0.10 = 7.4$
1.5 workers per household & 1.2 jobs per worker	$14.8 \div 1.5 \div 1.2 = 8.22$	$11.1 \div 1.5 \div 1.2 = 6.17$	$7.4 \div 1.5 \div 1.2 = 4.11$
# of AUEs	8.22	6.17	4.11
AUE approx. s.f.	$8.22 \times 900 = 7395$	$6.17 \times 900 = 5553$	$4.11 \times 900 = 3699$
% of development square footage	36.99%	27.7%	18.5%
~ cost to build	\$100/s.f. = \$739,500 \$125/s.f. = \$934,375	\$100/s.f. = \$555,300 \$125/s.f. = \$694,125	\$100/s.f. = \$369,900 \$125/s.f. = \$462,375
~fee in lieu, current (~\$86,600 per AUE)	\$711,852	\$534,322	\$355,926
~fee in lieu, future (~120,000 per AUE)	\$986,400	\$740,400	\$493,200

**Table 2: Impacts after exempting the first 5,000 s.f. from the obligation:**

Proposal	20,000 s.f medium office	20,000 s.f medium office	20,000 s.f medium office
Obligation after exempt 5,000 s.f.	15,000 s.f.	15,000 s.f.	15,000 s.f.
Est. employees per 1000 s.f.	3.7	3.7	3.7
Estimated total employees	$15 \times 3.7 = 55.5$	$15 \times 3.7 = 55.5$	$15 \times 3.7 = 55.5$
Obligation rate	20% of employees	15% of employees	10% of employees
Employees to house	$55.5 \times .20 = 11.1$	$55.5 \times .15 = 8.32$	$55.5 \times 0.10 = 5.55$
1.5 workers per household & 1.2 jobs per worker	$11.1 \div 1.5 \div 1.2 = 6.17$	$8.32 \div 1.5 \div 1.2 = 4.62$	$5.55 \div 1.5 \div 1.2 = 3.08$
# of AUEs	6.17	4.62	3.08
AUE approx. s.f.	$6.17 \times 900 = 5553$	$4.62 \times 900 = 4158$	$3.08 \times 900 = 2772$
% of development square footage	27.7%	20.79%	13.86%
~ cost to build	\$100/s.f. = \$555,300 \$125/s.f. = \$694,125	\$100/s.f. = \$415,800 \$125/s.f. = \$519,750	\$100/s.f. = \$277,200 \$125/s.f. = \$346,500
~fee in lieu, current (~\$86,600 per AUE)	\$534,322	\$400,092	\$266,728
~fee in lieu, future (~120,000 per AUE)	\$740,400	\$554,400	\$369,600

In the interest of economic opportunities in the Snyderville Basin, Staff recommended that the first 5,000 s.f. of new and expanded commercial development be exempt from the requirements, and that the obligation for commercial development be reduced to 15% from the current 20% of employees generated. Staff also recommended that the exemption be limited to a one-time opportunity. **The SBPC agreed and made it a part of their recommendation to the SCC. The SCC gave positive feedback on the recommendation at their work session on September 12, 2012.**

#### **Other amendments**

Staff also made several additional changes to the Code based on the direction of the SBPC, including:

- Adding a one-time limit to the 5,000 s.f. exemption for commercial development to prohibit use of this exemption to skirt the housing requirement entirely
- Allow off-site housing for residential development where it would improve walkability and transportation
- Add a marketing component
- Add language requiring energy efficiency
- Allowing fees-in-lieu for any housing obligation
- Allow units in a single building to all be the same size and / or style and / or income level
- Clarify that multifamily housing is subject to the permitting requirements of the Code (i.e. in many zones a multifamily dwelling is a conditional use permit)

#### **E. General Plan**

The Affordable Housing element of the General Plan is in the process of being edited, but the Affordable Housing Element still in effect includes goals for ensuring that affordable housing is provided within the community. The amendments are in line with this element and these goals, as well as with both the existing 2006 Needs Assessment, which is an appendix to the General Plan, and the 2012 Needs Assessment, which is pending a decision by the SCC.

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

Before an amendment to the Development Code can be approved, it must be reviewed in compliance with Section 10-7-3-C and meet the following criteria:

1. The amendment shall be consistent with the goals, objectives, and policies of the General Plan.  
*The proposed amendments are consistent with the goals, objectives, and policies of the housing element of the General Plan. The proposed amendments promote provision of affordable housing in the community.*
2. The amendment shall not permit the use of land that is not consistent with the uses of properties nearby.  
*The proposed amendments will not permit uses that are inconsistent with existing neighborhood uses, through such requirements as ensuring that*

*affordable units be designed similarly to market units.*

3. The amendment will not permit suitability of the properties affected by the proposed amendment for the uses to which they have been restricted.  
*The amendments will not allow development of housing on properties where it is otherwise prohibited.*
4. The amendment will not permit the removal of the then existing restrictions which will unduly affect nearby property.  
*Projects proposed which contain affordable units will still be required to meet all other Code requirements and standards.*
5. The amendment will not grant special favors or circumstances solely for one property owner or developer.  
*The amendments are being proposed for the entire Basin.*
6. The amendment will promote the public health, safety and welfare better than the existing regulations for which the amendment is intended to change.  
*The amendments will better serve the public in clarifying requirements and increasing compatibility.*

#### **G. Recommendation(s)/Alternatives**

Staff recommends that the SCC review the proposed amendments, conduct a public hearing, and take public comment. Unless public comment identifies issues that would change Staff's findings in this report, Staff further recommends that the SCC vote to approve the amendments, through adoption of an ordinance and with the findings and conditions below:

##### **Findings:**

1. The amendments comply with the Snyderville Basin General Plan as outlined in Section E of this report.
2. The amendments comply with Section 10-7-3(C) of the Snyderville Basin Development Code, as outlined in Section F of this report.

##### **Conditions:**

1. The language shall be edited as directed by the SCC.
2. The language shall be edited for formatting and typos.
3. Any other conditions articulated by the SCC.

##### **Exhibit(s)**

- A. Section 10-5 with updated proposed changes, working (pages 7 - 26)
- B. Section 10-5 with updated proposed changes, clean (pages 27 - 38)

CHAPTER 5

**WORKFORCE AFFORDABLE HOUSING**

SECTION:

- 10-5-1: Intent
- 10-5-2: Methodology [and Applicability](#)
- 10-5-3: ~~Workforce Affordable~~ Housing Development Requirements
- 10-5-4: ~~Workforce Affordable~~ Unit Equivalents (~~WUEAUE~~s)
- 10-5-5: Residential Base Requirement
- 10-5-6: Commercial Base Requirement
- 10-5-7: Commercial Alternatives
- 10-5-8: Mixed-Use Requirement
- 10-5-9: Off-Site ~~Workforce Affordable~~ Housing
- 10-5-10: Fees-In-Lieu
- 10-5-11: Accessory Dwelling Units (ADUs)
- 10-5-12: Fee Waivers
- 10-5-13: Allowable Prices
- 10-5-14: Enforcement/Management
- 10-5-15: Approval Process

**10-5-1: INTENT**

A. The purposes of this ordinance are to:

1. Provide requirements, guidelines, and incentives for the construction ~~of~~ ~~of~~ ~~workforce~~ housing [affordable to for Extremely Low-income, Very Low Income, and Low Income and moderate income](#) households in the Snyderville Basin;
2. Implement the ~~workforce affordable~~ housing goals, policies, and objectives contained in the Snyderville Basin General Plan;
3. Ensure ~~the a wide variety of affordable housing options and opportunity opportunities~~ for ~~workforce housing for~~ residents, [seniors, and workers, and special needs individuals](#) in the Snyderville Basin;
4. Maintain a balanced community that provides housing for people of all income levels; and,
5. Implement planning for ~~workforce affordable~~ housing as required by ~~Senate Bill 60 (State Code Section 17-27a-408)~~.

**10-5-2: METHODOLOGY [AND APPLICABILITY](#)**

A. ~~Affordable Housing Needs Assessment: The County shall adopt a needs assessment model to determine the need for affordable housing, types of housing, special needs, and specific incomes to be targeted in the Snyderville Basin. The model shall be~~

~~utilized to update the needs assessment conduct a housing needs assessment no less than once every five (5) years, unless requested sooner by the Planning Commission or County Council.~~

B. Base Requirement: There shall be a base requirement to provide ~~workforceaffordable~~ housing throughout all zones of the Snyderville Basin. The base requirement shall apply to all new residential, commercial, and mixed use development, and shall be calculated using ~~WorkforceAffordable~~ Unit Equivalents (~~WUEAUE~~s).

CB. Exemptions: The following developments shall not be required to provide additional ~~workforceaffordable~~ housing:

1.      The construction of Accessory Dwelling Units in single-family residences.

2.      The construction of a single-family residence on an existing Lot of Record.

3.      The expansion of an existing ~~single-family~~ residence.

4.

The construction of Schools, churches, public facilities, and other institutional uses.

~~institutional, religious, and public facilities.~~

5.      A change or expansion of an existing commercial use which is less than a 15% increase in the existing structure gross square footage or total project square footage, but no greater than 5,000 square feet; **this is a one-time exemption.**

6.      The first 5,000 square feet of a new commercial use; **this is a one-time exemption.**

7.      A change or expansion of an existing commercial use which is less than a 15% increase of the existing total acreage but no greater than 2 acres, if the use is primarily outdoors.

8.      A change in use which does not increase the employee generation by more than 2 employees per 1000 sq. ft..

D. Definitions:

1.      **Area Median Income (AMI):** the amount of income which divides the income distribution of the area into two equal groups, half having income above that amount, and half having income below that amount as determined by the U.S. Department of Housing and Urban Development for Summit County from time to time.

Comment [KG1]: Moved up to Section 10-5-2(C)

Comment [KG2]: Are there other terms that the SCC would like to see defined here?

4.2. Median lot size: half of all lots in the development are larger, and half are smaller.

**10-5-3: WORKFORCEAFFORDABLE HOUSING DEVELOPMENT REQUIREMENTS**

A. All developments containing workforceaffordable units shall enter into a Housing Agreement with Summit County. The Housing Agreement shall be recorded against all parcels and units in the development identified as affordable, and shall include the following:

1. Identification of the units to be deed restricted as workforceaffordable housing, including but not limited to unit ID number and / or address, square footage, location, and style of unit.
2. A specification of allowed starting sales and / or rental price(s), price increase methodology, and target household size and income ranges for each unit.
3. Management plan for the workforceaffordable units, including the process for buyer qualification to ensure that employees working and living in Summit County are given priority. The management plan shall conform to a template to be provided by Summit County.

4. A copy of the approved deed restriction or document to assure affordability to be recorded against the individual workforceaffordable units.

4.5. Good faith marketing plan for the units. All sellers or owners of deed restricted affordable units shall engage in good faith marketing efforts each time a deed restricted unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance of becoming informed of the availability of such units. A public marketing plan shall be submitted by the developer for the initial sale or lease of the units.

B. All workforceAffordable units shall meet all of the following criteria:

1. The specific unit type and design shall be consistent with the character of the surrounding neighborhood and / or development. If the development contains both market rate and workforceaffordable units, the exterior design, look and feel, and finishes of workforceaffordable units shall match the exterior design, look and feel and finishes of market rate units in the development. Interior finishes may differ between workforceaffordable and market rate units.
2. WorkforceAffordable housing units shall comply with all the development standards outlined in Chapter 4 of this Title, and shall comply with the requirements of the underlying zone, with the exceptions outlined in this Chapter.
3. The minimum size of an workforceaffordable housing unit shall be based on the category of unit, as outlined in Section 10-5-4 of this Chapter:  
"WorkforceAffordable Unit Equivalents."

4. The workforceaffordable housing component in a development shall be constructed concurrently with the rest of the development, ~~and shall not be the last portion constructed~~. Each phase of a project must contain a proportionate amount of the required workforceaffordable housing. This applies to both on-site and off-site housing.
5. The workforceaffordable housing component of a development shall be constructed within the development site, except as outlined in this Chapter.
6. Residential parking shall be covered, and shall be provided at a minimum rate of one (1) space per bedroom SRO, studio, or one-bedroom unit, and two (2) spaces per unit for multiple-bedroom units. If spaces are assigned to particular units, visitor parking will also be provided throughout the project at a rate of 0.25 spaces per unit. Designated visitor parking is not required to be covered.
7. The workforceaffordable units shall be provided in a variety of prices so that multiple income levels, as outlined in Section 10-5-13 of the Chapter, are targeted. No one target income level may make up more than ~~50~~75% of the workforceaffordable units, except in cases where the total number of workforceaffordable units provided is fiveten (510) or fewer, or where the Land Use Authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.
8. The workforceaffordable units shall be provided in a variety of sizes and styles, as outlined in Table 1 in Section 10-5-4 of this Chapter, ~~to avoid monotony in design~~. No one size or style of unit may make up more than ~~50~~75% of the workforceaffordable units, except in cases where the total number of workforceaffordable units provided is fiveten (105) or fewer, or where the Land Use Authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.
- 8-9. To allow for the structures to be compatible with market homes within the subdivision and the existing neighborhoods the homes constructed can be multifamily to avoid having smaller homes within a larger home community. As an example, if the surrounding homes average 5000 square feet, it may be preferable to have a three-unit home of 4500 square feet rather than three 1500 square foot homes. Multifamily structures shall be subject to the permitting requirements in Chapter 2 of this title.
- 9-10. The minimum length of time for a unit to be deed restricted as an workforceaffordable unit shall be sixty (60) years as measured from issuance of Certificate of Occupancy, which may be renewable for an additional term.
- 10-11. All deed-restricted rental units shall be rented for a minimum period of 90 consecutive days. Nightly and weekly rentals shall be prohibited.

- a. Exception: Special needs emergency/transitional/~~athlete/employee~~ housing shall be exempt from the 90 day limitation, but shall be rented for a sufficient period to prevent nightly and weekly rentals. To qualify for the exemption, there must be a quantified, demonstrated need for the emergency/transitional housing within the Summit County boundaries, and the housing must be developed in collaboration with a federally recognized, 501(c)(3) nonprofit organization. The housing must satisfy all other requirements of this Chapter.

~~11-12. For-Sale Units:~~ The maximum initial sales price or rent of an ~~workforceaffordable~~ unit shall be limited to a price that is affordable either to an “Extremely Low Income”, “Very Low Income”, and/or “Low Income” household as defined by the Department of Housing and Urban Development (HUD) for earning either 60-80%, 40-60%, or 20-40% of the Area Median Income (AMI) for Summit County each year, or less, and annual appreciation shall be limited through a deed restriction to ensure that the unit remains affordable over time. Notwithstanding this provision, the deed restrictions may provide for sales or rental to higher income households in the event the unit is not sold or rented within a reasonable time.

~~12-13.~~ In addition to the net income limit, qualifying households are limited to a net worth of four (4) times the AMI.

~~13. Workforce units shall only be rented or sold to eligible households earning 80% of AMI, or less, based on the category of unit(s) and targeted household(s).~~

14. Master Leases: A qualified non-profit organization, or employer desiring to provide qualifying employees with ~~workforceaffordable~~ housing, may purchase or lease existing ~~workforceaffordable~~ units when a master-lease program is approved, whereby the non-profit organization or employer will rent or lease the units to qualifying employee households. A management plan shall be approved by Summit County and recorded against the ~~workforceaffordable~~ units as part of, or an amendment to, a Housing Agreement.

15. In an effort to ensure that the ~~attainable-affordble~~ housing is available for qualified individuals:

- a. All renters of ~~workforceaffordable~~ units will be required to certify annually to the County, or its designee, that they still qualify for the targeted percentage of AMI. If a renter no longer qualifies for the housing, their lease will not be renewed and the property will then be made available to a qualifying renter.
- b. If a for-sale unit owner’s household’s income increases to an amount above the targeted percentage of AMI while occupying a ~~workforceaffordable~~ unit, the household shall not be required to sell the unit. Upon vacating the premises naturally, a for-sale unit shall be sold ~~to a qualifying household~~ pursuant to the terms of the deed restriction.

~~4516.~~ Households currently living or working in Summit County shall have priority in obtaining ~~workforceaffordable~~ units, through a selection process determined by the Legislative Body of Summit County, subject to compliance with Federal and State Fair Housing requirements.

~~4617.~~ A deed restriction shall be approved by the County and recorded on all ~~workforceaffordable~~ dwelling units. A template restriction approved by the Legislative body of Summit County shall be used for all new ~~workforceaffordable~~ units, unless substitute restrictions setting forth substantially the same information are provided by a community oriented housing non-profit group for units they develop, and if the substitute restriction is approved by the legislative body of Summit County. Such substitute restrictions may include the use of a Community Land Trust or management by a local housing nonprofit to ensure long-term control and stewardship. The deed restriction templates shall be reviewed annually, and shall at a minimum outline the following:

- a. income and net-worth qualification
- b. term of applicability
- c. assignable County right of first refusal
- d. allowable capital improvements
- e. maintenance
- f. occupancy requirements
- g. rental and sales policies
- h. starting sales and rental prices
- i. allowable annual price increase
- j. reporting and monitoring structures
- k. management
- l. enforcement provisions

~~18. 17.~~—These restrictions may be modified to satisfy State and / or Federal requirements, if a project receives State and / or Federal Funding that requires modifications.

~~19.~~ All for sale and rental affordable units shall be certified by an independent qualified evaluator, at a minimum, Energy Star or its equivalent energy efficient certification.

#### **10-5-4: ~~WORKFORCE AFFORDABLE~~ UNIT EQUIVALENTS (~~WUEAUE~~s)**

A. ~~WorkforceAffordable~~ Unit Equivalents (~~WUEAUE~~s): All new development shall be required to provide a certain number of ~~WorkforceAffordable~~ Unit Equivalents (~~WUEAUE~~s), as outlined in this Chapter.

B. ~~WUEAUE~~ is defined as a “two-bedroom unit with 900 square feet of net livable space, ~~measured interior exterior wall to interior exterior wall.~~” Multiple smaller units together may ~~—constitute one WUEAUE, or fewer larger units, according to the conversion in Table 1Section C below.~~ ÷

C. AUE conversions:

1. Dormitory Unit:

- a. Minimum size = 150 square feet per bed
- b. 1 AUE = 5 beds (1 bed = 0.2 AUE)
- c. Example: 8 AUEs = 40 beds
  - i.  $8 \times 5 = 40$ , or
  - ii.  $8 \div 0.2 = 40$

2. Single Room Occupancy (SRO) Unit:

- a. Minimum unit size = 275 square feet
- b. 1 AUE = 2.75 units (1 unit = 0.3636 AUE)
- c. Example: 8 AUEs = 22 units
  - i.  $8 \times 2.75 = 22$ , or
  - ii.  $8 \div 0.36 = 22$

3. Studio Unit

- a. Minimum unit size = 400 square feet
- b. 1 AUE = 2.0 units (1 unit = 0.5 AUE)
- c. Example: 8 AUEs = 16 units
  - i.  $8 \times 2.0 = 16$ , or
  - ii.  $8 \div 0.5 = 16$

4. One Bedroom Unit

- a. Minimum unit size = 650 square feet
- b. 1 AUE = 1.25 unit (1 unit = 0.8 AUE)
- c. Example: 8 AUEs = 10 units
  - i.  $8 \times 1.25 = 10$ , or
  - ii.  $8 \div 0.8 = 10$

5. Two Bedroom Unit

- a. Minimum unit size = 900 square feet
- b. 1 AUE = 1 unit
- c. Example: 8 AUEs = 8 units
  - i.  $8 \times 1 = 8$ , or
  - ii.  $8 \div 1 = 8$

6. Three Bedroom Unit

- a. Minimum unit size = 1150 square feet
- b. 1 AUE = 0.80 unit (1 unit = 1.25 AUEs)
- c. Example: 8 AUEs = 6.4 units
  - i.  $8 \times 0.80 = 6.4$ , or
  - ii.  $8 \div 1.25 = 6.4$

7. Four Bedroom Unit

- a. Minimum unit size = 1400 square feet
- b. 1 AUE = 0.70 unit (1 unit = 1.43 AUEs)
- c. Example: 8 AUEs = 5.6 units
  - i.  $8 \times 0.70 = 5.6$ , or
  - ii.  $8 \div 1.43 = 5.6$

**IF THE SBPC WOULD PREFER TO KEEP THE TABLE:**

1. To use the table to determine the number of units required, multiply the number of WUEs required by the appropriate number in Column C, or divide by the appropriate number in Column D. Conversely, to determine credit for the number of WUEs provided, multiply the number of workforce units by the appropriate number in column D or divide by the appropriate number in Column C.

**Table 1: Workforce Unit Equivalent Conversion:**

Column A: Unit type	Column B: Minimum Size†	Column C: Number of units per WUE†	Column D: Number of WUEs per Unit†
Dormitory*	150 square feet per bed	56 beds per unit/WUE	0.2 WUE per bed
Single Room Occupancy*	275 square feet	2.75-3.25	0.36 WUE
Studio	400 square feet	2.0-2.25	0.5
One Bedroom	650 square feet	1.25-1.38	0.8
Two Bedroom	900 square feet	1	1
Three Bedroom	1150 square feet	0.80-0.78	1.25
Four Bedroom	1400 square feet	0.70-0.64	1.43

**\*D. AUE Application:**

1. Dormitory and SRO Units shall only be permitted to meet the requirement for commercial and resort uses, and shall not be permitted in single-family residential neighborhoods.
2. If units are provided that are larger than the minimum size outlined in Table 1, the number of units per WUE/AUE may be different/reduced, but:
  - a. ~~in no case may the additional square footage credited towards the WUE/reduction~~ exceed a total of 510% of the obligated WUE/AUEs for a development, and
  - b. in no case may the credit per unit exceed 150 sq. ft. per Dormitory unit, SRO, Studio, or one bedroom unit, and
  - c. for multiple bedroom units, in no case may the additional square footage credited towards the WUE/AUEs exceed 150 sq. ft. multiplied by the number of bedrooms.

**Comment [KG3]:** Is this still what the County wants? BT points out: Newpark units are SRO / studio.

**GE. Fractional Obligation:** if the total number of required WUE/AUEs contains a decimal,

and the units provided do not account for the entire decimal, then the developer shall pay a fee in lieu for the remaining fractional obligation only. In no case shall the number of ~~WUEAUE~~s provided be less than the whole number portion of the obligation.

1. Example: If a developer has an obligation of 13.4 ~~WUEAUE~~s, and 13.2 ~~WUEAUE~~s are provided, a fee in lieu shall be paid for the 0.2 remainder, as outlined in Section 10-5-11. In this case the number of ~~WUEAUE~~s provided may not be less than 13, the whole number portion of the obligation.

~~FD.~~ Reductions in requirement: ~~at the sole discretion of the Snyderville Basin Planning Commission, developers may be granted the option of only one (1) of the following reductions:~~

1. ~~1. — If a developer provides all the required workforceaffordable housing for a commercial development up front, in other words (prior to construction the first certificate of occupancy for~~ the market portion of the development), the number of required ~~WUEAUE~~s may be reduced by up to ~~250%~~ at the discretion of the Land Use Authority. ~~of~~
2. ~~2. — If a developer provides the required workforceaffordable housing for a residential development in such a manner that the average household income targeted does not exceed 50% of the Area Median Income, the number of required WUEAUEs may be reduced by up to 2540%.~~
3. ~~If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed 40% of the Area Median Income, the number of required AUEs may be reduced by up to 40%.~~
- 2.4. ~~If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed 30% of the Area Median Income, the number of required AUEs may be reduced by up to 50%.~~

Comment [KG4]: Discussion point - do we want to encourage front loading? I'm inclined to delete this option and just up the incentive for lower incomes.

~~E. — Example of WUEs in use, using the conversion rates in Table 1 above:~~

Obligation of example development = 6.7 WUEs

A. All Dormitory Units: 6.7 WUEs x 56 units = 40.233.5 Dormitory Units Beds  
Developer chooses to develop 338 units beds  
 $338 \div 2.6 = 6.336$  WUEs provided

6.7 AUE Obligation - 6.336 provided = 0.1037 remainder

B. All Four Bedroom Units: 6.7 WUEs x 764 units = 4.6929 Four Bedroom Units  
Developer chooses to develop 4 units  
 $4 \times 0.64143 = 6.255.72$  WUEs provided

6.7 AUE Obligation - 5.76.25 provided = 1.00.45 remainder

C. Combination of Two Bedroom, One Bedroom, and Studio units:  
2 Two Bedroom Units =  $2 \div 1 = 2$ : 2.00 WUEs  
45 Studio Units =  $45 \div 2 \times 0.50.25 = 2.22$ : 2.022 WUEs  
3 One Bedroom Units =  $3 \div 1.382 \times 0.80 = 2.174$ : + 2.174 WUEs  
Total = 6.439 WUEs

6.7 AUE Obligation - 6.439 provided = 0.301 remainder

6.8

Number of Allowed Market Units in Example Development = 23.6

Obligation Rate =  $23.6 \times 2020\% = 4.64.672$

Total WUEs-AUEs Required = 4.64.672

Total units to be constructed permitted: 23 market + 4.6 4.6 workforce  
= 27.627.6 units

~~C. Required units shall be provided on site and integrated into the development at the discretion of the Planning Commission, the payment of an in lieu fee for all or a portion of the affordable housing obligation.~~

~~D. Dormitory and SRO units may not be used to meet workforce housing requirements in residential developments.~~

E.C. In projects developing for-sale lots, where the developer does not construct units on the lots but requires the purchaser to do so, the developer shall be required to create lots for the development of workforceaffordable housing at a rate of 20% of the total approved market-rate lots in the development.

1. The workforceaffordable lots ~~shall may~~ be donated to an approved housing non-profit organization for the development of workforceaffordable housing on the lots. Utilities, curb and gutter, water shares and / or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing non-profit organization receives a construction-ready lot free and clear of all encumbrances. All required fees, such as special service fees, water shares and/or rights, and impact fees but excepting Building and Planning fees, shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to in writing by the non-profit organization.
2. The smallest workforceaffordable lot shall be no smaller ~~than 1/4 acre, or 75%50% the size~~ of the smallest median market rate lot in the development. ~~if the average lot in the development is 1/2 acre or smaller.~~
3. ~~To the extent possible,~~ The workforceaffordable lots and units shall be integrated into the development. The Snyderville Basin Planning Commission Land Use Authority shall have the discretion to modify this provision if they find that the development of workforceaffordable housing and the overall project will be enhanced by the non-integration of the workforceaffordable units based upon the design of the project, the type and size of the workforceaffordable housing provided and the character of the surrounding neighborhood.
4. ~~Utilities, curb and gutter, and other necessary improvements shall be completed by the developer so that an approved housing non-profit organization receives a construction-ready lot. Required special service district fees or recreation district fees shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to by the non-profit organization.~~
5. ~~The specific unit type and design shall be consistent with the character of the surrounding neighborhood and / or development. If the development contains both market rate and workforce units, the exterior design, look and feel, and finishes of workforce units shall match the exterior design, look and feel and finishes of market rate units in the development. Interior finishes may differ between workforce and market rate units.~~

**10-5-6: COMMERCIAL BASE REQUIREMENT**

A. Obligation Rate: For new nonresidential commercial development, and or expansion of existing nonresidential commercial development, an applicant shall be required to develop or ensure the development of workforceaffordable housing to meet twenty fifteen percent (2015%) of the employee housing demand generated by the new development, ~~with the following exemptions:~~

- ~~1. A change or expansion of an existing commercial use which is less than a 15% increase in the existing structure gross square footage or total project square footage, but no greater than 10,000 square feet;~~
- ~~2. A change or expansion of an existing commercial use which is less than a 15% increase of the existing total acreage but no greater than 5 acres, if the use is primarily outdoors.~~
- ~~3. A change in use which does not increase the employee generation by more than 2 employees per 1000 sq. ft., as outlined in paragraphs B and C below.~~
- ~~4. Schools, churches, and other institutional uses shall be exempt from these requirements.~~

Comment [KG5]: Moved up to Section 10-5-2(C)

B. Employee Generation: Average employee generation, defined as Full Time Equivalents (FTEs, 2080 hours) per 1000 net leasable square feet, is established as outlined in the Table 2 below:

**Table 2: Employee Generation by Type of Use:**

Types of Use	FTEs
Restaurant/Bar	6.5
High intensity, including but not limited to call centers, real estate / property management offices, recreation/amusements	5.6
Lodging / Hotel	0.6/room
Medium intensity offices, including but not limited to banking and professional services.	3.7
Commercial / Retail	3.3
Low intensity, including but not limited to utilities, education, medical offices, <u>light industry</u> , research parks.	2.62
Overall/General*	4.4

\* The Overall/General Type of Use shall apply to any use not listed in the Employee Generation Table if an Independent Calculation is not performed.

C. Independent Calculation: an applicant may submit an independent calculation of the number of employees to be generated by a proposed development, to be used in place of the Employee Generation Table, subject to the following requirements:

1. The County shall create a pool of approved entities, persons, or groups to

conduct independent calculations. The pool shall be chosen from on a strictly rotational basis; each subsequent application requesting an independent calculation shall be assigned to the next entity, person, or group on the approved list.

2. ~~The independent calculation may be accepted by the County if the County Land Use Authority - determines~~ makes the final determination of whether or not the calculation constitutes compelling evidence of a more accurate calculation of employee generation than Table 2: Employee Generation by Type of Use.
3. Should the independent calculation not be accepted, then the applicable generation factor from the Employee Generation Table shall be applied to the proposed development.
4. Any acceptance of an Independent Calculation shall be site and use specific, non-transferable, and be memorialized in the Housing Agreement for the property, which shall be executed prior to the issuance of any building or development permits.

D. Calculation of Required ~~WUEAUE~~(s): Required ~~WUEAUE~~s for commercial development shall be calculated using the following formula:

**Formula:**

$$\begin{aligned} & (\text{Employee Generation} \times \text{Square Footage}) \div 1000 = \text{Employees Generated} \\ & (\text{Employees Generated} \times \text{Obligation Rate of } 20\%) = \# \text{ of employees to } \text{mitigate} \\ & (\text{Employees to } \text{mitigate} \div 1.5 \text{ workers per household} \div 1.2 \text{ jobs per employee}) = \\ & \qquad \qquad \qquad \text{WUEAUE obligation} \end{aligned}$$

E. Example Calculation for Commercial Development Requirement:

EXAMPLE: Commercial Development application for a 150,000 sq. ft. project:-  
First 5,000 sq. ft. are exempt; calculation done on 10,000 sq. ft.

Employee Generation, general category:  
~~(4.4359~~ x 10,000) ÷ 1000 = 35.944 employees generated

Mitigation:  
4435.9 employees multiplied by .20 (mitigation rate) = 884.4718  
 employees  
884.4718 divided by 1.5 (workers per household) = 589.6479

F. Winter Seasonal Units: an applicant for a commercial development may, ~~at the sole discretion of the County and subject to certain requirements,~~ choose to satisfy

employee housing requirements by provision of dormitory units designed for occupancy by seasonal employees. The dormitory units must meet the requirements of this chapter, as well as the following minimum standards:

1. Occupancy of each dormitory unit shall be limited to no more than six (6) persons.
2. There shall be at least 150 square feet of net livable square footage per person, including sleeping and bathroom uses.
3. At least one (1) bathroom shall be provided for shared use by no more than four (4) persons. The bathroom shall contain at least one (1) toilet, one (1) wash basin, ~~and one (1) bathtub with a shower, and a total area of at least 60 net livable square feet.~~
4. A kitchen facility or access to a common kitchen or common eating facility shall be provided subject to the Building Department's approval and determination that the facilities are adequate in size to service the number of people using the facility.
5. Use of a minimum of 20 net usable square feet per person of enclosed storage area located within, or adjacent to, the unit.
- ~~6. Rents for dormitory units will be set on a case-by-case basis, given the unique and varying characteristics of dormitory units, with affordability as the key issue.~~
- ~~76.~~ Seasonal dormitories may be required to house qualified employees of the community at large; if the development or ongoing expense of the development are substantially subsidized by an employer, and if federal funds do not require otherwise, that employer may be permitted to first offer the units to its employees.

**10-5-7: COMMERCIAL ALTERNATIVES TO ON-SITE HOUSING**

A. ~~100% Commercial Development~~ may meet their WUEAUE obligation in one of the following ways:

1. Construct on-site workforceaffordable units.
2. Construct off site workforceaffordable units as outlined ~~in Section 10-5-9 of the Code below:-~~
  - a. Prior to obtaining approval for the market site, a suitable alternate site for affordable housing, along with a conceptual site plan and unit layout for the alternate site, shall be presented by the applicant and approved by the County.
  - b. Prior to commencement of improvements of the market site, a draw-down bond with a minimum two-year term shall be posted in the amount equal to

the fee-in-lieu of the required AUEs.

i. In the event the required unit equivalents are not completed with a certificate of occupancy, or if substantial progress satisfactory to the County Legislative Body has not occurred within two years, the bond shall be drafted and all funds deposited shall be forfeited by the developer to the County.

c. Prior to receiving a Certificate of Occupancy for any portion of the market site, a development plan, site plan, final plat if required, elevations, deed restriction, housing agreement, and timeline of construction for the affordable units shall be approved, and recorded where required, by the County.

d. The off-site housing shall be constructed within two (2) years of the market development.

3. Pay a fee-in-lieu as outlined in this Chapter.

4. Purchase existing unit(s) at market rate, record a County approved deed restriction on the unit(s), and sell the unit(s) to qualifying household(s) at an affordable price. The existing units shall be subject to the size and income requirements of this Chapter.

5. Donate land of sufficient size to accommodate the number of required AUEs to the County or its designee.

a. Examples of County designees may include qualifying community-based housing non-profits such as Habitat for Humanity, Mountainlands Community Housing Trust, religious organizations, and Peace House. The recipient shall provide written acceptance setting forth the terms and conditions of the acceptance of the proposed donation to the County.

b. Utilities, curb and gutter, water shares and / or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing non-profit organization receives a construction-ready lot free and clear of all encumbrances. All required fees, such as special service fees, water shares and/or rights, impact fees but excepting Building and Planning fees, shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to in writing by the non-profit organization. Land conveyed shall be of equivalent value to the land upon which required units would otherwise have been constructed. Utilities, curb and gutter, and other necessary improvements shall be completed by the developer so that the County or its designee receives a construction-ready lot. Required special service district fees or recreation district fees shall be paid by the developer of the project prior to the donation.

**10-5-8: MIXED-USE BASE REQUIREMENT**

A. Mixed-Use Development Requirements: The obligation rate for the residential portion of the development shall be determined using the Residential Development Requirements, and the obligation rate for the commercial portion of the development shall be determined using the Commercial Development Requirements. The total required ~~WUEAUE~~s shall be the sum of the residential obligation and the commercial obligation.

~~B. The workforce housing obligation for a mixed-use project shall be provided on-site, unless the Land Use Authority agrees to permit an in-lieu fee as outlined in this Chapter.~~

**10-5-9: OFF-SITE WORKFORCE HOUSING MOVE THIS UP TO COMMERCIAL ALTERNATIVES - why have a whole different section?**

A. Allowances: Required workforce housing may be provided off-site if the application meets the following criteria:

1. The project is 100% commercial, and it has been determined, at the sole discretion of the Legislative Body of Summit County, that the provision of on-site housing would be detrimental to public health, safety, and welfare when measured against the requirements in Chapter 4 of this Code. Commercial projects providing off-site workforce housing shall comply with the following requirements:

a. Prior to beginning improvements of the commercial site, a suitable alternate site for workforce housing shall be presented by the applicant, and approved by the County.

b. Prior to beginning improvements of the commercial site, a development plan, site plan, final plat if required, elevations, deed restriction, and timeline of construction for the workforce units shall be approved and recorded by the County. This is a bit too restrictive. I'd like to explore loosening it a little bit. Timeline and requirements yes, but it's a lot to have the plat recorded. Thoughts?

c. The workforce housing shall be completed concurrent with the first phase of the commercial development, unless otherwise approved. At a minimum, each phase of a project must contain a proportionate amount of the required workforce housing. Again, it's a lot - completed with the first phase? I'd like to delete the first standard and hold them to the proportionate language. Thoughts?

d. The applicants may choose to work with an approved non-profit entity to ensure the provision of their workforce housing obligation. With all the

~~requirements above, this conflicts somewhat with the language under "commercial alternatives." What if the non-profit is on a slower timeframe?~~

## 10-5-940: FEES-IN-LIEU

A. ~~Applicability: fees-in-lieu shall be available for any AUE obligation. A fee-in-lieu option shall be available:~~

- ~~1. In residential projects only for the fractional remainder of a development's WUE obligation, for example the unmet portion of the 0.4 remainder of a 13.4 WUE obligation.~~
- ~~2. For commercial projects, a fee-in-lieu option shall be available for WUE obligations totaling fiveten (510) units or less. If greater than fiveten (510) units, the provisions of ~~paragraph 1 above shall control.~~~~

B. Fee Amount: The in-lieu fee shall be defined as the difference between the amount of the Allowable Price as set forth in Section 10-5-13 for a Low Income household for a family of four (4) and the median assessed square footage value of a 900 square foot 2-bedroom home in the Snyderville Basin, multiplied by 900 square feet. A per-unit fee-in-lieu amount shall be adopted by the Legislative Body of Summit County, and shall be, at a minimum, reviewed and updated biennially.

~~C. The fee shall be the per-unit fee multiplied by the fractional remainder, for example ~~fee X 0.4~~ from the example in A. above.~~

~~D.C.~~ Payment of Fees: All fees-in-lieu shall be placed in a separate County account designated for workforceaffordable housing purposes only; fees may instead be paid directly to an approved housing nonprofit upon approval by the appropriate Land Use Authority.

D. Use of Fees: Use of the funds shall be approved on a case by case basis by the Chief Executive of Summit County. Some examples of permitted uses may include, but shall not be limited to, the following:

1. To provide down payment and mortgage assistance to qualifying households.
2. To provide fee assistance for special district impact fees, for example the Snyderville Basin Special Recreation District and Snyderville Basin Water Reclamation District, impact fees specifically for WorkforceAffordable Housing units.
3. To buy down the price of workforceaffordable units that have naturally appreciated so as to become unaffordable to a qualifying household.
- ~~4. To assist qualifying community based housing non-profit organizations in their workforceaffordable housing endeavors, to be approved on a case by case basis by the Chief Executive of Summit County.~~

5. ~~To assist in the construction of affordable housing on County owned property.~~

6. ~~To purchase and/or rehabilitate existing properties in the Snyderville Basin that are available at below-market-rate prices.~~

7. ~~To preserve existing affordable units by purchasing mortgages or units to protect them from foreclosure.~~

4-8. ~~To provide funds to take advantage of potential opportunities that will enhance the objectives of this chapter.~~

#### 10-5-~~11~~10: ACCESSORY DWELLING UNITS (ADUs)

- A. Purpose: ADUs may provide a good source of seasonal ~~workforce~~affordable housing, as well as year-round ~~workforce~~affordable rental units. Requirements for ADUs are found in Section 10-8-5 of this Title. Unless deed restricted, made available to rent on a permanent basis, and placed under the management of the County or its designee, ADUs ~~will~~ not count toward the ~~WUEAUE~~ obligation as they are considered part of a single-family dwelling.

#### 10-5-~~11~~12: FEE WAIVERS

- A. Applicability: ~~Workforce~~Affordable units may be eligible for waivers of Building Department and Planning Department application and permit fees. The waivers shall apply only to ~~workforce~~affordable units and/or lots, and shall not apply to market-rate units and/or lots in a development containing ~~workforce~~affordable units.
- B. Schedule: ~~Workforce~~Affordable units may be granted waivers as outlined below, up to the full amount of fees actually applied:
1. A waiver of up to 50% of the fees for each unit targeting Low Income households60-80% AMI.
  2. A waiver of up to 75% of the fees for each unit targeting Very Low Income households40-60% AMI.
  3. A waiver of up to 100% of the fees for each unit targeting Extremely Low Income households20-40% AMI.
  4. ~~At the sole discretion of the Chief Executive of Summit County, and upon good cause shown, community oriented housing non-profits only may be granted a waiver of 100% of the fees for all units.~~
- C. Process: ~~An~~Prior to ~~C~~onstruction an applicant shall submit an application to the ~~the~~ appropriate County department, containing the following:
1. A site plan showing the total number of units in the development, and

\_\_\_\_\_identifying the ~~workforce~~affordable units.

2. A summary outlining the sales and / or rental prices of each individual ~~workforce~~affordable unit.

\_\_\_\_\_3. Non-profit developers shall be granted a waiver of ~~the~~any waived fees up \_\_\_\_\_front.

\_\_\_\_\_4. For-profit developers shall ~~pay the fees up front, post a bond for all required fees; and~~any waived amount \_\_\_\_\_shall be ~~refunded-released~~ to the developer upon project completion, and unwaived fees paid to the appropriate department.

\_\_\_\_\_5. The final decision concerning the approval of fee-waiver applications shall \_\_\_\_\_be made by the Chief Executive of Summit County.

#### **10-5-~~1312~~: ALLOWABLE PRICES**

A. Prices: The rent and sales prices of ~~workforce~~affordable units shall be based upon the size of the unit. Units that are the minimum allowed size shall be priced at the low end of the allowed range, and units that exceed the minimum allowed size may be allowed to be priced in the middle or upper end of the allowed range. The allowed price ranges shall be set as follows:

1. Dorm units, SRO, and studio units shall be priced for Extremely Low Income households ~~earning 20-40% of the AMI~~, adjusted for household size.

a. Dorm units and Single Room Occupancy (SRO) units shall have an assumed household size of 0.75 persons per 150 sq. ft., and Studio units shall have an assumed household size of 1 person.

2. One-bedroom units shall be priced for Very Low Income households ~~earning 30-60% of the AMI~~, adjusted for household size. One bedroom units shall have an assumed household size of two (2) persons.

3. Two-bedroom units shall be priced for Low Income households ~~earning 50-70% of the AMI~~, and have an assumed household size of ~~four~~three (3) persons.

4. Three bedroom or more units and larger shall be priced for Low Income households ~~earning 60-80% of the AMI~~, and shall have an assumed household size of ~~4~~four (4) persons.

5. The allowable price shall be calculated based upon the monthly income (as defined by federal standards) of qualifying households.

1. For Sale Units: The allowable sales price shall be calculated so that the sum of the monthly mortgage payment, plus mortgage insurance,

[property](#) taxes, and HOA dues not exceed ~~35~~0% of a household's gross monthly income, and based upon the following assumptions:

- a. An available fixed-rate 30-year mortgage, consistent with the First Time Homebuyer Rate offered by the Utah Housing Corporation, plus 50 basis points. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed-rate, 30-year mortgage at this lower rate for all of the inclusionary units.
- b. A down payment of no more than five percent (5%) of the purchase price.
- c. A calculation of property taxes, and
- d. A calculation of homeowner insurance and/or homeowner association fees.
  1. [Homeowner Association \(HOA\) fees shall be no more than the HOA fee for market rate units and shall be the lesser of the actual HOA fee or an annual amount equal to 1% of the allowable price as adjusted annually based upon the permitted increases in the allowable price as set forth in the deed restrictions. This limitation of HOA fees shall be set forth in the recorded deed restrictions.](#)

2. For Rent Units: The allowable rental price shall be calculated so that the monthly rent, plus utilities, does not exceed ~~35~~0% of a household's gross monthly income.

#### **10-5-~~44~~13: ENFORCEMENT / MANAGEMENT**

- A. The County or its designee shall have the authority and responsibility to enforce compliance with the requirements outlined in this Chapter. The provisions of this Chapter shall apply to all agents, successors, and assigns of an applicant. No building permit or Certificate of Occupancy shall be issued, nor development approval be granted, which does not meet the requirements of this Chapter. In the event it is determined that rents or sales prices in excess of those allowed by this Chapter have been charged to a renter or buyer of an ~~workforce~~affordable unit, the County or its designee shall take appropriate legal action to correct the situation.

#### **10-5-~~45~~14: APPROVAL PROCESS**

- A. Each project shall comply with the applicable Development Application —Procedure and Approval Processes outlined in Chapter 3 of this Title.

## CHAPTER 5

### AFFORDABLE HOUSING

#### SECTION:

- 10-5-1: Intent
- 10-5-2: Methodology and Applicability
- 10-5-3: Affordable Housing Development Requirements
- 10-5-4: Affordable Unit Equivalentents (AUEs)
- 10-5-5: Residential Base Requirement
- 10-5-6: Commercial Base Requirement
- 10-5-7: Commercial Alternatives
- 10-5-8: Mixed-Use Requirement
- 10-5-9: Off-Site Affordable Housing
- 10-5-10: Fees-In-Lieu
- 10-5-11: Accessory Dwelling Units (ADUs)
- 10-5-12: Fee Waivers
- 10-5-13: Allowable Prices
- 10-5-14: Enforcement/Management
- 10-5-15: Approval Process

#### **10-5-1: INTENT**

A. The purposes of this ordinance are to:

1. Provide requirements, guidelines, and incentives for the construction of housing affordable to Extremely Low-Income, Very Low Income, and Low Income households in the Snyderville Basin;
2. Implement the affordable housing goals, policies, and objectives contained in the Snyderville Basin General Plan;
3. Ensure a wide variety of affordable housing options and opportunities for residents, seniors, workers, and special needs individuals in the Snyderville Basin;
4. Maintain a balanced community that provides housing for people of all income levels; and,
5. Implement planning for affordable housing as required by State Code.

#### **10-5-2: METHODOLOGY AND APPLICABILITY**

A. Affordable Housing Needs: The County shall adopt a needs assessment model to determine the need for affordable housing, types of housing, special needs, and specific incomes to be targeted in the Snyderville Basin. The model shall be utilized to update the needs assessment no less than once every five (5) years, unless requested sooner by the Planning Commission or County Council.

- B. Base Requirement: There shall be a base requirement to provide affordable housing throughout all zones of the Snyderville Basin. The base requirement shall apply to all new residential, commercial, and mixed use development, and shall be calculated using Affordable Unit Equivalent (AUEs).
- C. Exemptions: The following developments shall not be required to provide additional affordable housing:
  1. The construction of Accessory Dwelling Units in single-family residences.
  2. The construction of a single-family residence on an existing Lot of Record.
  3. The expansion of an existing residence.
  4. The construction of Schools, churches, public facilities, and other institutional uses.
  5. A change or expansion of an existing commercial use which is less than a 15% increase in the existing structure gross square footage or total project square footage, but no greater than 5,000 square feet; this is a one-time exemption.
  6. The first 5,000 square feet of a new commercial use; this is a one-time exemption.
  7. A change or expansion of an existing commercial use which is less than a 15% increase of the existing total acreage but no greater than 2 acres, if the use is primarily outdoors.
  8. A change in use which does not increase the employee generation by more than 2 employees per 1000 sq. ft..
- D. Definitions:
  1. **Area Median Income (AMI):** the amount of income which divides the income distribution of the area into two equal groups, half having income above that amount, and half having income below that amount as determined by the U.S. Department of Housing and Urban Development for Summit County from time to time.
  2. **Median lot size:** half of all lots in the development are larger, and half are smaller.

**10-5-3: AFFORDABLE HOUSING REQUIREMENTS**

- A. All developments containing affordable units shall enter into a Housing Agreement with Summit County. The Housing Agreement shall be recorded against all parcels and units in the development identified as affordable, and shall include the following:

1. Identification of the units to be deed restricted as affordable housing, including but not limited to unit ID number and / or address, square footage, location, and style of unit.
2. A specification of allowed starting sales and / or rental price(s), price increase methodology, and target household size and income range for each unit.
3. Management plan for the affordable units, including the process for buyer qualification to ensure that employees working and living in Summit County are given priority. The management plan shall conform to a template to be provided by Summit County.
4. A copy of the approved deed restriction or document to assure affordability to be recorded against the individual affordable units.
5. Good faith marketing plan for the units. All sellers or owners of deed restricted affordable units shall engage in good faith marketing efforts each time a deed restricted unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance of becoming informed of the availability of such units. A public marketing plan shall be submitted by the developer for the initial sale or lease of the units.

B. Affordable units shall meet all of the following criteria:

1. The specific unit type and design shall be consistent with the character of the surrounding neighborhood and / or development. If the development contains both market rate and affordable units, the exterior design, look and feel, and finishes of affordable units shall match the exterior design, look and feel and finishes of market rate units in the development. Interior finishes may differ between affordable and market rate units.
2. Affordable housing units shall comply with all the development standards outlined in Chapter 4 of this Title, and shall comply with the requirements of the underlying zone, with the exceptions outlined in this Chapter.
3. The minimum size of an affordable housing unit shall be based on the category of unit, as outlined in Section 10-5-4 of this Chapter: "Affordable Unit Equivalents."
4. The affordable housing component in a development shall be constructed concurrently with the rest of the development. Each phase of a project must contain a proportionate amount of the required affordable housing. This applies to both on-site and off-site housing.
5. The affordable housing component of a development shall be constructed within the development site, except as outlined in this Chapter.
6. Residential parking shall be provided at a minimum rate of one (1) space per SRO, studio, or one-bedroom unit, and two (2) spaces per unit for multiple-

bedroom units. Visitor parking will also be provided throughout the project at a rate of 0.25 spaces per unit.

7. The affordable units shall be provided in a variety of prices so that multiple income levels, as outlined in Section 10-5-13 of the Chapter, are targeted. No one target income level may make up more than 75% of the affordable units, except in cases where the total number of affordable units provided is ten (10) or fewer, or where the Land Use Authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.
8. The affordable units shall be provided in a variety of sizes and styles, as outlined in Table 1 in Section 10-5-4 of this Chapter. No one size or style of unit may make up more than 75% of the affordable units, except in cases where the total number of affordable units provided is ten (10) or fewer, or where the Land Use Authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.
9. To allow for the structures to be compatible with market homes within the subdivision and the existing neighborhoods the homes constructed can be multifamily to avoid having smaller homes within a larger home community. As an example, if the surrounding homes average 5000 square feet, it may be preferable to have a three-unit home of 4500 square feet rather than three 1500 square foot homes. Multifamily structures shall be subject to the permitting requirements in Chapter 2 of this title.
10. The minimum length of time for a unit to be deed restricted as an affordable unit shall be sixty (60) years as measured from issuance of Certificate of Occupancy, which may be renewable for an additional term.
11. All deed-restricted rental units shall be rented for a minimum period of 90 consecutive days. Nightly and weekly rentals shall be prohibited.
  - a. Exception: Special needs emergency/transitional/athlete/employee housing shall be exempt from the 90 day limitation, but shall be rented for a sufficient period to prevent nightly and weekly rentals. To qualify for the exemption, there must be a quantified, demonstrated need for the emergency/transitional housing within the Summit County boundaries, and the housing must be developed in collaboration with a federally recognized, 501(c)(3) nonprofit organization. The housing must satisfy all other requirements of this Chapter.
12. The maximum initial sales price or rent of an affordable unit shall be limited to a price that is affordable either to an “Extremely Low Income”, “Very Low Income”, or “Low Income” household as defined by the Department of Housing and Urban Development (HUD) for the Area Median Income (AMI) for Summit County each year, and annual appreciation shall be limited through a deed restriction to ensure that the unit remains affordable over time. Notwithstanding this provision,

the deed restrictions may provide for sales or rental to higher income households in the event the unit is not sold or rented within a reasonable time.

13. In addition to the net income limit, qualifying households are limited to a net worth of four (4) times the AMI.
14. Master Leases: A qualified non-profit organization, or employer desiring to provide qualifying employees with affordable housing, may purchase or lease existing affordable units when a master-lease program is approved, whereby the non-profit organization or employer will rent or lease the units to qualifying employee households. A management plan shall be approved by Summit County and recorded against the affordable units as part of, or an amendment to, a Housing Agreement.
15. In an effort to ensure that the affordable housing is available for qualified individuals:
  - a. All renters of affordable units will be required to certify annually to the County, or its designee, that they still qualify for the targeted percentage of AMI. If a renter no longer qualifies for the housing, their lease will not be renewed and the property will then be made available to a qualifying renter.
  - b. If a for-sale unit owner's household's income increases to an amount above the targeted percentage of AMI while occupying a affordable unit, the household shall not be required to sell the unit. Upon vacating the premises naturally, a for-sale unit shall be sold pursuant to the terms of the deed restriction.
16. Households currently living or working in Summit County shall have priority in obtaining affordable units, through a selection process determined by the Legislative Body of Summit County, subject to compliance with Federal and State Fair Housing requirements
17. A deed restriction shall be approved by the County and recorded on all affordable dwelling units. A template restriction approved by the Legislative body of Summit County shall be used for all new affordable units, unless substitute restrictions setting forth substantially the same information are provided by a community oriented housing non-profit group for units they develop, and if the substitute restriction is approved by the legislative body of Summit County. Such substitute restrictions may include the use of a Community Land Trust or management by a local housing nonprofit to ensure long-term control and stewardship. The deed restriction templates shall be reviewed annually, and shall at a minimum outline the following:
  - a. income and net-worth qualification
  - b. term of applicability
  - c. assignable County right of first refusal
  - d. allowable capital improvements

- e. maintenance
  - f. occupancy requirements
  - g. rental and sales policies
  - h. starting sales and rental prices
  - l. allowable annual price increase
  - j. reporting and monitoring structures
  - k. management
  - l. enforcement provisions
18. These restrictions may be modified to satisfy State and / or Federal requirements, if a project receives State and / or Federal Funding that requires modifications.
19. All for sale and rental affordable units shall be certified by an independent qualified evaluator, at a minimum, Energy Star or its equivalent energy efficient certification.

**10-5-4: AFFORDABLE UNIT EQUIVALENTS (AUEs)**

- A. Affordable Unit Equivalents (AUEs): All new development shall be required to provide a certain number of Affordable Unit Equivalents (AUEs), as outlined in this Chapter.
- B. AUE is defined as a “two-bedroom unit with 900 square feet of net livable space, measured exterior wall to exterior wall.” Multiple smaller units together may constitute one AUE, or fewer larger units, according to the conversion in Section C below.
- C. AUE conversions:
- 1. Dormitory Unit:
    - a. Minimum size = 150 square feet per bed
    - b. 1 AUE = 5 beds (1 bed = 0.2 AUE)
    - c. Example: 8 AUEs = 40 beds
      - i.  $8 \times 5 = 40$ , or
      - ii.  $8 \div 0.2 = 40$
  - 2. Single Room Occupancy (SRO) Unit:
    - a. Minimum unit size = 275 square feet
    - b. 1 AUE = 2.75 units (1 unit = 0.3636 AUE)
    - c. Example: 8 AUEs = 22 units
      - i.  $8 \times 2.75 = 22$ , or
      - ii.  $8 \div 0.36 = 22$
  - 3. Studio Unit
    - a. Minimum unit size = 400 square feet
    - b. 1 AUE = 2.0 units (1 unit = 0.5 AUE)
    - c. Example: 8 AUEs = 16 units
      - i.  $8 \times 2.0 = 16$ , or
      - ii.  $8 \div 0.5 = 16$

4. One Bedroom Unit
  - a. Minimum unit size = 650 square feet
  - b. 1 AUE = 1.25 unit (1 unit = 0.8 AUE)
  - c. Example: 8 AUEs = 10 units
    - i.  $8 \times 1.25 = 10$ , or
    - ii.  $8 \div 0.36 = 10$
  
5. Two Bedroom Unit
  - a. Minimum unit size = 900 square feet
  - b. 1 AUE = 1 unit
  - c. Example: 8 AUEs = 8 units
    - i.  $8 \times 1 = 8$ , or
    - ii.  $8 \div 1 = 8$
  
6. Three Bedroom Unit
  - a. Minimum unit size = 1150 square feet
  - b. 1 AUE = 0.80 unit (1 unit = 1.25 AUEs)
  - c. Example: 8 AUEs = 6.4 units
    - i.  $8 \times 0.80 = 6.4$ , or
    - ii.  $8 \div 1.25 = 6.4$
  
7. Four Bedroom Unit
  - a. Minimum unit size = 1400 square feet
  - b. 1 AUE = 0.70 unit (1 unit = 1.43 AUEs)
  - c. Example: 8 AUEs = 5.6 units
    - i.  $8 \times 2.75 = 5.6$ , or
    - ii.  $8 \div 1.43 = 5.6$

D. AUE Application:

1. Dormitory and SRO Units shall only be permitted to meet the requirement for commercial and resort uses, and shall not be permitted in single-family residential neighborhoods.
  
2. If units are provided that are larger than the minimum size outlined in Table 1, the number of units per AUE may be reduced, but:
  - a. in no case may the reduction exceed a total of 10% of the obligated AUES for a development, and
  - b. in no case may the credit per unit exceed 150 sq. ft. per Dormitory unit, SRO, Studio, or one bedroom unit, and
  - c. for multiple bedroom units, in no case may the additional square footage credited towards the AUEs exceed 150 sq. ft. multiplied by the number of bedrooms.

- E. Fractional Obligation: if the total number of required AUEs contains a decimal, and the units provided do not account for the entire decimal, then the developer shall pay a fee in lieu for the remaining fractional obligation only. In no case shall the number of AUEs provided be less than the whole number portion of the obligation.

1. Example: If a developer has an obligation of 13.4 AUEs, and 13.2 AUEs are provided, a fee in lieu shall be paid for the 0.2 remainder, as outlined in Section 10-5-11. In this case the number of AUEs provided may not be less than 13, the whole number portion of the obligation.

F. Reductions in requirement:

1. If a developer provides all the required affordable housing up front, (prior to the first certificate of occupancy for the market portion of the development), the number of required AUEs may be reduced by up to 25% at the discretion of the Land Use Authority.
2. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed 50% of the Area Median Income, the number of required AUEs may be reduced by up to 25%.
3. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed 40% of the Area Median Income, the number of required AUEs may be reduced by up to 40%.
4. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed 30% of the Area Median Income, the number of required AUEs may be reduced by up to 50%.

**10-5-5: RESIDENTIAL BASE REQUIREMENT**

A. Obligation rate: All new residential development shall be required to develop or ensure the development of affordable housing at a rate of 20 percent (20%) of the units in a development. The affordable housing obligation shall be met concurrently with the construction of market rate units.

1. Calculation of Required AUEs: The total number of allowed market rate units shall be multiplied by twenty percent (20%). The resulting number shall represent the total number of AUEs required of the project, shall be provided in addition to the allowed market rate units in the project, and shall not count against the allowed density of the project.
2. Expansion: When existing development applies for additional units, the obligation rates shall be calculated on the net unit increase only.

B. Example Calculation for Residential Development Requirement:

Number of Allowed Market Units in Example Development = 23
Obligation Rate = $23 \times 20\% = 4.6$
Total AUEs Required = 4.6
Total units permitted: 23 market + 4.6 workforce = 27.6 units
Result: 27 units, fee-in-lieu for 0.6

- C. In projects developing for-sale lots, where the developer does not construct units on the lots but requires the purchaser to do so, the developer shall be required to create lots for the development of affordable housing at a rate of 20% of the total approved market-rate lots in the development.
1. The affordable lots may be donated to an approved housing non-profit organization for the development of affordable housing on the lots. Utilities, curb and gutter, water shares and / or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing non-profit organization receives a construction-ready lot free and clear of all encumbrances. All required fees, such as special service fees, water shares and/or rights, impact fees but excepting Building and Planning fees, shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to in writing by the non-profit organization.
  2. The smallest affordable lot shall be no smaller 50% the size of the median market rate lot in the development.
  3. The affordable lots and units shall be integrated into the development. The Land Use Authority shall have the discretion to modify this provision if they find that the development of affordable housing and the overall project will be enhanced by the non-integration of the affordable units based upon the design of the project, the type and size of the affordable housing provided and the character of the surrounding neighborhood.

**10-5-6: COMMERCIAL BASE REQUIREMENT**

- A. **Obligation Rate:** For new commercial development, or expansion of existing commercial development, an applicant shall be required to develop or ensure the development of affordable housing to meet fifteen percent (15%) of the employee housing demand generated by the new development.
- B. **Employee Generation:** Average employee generation, defined as Full Time Equivalents (FTEs, 2080 hours) per 1000 net leasable square feet, is established as outlined in the Table 2 below:

**Table 2: Employee Generation by Type of Use:**

<b>Types of Use</b>	<b>FTEs</b>
Restaurant/Bar	6.5
High intensity, including but not limited to call centers, real estate / property management offices, recreation/amusements	5.6
Lodging / Hotel	0.6/room
Medium intensity offices, including but not limited to banking and professional services.	3.7
Commercial / Retail	3.3
Low intensity, including but not limited to utilities, education, medical offices, light industry, research parks.	2.62
Overall/General*	4.4

\* The Overall/General Type of Use shall apply to any use not listed in the Employee Generation Table if an Independent Calculation is not performed.

C. Independent Calculation: an applicant may submit an independent calculation of the number of employees to be generated by a proposed development, to be used in place of the Employee Generation Table, subject to the following requirements:

1. The County shall create a pool of approved entities, persons, or groups to conduct independent calculations. The pool shall be chosen from on a strictly rotational basis; each subsequent application requesting an independent calculation shall be assigned to the next entity, person, or group on the approved list.
2. The Land Use Authority makes the final determination of whether or not the calculation constitutes compelling evidence of a more accurate calculation of employee generation than Table 2: Employee Generation by Type of Use.
3. Should the independent calculation not be accepted, then the applicable generation factor from the Employee Generation Table shall be applied to the proposed development.
4. Any acceptance of an Independent Calculation shall be site and use specific, non-transferable, and be memorialized in the Housing Agreement for the property, which shall be executed prior to the issuance of any building or development permits.

D. Calculation of Required AUE(s): Required AUEs for commercial development shall be calculated using the following formula:

**Formula:**

$$\begin{aligned} & \text{(Employee Generation x Square Footage) } \div 1000 = \text{Employees Generated} \\ & \text{(Employees Generated x Obligation Rate of 10\%)} = \text{\# of employees to Mitigate} \\ & \text{(Employees to Mitigate } \div 1.5 \text{ workers per household } \div 1.2 \text{ jobs per employee)} = \text{AUE obligation} \end{aligned}$$

E. Example Calculation for Commercial Development Requirement:

EXAMPLE: Commercial Development application for a 15,000 sq. ft. project:

First 5,000 sq. ft. are exempt; calculation done on 10,000 sq. ft.

Employee Generation, general category:  
 $(4.4 \times 10,000) \div 1000 = 44$  employees generated

Mitigation:

44 employees multiplied by .10 (mitigation rate)	= 4.4 employees
4.4 divided by 1.5 (workers per household)	= 2.93 employees
2.93 divided by 1.2 (jobs per worker)	= 2.4 AUEs

- F. Winter Seasonal Units: an applicant for a commercial development may choose to satisfy employee housing requirements by provision of dormitory units designed for occupancy by seasonal employees. The dormitory units must meet the requirements of this chapter, as well as the following minimum standards:
1. Occupancy of each dormitory unit shall be limited to no more than six (6) persons.
  2. There shall be at least 150 square feet of net livable square footage per person, including sleeping and bathroom uses.
  3. At least one (1) bathroom shall be provided for shared use by no more than four (4) persons. The bathroom shall contain at least one (1) toilet, one (1) wash basin, and one (1) shower.
  4. A kitchen facility or access to a common kitchen or common eating facility shall be provided subject to the Building Department's approval and determination that the facilities are adequate in size to service the number of people using the facility.
  5. Use of a minimum of 20 net usable square feet per person of enclosed storage area located within, or adjacent to, the unit.
  6. Seasonal dormitories may be required to house qualified employees of the community at large; if the development or ongoing expense of the development are substantially subsidized by an employer, and if federal funds do not require otherwise, that employer may be permitted to first offer the units to its employees.

**10-5-7: ALTERNATIVES TO ON-SITE HOUSING**

- A. Development may meet their AUE obligation in one of the following ways:
1. Construct on-site affordable units.
  2. Construct off site affordable units as outlined below:
    - a. Prior to obtaining approval for the market site, a suitable alternate site for affordable housing, along with a conceptual site plan and unit layout for the alternate site, shall be presented by the applicant and approved by the County.
    - b. Prior to commencement of improvements of the market site, a draw-down bond with a minimum two-year term shall be posted in the amount equal to the fee-in-lieu of the required AUEs.
      - i. In the event the required unit equivalents are not completed with a

certificate of occupancy, or if substantial progress satisfactory to the County Legislative Body has not occurred within two years, the bond shall be drafted and all funds deposited shall be forfeited by the developer to the County.

- c. Prior to receiving a Certificate of Occupancy for any portion of the market site, a development plan, site plan, final plat if required, elevations, deed restriction, housing agreement, and timeline of construction for the affordable units shall be approved, and recorded where required, by the County.
  - d. The off-site housing shall be constructed within two (2) years of the market development.
3. Pay a fee-in-lieu as outlined in this Chapter.
  4. Purchase existing unit(s) at market rate, record a County approved deed restriction on the unit(s), and sell the unit(s) to qualifying household(s) at an affordable price. The existing units shall be subject to the size and income requirements of this Chapter.
  5. Donate land of sufficient size to accommodate the number of required AUEs to the County or its designee.
    - a. Examples of County designees may include qualifying community-based housing non-profits such as Habitat for Humanity, Mountainlands Community Housing Trust, religious organizations, and Peace House. The recipient shall provide written acceptance setting forth the terms and conditions of the acceptance of the proposed donation to the County.
    - b. Utilities, curb and gutter, water shares and / or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing non-profit organization receives a construction-ready lot free and clear of all encumbrances. All required fees, such as special service fees, water shares and/or rights, impact fees but excepting Building and Planning fees, shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to in writing by the non-profit organization.

**10-5-8: MIXED-USE BASE REQUIREMENT**

- A. Mixed-Use Development Requirements: The obligation rate for the residential portion of the development shall be determined using the Residential Development Requirements, and the obligation rate for the commercial portion of the development shall be determined using the Commercial Development Requirements. The total required AUEs shall be the sum of the residential obligation and the commercial obligation.

**10-5-9: FEES-IN-LIEU**

- A. Applicability: fees-in-lieu shall be available for any AUE obligation.
- B. Fee Amount: The in-lieu fee shall be defined as the difference between the amount of the Allowable Price as set forth in Section 10-5-13 for a Low Income household for a family of four (4) and the median assessed square footage value of a 2-bedroom home in the Snyderville Basin, multiplied by 900 square feet.
- C. Payment of Fees: All fees-in-lieu shall be placed in a separate County account designated for affordable housing purposes only; fees may instead be paid directly to an approved housing nonprofit upon approval by the appropriate Land Use Authority.
- D. Use of Fees: Use of the funds shall be approved on a case by case basis by the Chief Executive of Summit County. Some examples of permitted uses may include, but shall not be limited to, the following:
  - 1. To provide down payment and mortgage assistance to qualifying households.
  - 2. To provide fee assistance for special district impact fees, for example the Snyderville Basin Special Recreation District and Snyderville Basin Water Reclamation District, specifically for Affordable Housing units.
  - 3. To buy down the price of affordable units that have naturally appreciated so as to become unaffordable to a qualifying household.
  - 4. To assist qualifying community based housing non-profit organizations in their affordable housing endeavors.
  - 5. To assist in the construction of affordable housing on County owned property.
  - 6. To purchase and/or rehabilitate existing properties in the Snyderville Basin that are available at below-market-rate prices.
  - 7. To preserve existing affordable units by purchasing mortgages or units to protect them from foreclosure.
  - 8. To provide funds to take advantage of potential opportunities that will enhance the objectives of this chapter.

**10-5-10: ACCESSORY DWELLING UNITS (ADUs)**

- A. Purpose: ADUs may provide a good source of seasonal affordable housing, as well as year-round affordable rental units. Requirements for ADUs are found in Section 10-8-5 of this Title. Unless deed restricted, made available to rent on a permanent basis, and placed under the management of the County or its designee, ADUs will not count toward the AUE obligation as they are considered part of a single-family dwelling.

## **10-5-11: FEE WAIVERS**

- A. Applicability: Affordable units may be eligible for waivers of Building Department and Planning Department application and permit fees. The waivers shall apply only to affordable units and/or lots, and shall not apply to market-rate units and/or lots in a development containing affordable units.
- B. Schedule: Affordable units may be granted waivers as outlined below, up to the full amount of fees actually applied:
  - 1. A waiver of up to 50% of the fees for each unit targeting Low Income households.
  - 2. A waiver of up to 75% of the fees for each unit targeting Very Low Income households.
  - 3. A waiver of up to 100% of the fees for each unit targeting Extremely Low Income households.
- C. Process: Prior to construction an applicant shall submit an application to the appropriate County department, containing the following:
  - 1. A site plan showing the total number of units in the development, and identifying the affordable units.
  - 2. A summary outlining the sales and / or rental prices of each individual affordable unit.
  - 3. Non-profit developers shall be granted a waiver of any waived fees up front.
  - 4. For-profit developers shall post a bond for all required fees; any waived amount shall be released to the developer upon project completion, and unwaived fees paid to the appropriate department.
  - 5. The final decision concerning the approval of fee-waiver applications shall be made by the Chief Executive of Summit County.

## **10-5-12: ALLOWABLE PRICES**

- A. Prices: The rent and sales prices of affordable units shall be based upon the size of the unit. Units that are the minimum allowed size shall be priced at the low end of the allowed range, and units that exceed the minimum allowed size may be allowed to be priced in the middle or upper end of the allowed range. The allowed price ranges shall be set as follows:
  - 1. Dorm units, SRO, and studio units shall be priced for Extremely Low Income households, adjusted for household size.

- a. Dorm units and Single Room Occupancy (SRO) units shall have an assumed household size of 0.75 persons per 150 sq. ft., and Studio units shall have an assumed household size of 1 person.
2. One-bedroom units shall be priced for Very Low Income households, adjusted for household size. One bedroom units shall have an assumed household size of two (2) persons.
3. Two-bedroom units shall be priced for Low Income households, and have an assumed household size of three (3) persons.
4. Three bedroom or more units and larger shall be priced for Low Income households, and shall have an assumed household size of four (4) persons.
5. The allowable price shall be calculated based upon the monthly income (as defined by federal standards) of qualifying households.
  1. For Sale Units: The allowable sales price shall be calculated so that the sum of the monthly mortgage payment, plus mortgage insurance, property taxes, and HOA dues not exceed 30% of a household's gross monthly income, and based upon the following assumptions:
    - a. An available fixed-rate 30-year mortgage, consistent with the First Time Homebuyer Rate offered by the Utah Housing Corporation, plus 50 basis points. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed-rate, 30-year mortgage at this lower rate for all of the inclusionary units.
    - b. A down payment of no more than five percent (5%) of the purchase price.
    - c. A calculation of property taxes, and
    - d. A calculation of homeowner insurance and/or homeowner association fees.
      1. Homeowner Association (HOA) fees shall be no more than the HOA fee for market rate units and shall be the lesser of the actual HOA fee or an annual amount equal to 1% of the allowable price as adjusted annually based upon the permitted increases in the allowable price as set forth in the deed restrictions. This limitation of HOA fees shall be set forth in the recorded deed restrictions
  2. For Rent Units: The allowable rental price shall be calculated so that the monthly rent, plus utilities, does not exceed 30% of a household's gross monthly income.

**10-5-13: ENFORCEMENT / MANAGEMENT**

- A. The County or its designee shall have the authority and responsibility to enforce compliance with the requirements outlined in this Chapter. The provisions of this Chapter shall apply to all agents, successors, and assigns of an applicant. No building

permit or Certificate of Occupancy shall be issued, nor development approval be granted, which does not meet the requirements of this Chapter. In the event it is determined that rents or sales prices in excess of those allowed by this Chapter have been charged to a renter or buyer of an affordable unit, the County or its designee shall take appropriate legal action to correct the situation.

**10-5-14: APPROVAL PROCESS**

- A. Each project shall comply with the applicable Development Application Procedure and Approval Processes outlined in Chapter 3 of this Title.