For Manager’s Comments on March 20, 2013
Submitted by Don Sargent, Community Development Director:

**Snyderville Basin**

- The Planning Commission is conducting a continued public hearing on March 14th to review and consider a determination on making the general plan either regulatory or advisory. The General Plan is also scheduled for continued review and consideration of edits made by the Planning Commission with the comment and input received by the public.

- The completion schedule for the General Plan Update will also be discussed by the Planning Commission including the Neighborhood Plans, regulatory language amendments to the Development Code and Phase II of the Plan.

**Eastern Summit County**

- The Code re-write sub-committee will be presenting an update discussion to the Planning Commission on call-up provisions and possible re-zone alternatives as well as other code amendments.
- The Planning Commission will also be discussing an update process for the General Plan to provide the policy direction for the Code re-write effort.

**Department Administrative Items**

- The department received 4 new building applications and 5 new planning applications this past week as follows:

### New Building Applications
**Submitted Mar 6, - Mar 13, 2013**

**Snyderville Basin**

<table>
<thead>
<tr>
<th>Project #</th>
<th>Project Name</th>
<th>Submittal Date</th>
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<tbody>
<tr>
<td>13-866</td>
<td><strong>Stephen Cuttitta</strong>&lt;br&gt;Single Family Dwelling&lt;br&gt;705 Parkview Dr.&lt;br&gt;Park City, UT</td>
<td>Mar 07, 13</td>
</tr>
<tr>
<td>13-867</td>
<td><strong>Brandon Bodell Construction</strong>&lt;br&gt;Stairway Replacement&lt;br&gt;Hidden Creek Condo's, Park City, UT</td>
<td>Mar 07, 13</td>
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<tr>
<td>13-872</td>
<td><strong>Christopher Price</strong>&lt;br&gt;Single Family Dwelling&lt;br&gt;230 Parkview Dr.&lt;br&gt;Park City, UT</td>
<td>Mar 12, 13</td>
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### Eastern Summit County

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<tr>
<th>Project #</th>
<th>Project Name</th>
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<tr>
<td>13-873</td>
<td>Stan Welsh Addition 5040 Wooden Shoe Ln. Peea, UT</td>
<td>Mar 13, 13</td>
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### New Planning Applications
Submitted Mar 6-Mar 13, 2013

#### Snyderville Basin

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<tr>
<td>13-522</td>
<td>Newpark Special Exception</td>
<td>Kimber</td>
<td>Mar 06, 13</td>
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<td></td>
<td>Chris Retzer</td>
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<td></td>
<td>NPRK-S</td>
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<tr>
<td>13-524</td>
<td>Arnold Special Exception</td>
<td>Sean</td>
<td>Mar 11, 13</td>
</tr>
<tr>
<td></td>
<td>Darlene Batatian</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>1593 Oakridge Road N SL-1A</td>
<td></td>
<td></td>
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<tr>
<td>13-525</td>
<td>Canyons Golf Maintenance Building</td>
<td>Tiffanie</td>
<td>Mar 13, 13</td>
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<tr>
<td></td>
<td>Brainne Kelsey</td>
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<tr>
<td></td>
<td>Plat Amendment 1977 W. Canyons Resort Drive</td>
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<tr>
<td>13-525a</td>
<td>Canyons Golf Maintenance Building</td>
<td>Tiffanie</td>
<td>Mar 13, 13</td>
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<tr>
<td></td>
<td>Brainne Kelsey</td>
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<tr>
<td></td>
<td>Conditional Use Permit 4000 W. Canyons Resort Drive</td>
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### Eastern Summit County

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<tr>
<td>13-523</td>
<td>Pineda Indoor Arena</td>
<td>Kimber</td>
<td>Mar 8, 13</td>
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<tr>
<td></td>
<td>Matthew Pineda</td>
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<tr>
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<td>804 R 3200 N</td>
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Don B Sargent, AICP | Director | Community Development

435.336.3125 | dsargent@summitcounty.org
P.O. Box 128 | 60 North Main Street | Coalville, Utah | 84017
Chair McMullin called the Council to order at 8:30 a.m.

Also present were:

- Ron Boyer, IT Director
- Kevin Callahan, Public Works
- Blake Frazier, Auditor
- Brian Bellamy, Personnel
- Cory Forsling, Treasurer
- Mike Crystal, Facilities
- Paul Hewitt, Park City Fire
- Matt Leavitt, Accountant
- Don Sargent, Community Development
- Rich Bollough, Health Director
- Mary Ann Trussell, Chief Deputy Recorder
- Rena Jordan, Snyderville Basin Recreation
- Derrick Radke, Engineer
- Andy Armstrong, Mountain Regional Water
- Annette Singleton, Office Manager

WORK SESSION WITH SUMMIT COUNTY ELECTED OFFICIALS AND DEPARTMENT HEADS TO DISCUSS STRATEGIC PLANNING, LEADERSHIP PRIORITIES, AND UPDATE THE SUMMIT COUNTY MISSION STATEMENT

The Council met with Summit County Elected Officials, Department Heads, and Mr. Carl New, a consultant/facilitator, in a work session to discuss strategic planning and leadership priorities, and to update the Summit County mission statement. Mr. New reviewed focus areas, goals, and objectives and directed the discussion for the group.

After lunch, three additional members of Special Service Districts and one member of the Planning Commission joined in the discussion.
No action was taken and the Council adjourned at 4:45 p.m.

Claudia McMullin, Council Chair

Kent Jones, Clerk
M I N U T E S

S U M M I T   C O U N T Y
BOARD OF COUNTY COUNCIL
WEDNESDAY, FEBRUARY 6, 2013
SHELDON RICHINS BUILDING
PARK CITY, UTAH

PRESENT:

Claudia McMullin, Council Chair
Chris Robinson, Council Vice-Chair
Kim Carson, Council Member
Roger Armstrong, Council Member
David Ure, Council Member
Robert Jasper, Manager
Anita Lewis, Assistant Manager
Kent Jones, Clerk
Dave Thomas, Deputy Attorney
Matt Leavitt, Accountant
Don Sargent, Community Development
Annette Singleton, Office Manager

Chair McMullin called the Council to order at 8:30 a.m.

WORK SESSION – CONTINUED DISCUSSION TO UPDATE THE SUMMIT COUNTY MISSION STATEMENT AND DISCUSS COUNCIL’S STRATEGIC ISSUES AND GOALS

The Council continued discussion along with consultant/facilitator Carl New regarding goals and strategic issues identified the previous day. At the conclusion of the discussion, Mr. New will formalize the results into a report and provide it for review by the Council.

WORK SESSION – DISCUSSION REGARDING RESIDENCY REQUIREMENTS FOR MEMBERS OF THE SNYDERVILLE BASIN PLANNING COMMISSION

The Council met with Don Sargent, Community Development Director, to discuss residency requirements for members of the Snyderville Basin Planning Commission. Mr. Sargent explained that the current code as written requires members of the planning commission to reside within the boundaries of the district. In the past, there have been members appointed that reside within municipal boundaries, which is in conflict with the code. He asked for direction.

Dave Thomas explained that because of Township laws from 1995, there were some provisions that were grandfathered with respect to residency requirements. The legislative body is to set policy to make positions available to all residents of the County, or restrict the participation to those that only reside in the district boundary.
After discussion, the Council directed that the code be changed to reflect that any resident within the Planning District, including unincorporated and municipality boundaries be allowed to apply for appointment to the Snyderville Basin Planning Commission or the Eastern Planning Commission and to move forward with amendments to the codes to complete that language.

It was also directed that this amendment be a priority and completed as soon as possible and that current members that may be in conflict with the residency requirements recuse themselves of any participation in the interim until the process is completed to reduce risk potential.

All other business being completed, the Council adjourned at 3:30 p.m.

_______________________________                 _________________________________
Claudia McMullin, Council Chair         Kent Jones, Clerk
Chair McMullin called the special session of the Summit County Council to order at 5:10 p.m.

CLOSED SESSION

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

The Summit County Council met in closed session from 5:10 p.m. to 6:10 p.m. for the purpose of discussing personnel. Those in attendance were:

Claudia McMullin, Council Chair  
Robert Jasper, Manager  
Chris Robinson, Council Vice Chair  
Jami Brackin, Deputy Attorney  
Roger Armstrong, Council Member  
Jody Burnett, Outside Counsel  
Kim Carson, Council Member  
Don Sargent, Community Development Director  
David Ure, Council Member  
Kimber Gabryszak, County Planner  
Greg Franklin, Planning Commissioner  
Mike Barnes, Planning Commissioner  
Chuck Klingenstein, Planning Commissioner  
Mike Franklin, Planning Commissioner  
Greg Lawson, Planning Commissioner  
Bruce Taylor, Planning Commissioner  
Annette Velarde, Planning Commissioner

Council Member Robinson made a motion to dismiss from closed session to discuss personnel and to convene in closed session to discuss land acquisition. The motion was seconded by Council Member Ure and passed unanimously, 5 to 0.
The Summit County Council met in closed session from 6:10 p.m. to 7:15 p.m. for the purpose of discussing property acquisition. Those in attendance were:

Claudia McMullin, Council Chair
Chris Robinson, Council Vice Chair
Roger Armstrong, Council Member
Kim Carson, Council Member
David Ure, Council Member

Robert Jasper, Manager
Dave Thomas, Deputy Attorney
Andy Armstrong, Mountain Regional Water
Doug Evans, Mountain Regional Water
Scott Green, Mountain Regional Water

Council Member Carson made a motion to dismiss from closed session. The motion was seconded by Council Member Armstrong and passed unanimously, 5 to 0.

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

Council Chair, Claudia McMullin  County Clerk, Kent Jones
MINUTES
SUMMIT COUNTY
BOARD OF COUNTY COUNCIL
WEDNESDAY, FEBRUARY 13, 2013
SHELDON RICHINS BUILDING
PARK CITY, UTAH

PRESENT:
Claudia McMullin, Council Chair
Roger Armstrong, Council Member
Kim Carson, Council Member
David Ure, Council Member
Robert Jasper, Manager
Anita Lewis, Assistant Manager
Dave Thomas, Deputy Attorney
Kent Jones, Clerk
Karen McLaws, Secretary

LEADERSHIP CLASS 101 AND LUNCHEON AT YARROW HOTEL AND CONFERENCE CENTER

The Council Members met with the Leadership Class 101 at the Yarrow Hotel and Conference Center from 11:15 a.m. to 1:00 p.m.

WORK SESSION
Chair McMullin called the work session to order at 1:50 p.m.

• Interview applicant for vacancy on the Timberline Special Service District

The Council Members interviewed Peter Ingle for one vacant position on the Timberline Special Service District Board.

• Interview applicants for vacancies on the North Summit Fire Service District

The Council Members interviewed Marci Hansen, Melvin Richins, and Gale Pace for three positions on the North Summit Fire Service District Administrative Control Board. Questions included why the candidates want to serve on the board, the background and skills they would bring to the board, improvements needed in the Fire District, challenges the Fire District faces, and wildland fire issues.

• Interview applicants for vacancy on the Board of Trustees of the Summit County Service Area No. 5 (Lake Rockport Estates)

The Council Members interviewed Alan Lindsley and Cody Staley for one vacancy on the Service Area No. 5 Board of Trustees. Questions included why the candidates want to serve on the board, conflicts of interest, the functions of Service Area 5, how the funds are distributed, the
number of residents within the Service Area, what the candidate would bring to the board, and the challenges faced by the Service Area.

**CLOSED SESSION**

Council Member Ure made a motion to convene in closed session to discuss personnel. The motion was seconded by Council Member Carson and passed unanimously, 4 to 0.

The Summit County Council met in closed session from 2:40 p.m. to 2:45 p.m. for the purpose of discussing personnel. Those in attendance were:

Claudia McMullin, *Council Chair*
Roger Armstrong, *Council Member*
Kim Carson, *Council Member*
David Ure, *Council Member*

Council Member Ure made a motion to dismiss from closed session and to reconvene in work session. The motion was seconded by Council Member Armstrong and passed unanimously, 4 to 0.

**WORK SESSION** – (Continued)

- Discussion regarding suggested Memorandum of Understanding with Uinta County Coalition of Wyoming; Richard Stem and Carl Larson

Council Member Ure explained that Carl Larson came to the County Council a few years ago to discuss forming a coalition and a Memorandum of Understanding with Uinta County, Wyoming, to address beetle killed trees. The fire danger is extremely high in some beetle kill areas, and there is still some salvage value in the trees that the timber industry could use for firewood or lumber. A number of entities have formed a coalition to work on this project and address what needs to be done. The Governor of Wyoming is ready to move ahead and has asked that Summit County work with them. Council Member Ure explained that the majority of the beetle kill timber is in Utah, but the greatest negative effects of a catastrophic fire would be in Wyoming. He explained that the purpose of today’s meeting is to start to put together a Memorandum of Understanding between the Uinta County, Wyoming, Commissioners and the Summit County Council. They also hope to get help from Governor Herbert and the State of Utah to offset some of the costs.

Carl Larson with the Uinta County, Wyoming, Coalition explained that they have been working on this for three years. Many Wyoming citizens are concerned about a devastating wildfire, and the Citizens Coalition asked him and Joe Hickey to spearhead this effort. The former Wyoming Governor hired Richard Stem, a retired Forest Service official, as a consultant, and the current Governor continues to support this effort. He reviewed others involved in the project and some funding sources available to them. He explained that they are asking Summit County to enter into an agreement with Wyoming and Uinta County to support this effort and contribute funds if possible, and they are also working on getting funding from the State of Wyoming. He noted that it is fortunate that there are still functioning sawmills in Summit County and Uinta County, Wyoming, that are able to help.
Richard Stem was reached by telephone and explained that the State of Wyoming has a vested interest in what happens with the beetle epidemic and would like Summit County and the State of Utah to join them in working on the problem. They believe Governor Herbert would be willing to support this effort if he sees that Summit County and Uinta County are working together on the problem.

Chair McMullin asked Mr. Stem to describe the solution to the bark beetle problem. Mr. Stem explained that they cannot stop the beetle epidemic. It is occurring because the forest is old and has reached a point where it is more susceptible to the beetles. There has also been some climate change that affects the infestation. They cannot stop the beetles, but they can mitigate the effects, which includes low-level prescribed burns, putting in fire breaks, and utilizing saw mills to remove the material before it reaches the point that it is no longer valuable. He explained that the problem is widespread. If there were a fire in the forest, it would be catastrophic to the point that it would sterilize the soils, affect wildlife and recreation, and significantly set back the regeneration time. By implementing mitigation measures, they can minimize the effects of a catastrophic fire.

Chair McMullin asked what the MOU should consist of. Mr. Stem replied that, if the State of Wyoming could see that Summit County and Uinta County are working together to mitigate the concerns, they could approach the State of Utah to provide resources to assist with the problem. Seeing that the local entities are working together influences the Governor’s Office and Federal agencies to provide financial support. He stated that the MOU should talk about working and planning together to address the issues. He stated that Mr. Larson has examples of MOUs for Summit County to consider.

Council Member Armstrong asked if grant funding might be available to Summit County and whether Federal funding might be available if they form a coalition. Mr. Larson explained that they have discussed grant money with the State of Wyoming, and the grants they have applied for would be for use in Wyoming. However, since the water runs from Summit County to Uinta County, they are looking at using some of those grant funds in Summit County to protect Uinta County’s water resources. He believed it would be great if Summit County and the State of Utah had funds available to join with Wyoming’s efforts.

Council Member Ure noted that the Utah Legislature is currently in session, and it is important to get this done quickly so it can be presented during this legislative session. Mr. Larson explained that the Forest Service is also applying for some funding through their regional office.

The Council Members agreed that they would be interested in entering into an agreement with Uinta County, Wyoming. Mr. Larson offered to work on a draft agreement. Assistant Manager Anita Lewis agreed to be the contact person to coordinate the work on the agreement for Summit County.
Olympic Park’s Development Agreement for the recently approved SPA/Rezone of the Olympic Park; Amir Caus, County Planner

County Planner Amir Caus explained that in 2012 the Council approved a SPA Rezone and a rezone to Resort Center for the Utah Olympic Park. The applicant is now seeking approval of the development agreement related to the SPA approval. He reported that the Snyderville Basin Planning Commission has reviewed the development agreement and forwarded a positive recommendation to the County Council. One issue of concern to the Planning Commission was impacts on the viewshed, and a clause has been included that would allow for a property swap with the County, if possible, to place the athlete housing lower on the hillside and reduce the impact on the viewshed.

Colin Hilton with the Utah Olympic Legacy Foundation provided background information on the Utah Olympic Park and Utah Olympic Legacy Foundation. He explained that, if the Foundation is not able to sustain itself, everything will revert to the State, which would then operate the Olympic Park. Currently they operate with funds from an endowment set up using proceeds from the 2002 Olympics, and he is looking for ways to continue to support the Olympic Park without having to draw down the endowment. He explained that their expenses are double the amount of revenues they bring in, and if they cannot find ways to support the Olympic Park, they will be out of existence in 2028. Sources of additional revenue include increasing public activity revenues, fund raising efforts, financial partners, and land planning efforts, which include the SPA development. He recalled that a big concern when the SPA was approved was traffic, and they have met with Kent Wilkerson from the County Engineer’s Office to help resolve those issues with UDOT. He presented a rendering of the athlete housing on the side of the hill which was a concern for the Planning Commission and a rendering showing it placed lower on the hillside to minimize the visibility. He commented that moving the housing further down the hill places it closer to services in Kimball Junction and the trail network.

The Council Members discussed the proposed land swap with Mr. Hilton. Deputy County Attorney Dave Thomas reported that he has spoken to The Boyer Company about the proposal, and they do not seem to oppose it, but they would like to know more about the transaction and the value for value land trade. Council Member Armstrong asked if Mr. Hilton looked at placing the athlete housing on the back side of the development where it would be completely out of the line of sight. Mr. Hilton replied that they did, but that creates access problems. Steve Brown, Development Adviser for the Utah Olympic Legacy Foundation, explained that it would also be difficult to get infrastructure for athlete housing to the area at the back of the development.

Mr. Hilton explained that he is seeking some non-cash assistance from the County through the development agreement with fee waivers for the non-profit Foundation and a 50% discount in fees for the for-profit partners to help reduce their start-up costs. He explained that this project could help the County with its strategic objective of economic development and improving relations with the State. Council Member Ure stated that he was not certain he could agree to a discount in fees for the for-profit entities when they will be in competition with other businesses in the Snyderville Basin who have to pay the full fees. Chair McMullin stated that she would like to know the amount of the fees that would be waived so the Council can assess the impact to the County and what economic benefit the Olympic Park would provide. She also expressed concern about the Olympic Park losing some of its non-profit exemption status if a certain level of for-profit businesses operates on their property. Mr. Thomas explained that the County would
charge a privilege tax in lieu of property tax when a for-profit business uses land owned by a non-profit entity. Mr. Brown explained that they cannot sell their ground, and because of the nature of their non-profit entity, they are constrained in the types of financial partnerships they can enter into, which is a disincentive for for-profit developers. He explained that it is difficult for for-profit developers to put equity into land they do not own, and they are trying to create an incentive for developers to come talk to them. Mr. Hilton discussed some other creative ways that they might be able to incentivize developers to come to the Olympic Park.

County Manager Bob Jasper reported that the County is working with UDOT to try to mitigate the transportation issue and stated that he is not in favor of waiving building permit and planning fees. He stated that he gets requests all the time from non-profits for waivers, and he does not want to start down that slippery slope. He would have no problem if the Council wants to appropriate money or set up a redevelopment agency. He explained that the County spends the money that comes from fees and hires staff based on development patterns, and not charging the fees would deplete the County’s funds.

Mr. Thomas explained that the County cannot waive impact fees for the special service districts. With regard to waiving the transportation impact fee, the County Manager has the ability to waive those fees based on certain circumstances.

Council Member Carson stated that they need hard and fast numbers to consider when looking at the impacts of waiving fees and the economic benefits to the County of the proposed development. She was not willing to place the burden of this project on the taxpayers. She also expressed concern about the traffic issue, not just as it relates to this project, but as it relates to the entire Snyderville Basin and how to deal with traffic going forward.

Council Member Armstrong recalled that the County has just been through a very painful budget process. They are postponing road projects and trying to find ways to provide basic services, and it would be very difficult for him to agree to waivers right now. He would have to see some remarkable economic impacts to support that, especially in the short term.

Chair McMullin summarized that it sounds like the Council Members are not supportive of waivers. She fully supports the Utah Olympic Park and ensuring that this asset in the community continues in perpetuity. She would like to do everything possible to help the Olympic Park accomplish their goals, but given the current economic situation, fee waivers and property tax exemptions are not the thing to do. She believed this could be an opportunity to discuss an economic development area, noting that the Council’s primary strategic goal is economic development. She does not know all the possibilities for raising revenues, but she believed there is a solution that will work, and it is not fee waivers.

The Council Members discussed the possibility of using RAP and TRT money to help with the Olympic Park. Mr. Jasper and the Council Members discussed the potential land swap. The Council Members explained that they would need more detailed information about the land swap before they could give Mr. Jasper their opinion. After further discussion and learning that the land swap would result in a net gain to the County, the Council Members indicated that they would generally be in favor of the land swap.

Mr. Jasper introduced Lisa Yoder, the County’s new sustainability coordinator.
- **Discussion regarding Summit County Sales and Use Tax and possible amendments to the Summit County Code; Dave Thomas, Chief Civil Attorney, and Matt Leavitt, Auditor Accountant**

Mr. Jasper explained that he asked Mr. Thomas to prepare a report regarding whether the County is charging the maximum amount of sales tax it can charge.

Mr. Thomas presented an overview of the types of sales taxes available to counties and which taxes Summit County has imposed. He also provided a comparison chart of counties similar to Summit County. He noted that resort cities like Park City can charge a resort tax, which the County cannot charge. He reviewed the various sales taxes the County can charge, the authority for the tax, the maximum tax percentage, and the percentage Summit County charges. He reviewed the 1% local sales and use tax and explained that 50% is point of sale, which the entity gets to keep. The rest goes to the State, which redistributes the tax money according to the population in the city or county. He explained the “hold harmless” provision that provides an additional amount of local sales and use tax funds to certain entities, one of which is Park City.

Mr. Thomas explained that another sales tax is the county option sales tax of .25% and explained that Summit County charges the maximum amount. The transient room tax allows the County to charge up to 4.5% on accommodations county-wide, and Summit County charges 3%. He noted that cities can charge an additional 1%, but he did not believe the cities in Summit County charge the 1%. He reviewed the restricted uses for the transient room tax. He explained that the County could choose to charge the additional 1.5% transient room tax if they would like. Mr. Thomas discussed the transit sales tax and explained that it only applies to the Snyderville Basin Public Transit District, and an election was required before the tax could be charged. The current maximum is .3%, and this tax is restricted to the funding of public transit. Another transit tax of .25% is also available, but it also requires voter approval, and the County has not initiated the process to hold an election on that tax. He reviewed the RAP tax, which can be up to .1%, and stated that the County charges the maximum tax. He reviewed the restrictions on the tax and explained that the County can retain 1.5% of the proceeds for administrative costs. The tax is currently distributed 50% to recreation and 50% to the arts. The restaurant tax is 1% on prepared foods, and the County charges the entire 1%. The tax can be used only for tourism promotion and capital expenditures on publicly owned facilities. He noted that most of the restaurant tax money in Summit County is spent on tourism promotion.

Mr. Jasper noted that Canyons meets all the requirements for the resort tax, but only cities are allowed to charge resort tax. He commented that they have all the impacts of a resort community, but State law prohibits the County from levying a resort tax.

Mr. Thomas explained that the County cannot charge a franchise tax, but it can charge a franchise fee by entering into an agreement for use of the County’s rights-of-way. A Federal statute determines that the County can charge a 5% franchise fee for cable systems. However, if it is not a cable system, under a Utah Supreme Court case, the County can only charge the cost of regulation, which may be less than 5%. A cable system is defined as cable TV, and a United States Supreme Court case determined in 2007 that internet service or telephone service through a cable is not a cable system. Many carriers now bundle those services as cable and pay the 5% fee. He reviewed several court cases decided with regard to cable services. Mr. Jasper stated
that he believed the County should have a policy regarding franchise fees and that they should reopen the AllWest agreement, because they are not in the same business they were when they initially used the County’s right-of-way. He believed all carriers should pay the same fee.

**CONVENE AS THE BOARD OF EQUALIZATION**

Council Member Carson made a motion to dismiss as the Summit County Council and to convene as the Summit County Board of Equalization. The motion was seconded by Council Member Armstrong and passed unanimously, 3 to 0. Council Member Ure was not present for the vote.

The meeting of the Summit County Board of Equalization was called to order at 5:35 p.m.

**CONSIDERATION OF APPROVAL OF 2012 STIPULATIONS**

Board Member Carson made a motion to approve the 2012 stipulations as presented. The motion was seconded by Board Member Armstrong and passed unanimously, 3 to 0. Board Member Ure was not present for the vote.

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

Board Member Carson made a motion to dismiss as the Board of Equalization and to reconvene as the Summit County Council in regular session. The motion was seconded by Board Member Armstrong and passed unanimously, 3 to 0. Board Member Ure was not present for the vote.

The meeting of the Summit County Board of Equalization adjourned at 5:36 p.m.

**REGULAR MEETING**

Chair McMullin called the regular meeting to order at 5:37 p.m.

- Pledge of Allegiance

**UPDATE REGARDING LEGISLATIVE ISSUES; KIM CARSON**

Chair McMullin reported that she and Council Member Robinson met with Representative Mel Brown for a couple of hours to find out what is behind the proposed bill to make it easy to revert back to the County Commission form of government with a petition of 10% of the voters who voted in the last gubernatorial election. Representative Brown indicated that he made a commitment to some constituents in 2006 when the County form of government was put on the ballot that he would try to undo it, and he feels now is the time to do that. One concern he has is that the study group that starts the process is appointed by the governing body, which he believes is unfair. He is willing to consider changing some of the requirements to make the process a little more onerous by making the 10% apply per precinct to the number of voters who voted in the last presidential election for 90% of the precincts. That way someone cannot stand in a shopping center and get signatures on a petition. He also may be willing to raise the requirement
Chair McMullin noted that 10% of the people who voted in the presidential election would only be about 1,700. If Representative Brown were to make the changes, Salt Lake County would withdraw its opposition, and Summit County would probably be alone in opposing it. She explained that UAC wants to know tomorrow whether Summit County wants to try to kill the bill on its own or if they are willing to work with their partners to change the bill. County Clerk Kent Jones explained that HB 14 says almost the same thing, and it has already passed the House and is on its second reading in the Senate. It is much closer to passing than Representative Brown’s bill. Mr. Thomas clarified that the petition process in HB 14 as it now reads would put the item on the ballot to determine whether a study committee should be established, and then it would go through the entire process.

Council Member Carson stated that she has been asked by UAC and Senator VanTassell about jail contracting. She asked for an opinion from Sheriff Edmunds, and he indicated that is not the direction Summit County wants to go. She wanted to confirm with the Council Members that she should pass that information on to Senator VanTassell. Mr. Jones explained that the counties that have done that are losing money, because the jail reimbursement is so low.

Council Member Armstrong noted that there is a bill proposing that counties go to a July 1 fiscal year. Mr. Thomas explained that this bill came from the fact that Representative McCay did not like the way the Salt Lake County Mayor’s Office handled the potential tax increase. He thought they did not release the information in the budget that would have shown the tax increase until after the election, and he wants to punish Salt Lake County. Mr. Jones explained that the fiscal note on that would be $400 million, so it is not likely the bill will pass.

Council Member Carson referred to an upcoming decision regarding Medicaid expansion, and in talking with County Health Director Rich Bullough, he would like to be placed on the Council’s agenda to explain that. Mr. Jasper stated that most people with substance abuse problems end up in the jail system, and expending mental health services would save on jail costs and provide better treatment. He suggested that they ask the Sheriff to participate in that work session.

Council Member Carson stated that she has not seen anything yet on Senator Valentine’s bill to place limits on petitions. Mr. Thomas stated that it has not shown up yet, but it is in the works. However, Senate Bill 66 changes the referendum process so that the person has to be affected by the legislative decision that prompted the referendum. It also raises the number of signatures required to 30%.

Chair McMullin asked about Representatives Brown’s land use bills regarding lots of record and lot line adjustments using quit claim deeds. Mr. Thomas noted that HB 236 proposed by Representative Brown also prohibits requiring revegetation, landscaping, or erosion control on property that is less than 12% slopes. He explained that Representative Brown has also introduced HB 88, which vests zoning at the current level and cannot be changed without the consent of the property owner. If the zoning is changed without the property owner’s consent, the County must pay damages. He also explained that HB 289 prohibits counties from restricting the use of Class C fireworks during holidays but allows cities that are in wildland fire urban interface areas to restrict fireworks. The County has been working with Park City Fire to try to get counties the same authority as cities, but the best they have been able to do is give the State Forester authority to ban Class C fireworks in unincorporated counties as long as he works with
the local fire official. He was not certain that they would get a ban in urban interface areas if they have to rely on the State Forester, because he has not been willing to do so in the past.

PUBLIC INPUT

Chris Hague explained that he sent an e-mail to the County Council regarding his concerns. He stated that six months ago he talked to Planner Gabryszak and suggested that it would be helpful to citizens if the County would put new development applications on its website and send them to an e-mail list of citizens. From his experience, the developers of the two CORE rezone projects worked with Staff for a year, and Staff felt that they had a handle on the projects. Then they had their first public meeting. He did not receive notice that anything was going on with the Gillmor property until he received a postcard because he lives within 1,000 feet, and the people on Old Ranch Road did not hear about it until even later when they received a postcard. By the time they received notice, he asserted that Staff thought they had already figured out all the issues, but they had not, and it was not until the fifth staff report on the Discovery project that they even addressed the General Plan. He claimed that Staff becomes convinced that they have a handle on the project, issues the staff report, and then the public comes in to complain about what is in the staff report. Staff then either has to backtrack, or they become fixated on the recommendations in their staff report, which causes contention. Mr. Hague believed if they get the public involved at the beginning of a project, they can look at the application and determine whether it has issues. If it does, they can talk to Staff and the developer to see if they can work them out before the development proceeds. He wanted a list of new development applications and information about the project to be e-mailed to the people who are interested. Planner Gabryszak offered to discuss that with the Community Development Director, and then he did not hear anything more. Then someone who was on an e-mail list from the Community Development Director’s Office e-mailed him a list of new development and the status of developments. He then asked Annette Singleton if he could get a copy of that list, and she told him he could not, because it is sent out by the Manager. Then he e-mailed Don Sargent requesting a copy of the list and was told he could not get a copy, because it is only sent to County employees and people on County boards. When he looked at the e-mail addresses, he saw that it was also e-mailed to the Park Record, KPCW, and the Park City Water Department, which are not within the purview of County government. Then he got upset and wrote to the County Council, because the County has a ready-made document consistent with what he had envisioned, and all they have to do is open the e-mail list to the general public. He stated that they keep talking about transparency in government, and the best transparency is to let the public know what is going on as soon as possible and not keep things in the dark and secret. He reported that he brought up the issue at the Planning Commission meeting, and Mr. Sargent told the Commissioners that he will no longer send the e-mail to the Park Record and KPCW and that it will now only go to County employees and boards. Instead of expanding the e-mail to include the public, he has now restricted it even further and denied the media access to the document. He asked the County Council to suggest to Mr. Sargent that the list be made available to the public and allow the public to get involved in development plans at the early stage. He stated that it is a matter of fairness. It may be included in the Manager’s report, but for two years he did not know it was there, because he never read down far enough. Chair McMullin clarified that this report did not exist until very recently and was something the Council asked for. Mr. Hague stated that everybody would like to know and be informed. He stated that he is just asking for a public record and did not see why the public should not have access to it.
Mr. Hague stated that he attended last Wednesday’s meeting regarding whether Planning Commissioners have to be residents of the Snyderville Basin and was shocked when he heard that, because he remembered that this issue came up three years ago. He thought the problem had been solved. He was angry that Mr. Sargent brought this up at a critical time when both planning commissions are discussing new general plans and code amendments. Now two key Snyderville Basin Planning Commissioners have to sit out while the problem is resolved and cannot participate in the discussions. He was sad that two intelligent Planning Commissioners had to sit in the back of the room while discussions took place at last night’s Snyderville Basin Planning Commission meeting. He questioned whether there was something surreptitious about Don Sargent bringing up this issue at this time and asked why he waited until now to bring it up when it has been an issue for three years. He asked why the County Attorneys did not do something about it three years ago when the issue became apparent. He asked why there has been a disruption in the process, and he believed that issue needs to be solved.

Mr. Hague addressed the High West Distillery issue and stated that the process of trying to make it fit into a makeshift niche was wrong. He asked where Mr. Sargent was when this went on and why the County Attorney did not sit down with him and figure out the appropriate process. The process was simple, and some Eastern Summit County Planning Commissioners knew what the correct process should have been. He believed what should have been an easy process to get the distillery approved turned into a fiasco. He asked what they pay the Community Development Director and County Attorneys for, because it has not resulted in a smooth operation of government. He stated that there is a problem, and the Council needs to try to do something about it. He stated that he is giving the Council the facts so they can come to the right answers, because the answer is that the government is not functioning properly in some areas. He recalled reading some minutes in which Tom Clyde, an Eastern Summit County Planning Commissioner, commented that perhaps the Snyderville Basin should spin off from Summit County and become a separate entity and incorporate as a municipality. Some people believe that, although he does not necessarily agree. The issue is that too many people in the County do not feel that County government is responsive, but because they have a problem with the County Attorneys and the Community Development Director, they should not necessarily seek to secede from Summit County. He indicated that he has had great experiences with the other departments in the County, but this is a cancer that is starting to spread, and they need to remedy it.

Chair McMullin closed the public input.

PUBLIC HEARING REGARDING LINDER SETBACK SPECIAL EXCEPTION REQUEST; SEAN LEWIS, COUNTY PLANNER

County Planner Sean Lewis presented the staff report and explained that Jason and Erin Linder would like to expand their home in the Sun Peak Subdivision. They applied for a plat amendment and road vacation, but the service providers did not agree with the road vacation because of the easements they need. Canyons was also not in favor of vacating the road because they would eventually like a cart path in that easement for golf carts. The Linders abandoned that application and applied for a variance to expand the house vertically, because the house was originally built so that a portion of it encroaches into the setback. The Board of Adjustment denied the variance request with a finding that there was no hardship. The applicants believe they have exhausted all their remedies through the Code and applied for a special exception. Planner Lewis explained that the applicant wants to add a second level that conforms to the
existing footprint of the house, and the Snyderville Basin Development Code does not allow expansion of a non-conforming structure. Staff recommended denial of the special exception as it does not comply with the Snyderville Basin Development Code, but other options for taking action on this item have been included in the staff report.

Chair McMullin opened the public hearing.

Jason Linder, the homeowner, explained that they purchased the house about seven years ago and were not aware of an issue with the nonconformance. He stated that the home is small, about 2,000 square feet, and their family has grown since they purchased the house. They would like to stay there and add to the house, and only through this process did they learn that the house encroaches into the setback. He stated that they comply with the CC&Rs and have approval of the HOA board. They would like to do what any other homeowner in the subdivision would be able to do that does not have this issue. He explained that they would add only about 800 square feet. That must be done in the portion of the house that encroaches into the setback; otherwise, they would have to alter the structure of the house. Since they would build in an already raised area of the main floor, the increase in height for the addition will not be significant.

Lance Duffield, the building designer, explained that the overall addition will go from the back wall to the center of the house. The increase in height would be about 5’8” higher than the existing ridgeline, which would be a couple of feet below the maximum building height.

Greg Cunningham, a resident at 1884 Flanders Way, stated that he has more exposure to this property than any of the other neighbors. He does not want the Linders to move from the neighborhood because they cannot add onto their house. He stated that it is not their problem that the house was built on this footprint. By putting the addition on the back of the house, the neighbors will have less exposure to the addition than he will, and he has no problem with it. He hoped the neighbors would not be opposed if other neighbors would like to add a second story to their home, and he supports the special exception. He believed it could help the value of other homes in a neighborhood when a home is enlarged, and he believed the value of his home would increase if the Linders’ home is improved.

Curt Herning indicated the location of his house and explained that his two-story home is sunken into the ground, and the Linders’ home is in his direct view corridor. He did not want to see a 9-foot wall plus the eaves and the roofline. Once they get the variance, he believed the Linders could build anything, and there is no guarantee they will stick to their plans. The postcard he received said they were recommending denial, and he hoped that would happen. He stated that he understands what they want to do, but he had to build his home within his setbacks, and if they give the Linders a variance, other people may want to do the same thing. When he learned that they wanted to buy the road, he was especially concerned, because then they could have gone way over. He stated that they never came to any of the neighbors to talk to them. He wished they could have walked the property and had this explained to them so they would know how far they are going. Planner Lewis explained that the Linders must meet all building code requirements and submit specific plans. The exception would only allow them to build vertically the same distance into the setback as the existing structure, and they must meet all other requirements. He noted that the subdivision plat has requirements as to how many houses can build second stories. Single-story houses must separate the two-story houses, and the Linders meet those requirements.
Mr. Linder reiterated that he met with the HOA board, and they gave their verbal support of the process he is going through and think it makes sense. He explained that the only reason they asked for the road vacation was that they originally wanted to keep the house one story and go out a short distance. However, because it was a through street, they could not do that. They did talk to a lot of the neighbors, and they were aware of what they were trying to accomplish, but he had been unable to meet with Mr. Herning, because his house is a rental. He stated that their intention is to be a good neighbor. When he learned of Mr. Herning’s concerns, he took photographs of his viewshed. This addition would be completely hidden through the trees, and Mr. Herning’s view is primarily through the road corridor. He believed there would be minimal impact, if any, on Mr. Herning’s property.

Mr. Cunningham stated that the new roof ridgeline would only be 5 feet above the existing ridgeline, and most of Mr. Herning’s view would be blocked by the existing trees. Because the addition is at the back of the house, when looking up from Mr. Herning’s house, the front of the house will block the addition on the back of the house.

Dennis Dion asked if the whole roofline would raise five feet or only the back section. Mr. Duffield replied that it would only be the back portion of the house. He explained that it would be almost hidden from the street, because the additional height is on the back of the house.

Chair McMullin closed the public hearing.

Council Member Ure stated that he would like to approve the exception.

Council Member Carson concurred and commented that it was not done intentionally initially. If the street were not abutting the golf course she might have some concerns, but that road will obviously never have much traffic.

Council Member Armstrong stated that he would agree with approving the exception, but this is another example of the need to change the Development Code, because a change was made in the Eastern Summit County Development Code that did not make it into the Snyderville Basin Development Code. Chair McMullin clarified that the Snyderville Basin Planning Commission was not willing to consider making that change in their Development Code. Mr. Sargent explained that there is now a new makeup of the Planning Commissioners in the Snyderville Basin, and he would suggest that they consider making a Code amendment again. Mr. Jasper explained that the special exception was implemented because there will be a few situations where something does not fit what is in the Code. He believed there would always be a place for special exceptions, and that is not for Planning Staff to fix but for the Council to determine.

Council Member Ure made a motion to approve the request for up to a 6’2” special exception for the Linder home based upon a metes and bounds survey of the existing structure and proposed expansion from the required 30-foot front setback based upon the findings articulated by the Summit County Council and with the following conditions: Conditions:
1. Approval of the exception is dependent upon subsequent approval of an amendment to the Willow Draw Cottages at Sun Peak Plat F Subdivision plat by the Snyderville Basin Planning Commission. If the Snyderville Basin Planning Commission does
not approve a plat amendment within one year of this exception approval, the special exception shall be null and void. If the Planning Staff or the County Attorney’s Office determines there is no need for a plat amendment, this condition of approval shall be removed.

2. The applicant shall obtain all required permits from Summit County prior to construction.

3. All Service Provider requirements shall be met prior to issuance of a Building Permit.

The motion was seconded by Council Member Carson and passed unanimously, 4 to 0.

MANAGER COMMENTS

There were no Manager comments.

COUNCIL COMMENTS

Chair Ure asked about the list Mr. Hague referred to in his public comment.

Mr. Sargent explained that several months ago he started to update the Manager on various activities in his department, which is part of the Manager’s report the Council Members receive.

Mr. Jasper stated that staff provides reports to him, and he should review them before they are published to the Council or the public. He did not believe staff’s reports to him are public information, and Office Manager Annette Singleton has an e-mail list she sends things to, which probably includes KPCW. He explained that this reporting process is new and is not perfect. There is no attempt to hide anything. He explained that the report becomes public a couple of days later on the web. It was his understanding that Mr. Hague wants that information as soon as it is sent to his office, before he has had an opportunity to review it. Chair McMullin asked Mr. Jasper to send the Manager’s report to anyone who wants it when he has finished reviewing it.

Council Member Armstrong disagreed that the Manager’s report should be sent to everyone who wants it e-mailed to them. It is part of the Manager’s report and is published on the website as part of the packet prior to the meeting. He believed that is sufficient time for the public to get updates regarding development applications for the week. He stated that they need to update the website, because people cannot find things on the website. The County has talked about having a public information officer, and that may include posting new development applications on the website as they become a matter of public record. He agreed with Mr. Jasper that the Manager has the right to look at staff reports and determine what goes into his Manager’s report. He stated that the process of having to send e-mails to individuals becomes cumbersome. He noted that on the Park City website a person can tick off boxes showing the kind of information they want to receive, and the information is sent out as it becomes available, which is a better way of managing mass information. He agreed that the public should be able to receive the information as early as possible, but he disagreed with trying to pay attention to every citizen on an individualized basis.
Chair McMullin noted that there is already a list of citizens who receive agendas and packets, and she believed it was just a matter of adding Mr. Hague to the list. She did not like people having to make a big issue over access to information, and she believed information should be easily accessible. The County will be getting a public information officer, and one of their duties will be to work with IT to make information more accessible on the website, but right now it is not. If someone from the community wants the Manager’s report, she believed they should get it.

Council Member Carson asked if they could post the Manager’s report weekly in a convenient place on the website. Mr. Sargent explained that, in addition to the information in the County Manager’s report, his office also lists all the applications on their web page and tries to keep it updated weekly. He stated that they are trying to provide the information to the best of their ability, and there is no reason to hide or hold onto it. He stated that they have never had this type of information available like they do now, and it is frustrating to hear these kinds of accusations now when they have so much public access to information. He acknowledged that it will take some time to refine the process and make it work for everyone’s needs, but it is a good thing, and they need to work together to make it work for everyone. Council Member Armstrong asked Mr. Sargent to get Mr. Hague a copy of the link to the information.

Chair McMullin reported that she was appointed to the Board of Trustees for the Economic Development Corporation of Utah, and they were pleased to have a representative from Summit County. She also met with Alison Weyher and Anita Lewis, who recommended that the Council create two committees for economic development, one for the Snyderville Basin and one for Eastern Summit County. She offered to work with Ms. Weyher to determine what skills they want on the committee so the Council an find people in the community who have the skills to serve on the committee.

**COUNCIL MINUTES**  
DECEMBER 12, 2012

There was not a quorum available to approve the minutes.

The County Council meeting adjourned at 7:25 p.m.

_______________________________   ______________________________  
Council Chair, Claudia McMullin     County Clerk, Kent Jones
STAFF REPORT

To: Summit County Council (SCC)
Report Date: Friday, March 15, 2013
Meeting Date: Wednesday, March 20, 2013
Author: Sean Lewis, County Planner
Project Name & Type: Rockport Rocks, Conditional Use Permit (CUP) Appeal
Type of Item: Appeal Hearing
Future Routing: N/A

EXECUTIVE SUMMARY: The applicant, Wesley Siddoway, has applied to open a new sandstone rock quarry approximately ½ mile south of Rockport Reservoir. The proposed quarry would extract and sell decorative sandstone to the general public. The Eastern Summit County Planning Commission conducted six (6) separate meetings regarding this proposal before voting unanimously (7-0) to approve the CUP. A group of concerned citizens and neighbors of the proposed quarry have appealed the decision of the ESCPC.

Staff recommends that the SCC consider the issues outlined in this report regarding the application and vote to uphold the findings of the ESCPC to allow the operation of a rock quarry at this location.

A. Project Description
   • Decision Type: Judicial
   • Project Name: Rockport Rocks
   • Appellants: Jodi Hoffman and others
   • Applicant(s): Wesley Siddoway
   • Property Owner(s): NS-59-1: Robert & Kayleen Siddoway, Trustees
                         NS-71: Siddoway Family Limited Partnership
   • Location: 7120 North SR 32
   • Zone District: Agriculture Protection (AP)
   • Adjacent Land Uses: Agriculture / Residential
   • Existing Uses: Agriculture / Residential
   • Lot of Record Status: Both parcels NS-59-1 & NS-71 are considered Lots of Record
   • Parcel Number and Size: NS-59-1, 69.3 Acres; NS-71, 18.64 acres;

B. Background

The applicant is requesting to use portions of two (2) parcels near Lake Rockport Reservoir for the extraction of sandstone, generally intended to be used as decorative landscape rocks or as a stabilization product; in addition, the applicant has future plans...
to install a rock crusher and screen. The proposed disturbance area is limited to 2 acres of parcels NS-71 and NS-59-1 as shown on the site plan submitted as Exhibit C of this report. The applicant expects that the proposed 2 acre site should be suitable for up to 30 years of extraction. Storage of material and staging areas are also included as portions of the proposed 2 acre disturbance area.

The applicant anticipates having ten (10) employees on site on a daily basis. The applicant has stated that hours of operation would follow a 7:00 a.m. – 5:00 p.m. schedule Monday - Friday with allowances for after-hours maintenance and some Saturday hours if needed.

The ESCPC conducted a work session regarding this item on July 11, 2012. Issues discussed during the work session included: 1) Blasting hours and potential limitations; 2) Mud tracking on road, potential debris; and 3) intersection traffic impact analysis. The applicant has submitted a proposed blasting plan and a quarry track-out control plan (Exhibits H & I). Staff has reviewed these plans and will address them below.

The ESCPC held a public hearing for this application on August 1, 2012. At the hearing, 11 members of the public provided comment. Issues raised by the public included such items as not being included in the public noticing, potential noise and dust impacts, and Development Code compliance. The ESCPC voted to continue the public hearing until their regular meeting on September 19, 2012.

The ESCPC conducted a second work session on September 5, 2012. At the work session, Staff presented review and analysis regarding the issues raised during the public hearing. The ESCPC directed Staff to contact the State Division of Wildlife Resources to determine if there could be adverse effects to wildlife in the vicinity of the proposed quarry. Staff was also directed to work with the applicant to identify a firm scope of operations, including the amount of stone that could be quarried and the potential average number of trucks/loads that could be removed per week over the lifespan of the proposed quarry.

The August 1, 2012 public hearing was continued during the September 19, 2012 regular meeting of the ESCPC. During this hearing, members of the public spoke against the proposal and alleged that Staff did not complete a full and thorough review of the project for the ESCPC. The ESCPC instructed Staff to return at the October 17, 2012 with a “contract” or other document that would clearly define the parameters of the operation and the conditions of approval that may be applied if approved. The ESCPC also asked Staff to provide further details from the County Engineer regarding potential traffic impacts to the county road that trucks will use to access SR 32 and further clarification from the County Attorney regarding the apparent contradictory noise standards. The ESCPC voted to continue the public hearing until October 17, 2012.

On October 17, 2012, the ESCPC again invited members of the public to speak regarding the proposed quarry. Again, several members of the public spoke in opposition to the quarry with concerns raised about noise, traffic, blasting impacts, or potential seismic
impacts. The ESCPC also instructed Staff to expand and clarify the proposed findings and conditions.

On November 7, 2012 the ESCPC conducted their final work session and worked out details with the applicant pertaining to Saturday operating hours, and further clarifying what process would take place if the average monthly number of trips were exceeded. Following the work session, the ESCPC held a public hearing regarding the proposed quarry. A preliminary sound study was presented to the ESCPC by members of the public and comments were received regarding the items discussed during the work session. The ESCPC voted unanimously to approve the quarry operation based upon findings and with conditions that had been finalized during the work session. Staff mailed the approval document to the applicant on November 9, 2012. An appeal of the decision was filed with Summit County on November 15, 2012.

The SCC held an initial hearing on January 9, 2013 regarding this item. The applicant’s representative was unable to attend that meeting. Following comments from the appellant, the SCC instructed Staff to conduct a site visit with all parties, and to schedule another hearing following the site visit. The SCC visited the site on February 25, 2013.

C. **Community Review**

This item appears on the agenda as an appeal. As such, no public notice is required to be published other than the agenda. Public Hearings for this application were held before the ESCPC as described in Section B of this report.

D. **Standard of Review**

Appeals of Decisions made by the ESCPC must be made to the County Council within ten (calendar) days of the final written decision by the Community Development Director (CDD), or designated planning staff member. Pursuant to Utah Code Annotated §17-27a-705 and 707, the appellant has the burden of proving that the land use authority, i.e. the ESCPC, erred. On appeal, the County Council shall review the matter de novo, that is, reviewing the facts and evidence “anew,” and shall determine the correctness of the ESCPC’s decision in its interpretation and application of the Eastern Summit County General Plan and Section 11-4-12 of the Code governing Conditional Use Permits.

E. **Identification and Analysis of Issues**

The issues identified here are those identified by the appellant in their Supplemental Notice of Appeal dated November 18, 2012 (Exhibit B). These are many of the same issues addressed by the ESCPC during their meetings. Staff has provided a response to each issue raised by the appellants.

**Use:**

The appellant contends that “the nature of the proposed use is inappropriate in the proposed location.”
The parcels identified for the use are located within the AP zoning district. Rock quarries, gravel pits, and associated surface mining uses including, but not limited to, filtering, sifting, and processing of soil are listed in Section 11-3-13 of the Eastern Summit County Development Code as Conditional Uses in the AP zone. This use was added to the Code via Ordinance 704 in 2008.

**Water:**

The notice of appeal states that the ESCPC erred by “...failing to require a memorandum of decision from the State Engineer showing sufficient water rights for the proposed development.”

The applicant provided the ESCPC with notice from Mountain Regional Water (MWR) that MWR would provide the applicant with water to use for dust control. The ESCPC accepted this “will serve” letter as compliance as “a commitment from a municipality or private service company to provide water of adequate quantity and quality to serve the proposed use” as required by Section 11-2-3(A) of The Code.

**Sanitary Waste:**

The appellant states in their notice that the proposal was approved “with no plan for sanitary disposal of human waste.”

Staff provided opportunity for the Summit County Health Department to review the proposal. The Health Department did not provide Staff with any concerns or issues regarding the need for a review of septic levels or for a plan for human waste disposal. This issue was not raised during any of the public hearings regarding the application.

**Development on Steep Slopes:**

The appellants believe that the application should have been denied due to a “prohibition of development on natural grade slopes in excess of thirty percent” as stated in Section 11-2-4 of the Code.

The Code does not contain a definition of Development. The Community Development Director has previously determined that this section of the code refers to permanent structures. As no permanent structures are proposed as part of this application, it was determined that the applicant was in compliance with the Code.

**Dust Control:**

The appellants are concerned that the use will create impacts to air quality for the surrounding neighborhood.

The ESCPC required as a condition of approval (Exhibit A; see conditions #2 & #6) that the applicant apply for and obtain a SWP3 permit from the Summit County Engineer and
also participate in the voluntary fugitive dust program as administered by the State of Utah Division of Environmental Quality.

*Noise:*

The appellants have provided their own study as to what noise may be generated by the site (Exhibit D).

There was much discussion regarding noise and which standard (Code or Noise Ordinance 316-B) should take precedence in this situation. The Following is Staff’s analysis from the Staff Report submitted to the ESCPC for the November 7, 2012 meeting:

During the September 19 public hearing, the ESCPC asked Staff to consult with the County Attorney’s office to determine which language concerning noise, the Noise Ordinance (316-B) or the language in the Code referencing noise 11-4-12 (B)(2), took preference. Staff has determined that the Development Code language has preference in this instance. However, the following analysis may shed more light on the determination:

The Conditional Use standards in section 11-4-12 (B)(2) states that “The proposed use is in general compliance with the standards in Chapter 2 of the Eastern Summit County Development Code.” (emphasis added).

The applicable section of Chapter 2 (11-2-4 (K)) states that “Non-agriculture development shall not generate noise equal to or exceeding 60 decibels at its property line which would result in materially adverse impacts relating to the use of the land in question or adjacent land or its occupants.” (emphasis added).

It appears that the proposed use will be in “general compliance” with this standard as there is no proof of materially adverse impacts due to the noise of an operation of this size and nature. As the Summit County Noise Ordinance lists time restrictions that are outside of the proposed hours of operation for the proposed project, the noise limits identified there would not apply in this instance.

The Summit County Attorney has provided further clarification of this issue as Exhibit E.

During the November 7 meeting, the appellant agreed with the County Attorney’s office that the Chapter 2 noise standard should apply in this situation.

*Condition of County Road:*

The submitted appeal notice claims that “The County Engineer’s road impact analysis focused on “traffic” impacts (trips per day) and not on road infrastructure impact.”
The analysis conducted by the County Engineer does take into account the potential effects of a proposed use on infrastructure. In this instance, the Engineer did not feel that the proposed number of trucks per day warranted comment to Staff or the ESCPC. The traffic analysis provided by the Engineer did refer to Level of Service, which standards do take into account the effects of the infrastructure.

*Legal Standard:*

The appellants believe that the ESCPC used an improper legal standard in approving the CUP.

The County Attorney’s office has routinely trained the ESCPC that Conditional Uses as identified in the Code are allowed uses that may have certain impacts that need to be mitigated. If the impacts can be mitigated, then the permit should be approved. The appellants appear to be focusing on the opposite of this standard, namely that if impacts cannot be mitigated then the permit should be denied. The ESCPC provided detailed findings to support their argument that the potential impacts and issues raised during the public hearings could be mitigated, and then voted accordingly. The appellants do not believe that the impacts could be mitigated.

*Indisputable Scientific Evidence:*

The appellants claim that their “indisputable scientific evidence” (noise study addressed above) was not properly considered by the ESCPC.

The study was submitted to Staff via email at 1:49 p.m. November 7, 2012, the day of the final public hearing. Staff forwarded the study to the ESCPC via email at 3:23 p.m. the same day. Staff also presented hard copies of the study to the ESCPC prior to the meeting. The findings of the study were also discussed by the appellant during the public hearing of the meeting. The ESCPC acknowledged the study as they would any other public comment or document submitted. Reasons given by the ESCPC during the November 7 meeting for not relying on the submitted study include: 1) it was a modeled study and did not simulate the actual proposed use and; 2) the study itself mentions the subjective nature of noise disturbances.

*UDOT Traffic Concerns:*

The appellants claim that the ESCPC failed to mitigate the impacts of heavy trucks merging with traffic onto State Highway 32. The following is Staff’s analysis from the Staff Report submitted to the ESCPC for the November 7, 2012 meeting:

Staff spoke with Mark Velasquez, UDOT Region 2 Access Control Coordinator, who confirmed that based upon the size of the proposed quarry, UDOT would not change their opinion as stated in the August 15, 2012 letter (Exhibit A-14). Staff asked specifically about the difference between 6 trucks per day and 140 trucks per month, and Mr. Velasquez stated that the difference in traffic still
would not require additional restrictions or requirements than those stated in the August 15, 2012 letter.

*Other items addressed:*

Items 3-7 of the supplemental notice have been addressed with the appellant via submission of a Government Records Access and Management Act (GRAMA) request filed with the Community Development Department. The Community Development Department has delivered all available requested materials to both the appellant and the applicant.

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

Staff recommends that the SCC review and discuss the records as provided. Staff further recommends that the SCC vote to uphold the findings and conditions for a Conditional Use Permit for the proposed Rockport Rocks quarry as voted upon by the ESCPC.

**Attachment(s)**

Exhibit A – Final CUP Approval
Exhibit B – Supplemental Notice of Appeal
Exhibit C – Response to Appeal by Applicant
Exhibit D – Noise Study
Exhibit E – County Attorney Noise Clarification
Exhibit F – Noise Study Map (Subject Parcels Highlighted)
November 9, 2012

Wesley Siddoway
Rockport Rocks, LLC.
5325 N Bridle Circle
Oakley, UT 84055 via email: rockportrocks@yahoo.com


Wesley,

The Eastern Summit County Planning Commission, during their regular meeting on November 7, 2012 voted to approve your application for a Conditional Use Permit to establish a rock quarry on parcels NS-71 and NS-59-1 located at 7120 SR 32, Peoa.

**Project Description:**

The project approved under this Conditional Use Permit consists of a rock quarry located on 2 acres of land situated within two (2) larger parcels identified as tax parcels #NS-59-1 and #NS-71. The rock quarry operation is limited to the 2 acres described as: Beginning at a point North 3°31'41" East 585.42 feet more or less along the section line from the East 1/4 Corner of Section 10, T1S, R5E, SLB&M and running thence South 82°21'00" West 278.94 feet; thence North 3°31'41" East 318.36 feet; thence North 82°21'00" East 278.94 feet to the section line; thence South 3°31'41" West 318.36 feet along the section line to the point of beginning. This includes all material and equipment storage. The quarry operation consists of production of large rock products suitable for riprap and/or landscape walls, and also crushing of the spoils from that into gravel products, all for retail sale. The project does not include asphalt batch plants or concrete products. The operation will include excavating and rock breaking equipment, and while not routine, will also include periodic blasting. No on site fuel storage is approved as part of this permit. At peak operation, the project may include up to 10 employees, in addition to equipment service personnel.

**Findings:**

1. The application complies with the Eastern Summit County General Plan.
2. The proposed plan complies with the appropriate Development Code Requirements.
3. The proposed use will not be a detriment to public health, safety, or welfare.
4. The proposed use is able to use current infrastructure and is in close proximity to existing public facilities.

5. The location and unique site conditions of the project are such that the off-site visual impacts are significantly hidden from view from Highway 32 and most nearby properties. These site characteristics significantly mitigate the impacts of the project.

6. The project is small in scale, and the limited size of the operation is a significant mitigating factor on the off-site impacts.

7. Noise from the operation of a quarry and trucks leaving and entering the site is a potentially significant impact; however, these impacts have been mitigated by the following factors:
   a. The hours of operation of the quarry have been limited and will therefore meet the criteria of the Noise Ordinance which limits the hours in which Noise can be produced as a primary means of mitigating the effects on neighboring properties.
   b. The location of the quarry within the existing terrain provides for significant shielding of the noise generators (e.g. rock crushers) from the surrounding properties. Ambient noise levels from the State Highway are relatively high and the new noise generators will be of a similar level and therefore less significant when compared to ambient conditions during the daytime.
   c. While the individual noise generators (equipment) associated with the project cannot be eliminated entirely, the quarry’s permitted size is relatively small which will limit the number of noise generators and their potential cumulative impact. Therefore, noise from the project will not create material adverse impacts to surrounding properties.

8. Though traffic from the project is an increase from that existing now on the county road and SR 32, from an engineering and road capacity analysis, the traffic impacts of the project are negligible and will not result in a reduction of service levels.

Conditions of Approval:

1. The applicant must submit proof of an operating permit and reclamation bond as required by the Utah Division of Oil, Gas and Mining. If at any time that permit is withdrawn, or the reclamation bond is not in place, this CUP will also terminate. Violations of the State DOGM permit constitute violations of this CUP, whether enforcement action is taken by the State or not, and the County has the right to terminate this CUP or take other appropriate enforcement action independently of the State of Utah.

2. Work at the site shall not commence until the applicant has obtained an SWP3 permit from the Summit County Engineer. Continuous compliance with the SWP3 permit is a condition of this approval.

3. All blasting operations on the project shall be carried out by properly licensed personnel or contractors, in full compliance with Federal and State regulations. Reasonable advance notice of proposed blasting shall be submitted to the County and also the North Summit Fire District. Blasting shall be carried out in accordance with the policies of those agencies. In addition, in order to protect a high pressure natural gas line near the project, notice shall be given to Questar Gas for their personnel to be on site. Blasting shall be limited to the
hours of 10 a.m. to 3 p.m. Monday through Friday. Reasonable effort shall be made to notify immediately adjoining property owners of blasting at least 72 hours in advance.

4. This approval is limited to the project description above, and no temporary uses or uses related to, but not included in the project description are approved or implied.

5. Hours of operation shall be limited to between 7:00 a.m. and 5:00 p.m. Monday through Friday, and 8:00 a.m. and 5:00 p.m. on Saturdays. Maintenance and repair operations that do not require operation of machinery can occur outside of those hours. Bona fide emergency operations may exceed these hours.

6. The applicant has the obligation to control mud, rock, and dust track-out from the project. There will be a regular program of road sweeping, washing, or scraping to avoid debris on the public roadways, and either mechanical or manual truck cleaning before trucks leave the project site. The frequency of control work will vary with the season and weather conditions as necessary to keep the public roadways free of mud, rocks, and dust. A rumble cage will be installed on the project side of the paved road to dislodge mud and rocks from trucks as they exit the quarry. The quarry access road will be graveled, or at the option of the applicant, paved. The only non-treated surface driveway will be the actual loading zone within the quarry. An asphalt road will be maintained for 350 feet from SR 32. Track-out will be monitored by the applicant, and in periods of wet conditions, traffic will be suspended if the other track out elimination measures are not sufficient.

7. Dust will be controlled under the voluntary fugitive dust program administered by the State DEQ. Compliance with the program is voluntary under the State regulations, but is made a specific condition of this approval. In addition, the unpaved portion of the access road will be watered and/or treated with magnesium chloride as needed for dust control.

8. The Project is expressly limited to the 2 acres described above. This is essential as the limited size and scale of the project are material to the mitigation of impacts in the surrounding area. Any expansion will require an amendment to this CUP, and the applicant acknowledges that no subsequent approval is expressed or implied by this approval.

9. Trucks operating within the project will not use engine compression brakes commonly referred to as “Jake Brakes.”

10. Truck traffic will be heavier on some days and lighter on others, but if the monthly truck traffic exceeds 140 round trips, installation of an acceleration or deceleration lane may become necessary. If truck traffic (for vehicles hauling material from the quarry) exceeds 140 round trips per month, as recorded via traffic log by the applicant, the applicant shall notify Summit County, and UDOT will be asked to determine whether additional turning or access lanes are needed. If required, road improvements will be at the expense of the owner of the Quarry.

11. If the truck traffic exceeds a monthly average of 140 truck round trips over any rolling 7 month (210 day) period, a work session shall be scheduled with the Eastern Summit County Planning Commission to review the possible impacts of the increased traffic and additional mitigation measures. This average truck count is limited to material hauling vehicles, and does not include passenger cars or light trucks used by employees or others visiting the Project.
Any person wishing to appeal the Conditional Use Permit decision may do so by submitting the appropriate application and fees to the Community Development Director within ten (10) calendar days of this notice.

Please feel free to contact me by phone at (435) 336-3134; or by email at slewis@summitcounty.org if you have any questions regarding this decision.

Sincerely,

Sean Lewis
County Planner

cc: inquiry file

Attachments: Approved Site/Operational plans

S:\SHARED\Sean Lewis\Conditional Use\Rockport Quarry\Rockport Approval.docx
Site Plan
Parcel NS-59-1 & NS-71
Located in the Northeast Quarter of 10 T1S, R5E, SLB&M

PREPARED FOR: Wes Siddoway

SITE PLAN
1 Inch = 100 Feet

GRAPHIC SCALE

LEGEND

November 8, 2011

P.O. Box 445
1325 South Hoytsville Road
Coalville, Utah 84017
(435) 336-4210
SURVEYING, LLC

Exhibit A-5

Rockport Appeal 12
Proposed Quarry Location

Title: Contour Map
Project: Rockport Rocks
Prepared By: Rockport Rocks LLC
Date: January 2, 2012

Exhibit A-7

Proposed Quarry Location

Exhibit A-7

Rockport Appeal 14
Topography Survey
Parcel NS-59-1 & NS-71
Located in the Northeast Quarter of 10 T1S, R5E, SLB&M

Contour Intervals (Existing Grade)

LEGEND

Disturbance Area
Limits of Disturbance

Topography Survey
Parcel NS-59-1 & NS-71
Located in the Northeast Quarter of Section 10 T1S, R5E, SLB&M.

Wes Siddoway
Surveying, LLC
1325 South Hoytsville Road
Coalville, Utah 84017
(435) 336-4210

Surveys and Plans
Located in the Northeast Quarter of Section 10 T1S, R5E, SLB&M.

PLANNING APPROVED
By Wes Lewis, 11/28/2012, 11:15 AM

Sheet 1 of 1
Exhibit A-8
Rockport Appeal 15
NOTES:
1) INSTALL SILT FENCE ALONG TOE OF SLOPES TO PREVENT SEDIMENT LOSS. INSTALL STRAW WAVIDLES IN DOWNHILL DRAINAGE SWALES.
2) ENSURE ALL FUEL IS STORED ONSITE IN ACCORDANCE TO ALL LOCAL, STATE AND FEDERAL LAWS.
3) PLACE BERM IN AREAS OF TRAFFIC TO MID AXLE HEIGHT OF LARGEST PIECE OF EQUIPMENT.
4) PLACE REGULATORY SIGNS IN ACCORDANCE TO MSHA
June 12, 2012

Wesley Siddoway  
Rockport Rocks LLC  
5325 North Bridle Circle  
Oakley, Utah 84055

Subject: Permit to Commence Small Mining Operations, Rockport Rocks LLC, Rockport Rocks, S/043/0034, Summit County, Utah

Dear Mr. Siddoway:

The Division of Oil, Gas and Mining finds your Notice of Intention to Commence Small Mining Operations (Notice) complete and approves the reclamation surety for the Rockport Rocks mine. You are now permitted to conduct small mining operations on three acres as outlined in the Notice provided you have written approval from any other appropriate agency. The approval or acceptance of a complete Notice does not relieve an operator from his responsibility to comply with the applicable statutes, rules, regulations, and ordinances of all local, state and federal agencies with jurisdiction over any aspect of the operator's mining operations. Enclosed please find a copy of the reclamation contract and stamped approved Notice.

Please keep in mind the following regulatory requirements.

- The Division must be notified no later than 30 days after beginning mining operations.  
- Mining disturbance is only allowed in the area identified in the Notice and Reclamation Contract.  
- Stockpiling topsoil material prior to beginning activities will help ensure successful revegetation. Even the first few inches of undeveloped material are worth saving to aid in later revegetation efforts, and future regulatory surety release.  
- If you encounter any archaeological or historical items, you are asked to notify this office and State History of your find.  
- Annual permit fees are due July 30th of each year.  
- Annual reports are due by December 31st of each year.  
- The reclamation surety will be reviewed every 3 years.  
- The Division requests that the disturbed area boundary (including access/haul roads) be marked with metal T-posts to identify the area permitted for mining.
The Division’s web page at http://ogm.utah.gov/ under the Minerals Program has a link to the rules under which you are expected to operate and to other information to assist you in complying with program requirements. Thank you for your cooperation. In reply, please refer to file number S/043/0034. If you have questions or concerns regarding this letter, please contact Paul Baker, Minerals Program Manager at 801-538-5261 or Leslie Heppler at 801-538-5257. Best wishes with your mining venture.

Sincerely,

Dana Dean, P.E.
Associate Director of Mining

DD: lb; eb
Attachment: Approved SMO Notice
Enclosure: Copy of RC & surety forms
cc: dlewis@co.summit.ut.us
F:\GROUPS\MINERALS\WP\M043-Summit\S0430034-RockportRocks\final\APVL-4906-06112012.doc
Rockport Rocks

SWPPP

Quarry Track out Control Plan

During inclement weather possibility of track out could occur on SR-32 from the access road to the rock quarry. In an effort to prevent and control track out from occurring during operations we have developed the following plan. This plan will act as a guideline to measure against and be held to by state, federal and local agencies.

Preventative measures:

#1. We will implement and maintain a road cleaning procedure during events of possible track out. This effort will keep mud and debris from highways of public travel. Road cleaning will be completed with any of or a combination of the following means necessary to keep public roadways clean of debris. Means to include, but not be limited to: road sweeping either mechanical or manual, road washing, road scraping either mechanical or manual and truck cleaning prior to exit.

#2. A rumble cage (large cattle guard) will be placed at the property line before leaving the rock quarry and prior to entering the asphalt roadway. This tire rumble cage will act as a mechanism to dislodge and collect mud and debris from trucks as they exit the quarry.

#3. Course road surfacing material will be placed and maintained on access road surfaces to prevent mud and debris from collecting onto vehicles when entering and exiting quarry site. This will leave only the loading area of the quarry as an area of exposure to mud and debris during inclement weather. Upon exiting the quarry along the 2,500 feet of surfaced road, vehicles will lose a majority of mud or debris prior to coming across the rumble cage.

#4. An asphalt road will be maintained for 350 feet from SR-32 into the rock quarry. This will provide a last resort for mud and debris to fall from trucks prior to entering SR-32. This portion of asphalt roadway will be kept clean in an effort not to add additional mud or debris upon vehicle exit.

#5. Track out will be monitored by competent supervision; onsite, during inclement weather. If track out cannot be controlled, traffic will be suspended until track is controlled and/or conditions change.
Blasting Plan

Rockport Rocks LLC

General Scope

Blasting at the quarry will be minimized by use of hydraulic hammers and mechanical ripping. In the event we need to blast rock at the quarry all state, local and federal permits will be obtained prior to blasting at the quarry. Rockport Rocks will commit to follow national blasting standards and vibration limits for any blasting performed onsite. A licensed and insured blasting contractor familiar with national blasting standards will be hired to perform blasting. Prior to blasting we will create an extensive blasting plan that will identify hole patterns, charge sizes, set back distances and other detailed information required by Utah Division of Oil Gas and Mining.

Utility Companies to be notified

Questar Gas and Rocky Mountain power have utilities with in 1 mile of the quarry site, but further than 1,500 feet. Both companies will be notified and confirm blasting plan prior to any blasting. Preliminary discussions with both utility companies have not identified any concerns from either company.

Blasting Hours

Blasting hours at the mine will be from 8:00 AM and the last remaining shot will not be detonated after 3:00 PM. Hours may be adjusted at time of permitting and blasting plan based upon local agency input.
DEPARTMENT OF TRANSPORTATION

JOHN R. NJORD, P.E.
Executive Director

CARLOS M. BRACERAS, P.E.
Deputy Director

State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

August 15, 2012

Wesley Siddoway
Rockport Rocks, LLC
7120 N SR-32
Peach, UT 84061

Dear Mr. Siddoway:

SUBJECT: Rockport Rocks, LLC

The Utah Department of Transportation Region 2 Staff has determined that Rockport Quarry project at 7120 N (SR-32) has no adverse effects on the state highway.

- In the future, when the hauling and quarry acre size increases, you will be required to meet with UDOT staff at that time to discuss the impacts of your business on SR-32 and the appropriate access permit you will need to apply for. This letter does not release you from any of the Summit County requirements.

- UDOT reserves the right to install a raised median island or restrict the access to a right-in right-out if the proposed access creates safety concerns, if there is an increase in crashes in the area, or increase in traffic volumes on state route.

If you need further information regarding your project, please feel free to contact me at (801) 975-4810.

Sincerely,

Mark Velasquez
UDOT Region 2
Access Control Coordinator

Cc: Tony Lau, P.E. UDOT Region Two SE Area Traffic Engineer
Sean Lewis – Summit County

H:\Access Roads\Correspondence2012032\letter_RockportRocksLLC_32_7160N_08512.doc

Region Two • 2010 South 2760 West • Salt Lake City, Utah 84104-4592
telephone 801-975-4900 • facsimile 801-975-4841 • www.udot.utah.gov
Exhibit to Appeal of a Decision Application Form

November 14, 2012

Don Sargent
Summit County Community Development Director
60 North Main Street
PO Box 128
Coalville, Utah 84017

Regarding the Appeal for approved Conditional Use Permit for Rockport Rocks Quarry, LLC:

The Eastern Summit County Planning Commission’s decision to approve the Rockport Rocks Quarry, LLC Conditional Use Permit (CUP) is in violation with the Summit County Development Code as follows:

1. Failure to follow CUP Criteria, including development standards
2. Failure to mitigate offsite noise impacts
3. Failure to comply with development prohibition on slope in excess of 30%
4. Violated CLUDMA standards for conditional use permits
5. Violated CLUDMA requirement to follow land use code
6. Failure to mitigate road impacts

The following are to be listed as the Appellants:

Jodi Hoffman
Hoffman Law
1887 Gold Dust Lane, Suite 303
Park City, Utah 84060
435-901-0805

WT Properties, LLC
c/o Martha Stonebrook
6326 Timpanogos Way
Taylorsville, Utah 84129
801-969-6944

Brandon and Brooke Richins
7030 North State Road 32
Peoa, Utah 84061
435-783-5594

Stewart Grow
4000 Browns Canyon Road
Peoa, Utah 84061
435-783-5700
Exhibit to Appeal of a Decision Application Form

Leon and Karen Peterson
3015 Dickens Place
Salt Lake City, Utah 84108
801-597-5304

David Krajewski
7045 North State Road 32
Poa, Utah 84061
435-723-5050

Eric Bergeson
150 Social Hall Avenue, 4th Floor
Salt Lake City, Utah 84111
801-870-3382
Supplemental Notice of Appeal  
November 18, 2012

1. The Planning Commission erred in approving a Conditional Use Permit for the Rockport Rocks Quarry as a matter of law because:
   a. The nature of the proposed use is inappropriate in the proposed location. ESCDC Sec. 11-4-12 A and B.1. Despite the well-intentioned efforts of staff and members of the Planning Commission to mitigate its multiple off-site impacts, the proposed use has not and cannot be conditioned in a manner that will substantially mitigate multiple detrimental impacts on the neighboring allowed uses.
   b. The proposed use is not in general compliance with the development evaluation standards in Title 11 Chapter 2. ESCDC Sec. 11-4-12.B.2
      i. The Planning Commission permitted the conditional use in violation of ESCDC Section 11-2-3.E generally, and 11-2-3.E.3.a(1) specifically, by failing to require a memorandum of decision from the State Engineer showing sufficient water rights for the proposed development. The applicant stated that it has no approved water rights for the use and that Mountain Regional would supply municipal and industrial water for the use. The state engineer has not approved the use of any Mountain Regional water rights in the proposed location of the conditional use permit. Such a use in this location, without prior state engineer approval, would be a criminal act under state law. As such, the Planning Commission’s approval of the CUP was premature.
      ii. The Planning Commission permitted the conditional use, in violation of ESCDC Sec. 11-2-3.E.4.e. The proposed use would require 10-12 full time employees and would encourage an unlimited number of customers. However, the approval was issued with no plan for sanitary disposal of human waste. Contrary to the code, the use was approved without a survey of the septic tank density in the surrounding area and with no evidence of any kind of a sanitary waste system to service employees and customers.
      iii. The Planning Commission permitted the conditional use in complete disregard of the County Code’s clear prohibition of development on natural grade slopes in excess of thirty percent. ESCDC Sec. 11-2-4.F. The undisputed evidence is that the grades are currently 40-50%. The Planning Commission simply stated, without citation to any authority, that ESCDC Sec. 11-2-4.F did not apply. The Utah County Land Use Development and Management Act requires land use authorities to follow the laws that they have enacted. A land use authority, such as the Planning Commission may not disregard validly enacted County standards that conflict with
their desire to approve an application. Rather, state law requires them to deny the application and then propose and enact a change in the law prior to approving a conditional use permit.

iv. The Planning Commission permitted the proposed conditional use despite the fact that they acknowledged that the use would create substantial air quality impacts for the neighbors and that the state air quality standards would not protect county residents from the emissions generated by the conditional use because the state laws regulate different types of particulate emissions than would be generated by the proposed conditional use. ESCDC Sec. 11-2-4.J. Further, despite the Planning Commission’s direction to staff to require and enforce a specific “fugitive dust plan” no such requirement is included in the Conditional Use Permit.

c. The Planning Commission permitted the conditional use in direct contradiction of the Noise Limits for new development that are specified in the County Development Standards. The provision clearly states that (new) non-agricultural development shall not generate noise equal to or exceeding sixty (60) decibels at its property line which would result in materially adverse impacts relating to the use of the land in question or adjacent land or its occupants. On the record, the neighbors introduced a nationally acclaimed acoustic engineer’s analysis, of the “best case” scenario (least noise) that would be generated by the proposed use. (The analysis did not include an analysis of proposed blasting for two reasons: there is no way the blasting would meet any of the county criteria; and blasting noise would far exceed the best case scenario noise, which already violated County standards.) The expert analysis showed that the proposed use will generate at least 75 decibels of sustained noise at the quarry boundary and would produce at least 73 decibels of sustained noise at the nearest neighbor’s home. As a matter of law, the proposed use will generate substantial unmitigated off-site noise impacts. In addition to the acoustic analysis, the un-contradicted testimony from neighbors was that this noise will materially and adversely affect the property rights of neighboring property owners, including the right to continue and expand agricultural breeding operations and the omnipresent right of quiet and peaceful enjoyment of their homes and properties.

While expressing their heartfelt empathy with the neighbors that the use would generate such unmitigated noise impacts, the Commission nevertheless approved the use in violation of ESCDC Sec. 11-2-4.K. Many of the Planning Commissioners were confused about the noise criteria. One Planning Commissioner opined that the standard was akin to OSHA standards for sustained workplace noise. That analogy was wrong on its face and should have been corrected by staff. Other Planning Commissioners analogized to agricultural noises or transient...
noise from temporary UDOT projects. Again, these standards are far below the criteria required in ESCDC Sec. 11-2-4.K and caused prejudicial error in the minds of the Planning Commission.

d. The proposed use violates the County’s standards for permitting conditional uses in contradiction of ESCDC Section 11-4-12.B.3 by violating each of the provisions of state and county law listed herein;

e. The use will adversely affect, in a significant manner, both neighboring land uses as well as the public health, safety and welfare in violation of ESCDC Sec. 11-4-12.B.6. In addition to each of the adverse impacts listed herein, the applicant convinced the Planning Commission that properly operated, blasting is in fact safe. However, it was undisputed that if there were human error at any point in the blasting operation, the lives and livelihoods of each of the neighbors would be at risk. There is no reason to expect that at some point, human error will occur and the public health, safety and welfare will be compromised by this use.

f. The proposed use will generate substantial unmitigated impacts on the County road surface and subsurface, to the substantial detriment of neighboring property owners and the taxpayers of Summit County. The County Engineer’s road impact analysis focused on “traffic” impacts (trips per day) and not on road infrastructure impact. Under the ESCDC, the County has a duty to ensure its financial integrity in the land use permitting process. In violation of ESCDC Sec. 11-2-5.B, the Planning Commission approved the unmitigated and continued use of 140 fifty three ton trucks per month on an already failing county road. As approved, the taxpayers will now be required to underwrite the economic success of this applicant because the Planning Commission approval failed in its entirety to require the applicant to pay for the damage to County roads that the newly authorized use will cause.

g. The Planning Commission used an incorrect legal standard for review of conditional use permits under the County Land Use Development and Management Act. Several County Commissioners cited their understanding that state law required them to issue the conditional use permit—that they had no choice. To the contrary, state law requires them to deny the conditional use permit if the applicant does not offer an adequate means to substantially mitigate all off-site impacts. Staff did not correct the Planning Commission’s misperception. The Planning Commission’s mistaken use of an incorrect legal standard led the Planning Commission to believe that it had no choice but to issue the conditional use permit.

h. The Planning Commission utterly failed to properly consider indisputable scientific evidence of illegal noise impacts that will be generated by the proposed use.

i. The Planning Commission failed to mitigate the obvious traffic hazard associated with 53 ton trucks pulling onto state route 32 from a dead
stop, on a blind curve, at the apex of a crest in a two lane road, with no shoulders. Anyone who has driven this stretch of SR32 is aware that the road is dangerous in its current configuration and that the proposed CUP will create unmitigated traffic hazards in violation of ESCDC Sec. 11-2-6.B.

2. The proposed use in the proposed location is inconsistent with the goals of the Eastern Summit County General Plan. ESCDC 11.1.1

3. Appellants are concerned that County Planning staff has acted as advocates for the applicant. Appellants request that in addition to the applicant, County Council considers Planning Staff as parties opponent in this appeal. As such the appellants request that County Council has no direct communication with County Planning staff (or any other party) about this matter, other than written communication shared with appellants at the same time it is shared with members of the County Council.

4. Appellants have requested recordings of each work session and public hearing on this application. To date, the appellants have not received audible recordings. As such, appellants reserve the right to supplement this list of issues on appeal to include such matters as would have been revealed from the recordings.

5. Appellants have prepared this Notice of Appeal to comply with the very general requirement to file a “form of appeal to the CDD” within 10 calendar days, pursuant to ESCDC Sec. 11-7-16. Section 11-7-16 states nothing about stating any formal reason for the appeal. Any implication from staff that this Notice of Appeal must be both specific and comprehensive is not reflected in the words of the code they are employed to implement and does not limit appellants from further developing this appeal as the record is more fully disclosed.

6. In order to avoid a moving target on appeal, and to properly prepare for and present a cogent appeal, Appellants request a full and complete record of the Conditional Use Permit consideration and approval process that will be reviewed by the County Council at least 20 days prior to the scheduled hearing on appeal.

7. Appellants will further submit a memorandum of points and authorities in support of this notice of appeal, in conformity with an agreed briefing schedule.
January 2, 2013

slewis@summitcounty.org

Sean Lewis, County Planner
Summit County
60 North Main Street
P.O. Box 1280
Coalville, Utah 84017

Re: Appeal of Approved Conditional Use Permit for
Rockport Rocks Quarry, LLC

Dear Sean:

Our office represents Rockport Rocks, LLC and the Siddoway family in connection with the appeal of the approved conditional Use Permit for Rockport Rocks Quarry, LLC. We are in receipt of and have reviewed the appeal form filed with the Community Development Department on November 14, 2012, and the “Supplemental Notice of Appeal” dated November 18, 2012. The Supplemental Notice of Appeal also contemplated, in paragraph 7 of its last page, a future “memorandum of points and authorities” in support of the appeal. We have been waiting to state Rockport Rocks’ position pending receipt of that document but have not yet received it. I will address the appellants’ arguments in summary fashion for the benefit of the County Council, reserving the right to respond more fully to the appellants’ memorandum if filed, either through an additional letter or at the hearing on the appeal presently scheduled for Wednesday, January 9, 2013.

The appellants complain that the Eastern Summit County Planning Commission failed to follow the conditional use permit criteria established by Summit County and the provisions of the County Land Use Development and Management Act (“CLUDMA”) applicable to conditional use permits and land use codes. In each of these points, the appeal fails. What appellants complain about is their disagreement with the decision reached by the Planning Commission because the procedure followed by the Planning Commission was proper and the result well within the Planning Commission’s discretion. The fact that appellants disagree with the end result does not mean that legal error was committed.
Conditional use applications are, of course, addressed by the planning staff and Planning Commission under § 11-4-12 of the Summit County Development Code. Briefly, the Planning Commission is there charged to determine whether the proposed use is appropriate in the particular location, if it is in compliance with the development standards, would not violate any county, state or federal law, and will not adversely affect, in a significant manner, the public health, safety and welfare. Development Code § 11-4-12B. The Planning Commission is required to review of the application and staff report and, after a public hearing, is given discretion to approve, approve with conditions, or deny the proposed conditional use.

In this case, the Commission approved the conditional use with conditions as, indeed, they should have. Rock quarries and associated surface mining uses are expressly contemplated as a conditional uses in this area. Development Code § 11-3-14A. Rockport Rocks produced records in support of its application confirming its permit to conduct small mining operations from the Department of Natural Resources. It addressed questions about traffic impacts by submitting the determination of UDOT that the proposed Rockport quarry “has no adverse effects on the state highway.” It acknowledged its familiarity with and commitment to follow fire district blasting requirements. It responded to noise and time of operation concerns. It addressed, to the satisfaction of the Planning Commission, noise issues associated with the quarry, which are mitigated by its placement largely inside the mouth of Side Canyon. It will be required to control dust under programs administered by the state Department of Environmental Quality, and is obligated by OSHA to address worker safety and sanitation issues.

CLUDMA, cited by the appellants, states, “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.” Utah Code Ann. § 17-27a-506(2)(a) (my emphasis). Reasonable conditions were imposed by the Planning Commission, expressly to mitigate reasonably anticipated detrimental standards of this proposed use and, with those conditions established, the Planning Commission was required to approve the conditional use. The Planning Commission’s approval also addresses the policy of promoting new business enterprises established by Summit County:

New business enterprises, and jobs within the tax base that will result, are crucial to the future of Eastern Summit County. It is difficult to identify locations for such activities without a specific proposal to consider. Therefore, a procedure has been incorporated in this title that allows the County the flexibility to consider these uses in the future.

Development Code § 11-1-6.C.
Each of the points raised on appeal was previously presented to and considered by the Planning Commission. The Planning Commission addressed each of these areas and voted to approve the Conditional Use Permit sought by Rockport Rocks with appropriate conditions. Rockport Rocks respectfully requests that the County Council affirm the issuance of the Conditional Use Permit on the same bases.

Very truly yours,

CLYDE SNOW & SESSIONS

Edwin C. Barnes

ECB:dh

cc: Wes Siddoway, rockportrocks@yahoo.com
Jodi Hoffman jhoffman@xmission.com
Environmental Noise Assessment

Rockport Rocks Quarry

Summit County, Utah
Job # 2012-174

Prepared For:
Hoffman Law
1887 Gold Dust Lane, Suite 330
Park City, UT 84060
Attn: Jodi Hoffman

Prepared By:

j.c. brennan & associates, Inc.

Jim Brennan
President
Member, Institute of Noise Control Engineering

November 5, 2012

P.O. Box 6748 - 263 Nevada Street - Auburn, California 95603 -p: (530) 823-0960 -f: (530) 823-0961

Exhibit D-1

Rockport Appeal 31
INTRODUCTION

The proposed Rockport Rocks Quarry is an aggregate production facility which is located in Summit County Utah. The site includes an area (pit) where the rock resource is loosened by explosive charges, excavated with either a bulldozer, or a power shovel and loaded into dump trucks. The trucks transport the large rock to a crushing and screening facility. The rock is loaded into a crusher with a wheel-loader. Crushed aggregate is transported out of the site via 50-ton transport trucks. Figure 1 shows the project site.

The nearest residence is the proposed project applicants residence (Siddoway residence). There are approximately 25 other residences located in the vicinity of the proposed mining site. The majority of those residences are located to the south and southwest of the project site. j.c. brennan & associates, Inc. has been retained by the Hoffman Law to determine the potential noise levels associated with the project, and compare them to the Summit County noise level criteria.

CRITERIA

The Summit County Conditional Use Permit standard is as follows:

Non-agriculture development shall not generate noise equal to or exceeding sixty decibels (60 dB) at its property line which would result in materially adverse impacts relating to the use of the land in question or adjacent land or its occupants.

Since the Summit County standards do not state what metric should be used (maximum Lmax, average or equivalent Leq) this analysis assumes that the standard is based upon a maximum noise level associated with the operations. It is important to note that the maximum noise levels are only approximately 3 dBA to 5 dBA more than the hourly average (Leq) noise levels due to the fact that the noise sources are somewhat continuous in nature.

Fundamentals of Acoustics

Acoustics is the science of sound. Sound may be thought of as mechanical energy of a vibrating object transmitted by pressure waves through a medium to human (or animal) ears. If the pressure variations occur frequently enough (at least 20 times per second), then they can be heard and are called sound. The number of pressure variations per second is called the frequency of sound, and is expressed as cycles per second or Hertz (Hz).

Noise is a subjective reaction to different types of sounds. Noise is typically defined as (airborne) sound that is loud, unpleasant, unexpected or undesired, and may therefore be classified as a more specific group of sounds. Perceptions of sound and noise are highly subjective from person to person.
Measuring sound directly in terms of pressure would require a very large and awkward range of numbers. To avoid this, the decibel scale was devised. The decibel scale uses the hearing threshold (20 micropascals), as a point of reference, defined as 0 dB. Other sound pressures are then compared to this reference pressure, and the logarithm is taken to keep the numbers in a practical range. The decibel scale allows a million-fold increase in pressure to be expressed as 120 dB, and changes in levels (dB) correspond closely to human perception of relative loudness.

The perceived loudness of sounds is dependent upon many factors, including sound pressure level and frequency content. However, within the usual range of environmental noise levels, perception of loudness is relatively predictable, and can be approximated by A-weighted sound levels.

There is a strong correlation between A-weighted sound levels (expressed as dBA) and the way the human ear perceives sound. For this reason, the A-weighted sound level has become the standard tool of environmental noise assessment. All noise levels reported in this section are in terms of A-weighted levels, but are expressed as dB, unless otherwise noted.

The decibel scale is logarithmic, not linear. In other words, two sound levels 10 dB apart differ in acoustic energy by a factor of 10. When the standard logarithmic decibel is A-weighted, an increase of 10 dBA is generally perceived as a doubling in loudness. For example, a 70 dBA sound is half as loud as an 80 dBA sound, and twice as loud as a 60 dBA sound.

**Effects of Noise on People**

The effects of noise on people can be placed in three categories:

- Subjective effects of annoyance, nuisance, and dissatisfaction
- Interference with activities such as speech, sleep, and learning
- Physiological effects such as hearing loss or sudden startling

Environmental noise typically produces effects in the first two categories. Workers in industrial plants can experience noise in the last category. There is no completely satisfactory way to measure the subjective effects of noise or the corresponding reactions of annoyance and dissatisfaction. A wide variation in individual thresholds of annoyance exists and different tolerances to noise tend to develop based on an individual’s past experiences with noise.

Thus, an important way of predicting a human reaction to a new noise environment is the way it compares to the existing environment to which one has adapted: the so-called ambient noise level. In general, the more a new noise exceeds the previously existing ambient noise level, the less acceptable the new noise will be judged by those hearing it.
With regard to increases in A-weighted noise level, the following relationships occur:

- Except in carefully controlled laboratory experiments, a change of 1 dBA cannot be perceived;
- Outside of the laboratory, a 3 dBA change is considered a just-perceivable difference;
- A change in level of at least 5 dBA is required before any noticeable change in human response would be expected; and
- A 10 dBA change is subjectively heard as approximately a doubling in loudness.
Table 1 –
Typical Maximum Noise Levels

<table>
<thead>
<tr>
<th>Common Outdoor Activities</th>
<th>Noise Level (dBA)</th>
<th>Common Indoor Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jet Fly-over at 300 m (1,000 ft)</td>
<td>--110--</td>
<td>Rock Band</td>
</tr>
<tr>
<td>Gas Lawn Mower at 1 m (3 ft)</td>
<td>--100--</td>
<td></td>
</tr>
<tr>
<td>Diesel Truck at 15 m (50 ft), at 80 km/hr (50 mph)</td>
<td>--90--</td>
<td>Food Blender at 1 m (3 ft)</td>
</tr>
<tr>
<td>Noisy Urban Area, Daytime</td>
<td></td>
<td>Garbage Disposal at 1 m (3 ft)</td>
</tr>
<tr>
<td>Gas Lawn Mower, 30 m (100 ft)</td>
<td>--80--</td>
<td></td>
</tr>
<tr>
<td>Commercial Area</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heavy Traffic at 90 m (300 ft)</td>
<td>--70--</td>
<td>Vacuum Cleaner at 3 m (10 ft)</td>
</tr>
<tr>
<td>Quiet Urban Daytime</td>
<td>--60--</td>
<td>Normal Speech at 1 m (3 ft)</td>
</tr>
<tr>
<td>Quiet Urban Nighttime</td>
<td>--50--</td>
<td>Large Business Office</td>
</tr>
<tr>
<td>Quiet Suburban Nighttime</td>
<td>--40--</td>
<td>Dishwasher in Next Room</td>
</tr>
<tr>
<td>Quiet Rural Nighttime</td>
<td>--30--</td>
<td>Theater, Large Conference Room (Background)</td>
</tr>
<tr>
<td>--20--</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--10--</td>
<td></td>
<td>Bedroom at Night, Concert Hall (Background)</td>
</tr>
<tr>
<td>Lowest Threshold of Human Hearing</td>
<td>--0--</td>
<td>Broadcast/Recording Studio</td>
</tr>
</tbody>
</table>


Stationary point sources of noise – including stationary mobile sources such as idling vehicles – attenuate (lessen) at a rate of approximately 6 dB per doubling of distance from the source, depending on environmental conditions (i.e. atmospheric conditions, intervening topography and either vegetative or manufactured noise barriers, etc.). Widely distributed noises, such as a large industrial facility spread over many acres, or a street with moving vehicles, would typically attenuate at a lower rate.
Figure 1
Rockport Rocks Quarry Location & Modeling Receiver Sites

NS-59-1, NS-71
Vicinity Map

Prepared July 2013 by Summit County Community Development Department

Summit County

j.c. brennan & associates
consultants in acoustics

Exhibit D-6
Rockport Appeal 36
PROPOSED OPERATIONS

As described earlier in this report, the proposed Rockport Rocks Quarry is an aggregate production facility which is located in Summit County Utah. The site includes an area (pit) where the rock resource is loosened by explosive charges, excavated with either a bulldozer, or a power shovel and loaded into dump trucks. The trucks transport the large rock to a crushing and screening facility. The rock is loaded into a crusher with a wheel-loader. Crushed aggregate is transported out of the site via 50-ton transport trucks.

In order to predict the maximum noise levels associated with the Rockport Rocks Quarry, at the nearest noise-sensitive receptors, j.c. brennan & associates, Inc., utilized the CadnaA Noise Prediction Model. The CadnaA sound propagation model made by Datakustik GmbH was used to model sound levels from the proposed project. CadnaA uses ISO 9613 for calculating outdoor sound propagation. Inputs to the CadnaA model included ground topography and type, source locations, source heights, receiver locations, and source sound power levels. The model was run using ISO 9613 with non-spectral ground attenuation, as recommended by Kaliski.1

Sound power level data for each noise source was based upon noise measurement data collected at several existing mining operations in Nevada and California. Table 2 shows the reference noise levels used for the analysis. The levels shown in Table 2 for each full octave band are linear noise levels, and the overall noise level is in dBA.

<table>
<thead>
<tr>
<th>Source Type</th>
<th>Reference Noise Levels (dBA)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>63.5 Hz</td>
</tr>
<tr>
<td>Bulldozer - 85.5 dBA @ 100 feet</td>
<td>86.0 dB</td>
</tr>
<tr>
<td>Crusher/Screens - 82.3 dBA @ 100 feet</td>
<td>83.1 dB</td>
</tr>
<tr>
<td>Wheel-Loader - 80.6 dBA @ 50 feet</td>
<td>84.1 dB</td>
</tr>
<tr>
<td>Haul Trucks - 80.5 dBA @ 70 feet</td>
<td>85.9 dB</td>
</tr>
<tr>
<td>Rock Drill - 82.6 dBA @ 75 feet</td>
<td>83.0 dB</td>
</tr>
</tbody>
</table>

Figure 2 shows the results of the CadnaA modeling of noise sources.

Based upon Figure 2, overall maximum noise levels exceed 65 dBA at the nearest identified receivers to the southwest, which are identified as R2, R3, and R4. The overall maximum noise level at the receiver identified as R1 is 60.5 dBA. Table 3 shows the predicted noise levels at each of the identified receivers.

<table>
<thead>
<tr>
<th>Receiver</th>
<th>Maximum Level, dBA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receiver R-1</td>
<td>60.5 dBA</td>
</tr>
<tr>
<td>Receiver R-2</td>
<td>68.5 dBA</td>
</tr>
<tr>
<td>Receiver R-3</td>
<td>65.5 dBA</td>
</tr>
<tr>
<td>Receiver R-4</td>
<td>65.5 dBA</td>
</tr>
<tr>
<td>Receiver R-5</td>
<td>58.9 dBA</td>
</tr>
<tr>
<td>Receiver R-6</td>
<td>73.0 dBA</td>
</tr>
</tbody>
</table>

**BLASTING NOISE LEVELS**

Noise levels associated with rock blasting can be characterized as very low frequency and impulsive in nature. Typical methods for evaluating community noise, such as using the A-weighting network on a sound level meter is not generally used for evaluating noise from rock blasting. Noise levels and air borne vibration from blasting are measured in peak sound levels and peak overpressures. Generally blasting is not conducted with a single charge, but with several charges which occur in succession. Noise levels from blasting vary significantly due to the size of the charge or charges, depth of the holes which the charges are buried, the amount of overburden on top of the charges, and the timing of the charges. Therefore, the noise levels associated with blasting are difficult to assess without detailed discussions with the mine operator and the company which is conducting the blasting.

**CONCLUSIONS**

Based upon the analysis, maximum noise levels associated with the operations of the Rockport Rocks Quarry will exceed the Summit County noise level standard of 60 dBA at the project property boundary.
Appendix A
Acoustical Terminology

Acoustics  The science of sound.
Ambient Noise The distinctive acoustical characteristics of a given space consisting of all noise sources audible at that location. In many cases, the term ambient is used to describe an existing or pre-project condition such as the setting in an environmental noise study.
Attenuation The reduction of an acoustic signal.
A-Weighting A frequency-response adjustment of a sound level meter that conditions the output signal to approximate human response.
Decibel or dB Fundamental unit of sound, A Bell is defined as the logarithm of the ratio of the sound pressure squared over the reference pressure squared. A Decibel is one-tenth of a Bell.
CNEL Community Noise Equivalent Level. Defined as the 24-hour average noise level with noise occurring during evening hours (7 - 10 p.m.) weighted by a factor of three and nighttime hours weighted by a factor of 10 prior to averaging.
Frequency The measure of the rapidity of alterations of a periodic signal, expressed in cycles per second or hertz (Hz).
L_{dn} Day/Night Average Sound Level. Similar to CNEL but with no evening weighting.
Leq Equivalent or energy-averaged sound level.
L_{max} The highest root-mean-square (RMS) sound level measured over a given period of time.
L_{(n)} The sound level exceeded a described percentile over a measurement period. For instance, an hourly L_{50} is the sound level exceeded 50% of the time during the one hour period.
Loudness A subjective term for the sensation of the magnitude of sound.
Noise Unwanted sound.
NRC Noise Reduction Coefficient. NRC is a single-number rating of the sound-absorption of a material equal to the arithmetic mean of the sound-absorption coefficients in the 250, 500, 1000, and 2,000 Hz octave frequency bands rounded to the nearest multiple of 0.05. It is a representation of the amount of sound energy absorbed upon striking a particular surface. An NRC of 0 indicates perfect reflection; an NRC of 1 indicates perfect absorption.
Peak Noise The level corresponding to the highest (not RMS) sound pressure measured over a given period of time. This term is often confused with the “Maximum” level, which is the highest RMS level.
RT_{60} The time it takes reverberant sound to decay by 60 dB once the source has been removed.
Sabin The unit of sound absorption. One square foot of material absorbing 100% of incident sound has an absorption of 1 Sabin.
SEL Sound Exposure Level. SEL is a rating, in decibels, of a discrete event, such as an aircraft flyover or train passby, that compresses the total sound energy into a one-second event.
STC Sound Transmission Class. STC is an integer rating of how well a building partition attenuates airborne sound. It is widely used to rate interior partitions, ceilings/floors, doors, windows and exterior wall configurations.
Threshold of Hearing The lowest sound that can be perceived by the human auditory system, generally considered to be 0 dB for persons with perfect hearing.
Threshold of Pain Approximately 120 dB above the threshold of hearing.
Impulsive Sound of short duration, usually less than one second, with an abrupt onset and rapid decay.
Simple Tone Any sound which can be judged as audible as a single pitch or set of single pitches.
To: Eastern Summit County Planning Commission
From: Helen Strachan, Deputy County Attorney
Date: October 29, 2012
Re: Noise regulations

As requested, below is a legal opinion with respect to the perceived conflict within the Summit County Code ("the Code") regarding noise regulations as it relates to Conditional Use Permits. I believe this legal opinion comports with the verbal legal opinion given to you at the last public meeting on the proposed Rockport Rocks rock quarry conditional use permit.

Before an application for a conditional use is approved by the Eastern Summit County Planning Commission, the following criteria, among others, must be met:
1) The proposed use shall be in general compliance with the development evaluation standards in Chapter 2 of this title; and
2) The proposed use will not be in violation of any county, state or federal laws.

**Development Evaluation Standards of Title 11, Chapter 2:**

With respect to #1 above, the development evaluation standards of Chapter 2 includes the following provision regarding noise:

*Noise Limits: Nonagricultural development shall not generate noise equal to or exceeding sixty (60) decibels at its property line which would result in materially adverse impacts relating to the use of the land in question or adjacent land or its occupants.*

**Noise Disturbances of Title 5, Chapter 3:**

With respect to #2 above, Title 5, Chapter 3 of the Summit County Code regulates noise disturbances within Summit County.

Specifically, Section 5-3-8 states that it "shall be unlawful for any person to produce, continue or cause to be produced or continued any 'noise disturbance' within the limits of Summit County, as defined in this chapter. ‘Noise disturbance’ is defined therein as 'any unusual or unreasonable sound that annoys or disturbs a reasonable person with normal sensitivities or than injures or endangers the comfort, repose, health, hearing, peace or safety of a reasonable person.'"
Section 5-3-11 also specifies noise levels and states as follows:

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

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

As the Planning Commission has noted, there is an apparent conflict in the Code because the Development Evaluation Standards calls out a 60 decibel limitation at the property line, while the general Noise Disturbances section of the Code deems a noise measured 25 feet from the property line at a reading of 65 decibels to be “excessive and unusually loud.” A question remains as to which provision of the Code controls and it is my opinion that the more specific and more restrictive provision found in the Development Evaluation Standards controls for the following reasons:

Analysis:

All ordinances of Summit County, including the above provisions which were adopted separately and at different times\(^1\), have been codified through the adoption of the Summit County Code. The Summit County Code is the official code and law of the county, as stated in the original ordinance adopting the Summit County Code, Ordinance 513, in November of 2004.

Title 1, Chapter 3 of the Summit County Code relates to the construction and interpretation of words in the Code. It states that “[a]ll general provisions, terms, phrases, and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the county may be fully carried out.” (Code, §1-3-1-A). If further states that “[i]n the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare. Where any provision of an adopted code imposes greater restrictions upon the subject matter than the general provision imposed by this code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.” (Code, §1-3-1-B).

---
\(^1\) The Noise Disturbances Ordinance was enacted in June of 1997(Ordinance 316) and later amended in February of 2006 (Ordinance 316-A) and April of 2011 (Ordinance 316-B). The Eastern Summit County Development Code was enacted in May of 1996 (Ordinance 278) and has been amended many times since then.
Here, we have two portions of the same Code that are at conflict, however, I believe this cite to Section 1-3-1-A and 1-3-1-B are useful because it suggests that the provision with the greater restriction should control in this instance. The Development Evaluation Standards sets forth a 60 decibel limitation at the property line, which is a more restrictive burden on a property owner than the more general Noise Disturbance portion of the Code which deems a reading of 65 decibels measured 25 feet from the property line to be unlawful.

Furthermore, Utah case law holds that a more specific statutory provision always takes precedence over a more general statutory provision (See Taghipour vs. Jerez, 2001 UT App 139, 26 P.3d 885). In my opinion, the Development Evaluation Standards are more specific because they relate specifically to “nonagricultural development” whereas the above provisions in the Noise Disturbance section of the Code are general and do not specifically call out this type of use. With respect to this conditional use permit application, the use requested is for a rock quarry, which I believe would be considered “nonagricultural development.”
Figure 2: Predicted Project-Related Noise Levels

Rockport Rocks Quarry

Exhibit F
Staff Report

To: Summit County Council (SCC)

Report Date: Friday, March 15, 2013

Meeting Date: Wednesday, March 20, 2013

From: Kimber Gabryszak, AICP - County Planning Department

RE: Newpark Development Agreement – Special Exception

EXECUTIVE SUMMARY: The Newpark Owners Association (applicants) has submitted a Special Exception application (Application) for the Newpark Development Agreement (DA). Staff’s analysis indicates that the DA expired in October 2011, with remaining unplatted density expiring along with the DA. The applicant has submitted the Application to restore the remaining density, requesting the Special Exception to reactivate and extend the DA to October 2016.

Staff recommends that the Summit County Council (SCC) review the Application and choose whether to deny or approve the Special Exception.

A. Project Description

• Project Name: Newpark Development Agreement Special Exception
• Applicant(s): Newpark Owners Association
• Property Owner(s): Multiple
• Location: Kimball Junction
• Zone District & Setbacks: Town Center Zone, Newpark Specially Planned Area
• Existing Uses: Commercial, Residential, Recreational, Open Space
• Parcel Number and Size: Multiple
• Land Use Authority: Summit County Council (SCC)
• Type of Item: Public hearing - discussion and possible action
• Type of Action: Legislative

B. Background

The Redstone Parkside / Newpark Specially Planned Area (SPA) and The Redstone Parkside / Newpark Development Agreement (DA) were approved in October, 2001 and amended in December 2002. The SPA resulted in the approval of 819,360 sq. ft. of density on the ~37 acre site. The original approval anticipated a mix of 36% corporate office/resort residential, 25% residential (resort, townhouses, flats), 24% commercial, and 15% of the density allocated to the Swaner Nature Preserve and the US Ski and Snowboard Association national training center. The mix of uses was also amendable, and amended several times to permit changes in use for various parcels; for example, the current Cottonwood III parcel went from commercial to residential to commercial.

The DA was originally set to expire on October 18, 2006, however prior to the expiration the applicants requested and received an extension from the then County Commission. The new expiration date was then set for October 18, 2011. Prior to the 2011 expiration, the County approved a phasing plan for remaining density in the DA. The applicants are requesting a Special Exception to interpret that the approved phasing plan resulted in a de facto 5-year extension beyond October 2011.
C. **Community Review**
This item has been noticed as a public hearing in the *Park Record*; postcards were also mailed to all property owners within 1000’. As of the date of this report, no public comment has been received.

D. **Identification and Analysis of Issues**

**Unplatted density**
The remaining density that was unplatted as of October 18, 2011 includes the following:

<table>
<thead>
<tr>
<th>Parcel Common Name</th>
<th>Platted Parcel</th>
<th>Density (SF)</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>SBSRD Phase II &amp; III Expansion</td>
<td>S</td>
<td>65,148</td>
<td>Recreation</td>
</tr>
<tr>
<td>Newpark Brownstones</td>
<td>P2*</td>
<td>29,250</td>
<td>Residential; Office</td>
</tr>
<tr>
<td>Newpark Metro Townhomes</td>
<td>R1</td>
<td>69,720</td>
<td>Residential</td>
</tr>
<tr>
<td>Retail Pads</td>
<td>R2</td>
<td>10,080</td>
<td>Retail</td>
</tr>
<tr>
<td>Newpark Southside</td>
<td>Remainder Parcel</td>
<td>39,957</td>
<td>Residential</td>
</tr>
<tr>
<td><strong>Total Remaining Density</strong></td>
<td></td>
<td>214,155</td>
<td></td>
</tr>
</tbody>
</table>

*This has actually been vested through a plat note recorded during Cottonwood III approvals.*

Based on the expiration of the DA, and little progress in platting the above density, including the failure of Newpark to fully follow the 2007 phasing plan, typical DA expiration impacts would include the loss of remaining unplatted density.

**Applicant Summary**
The applicant has provided a written request and summary of the DA history (Exhibit A).

**DA Extension Language**
The SCC expressed concern over the language contained in the DA, and considered other ways to word the extension. For the SCC reference, examples of other DA duration/extension language is attached (Exhibit B).

**Potential for Precedent**
There are many Development Agreements in the County, most of which have expired. In a recent Vested Rights Determination application by the applicants, SCC expressed concern over the potential for a precedent to be set which would then lead to other Development Agreements requesting reactivation.

In the review of this application, Planning and Legal Staff have found that the Newpark Application is unique and that with the appropriate findings the SCC can justify a Special Exception in this case, while not setting a precedent:

- While Newpark did not comply with the phasing plan, the development did continue forward progress since approval. This progress has included applications for modifications to the Cottonwood III uses and approval / development of said site. Due to the economy, Staff and the applicants did meet often to discuss options for development and modifications, though no formal applications were submitted. Most other expired Development Agreements have not done so.
- The Newpark Development obtained a phasing plan that extended beyond the expiration date. No other Development Agreement has such a plan.
The continued processing of the Snyderville Basin Special Recreation District Fieldhouse after the expiration may have created equitable claims.

 Applicants’ Requests
Beyond the extension of the DA to October 18, 2016, the applicants have requested several items.

1. Exercise of Future Extensions (page 12 of Exhibit A). Typically, the SCC approves extensions, however the applicant proposal permits either the County or the Applicants to extend the DA only through written notice. Staff recommends that this be amended so that any extension can be granted only upon the agreement of both parties, and that it requires SCC approval.

2. Phasing Plan Amendment (page 12 of Exhibit A). The applicants are requesting that the approved phasing plan be deemed null and void. Staff requests SCC discussion on this matter, as the existence of the phasing plan is a core reason that Staff recommends approval of the Special Exception. Perhaps a better alternative would be to update the phasing plan.

3. SBSRD Platting / Site Planning (page 13 of Exhibit A). Staff supports this requirement, and recommends that the SCC include the recordation of the Fieldhouse plat as a condition of approval.

E. Consistency with the General Plan
The Newpark development is located within the Kimball Junction Neighborhood Planning Area. The proposed development does not appear to be in conflict with the Goals and Objectives of the Kimball Junction Planning Area. This includes the following:

There shall be an economically and socially viable area at Kimball Junction that reflects the mountain character of its surroundings, promotes a sense of place and community identity supporting the residents of the Snyderville Basin, separate from but complimentary to Park City.

Development in Kimball Junction neighborhood planning area should complement the Park City resort experience and provide another means of attracting tourist and destination shoppers to the area.

When the DA was originally approved it was found to be compatible with the General Plan. The DA is also consistent with the current General Plan Town Center Neighborhood Planning Area.

F. Findings/ Code Criteria and Discussion
Section 10-3-7 of the Snyderville Basin Development Code outlines the process for a Special Exception:

10-3-7: SPECIAL EXCEPTIONS:

A. Purpose: Where the County Council finds that an applicant has a unique circumstance or equitable claim which makes strict enforcement of the provisions of this Title unduly burdensome, it may, after a public hearing, approve special exceptions to the zoning provisions of this Title so that substantial justice may be done and the public interest secured; provided that
the special exception does not have the effect of nullifying the intent and purpose of this Title or any provision thereof.
- Staff has found that the applicants meet the purpose. There is a unique circumstance consisting of a phasing plan that extended beyond the DA expiration. There are equitable claims stemming from County processing of applications after the DA expiration. There are no other equitable processes and the intent of this Title will be met.

B. Criteria for Approval: The County Council shall not approve a special exception unless the applicant demonstrated that:

1. The special exception is not detrimental to the public health, safety, and welfare.
   - The Special Exception may be beneficial to public health, safety, and welfare by enabling a partially constructed development to complete development. Permitting expansion of a community benefit, the Fieldhouse, may also be of benefit to the community.

2. The intent of the Development Code and General Plan will be met.
   - The intent of both the Code and Plan will be met, through continued development of a project in the Town Center meeting the density and mixed use design goals of the General Plan for this area.
   - To better meet this criterion, Staff does recommend the addition conditions such as the payment of Traffic Impact fees that were not included at the time of original approval.

3. The applicant does not reasonably qualify for any other equitable processes provided through the provisions of this Title; and,
   - There are no other equitable processes: a vested rights determination application was recently submitted that does not meet the traditional intent or purpose of a vested rights review and that did not receive favorable comment, and a new Specially Planned Area process would not likely be approved due to the complexity and need for new community benefits and the inability to use the community benefits already provided in the project.

4. There are equitable claims or unique circumstances warranting the special exception.
   - There are equitable claims stemming from continued County processing of applications after the expiration date.
   - There are unique circumstances stemming from the approval of a phasing plan that extended past the expiration date.
   - The applicants have provided additional justification for unique circumstances and equitable claims that the SCC may choose to use in their findings.

G. Recommendation(s)/Alternatives

Staff recommends that the SCC conduct a public hearing, discuss the application, and vote to approve the Newpark Special Exception, extending the DA until October 18, 2016, with the following findings and conditions:

Findings:
1. The application is consistent with the intent of the General Plan.
2. The application complies with the requirements in Section 10-3-7 of the Snyderville Basin Development Code as outlined in Section F of this report. Particularly:

   a. The special exception is not detrimental to the public health, safety, and welfare, and may be beneficial to public health, safety, and welfare by enabling a partially constructed project to complete development.

   b. The intent of the Development Code and General Plan will be met through continued development of a project in the Town Center meeting the density and mixed use and design goals of the General Plan for this area.

   c. The applicant does not reasonably qualify for any other equitable processes provided through the provisions of this Title, and

   d. There are equitable claims stemming from continued County processing of applications after the expiration date, and unique circumstances stemming from the approval of a phasing plan that extended past the expiration date.

3. A typical extension period would have followed a five (5) year format from expiration, so the appropriate extension is from October 18, 2011 until October 18, 2016.

4. Other findings as articulated by the SCC.

**Conditions:**

1. The Newpark Development Agreement is extended to October 18, 2016.

2. Further extension requests shall be provided to the County in writing no less than 30 days prior to expiration, and shall be presented to the SCC for consideration. Agreement of both parties shall be required for any extension to be approved.

3. Traffic Impact Fees for the remaining density shall be paid to the County as is standard for all new development.

4. An updated phasing plan shall be prepared by the applicants and submitted to the County as a minor amendment to the DA. Said phasing plan shall be reviewed and processed in accordance with the DA.

5. A subdivision plat for the Snyderville Basin Special Recreation District Fieldhouse (Parcel S) shall be prepared and submitted to the County within six (6) months of the date of this approval. Said plat shall be reviewed and processed according to the DA, and recorded upon approval.

6. Any other conditions as articulated by the SCC.

**Attachment(s)**

- Exhibit A – Applicant Letter dated March 6, 2013 (pages 6-18)
- Exhibit B – Duration & Extension language from other DAs (pages 19-24)
- Exhibit C – Applicant Exhibits – CD
March 6, 2013

Mr. Don Sargent
Director of Community Development
SUMMIT COUNTY, UTAH
60 N. Main
P.O. Box 128
Coalville, Utah 84017

Re: Special Exceptions Application regarding that certain Development Agreement for the Redstone Parkside Specially Planned Area, Kimball Junction, Summit County, Utah (now known as the “Newpark Town Center”)

Dear Mr. Sargent:

As you know, the above-referenced Development Agreement for Redstone Parkside Specially Planned Area by and between MJM5, L.C., a Utah limited liability company, and Summit County, a political subdivision of the State of Utah, by and through its Board of County Commissioners (together with its successor the Summit County Council, “Summit County”), dated the 18th day of October, 2001 (the “Development Agreement”), was scheduled to expire on October 18, 2011, unless extended by either Developer or Summit County. We appreciate Summit County’s consideration of Newpark’s request under a Special Exceptions Application (this “Application”) pursuant to Section 10-3-7 of the Summit County Code (the “Code”) that the Development Agreement is currently in effect through October 18, 2016. In this Application, Newpark will: (i) address the “Criteria for Approval” of a Special Exceptions Application set forth in Section 10-3-7 of the Code; (ii) review a number of facts and circumstances relating to the development of Newpark Town Center which constitute equitable claims and unique circumstances relating to the Development Agreement and Newpark Town Center, and which support the approval of this Application by Summit County; and (iii) set forth the actual specific relief being sought by Newpark pursuant to this Application.

1 MJM5, L.C.,’s (Developer) successors-in-interest are those parties named in the Special Exceptions Application relating to this correspondence, and are represented collectively by the Newpark Owners Association (the “NOA”); and such parties and the NOA are collectively referred to hereinafter as “Newpark”.

www.newparktowncenter.com
The parcels of real property at issue in connection with this Application, together with their respective remaining densities and uses, are as follows:

<table>
<thead>
<tr>
<th>Parcel Common Name</th>
<th>Platted Parcel</th>
<th>Density (SF)</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>SBSRD Phase II &amp; III Expansion</td>
<td>S</td>
<td>65,148</td>
<td>Recreation</td>
</tr>
<tr>
<td>Newpark Brownstones</td>
<td>P2</td>
<td>29,250</td>
<td>Residential; Office</td>
</tr>
<tr>
<td>Newpark Metro Townhomes</td>
<td>R1</td>
<td>69,720</td>
<td>Residential</td>
</tr>
<tr>
<td>Retail Pads</td>
<td>R2</td>
<td>10,080</td>
<td>Retail</td>
</tr>
<tr>
<td>Newpark Southside</td>
<td>Remainder Parcel</td>
<td>39,957</td>
<td>Residential</td>
</tr>
<tr>
<td>Total Remaining Density</td>
<td></td>
<td>214,155</td>
<td></td>
</tr>
</tbody>
</table>

**CRITERIA FOR APPROVAL**

Section 10.3.7 of the Code provides that Applicant must demonstrate the following in connection with this Application:

1. **The special exception is not detrimental to the public health, safety, and welfare.** Summit County made extensive findings relating to public health, safety, and welfare in connection with the original approval of the Development Agreement. Because this Application simply seeks to maintain the Development Agreement in place in what is essentially its original form (subject only to the conditions of approval of this Application set forth below), such findings remain applicable in the context of this Application. In addition, the absence of the Development Agreement prior to complete build-out of Newpark Town Center would certainly be to the detriment of public health, safety, and welfare, in that considerable uncertainty with respect to undeveloped lands would result, which, in turn, would result in numerous undesirable consequences, such as the likely loss of Newpark Town Center’s LEED Certification, the interruption (and, in some cases, termination) of complex cross-parking arrangements, and the withdrawal of Snyderville Basin Recreation’s current plans to expand Snyderville Basin Recreation’s Fieldhouse. Newpark also notes that no party has raised an objection to the Development Agreement remaining in full force and effect, and that Summit County Planning Staff has indicated that the Development Agreement remaining in full force and effect is desirable.

2. **The intent of the Development Code and General Plan will be met.** Summit County made specific findings regarding the consistency of the Development Agreement with the Development Code and the General Plan in connection with the original approval of the Development Agreement. Because this Application simply seeks to maintain the Development
Agreement in place in what is essentially its original form (subject only to the conditions of approval of this Application set forth below), and because the Development Code and the General Plan have not changed in any material and applicable respect since the original approval of the Development Agreement, such findings remain applicable in the context of this Application. Therefore, the intent of the Development Code and General Plan will be met in the event this Application is approved.

3. The applicant does not reasonably qualify for any other equitable processes provided through the provisions of this [Section 10-3-7]. Newpark and Summit County (including Summit County Planning Department, Summit County Attorney and Summit County Council) have reviewed this matter and have determined that the Special Exceptions Application is the appropriate process for the consideration of this Application.

4. There are equitable claims or unique circumstances warranting special exception. Newpark will set forth below a number of facts and circumstances constituting equitable claims and unique circumstances warranting special exception pursuant to an approval of this Application.

FACTS AND CIRCUMSTANCES

Newpark believes that the following facts and circumstances are among those illustrating that (i) Newpark has taken significant actions based on the assumption of full build-out under the Development Agreement, (ii) both Summit County and Newpark have reasonably assumed that the Development Agreement remained in full force and effect beyond the most recent Development Agreement extension date contemplated therein, and (iii) both Summit County and Newpark have relied on that mutual assumption:

1. **February 26, 2001.** MJM 4, L.C., and MJM 5, L.C. (collectively, MJM), entered into a Density Transfer Agreement with Summit County to transfer vested development rights from the Somerset project (154 units on 39.19 acres, as part of the Spring Creek SPA) to the “South I-80 Parcel” (aka “Newpark Town Center”). The transferred development rights were vested to MJM and Summit County, and the Agreement does not include an expiration date. **This Density Transfer Agreement and the transfers contemplated therein are based on the assumption of full build-out at Newpark Town Center.**

2. **October 18, 2001.** Redstone Parkside (aka “Newpark Town Center”) Development Agreement was approved and adopted via Summit County Ordinance 427. Development Agreement Section 10.4: “Developer or County shall have an option to extend this Development Agreement for additional five year terms…”. The Development Agreement does not state how or when options to extend should be exercised. There are no restrictions on either party’s right to extend the term of the Development Agreement, and no limit on the number of extensions available. **These extension rights evidence the understanding between Summit County and**
Newpark that it was not possible to impose a specific timeline on the full build-out of the project.

3. **October 18, 2001.** The 819,360 SF of density approved in the Development Agreement was achieved through the dedication of numerous community benefits, including transfer of density rights, open space dedications, right-of-way dedications for Highland Drive, affordable housing, wetlands creation, traffic mitigation, trail-park-plaza improvements, public transit, financial donations, etc. **All of the foregoing community benefits were dedicated based on the assumption of full build-out of Newpark Town Center pursuant to the Development Agreement.**

4. **April 2, 2003.** Development Improvement Agreement (“DIA”) was recorded for Snyderville Basin Special Recreation District (“SBSRD”) on Parcel S.

5. **April 9, 2003.** Assignment of Transferred Density Rights Agreement between SBSRD and Summit County was executed. SBSRD paid $1,000,000 for the 112,000 SF in vested TDRs and the Agreement does not include an expiration date. **This agreement transferring density was based on the assumption that the transferred density would be improved together with the rest of Newpark Town Center pursuant to the Development Agreement, and with the expectation of full build-out.**

6. **April 14, 2003.** The Newpark Master Development Parcel Plat records. No density charts were required on the Master Plat. Plat note #17 states:

7. **June 18, 2003.** SBSRD appeared before the Summit County Board of Commissioners (“BCC”) for the approval of the final site plan and plat for Parcel S pertaining to the entire 112,000 square feet of allocated density, as shown in the conceptual site plan that was attached to the staff report. The BCC approved the final site plan.

8. **June 24, 2003.** The Amended Plat Newpark Parcel ‘K’ Subdivision records. Plat note #15 introduces the first density table, stating:

<table>
<thead>
<tr>
<th>Building Density</th>
<th>Retail</th>
<th>Residential</th>
<th>Office</th>
<th>Commercial</th>
<th>Recreation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Previous Plots</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>112,000</td>
</tr>
<tr>
<td>Parcel K-1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>9,750</td>
</tr>
</tbody>
</table>
Both SBSRD (112,000) and Zion’s Bank (9,750) densities were noted at 100% of their density rights, even though both owners’ first-phase planning approvals and construction reflected less density (46,852 SF and 5,874 SF, respectively). Recording density on a plat’s density table that does not have planning approvals confirms that the density is vested, irrespective of planning approval status.

9. **August 28, 2003.** Summit County issued SBSRD a building permit for its initial phase.

10. **April 23, 2004 and November 24, 2004.** Newpark Townhomes Phase I and Newpark Townhomes Phase II Plats, as well as Newpark Townhomes Phase III Plat, were recorded. Each plat features common parking areas labeled with “Re-locatable Parking Easement” and Plat Note #8 (pasted herein) to accommodate future development on neighboring Newpark remainder parcels (ultimately P2, R1 and Southside).

   8. Parking areas located in Common Area provide for temporary guest parking and parking of Newpark Townhome owners’ vehicles. Common Area parking of large vehicles such as RV’s, Semi’trucks, boats or non-operable vehicles is not permitted. The parking area may be relocated at the discretion of the Master Association as additional phases of the Newpark Town Center project are developed and therefore the Townhome owner’s do not have a property right in the parking areas outside of their respective garages. All Common Area parking privileges are subject to parking rules and regulations adopted and administered by the Master Association.

   These Plats illustrate the intent of future development (Parcel P2 and Parcel R1) adjacent to townhome parcels, which Newpark and neighbors relied upon.

11. **March 22, 2006.** Newpark exercised its option to extend the Development Agreement from October 18, 2006, to October 18, 2011, via written notice. This extension notified Summit County that a method for extending the Development Agreement is not set forth in the Development Agreement.

12. **October 19, 2006.** Planner II Michele Devaney delivers written confirmation of the Development Agreement extension on 4/5/06 (6+ months after extension). This confirmation did not provide direction or clarification for the method to extend the Development Agreement in the future.

13. **May 5, 2007.** BCC approved architecture, site plans, land uses, densities and draft plats on the remainder parcel for:

   a. Newpark Town Center (retail, Parcel R2)
   b. Newpark Terraces (residential above retail and a parking garage, Parcel R1)
   c. Newpark Brownstones (residential, Brownstones Parcel)
   d. Newpark Southside (residential, Southside Parcel)
   e. See attached Staff Report (4/26/07)
Staff required Newpark to submit and achieve planning approvals for Brownstones and Southside because Staff did not want to approve the Town Center and Terraces projects except in the context of Newpark’s remaining development rights on the remaining vacant land.

14. **May 23, 2007.** Planner I Denise Hytonen delivers written confirmation that the Community Development Department approved an administrative amendment to the Development Agreement, adopting a phasing plan and platting dates extending for five years (to 5/2/12), well beyond the normal 12-month-life of planning approvals. The phasing plan was adopted because the market would not support all 5 projects (Town Center, Terraces, Brownstones, Southside and Flats) proceeding in the 12-months following the approval. Newpark worked diligently to achieve the platting deadlines and ultimately 100% of the five projects (R2, R1, P1, P2, and RP) were platted prior to 5/2/12. Condominium plats, however, were not recorded because the market would not support new-construction condominium projects in a down economy. **This amendment to the Development Agreement incorporating performance dates extending beyond the most recent Development Agreement extension date illustrates that both Summit County and Newpark believed that the Development Agreement was extended beyond such extension date.**

15. **September 7, 2007.** The Newpark Town Center Retail Plat records, creating parcels R1 (residential above retail and a parking garage) and R2 (retail). A density table was not required by the County because the parties intended to update the table in the future, knowing that density calculations wouldn’t be 100% final until the construction drawings were complete. Plat note #14 stated:

> 14. Development density for this parcel shall be defined and recorded at the time of condominium plating in accordance with note 17 of the Master Development Parcel Plat.

The County allowed construction of Newpark Town Center to proceed without a recorded density allocation, and Newpark relied on its ability to update the density table at a later date.

16. **May 27, 2008.** Newpark Town Center Retail Final Site Plan records, documenting architecture, site planning, lighting, landscaping, etc. Retail pads B1 and B2, and retail anchor pad C2 were labeled “Future. To Be Submitted Separately.” No density allocations were required by the County to be noted in the Final Site Plan for any parcels, nor density allocations for construction pads within those parcels. **Newpark relied on its ability to achieve approvals for B1, B2 and C2 in the future.**

17. **May 27, 2008 and July 15, 2008.** Newpark Town Center, LLC, purchased a Footing & Foundation Permit and a Building Permit for parcel R1. The approved construction drawings for such permit include engineering and construction for the Newpark Terraces residential
condominiums above retail and a parking garage (approved by BCC on 5/5/07). Specific enhanced improvements actually constructed to accommodate the future construction of the residential condominiums include over-sized footings and foundation, a post-tension slab above retail/parking, stubbed utility sleeves and meters, a vehicular ramp for residential access and parking, fire egress stairwells, extended heights in parapet walls for future residential deck walls/railings, a swimming pool in the post-tension slab, and over-sized trash enclosures. The parking structure is also sized to meet parking demand for Newpark Terraces residential and for retail pads B1 and B2. All such improvements were required by Summit County to accommodate such future residential construction. **Newpark relied on its ability to build Newpark Terraces, B1, and B2 at a later date, investing significantly in the above-referenced enhanced infrastructure improvements required by Summit County to accommodate future residential construction under the Development Agreement.**

18. **July 3, 2008.** DIA recorded for Newpark Town Center Retail (parcels R1 and R2). Financially guaranteed, enhanced infrastructure, as required by Summit County, was engineered and actually constructed to accommodate full build-out in the future under the Development Agreement. **The construction of this enhanced infrastructure as required by Summit County was based on the assumption of full build-out under the Development Agreement.**

19. **November 19, 2008.** BCC approves architecture, site plans, land uses, densities and draft plats on Parcel P for the Cottonwood Three at Newpark office building. Less than 3 weeks later, Cottonwood Partners cancelled the purchase contract due to market conditions and the plat was never recorded.

20. **March 19, 2009.** DIA recorded for Newpark Town Center Retail Pad C2 (Jupiter Bowl). No density allocations were required by Summit County to be noted in the Final Site Plan for any parcels, nor were density allocations for construction pads within those parcels required. Financially guaranteed, enhanced infrastructure was engineered and actually constructed to accommodate full build-out in the future under the Development Agreement. **The construction of this enhanced infrastructure as required by Summit County was based on the assumption of full build-out under the Development Agreement.**

21. **June 1, 2009.** Newpark Town Center Retail Pad C2 Final Site Plan recorded, documenting architecture, site planning, lighting, landscaping, etc. No density allocations were required by Summit County to be noted in the Final Site Plan for any parcels, nor construction pads within those parcels.

22. **November 16, 2009.** Newpark requested that BCC’s 11/19/08 approval of Cottonwood’s Parcel P be extended 6 months due to market conditions. The request related solely to the life of the planning approvals.
Mr. Don Sargent  
Summit County  
March 6, 2013  
Page 8

23. **October 27, 2010.** BCC approved architecture, site plans, land uses, densities and draft plats on Parcel P and RP (Brownstones) Newpark Flats Apartments (100 units). Planning for this project began in March-2010 with a DRC inquiry. On September 6, 2011, financing for the project was officially rejected by the U.S. Dept. of Housing and Urban Development, after submitting the application in September of 2010. This Plat was never recorded because financing could not be obtained.

24. **September 28, 2011.** Summit County Council (“SCC”) approved architecture, site plans, land uses, densities and draft plats for Cottonwood Three at Newpark (office) on Amended Parcel P. Parcel P2 (29,250 SF of density) was also approved for future development. Approvals for both parcels were conditioned upon installing a 6’-wide, interim pedestrian connection from north to south, which would be replaced with permanent connectivity when Parcel P2 came forward in the future. **This approval less than three (3) weeks prior to the Development Agreement extension date requires plat recordation, final site plan recordation, and construction activities pursuant to the Development Agreement that will occur after such extension date, and illustrates that both Summit County and Newpark believed that the Development Agreement was extended beyond such extension date.**

25. **October 18, 2011.** Most recent Development Agreement option to extend date.

26. **October 24, 2011.** Planner A.C. Caus issued a Temporary Use Permit (“TUP”) to Newpark retailer ZB Sports to install the ZB Adventures Yurt in Sun Calendar Plaza from November 25, 2011, to April 15, 2012. **This approval was granted through the Temporary Facilities Section (page 28) of the Development Agreement Book of Exhibits after the most recent Development Agreement extension date, and illustrates that both Summit County and Newpark believed that the Development Agreement was extended beyond such extension date.**

27. **January 1, 2012.** Property tax liens charged against all Newpark parcels at the same rates/values as the 1/1/11 liens, thus reflecting active/vested entitlements and density rights, and all property taxes were paid based on such rates/values. If the parcels’ density rights expired, the values of the vacant land would be significantly lower. **Such tax liens and payments illustrate that both Summit County and Newpark believed that the Development Agreement remained in effect for purposes of vesting.**

28. **January 19, 2012.** Rory Klungervik of Newpark emails Planners Adryan Slaght and A.C. Caus specifically inquiring about the expected expiration of the Development Agreement and possible extension of the Newpark Terraces residential approval. Neither Adryan nor A.C. responded to such inquiry. **Based on such inquiry and the lack of response from Summit County, Newpark reasonably proceeded based on the assumption that the Development Agreement remained in full force and effect beyond the most recent extension date.**
29. February 21, 2012. Newpark Parcel P Subdivision Plat was finally approved pursuant to the Development Agreement by Summit County and recorded several months after the most recent extension date. Parcel P2 is labeled as “Future Development”. Plat note #15 states:

<table>
<thead>
<tr>
<th>BUILDING DENSITY</th>
<th>RETAIL / COMMERCIAL</th>
<th>RESIDENTIAL</th>
<th>OFFICE</th>
<th>INSTITUTIONAL</th>
<th>ALLOCATION FOR FUTURE DEVELOPMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREVIOUS PLATS</td>
<td>164,557</td>
<td>220,750</td>
<td>50,575</td>
<td>121,880</td>
<td></td>
</tr>
<tr>
<td>LOT P-1 (AMENDED PARCEL P)</td>
<td>62,091</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LOT P-2 (AMENDED PARCEL P)</td>
<td>29,250</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL PLATTED TO DATE: 699,603</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>TOTAL REMAINING DENSITY: 119,757</td>
</tr>
</tbody>
</table>

The Total Platted to Date of 699,603 SF includes the entire 112,000 SF for Basin Recreation that was approved, but not 100% planned with architecture, site plans, etc. The Total Remaining Density 119,757 SF includes 69,720 SF for the Newpark Terraces project that was partially built and 10,080 SF for the Newpark Town Center parcels B1 and B2, both of which were platted with the Newpark Town Center Retail Plat (9/7/07), on which plat note #14 stated:

14. Development density for this parcel shall be defined and recorded at the time of condominium plating in accordance with note 17 of the Master Development Parcel Plat.

The remaining 39,957 SF is allocated to Newpark Southside, Parcel RP. All project density is allocated in this table, all of which tie to platted parcels, some of which include planning approvals and some of which do not include planning approvals. The final approval and recordation of the Parcel P Plat after the most recent extension date illustrates that (i) both Summit County and Newpark believed that the Development Agreement was extended beyond such extension date, and Newpark relied on the same; and (ii) both Summit County and Newpark intended that the Total Remaining Density would be built in the future.

30. February 23, 2012. DIA recorded for Cottonwood Three at Newpark (Parcel P1) pursuant to the Development Agreement. In addition, financially guaranteed, enhanced infrastructure was engineered and actually constructed to accommodate full build-out in the future under the Development Agreement, as required by Summit County. The recordation of this DIA pursuant to the Development Agreement after the most recent extension date illustrates that both Summit County and Newpark believed that the Development Agreement was extended beyond such extension date, and Newpark relied on the same. In addition, the construction of this enhanced infrastructure as required by Summit County was based on the assumption of full build-out under the Development Agreement.
31. **July 11, 2012.** SCC approved a SBSRD RAP Recreation Tax award in the amount of $1,501,250 for a second phase addition to the SBSRD Field House at Newpark. Confirmation of such approval was sent by the County Manager’s office on 8/8/12. **The approval of this award and such confirmation well after the most recent extension date illustrate Summit County’s and SBSRD’s assumption that the Development Agreement remained in full force and effect beyond such extension date, and Newpark (including SBSRD) relied upon the same.**

32. **October 9, 2012.** Summit County publically noticed, and then Summit County Snyderville Basin Planning Commission (“SBPC”) held a public hearing and voted to forward a positive recommendation to SCC for Basin Recreation’s Phase II expansion (6,700 SF) of the Basin Recreation Fieldhouse at Newpark pursuant to the Development Agreement. SBPC’s positive recommendation was preceded by a SBPC Work Session on 9/11/12 and two Design Review Committee meetings on 7/23/12 and 8/20/12. **This notice, hearing, vote, work sessions and meetings well after the most recent extension date all illustrate that both Summit County and Newpark (including SBSRD) believed that the Development Agreement was extended beyond such extension date, and Newpark (including SBSRD) relied upon the same.**

33. **October 22, 2012.** Parcel P1, Cottonwood at Newpark Three, Final Site Plan Package recorded. Parcel P2 is labeled “Future Phase” on Sheet 1 and “Future Development” on Sheets 2 and 3. **The recordation of this package pursuant to the Development Agreement well after the most recent extension date illustrates Summit County’s and Newpark’s assumption that the Development Agreement remained in full force and effect beyond such extension date, and Newpark relied upon the same.**

34. **December 18, 2012.** SBPC discussed/reviewed the updated Basin Recreation Phase II expansion plans that include a 940 SF increase in density, totaling 7,640 SF. SBPC concluded that another public hearing is not necessary and they could forward their positive recommendation to the SCC. The related parking study, dated 12/5/12, requires SBSRD to cross-park on neighboring, third-party-owned parking lots in order to meet its parking demand. **These actions by the SBPC pursuant to the Development Agreement well after the most recent extension date illustrates Summit County’s and Newpark’s assumption that the Development Agreement remained in full force and effect beyond such extension date, and Newpark relied upon the same.**

35. **January 23, 2013.** SCC canceled public hearing and vote on the SBSRD’s expansion, scheduled for this same evening, because the status of the Development Agreement is in question, for the first time fifteen (15) months after the most recent extension date.

**Newpark Interdependency**
Newpark believes that it is important to consider the importance of the interdependency of all parcels within Newpark Town Center. Newpark’s built and un-built densities are unified by the Newpark Owners Association. Owners within Newpark Town Center cannot exist or operate independently.

1. Development Agreement

   a. The 819,360 SF of density approved in the Development Agreement was achieved through the dedication of numerous community benefits, including transfer of density rights, open space dedications, right-of-way dedications for Highland Drive, affordable housing, wetlands creation, traffic mitigation, trail-park-plaza improvements, public transit, financial donations, etc., all of which are equally allocated to all square feet of density in the project and not attributable to any one square foot of density.

   b. The project is a high-density, mixed-use, pedestrian oriented community. Eliminating any piece of previously planned and approved projects from the applicability of the Development Agreement violates original planning goals and jeopardizes these principals and the long-term viability of the project.

   c. Newpark Town Center’s smart growth complexity earned Utah’s only LEED-ND certification, demonstrating Summit County’s goals are being met at Newpark Town Center. Eliminating density and preventing full completion of the project in accordance with the Development Agreement will result in the revocation of such LEED-ND certification.

2. Design Decisions

   a. Infrastructure improvements: underground utilities and storm drains, wetlands, roads, sidewalks, trails, parks, plazas, transit stations, etc., are all designed, funded and constructed based on full build-out of the project pursuant to the Development Agreement.

   b. Parking lots and parking garages are constructed for cross parking to minimize asphalt, maximize open space and facilitate dense urban development. Without cross-parking, individual projects cannot achieve approval because those projects could not satisfy their parking demand by relying solely on their own parcel. This is all pieced together by the Development Agreement. A loss of the Development Agreement would likely result in the loss of certain critical parking rights currently required in connection with the development of certain parcels.

   c. All improvements (architecture, materials, colors, site furniture, signage, landscaping, etc.) are coordinated in unity under the Development Agreement to create a strong identity for the project as a whole.

3. Newpark Owners Association (NOA)
a. All property owners are members of the NOA, the Board and Manager of which ensure that the operation of Newpark Town Center achieves the vibrant urban setting targeted by Summit County and the Developer.

b. The NOA assesses all its members (building owners and vacant parcel owners) at formula rates based on existing density status (built and un-built) to fund community efforts such as public events/concerts, site beautification (artwork, flowers, banners), snow plowing/hauling, landscaping and irrigation, common utilities, road and parking maintenance, and cross-parking management. The loss of the Development Agreement prior to full build-out would render all of the existing formulas inaccurate and unworkable.

RELIEF SOUGHT BY NEWPARK

Newpark is requesting that the Summit County Council approve this Application, thereby establishing that the Development Agreement remains in full force and effect through October 18, 2016, in accordance with the existing terms and conditions of the Development Agreement (including Section 10.4 of the Development Agreement pertaining to future extensions), subject to the following conditions of approval, which conditions of approval Summit County and Newpark specifically agree to be bound by in the event of approval:

1. Exercise of Future Extensions. Any future extensions of the Development Agreement by either party thereto shall be exercised, if at all, by express written notice to the other party at least thirty (30) days prior to the expiration of the then-existing term of the Development Agreement. Any such notice of extension shall be either (i) hand delivered, (ii) delivered by way of United States Postal Service via Certified Mail, Return Receipt Requested, or (iii) delivered via Federal Express or other express delivery service which maintains delivery records. Any such notice of extension shall be deemed effective as of (a) the date of hand delivery, if applicable, (b) two (2) business days following deposit with the United States Postal Service, if by Certified Mail, or (c) the date of actual delivery, if by express delivery service. In the event neither party to the Development Agreement extends the term of the Development Agreement in accordance herewith, the Development Agreement (including, without limitation, all rights to extend the term of the Development Agreement) shall be deemed expired and of no further force or effect as of the expiration of the term then in effect.

2. Phasing Plan Administrative Amendment. The “Newpark Development Phasing Plan” and related administrative amendment to the Development Agreement (collectively, the “Amendment”) referred to in the letter dated May 23, 2007, from Summit County to Newpark Corporation Inc., is hereby deemed nullified and of no force and effect, and the Development Agreement shall hereafter govern all matters contemplated in the Amendment without regard to the Amendment.
3. **SBSRD Platting/Site Planning.** SBSRD shall satisfy all current Summit County platting and/or site planning requirements relating to Parcel S (including the recordation of a final site plan package) with reasonable diligence following the date of approval of this Application.

Newpark sincerely appreciates Summit County’s consideration of this Application. Please do not hesitate to contact the undersigned if you have any questions or require additional information regarding this matter.

Sincerely,

NEWPARK OWNERS ASSOCIATION, INC.,
a Utah non-profit corporation

By____________________________________
Chris Retzer, President

cc: David R. Brickey, Esq. (*via email-w/out encl.*)
   Jami Bracken, Esq. (*via email-w/out encl.*)
   Ms. Kimber Gabryszak (*via email-w/out encl.*)
   Mr. Jim Doolney (*via email-w/out encl.*)
   Mr. Marc Wangsgard (*via email-w/out encl.*)
   Ms. Terri Sturm (*via email-w/out encl.*)
   Ms. Rena Jordan (*via email-w/out encl.*)
   Mr. John West (*via email-w/out encl.*)
   Mr. Jeff Gochnour (*via email-w/out encl.*)
   Ted Barnes, Esq. (*via email-w/out encl.*)
   Wade Budge, Esq. (*via email-w/out encl.*)
Partial List of Development and Consent Agreements
with Duration Language
(In chronological order)

Redhawk Wildlife Preserve (includes both Redhawks) approved: May 1, 1997
Consent Agreement
5.4 Duration. The term of this Agreement shall commence on, and the effective date of this Agreement shall be, the effective date of the Ordinance approving this Agreement. The Term of this Agreement shall extend for a period of five (5) years following the effective Date with an option on the part of Developer or the County to extend this Consent Agreement for an additional five years if the terms of the Consent Agreement have been substantially complied with unless the Agreement is earlier terminated, or its term modified by written amendment to this Agreement.

Spring Creek-Blackhawk Development Agreement approved: July 20, 1998
5.4 Duration. The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Owners or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Bear Hollow Development Agreement approved: July 27, 1998
10.4 Duration. The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of ten (10) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Gorgoza Park Development Agreement approved: July 26, 1999
10.4 Duration. The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of ten (10) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Ivers Family Development Agreement approved: July 26, 1999
5.4 Duration. The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. The Family or the County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.
7.4 **Duration.** The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developers or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Goshawk Development Agreement
approved: August 16, 1999

11.4 **Duration.** The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developers or County shall have an option to extend this Development Agreement for an additional five year term as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

The Canyons Development Agreement
approved: November 15, 1999

5.9.1 **Term.** The term of this Amended Agreement shall commence on and the Effective Date of this Amended Agreement shall be the effective date of Ordinance 334-A, which approved this Amended Agreement. The Term of this Amended Agreement shall extend for a period of fifteen (15) years following the Effective Date above-referenced unless this Amended Agreement has been earlier renewed or terminated, or its term otherwise modified by written amendment pursuant to the provisions of this Amended Agreement (the “Term”).

High Bluff Plaza Development Agreement
approved: November 15, 1999

10.4 **Duration.** The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Redstone Development Agreement
approved: May 8, 2000

10.4 **Duration.** The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.
Glenwilde
Development Agreement

10.4 **Duration.** The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Larrabee Ceramics
Development Agreement

9.4 **Duration.** The term of this Development Agreement shall commence on, and the effective date of the Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The terms of this Development Agreement shall extend for a period of five years following the effective date above referenced. Developers or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Mt. Life Evangelical Church
Development Agreement

10.4 **Duration.** The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Newpark (Redstone Parkside)
Development Agreement

10.4 **Duration.** The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Home Savings Bank
Development Agreement

8.4 **Duration.** The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.
Redstone 1st Amended Development Agreement

10.4 **Duration.** The term of this Amended Development Agreement shall commence on, and the effective date of this Amended Development Agreement shall be, the effective date of the Ordinance approving this Amended Development Agreement. The term of this Amended Development Agreement shall extend for a period of five (5) years following the effective date above referenced. Developer or County shall have an option to extend this Amended Development Agreement for additional five year terms as long as the terms of this Amended Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

John Mecham
Development Agreement

10.5 **Duration.** The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. The term of this Development Agreement shall extend until October 3, 2007. Developer shall have an option to extend this Development Agreement for an additional five year term as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Bear Hollow 1st Amended Development Agreement

11.4 **Duration.** The term of this Development Agreement shall commence upon the Effective Date and shall expire at 11:59 p.m., Mountain Time, on the day that is sixty (60) months from the Effective Date.

Preserve at Redhawk 1st Amended Consent Agreement

8. **Duration.** Paragraph 5.4 of the Consent Agreement is amended and modified to reflect that the Developer and the County have by mutual agreement extended the term of the Consent Agreement for five (5) years, through April 21, 2007.

Murnin-Kilgore Consent Agreement

30. **Expiration:** This agreement shall be in effect for a period of five (5) years from the effective date of this agreement. The effective date shall be January 1, 2004 or the date on which the Board of County Commissioners approve this agreement by majority vote in an open meeting, whichever is later. Prior to the expiration of the five (5) year period, the Murnins and Kilgores, or their successors, may request one (1) additional five (5) year extension of this Consent Decree from the Board of County Commissioners. The Board shall review the extension request to ensure that the request does not jeopardize the health, safety and welfare of the citizens of Summit County. If there is no substantial change in the property which raises issues regarding health, safety and welfare, if the request is timely, if the Annual Reports have been provided as required and are favorable and if the terms of this Consent Decree have been complied with during the previous five (5) years, the approval of the five (5) year extension will be granted by the County. At the expiration of this agreement, or the renewal period, the property shall become subject to the then existing Development Code and General Plan and all development rights vested under this Consent Decree shall expire.
Canyon Corners
Development Agreement

4. Duration. The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. Prior to the expiration of the initial five (5) year period, the Developer may request one (1) additional five (5) year extension of this Agreement from the Board of County Commissioners. The Board of Commissioners shall review the extension request to ensure that the Developer is in compliance with this Agreement and that the request does not jeopardize the health, safety and welfare of the citizens of Summit County. At the expiration of this agreement, or the renewal period, the property shall become subject to the then existing Development Code and General Plan and all development rights vested under this Agreement shall expire.

The Summit Center
Development Agreement

10.4 Duration. The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Development Agreement. So long as there is active Development under this agreement, the term of this Development Agreement shall extend for a period of seven (7) years following the effective date above referenced. Developer or County shall have an option to extend this Development Agreement for additional five year terms as long as the terms of this Development Agreement have been substantially complied with, and this Agreement has not been earlier terminated, or its term otherwise modified by written amendment.

Jeremy Cove
Consent Agreement

4.15 Expiration: This agreement shall be in effect for a period of five (5) years from the effective date of this agreement and upon expiration, if a subdivision plat has not been recorded and the property developed as described above, all rights granted to the Developer under this agreement shall be divested and no development shall occur except as may be authorized by the Development Code in place at the time of expiration. The effective date shall be the date on which the Board of County Commissioners approve this agreement by majority vote in an open meeting. Prior to the expiration of the five (5) year period, the Developer, or their successors, may request one (1) additional five (5) year extension of this Consent Agreement from the Board of County Commissioners. The Board shall review the extension request to ensure that the request does not jeopardize the health, safety and welfare of the citizens of Summit County. If there is no substantial change in the property which raises issues regarding health, safety and welfare, if the request is timely and if the terms of this Consent Agreement have been complied with during the previous five (5) years, the approval of the five (5) year extension may be granted by the County. At the expiration of this agreement, or the renewal period, the property shall become subject to the then existing Development Code and General Plan and all development rights vested under this Consent Agreement shall expire.

Woods at Parleys
Development Agreement

10.4 Duration. The term of this Development Agreement shall commence on, and the effective date of this Development Agreement shall be, the effective date of the Ordinance approving this Agreement. The terms of this Agreement shall extend for a period of five (5) years following the effective date above referenced. Within that time, Developer must have recorded a final plat for all phases of the subdivision and have entered into a Development Improvements Agreement for the entire project.
Silver Gate Ranches  
Development Agreement  

10.4 **Duration.** The term of this Development Agreement shall commence on March 15, 2006, and the effective date of this Agreement shall be, the effective date of the Ordinance approving this Agreement. The term of this Agreement shall extend for a period of five (5) years following the effective date above referenced. In the event the Project has not commenced prior to the expiration of the five (5) year duration period, all vesting and rights granted under the Agreement shall be deemed expired. For purposes of this paragraph, the project will have been deemed commenced when the Board of County Commissioners has approved a Development Improvement Agreement for either phase.

Park City Tech Center (Boyer/Summit Research Park)  
Development Agreement  

2.2.3 Duration. The term of this Agreement shall commence on, and the Effective date of this Agreement shall be, the effective date of the Ordinance approving this Agreement. The Term of this Agreement shall extend for a period of twenty five (25) years Following the effective date unless the Agreement is earlier terminated, or its term modified by written amendment to this Agreement.

Village at Kimball Junction  
Development Agreement  

10.5 **Duration.** The term of this Development Agreement shall commence on the date of recordation of this Development Agreement and expire five (5) years thereafter. The parties may request a one (1) time extension for another five (5) years from the Summit County Council prior to the expiration of this Agreement. The grant of an additional term by the Summit County Council done in open session shall be at the sole discretion of the Summit County Council which shall not be unreasonably withheld. If granted, it shall extend the duration of this Agreement for an additional five (5) years from the original effective date, unless otherwise specified by the Summit County Council.
MEMORANDUM

To: Summit County Council (SCC)
Report Date: Thursday, March 14, 2013
Meeting Date: Wednesday, March 20, 2013
Author: Kimber Gabryszak, AICP
Project Name & Type: Affordable Housing – Fee-in-Lieu amount update

Background
The Summit County Board of Commissioners (BCC) adopted a moderate income housing needs assessment for the Snyderville Basin in 2006 (2006 Assessment). The BCC then also adopted a Fee-in-Lieu as an option for developers that were required to provide affordable housing.

In 2012 the Summit County Council (SCC) adopted an updated Housing Needs Assessment and Model (2012 Assessment) to update and replace the 2006 Assessment. The 2012 Assessment was adopted as a technical appendix to the Snyderville Basin General Plan (General Plan), and contains an updated calculation for Fees-in-Lieu.

Staff recommends that the SCC conduct a public hearing, review the Fee-in-Lieu, and take public input. Staff further recommends that the SCC vote to adopt an updated Fee-in-Lieu.

Community Review
This item has been noticed in the Park Record and online as a public hearing. As of the date of this report, no public input has been received.

Fee-in-Lieu uses and purpose
Chapter 7 of the General Plan outlines goals for achieving affordable housing supported by the 2012 Assessment (Exhibit D); Policy 1.3 references potential uses for a Fee-in-Lieu. Fees-in-Lieu are also a good tool for the support of other Policies in this Chapter.

Chapter 10-5 of the Snyderville Basin Development Code (Code) outlines the requirements, standards, and methodology for affordable housing in the Snyderville Basin. All new commercial and residential development is required to provide some amount of housing; Section 10-5-9 of the Code provides an alternative to construction through the payment of Fees-in-Lieu. Examples of purposes for which any collected Fees-in-Lieu may be put to use are outlined in this Section (Exhibit C).

Recommendation(s)/Alternatives
Staff recommends that the SCC review the draft Resolution, conduct a public hearing, and take public input. Staff further recommends that the SCC vote to approve and adopt the updated Fee-in-Lieu amount through adoption of a Resolution.

Findings:
1. The Fee-in-Lieu complies with the 2012 Assessment.
2. The Fee-in-Lieu is consistent with the Snyderville Basin General Plan.

Exhibit(s)
Exhibit A – Draft Resolution (pages 2-3)
Exhibit B – 2012 Assessment calculation (page 4)
Exhibit C – Snyderville Basin Development Code Section 10-5-9 (page 5)
Exhibit D – Snyderville Basin General Plan Housing Element, Chapter 7 (pages 6-10)
SUMMIT COUNTY, UTAH
RESOLUTION NO. _____________

AFFORDABLE HOUSING UNIT EQUIVALENT FEE-IN-LIEU
AMENDMNT TO AMOUNT

WHEREAS, the Housing Element of the Snyderville Basin General Plan was adopted in December 2005; and

WHEREAS, Chapter 10-5 of the Snyderville Basin Development Code outlines the requirements for Affordable Housing and affordable unit equivalents; and

WHEREAS, Chapter 10-5 of the Snyderville Basin Development Code provides several options for the payment of Fees-in-Lieu as an alternative to constructing units; and

WHEREAS, in 2006, the previous legislative body, the Summit County Commission, adopted an affordable housing fee-in-lieu amount per unit equivalent; and

WHEREAS, the 2006 fee-in-lieu methodology consisted of calculating the affordability gap of $75,313 between what a household earning the Summit County median wage could afford and the average market price of an affordable unit equivalent; and

WHEREAS, the 2006 fee-in-lieu added a fifteen percent (15%) administrative fee totaling $11,297.00 to bring the Fee-in-Lieu amount to $86,610 per unit equivalent; and

WHEREAS, after a public hearing, on October 3, 2010 the Summit County Council adopted an updated 2012 Housing Needs Assessment; and

WHEREAS, the 2012 Housing Needs Assessment calculates the “price gap” between market units and income to be $118,016 per unit, based on an Affordable Unit Equivalent of 900 square feet; and

WHEREAS, the 2012 Needs Assessment calculation does not include administrative fees.

NOW, THEREFORE, BE IT RESOLVED, that the County Council of the County of Summit, State of Utah [hereinafter the “Council”] resolves as follows:

Section 1: Repeal of Existing Fee-in-Lieu
The Council hereby repeals the 2006 Affordable Housing Fee-in-Lieu.

Section 2: Adoption of New Fee-in-Lieu Amount
The Council hereby establishes a new Fee-in-Lieu amount of $120,000 per Affordable Unit Equivalent, inclusive of the price gap of $118,016 and a one point seven percent (1.7%) administrative fee in the amount of $1,984.

Section 3: Review and Revision of Fee
The Community Development Department shall review the Fee-in-Lieu amount with every update to the Housing Needs Assessment, and recommend revisions to the fee to ensure that the fee meets the intent of the General Plan and the needs outlined in the Housing Needs Assessment.
Section 4: Effective Date
This Resolution shall take effect immediately upon its adoption.

APPROVED, ADOPTED, PASSED and ordered published by the Summit County Council, this ______ day of __________________, 2013

SUMMIT COUNTY COUNCIL, SUMMIT COUNTY, UTAH

By: ______________________________
    Claudia McMullin, Chair

Councilor McMullin voted ____
Councilor Ure voted _____
Councilor Robinson voted _____
Councilor Carson voted _____
Councilor Armstrong voted _____
**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**

**HOUSING PRICE GAP**

*Market Value Compared to Affordable Purchase Price*

<table>
<thead>
<tr>
<th>Estimating Assumptions</th>
<th>Single Family &amp; Multi Family (Primary)</th>
<th>Park City</th>
<th>Snyderville CDP</th>
<th>East County</th>
</tr>
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<tbody>
<tr>
<td><strong>Household Income</strong></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Summit County Average Monthly Wage (Utah DWS 2011)</td>
<td>$2,986</td>
<td>$35,832</td>
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<tr>
<td>Other Earnings (tips, bonus, overtime, incentives)</td>
<td>3.0%</td>
<td>$1,075</td>
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<tr>
<td>Other Income (investments, non-cash benefits)</td>
<td>3.0%</td>
<td>$1,075</td>
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<tr>
<td>Workers per Household (# FTE)</td>
<td>1.51</td>
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<td><strong>Purchase Price Assumptions</strong></td>
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<tr>
<td>Shelter Cost % of income</td>
<td>30.0%</td>
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<tr>
<td>Property Insurance</td>
<td></td>
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<tr>
<td>Insured Value (value of improvements)</td>
<td>60.0%</td>
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<td>Average Cost (% of insurable value)</td>
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<tr>
<td>Real Estate Tax</td>
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<td>Estimated Average Tax Rate</td>
<td>0.92%</td>
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<td>Taxable value (primary res.) % of Market Value</td>
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<td>Utilities (gas, elec. Telephone - per month)</td>
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<td>Down Payment (% of purchase price)</td>
<td>5.0%</td>
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<td>Mortgage Rate</td>
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<td>Mortgage Term</td>
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<td>Condominium Fee (per month)</td>
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<td>Closing Cost</td>
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<td><strong>Affordable Purchase Price</strong></td>
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<td>Shelter Cost % of income</td>
<td>30%</td>
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<td>Maximum Monthly Housing Cost</td>
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<td>Real Estate Tax</td>
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<td>Condominium Fee</td>
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<td>Mortgage Amount</td>
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<td>Down Payment</td>
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<td>Closing Cost</td>
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<tr>
<td>Affordable Purchase Price (rounded)</td>
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<tr>
<td><strong>Housing Unit Market Value</strong></td>
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<tr>
<td>2011 Average of Median Market Value 600 to 1,599 sq. ft. Units (value per sq. ft.)</td>
<td>$395</td>
<td>$387</td>
<td>$195</td>
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<tr>
<td>Summit County Assessor’s Office dataset</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit Area (unit equivalent, sq. ft.)</td>
<td>900</td>
<td>900</td>
<td>900</td>
<td></td>
</tr>
<tr>
<td>Market Value (rounded)</td>
<td>$355,500</td>
<td>$348,500</td>
<td>$175,500</td>
<td></td>
</tr>
<tr>
<td><strong>Price Gap (per UE) Affordable Purchase Price</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compared to Median Market Value</td>
<td>($125,016)</td>
<td>($116,016)</td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

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 present 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.
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. 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. Payment of Fees: All fees-in-lieu shall be placed in a separate County account designated for affordable housing purposes only; or in the alternative, 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...
Chapter 7

Housing Element

Purpose: 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.

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

Objective: Add at least 250 new units of moderate income housing to the Snyderville Basin by 2011.

Policy 1.1: Identify and implement a wide range of strategies to increase housing density and diversity in appropriate locations.

Strategies
1. Increase allowed densities immediately for affordable housing projects adjacent to commercial areas and transit.
2. Allow increased residential densities and mixed use development where adequate levels of services and amenities can be provided or the impact otherwise mitigated.
3. Formulate and adopt affordable housing guidelines and standards that provide consistent criteria for the review of development actions where affordable housing is needed to mitigate the impact of the project on the community.
4. Require new residential development in Village and Town Centers to allocate 15 percent of the units to be affordable on average to 65 percent of AMI.
5. Require commercial, industrial, institutional, recreational and residential resort projects that create jobs to provide housing for at least 20% of their projected workforce.
6. Create a new zoning designation or affordable housing overlay zone to encourage affordable housing development in areas outside of village and town centers.
7. Create a Density Bonus Program to encourage affordable housing development outside of Village and Town centers.
8. Encourage the use of flexible development standards and creative architectural solutions in the design of projects with a substantial affordable housing component.
9. Encourage mixed use projects that are not limited to vertical integration in a single building as a means of increasing the housing supply while promoting diversity and neighborhood vitality.
10. Monitor residential development for its impact upon remaining development capacity, public facilities and services, and mitigate impacts, if any, in a timely manner.
11. Identify workforce housing strategies to assist households who earn up to 150 percent of the Area Median Income.
12. Cooperate with surrounding jurisdictions in the development and implementation of regional affordable housing strategies.

Policy 1.2: Provide adequate sites for the production of new residential units to meet the needs of existing and future residents

Strategies
1. Evaluate the County's inventory of available sites annually and take appropriate action to ensure ongoing supply of available sites at appropriate densities to meet projected permanent housing demand.
2. Continue to identify areas through the planning process areas appropriate for both single family and multi-family development, as well as already developed areas where existing development patterns should either be maintained or altered.
3. Identify surplus or underutilized County land and buildings, as well as that of other publicly owned resource and evaluate the site potential for affordable housing development.
4. Require all surplus County land and buildings offered for sale to incorporate affordable housing units within the redevelopment plans when appropriate.
5. Designate land for a variety of residential densities sufficient to meet the housing needs of a variety of household sizes.
Policy 1.3: Encourage the private sector to build affordable housing.

**Strategies**
1. Encourage the provision of affordable housing in proximity to emerging lower wage jobs.
2. Promote publicly and privately sponsored programs aimed at the development of affordable housing for low and moderate income households.
3. Encourage Employer Assisted Housing programs to promote housing for employees that might not be able to otherwise afford living in the Snyderville Basin.
4. Explore the creation of a low interest loan program through in lieu fees and other sources to encourage the development of affordable housing.

Policy 1.4: Ensure a variety of safe, decent and sound housing.

**Strategies**
1. Permit a variety of types of housing, including congregate, community trust and co-housing in areas designated for residential development, provided density requirements of zoning codes are met.
2. Ensure that affordable housing reflects a variety and balance of unit types and affordability, including both multi-family units and single-family unites, rental and for-sale units, a variety of unit sizes to accommodate both small and large households, and a range of affordability covering all moderate and below moderate income categories.
3. Establish policies to ensure a reasonable opportunity for a variety of housing and which bears an essential nexus to maintaining the social, economic and political fabric of the community.
4. Require a long term commitment of affordability for affordable housing units mandated by the Development Code and/or housing created through density bonuses, incentives and/or concessions.

Policy 1.5: Support the development of Single Room Occupancy (SRO) housing, group homes and supported living facilities for the elderly and persons with special housing needs.

**Strategies**
1. Encourage housing that incorporates facilities and services to meet the health care, transit or social service needs of households with special needs, including seniors and persons with disabilities.
2. Assist local agencies and nonprofit organizations in the construction or rehabilitation of new facilities for this population.
3. Encourage housing near public transportation, shopping, medical and other essential support services and facilities for the elderly and others with special needs.
4. Support the integration of persons with special needs into private housing development as much as possible.
5. Support the maintenance of an informational resource of housing developments in the County which have units reserved for persons with special needs.

Policy 1.6: Support the provision of emergency shelter, transitional housing and ancillary services to address homelessness.

**Strategies**
1. Promote the concept of providing a continuum of housing for the homeless that ranges from short term beds to affordable, low cost permanent housing.
2. Support individual and collaborative efforts to fund innovative solutions which address the need for transitional and permanent housing for individuals and families moving through the continuum.
3. Work closely with appropriate agencies in the region to develop and implement policies relating to homelessness.
4. Review the Development Code to ensure that sufficient areas are appropriately zoned for these uses.

Policy 1.8: Support the development of seasonal housing to address the needs of the resort economy.

**Strategies**
1. Facilitate the provision of appropriate housing for the seasonal workforce, such as units developed within the project area or dormitory-style accommodations.
2. Work with current and future employers of seasonal workers, together with other agencies in the area, to develop a coordinated and cooperative approach to identifying the housing needs of these employees and implement programs to address the identified needs.
3. Support the maintenance of an informational resource of housing developments in the County which have units for seasonal occupancy.
4. Modify the Development Code to allow administrative permits for accessory units fully incorporated within the main dwelling, or requiring only limited exterior modifications as long as other minimum standards including parking are met.
**Goal 2: Remove or mitigate avoidable constraints to the maintenance, improvement and development of affordable housing.**

**Objective:** Equitably and reasonably apply and interpret to protect public health and safety, implement General Plan goals and strive for achieving the best and most economical approaches to providing affordable housing.

**Policy 2.1: Streamline and improve the application and development review process to eliminate unnecessary constraints and delays.**

**Strategies**
1. Give processing priority to applications for affordable housing projects. The priority will extend to building inspections during the construction process.
2. Review and modify zoning requirements, development review and approval procedures, fees, and building to eliminate barriers to affordable housing.
3. Evaluate existing codes and establish regulations that provide special exceptions, reasonable accommodations or other considerations for housing for persons with disabilities, the elderly and others with special needs.
4. Implement innovative and up-to-date parking regulations that address vehicular parking needs generated by development.

**Policy 2.2: Modify the Development Code as appropriate to promote the production of affordable housing.**

**Strategies**
1. Allow for increased flexibility in development standards, such as parking, floor area ratios, open space requirements and height limits for mixed income or 100% affordable projects.
2. Allow shared parking in commercial and residential mixed use projects where it can be demonstrated that the uses do not have competing peak parking demands.
3. Adopt incentives to encourage affordable housing construction over parking lots and structures without decreasing required parking.
4. Develop a policy to approve fee waivers for all or a portion of County development fees for deed restricted affordable units as a means of assisting affordable housing development.
5. Legitimize existing accessory units where appropriate and consistent with the existing neighborhood character. Units should meet applicable codes and standards and provide housing for a moderate income individual or household.

**Policy 2.3: Monitor annually the County’s progress in increasing the supply of housing and monitor the preservation of restricted units.**

**Strategies**
1. Establish an annual monitoring program to review the progress made in the construction of housing for all income levels and the implementation of policies to encourage the production of affordable housing.
2. Prepare an annual progress report to the Board of County Commissioners and required biennial updates to the State.

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

**Objective:** Include the use of sustainable development practices and materials in at least 25 percent of new affordable units created by 2011.

**Policy 3.1: Encourage residential development that promotes energy efficiency and sustainable building practices**

**Strategies**
1. Support the private sector and public agency efforts to identify and adopt new construction methods and technologies to promote sustainable building practices.
2. Provide incentives for sustainable or green building practices through the development review process.
3. Promote the incorporation of energy efficient features in new and existing construction by making information on programs and resources for energy efficient building materials and techniques.
4. Provide a density bonus in exchange for the incorporation of sustainable building practices.
Policy 3.2 Emphasize efficient land use and development patterns to conserve natural resources.

**Strategies**
1. Encourage residential cluster areas and mechanisms long-term protection of open space areas.
2. Promote efficient land use and construction and redevelopment to promote increased energy conservation.
3. Encourage clustered residential development to reduce infrastructure and other development costs, preserve and enhance important environmental resources and preserve open space.

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

**Objective:** Ensure that County codes and other regulations do not discriminate against any residential development or emergency shelter because of financing source, race, sex, religion, national origin, marital statue or disability of owners or intended occupants.

**Policy 4.1: Encourage and support the enforcement of laws and regulations prohibiting housing discrimination.**

**Strategies**
1. Examine all codes and development regulations and continue to interpret and apply the County’s land use regulations in a manner that does not deny persons with disabilities access to housing and public accommodations that are guaranteed under state and federal law.
2. Disseminate information on fair housing laws and regulations through the County’s public facilities. This includes postings of fair housing law at local post offices, libraries and recreation centers.
3. Work with appropriate state and federal agencies to ensure that fair housing laws are enforced.

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

**Objective:** Maintain a high level of safety and livability of housing stock with an emphasis on the preservation of affordable housing.

**Policy 5.1: Pursue and support the use of private, local, state and federal assistance for housing development or preservation.**

**Strategies**
1. Support nonprofit entities in their efforts to make housing more affordable, through activities including supporting grant applications, and identifying and assisting in the development of available sites.
2. Support research efforts of the lending industry and other agencies to develop innovative financing methods to facilitate affordable housing.
3. Promote nontraditional development projects to the lending community including mixed use developments, housing with reduced parking requirements and transit-oriented developments.
4. Encourage lenders to meet their Community Reinvestment Act obligations through participation in public and nonprofit affordable housing projects and programs.
5. Pursue, in conjunction with appropriate entities, grant funds for the construction of affordable housing.
6. Pursue available housing funding sources including CDBG funds, to assist low and moderate income households working and/or living in Summit County to purchase for sale housing within the County.
7. Create a regional housing organization and/or funding...
source to implement a program of land banking and funding for affordable housing, if feasible.

8. Enforce all federal, state and local ordinances or regulations pertaining to land use incentives which promote affordable housing opportunities for low and moderate income households.

Policy 5.2: Support nonprofit agencies and organizations that provide shelter, housing and related services to low and moderate income households.

Strategies
1. Work with nonprofit housing organizations and the local development community to ensure that all affordable housing remains affordable over time.
2. Provide operational grant support for nonprofit housing organizations based in Summit County.
3. Pursue funding to assist organizations to build or rehabilitate housing that is affordable to low and moderate income households.
4. Explore the creation of a regional Housing Development Fund or other mechanisms to leverage housing resources.
5. Seek funding from all appropriate state and federal programs whenever they are available to support the development or preservation of housing for low and moderate income households.
6. Promote legislative changes and funding for programs that facilitate and subsidize the acquisition, rehabilitation and operation of existing rental housing.