
MINUTES

**SUMMIT COUNTY
BOARD OF COUNTY COUNCIL
WEDNESDAY, FEBRUARY 3, 2016
SHELDON RICHINS BUILDING
PARK CITY, UTAH**

PRESENT:

Roger Armstrong, Council Chair
Chris Robinson, Council Vice-Chair
Kim Carson, Council Member
Claudia McMullin, Council Member
Talbot Adair, Council Member

Tom Fisher, Manager
Anita Lewis, Assistant Manager
Robert Hilder, Attorney
Kent Jones, Clerk
Brandy Harris, Secretary

The Summit County Council attended the Leadership 101 Presentation and Luncheon held at the Marriott Hotel & Conference Center, 1895 Sidewinder Drive, Park City, Utah 84060 from 11:00 a.m. to 1:00 p.m.

WORK SESSION

Vice Chair Robinson called the work session to order at 2:38 p.m. (Chair Armstrong was not present.)

INTERVIEW APPLICANTS FOR THE RESTAURANT TAX ADVISORY BOARD

Michael Showers was interviewed for the Restaurant Tax Advisory Board.

CLOSED SESSION

Council Member Carson made a motion to convene in closed session to discuss personnel. The motion was seconded by Council Member McMullin and passed unanimously, 4 to 0. Chair Armstrong was not present for the vote.

The Summit County Council met in closed session for the purpose of discussing personnel from 2:43 p.m. to 2:45 p.m. Those in attendance were:

Chris Robinson, Council Vice-Chair
Talbot Adair, Council Member
Kim Carson, Council Member
Claudia McMullin, Council Member

Tom Fisher, Manager
Anita Lewis, Assistant Manager
Robert Hilder, Attorney
David Thomas, Deputy Attorney

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

DISCUSSION REGARDING FORMAT TO REPORT STRATEGIC PLAN MILESTONES

Manager, Tom Fisher, stated the Council had asked for a method of better tracking the work items that are done throughout the year that support strategic goals, and presented the new format to Council that was created by Mr. Fisher and Ms. Lewis.

Assistant Manager, Anita Lewis, explained there are 14 leaders of the core values so each team leader will work on filling out a chart to let the Council know their progression on the core values that they're working on.

Council held a discussion as to what improvements could be made to the charts. Suggestions included streamlining the terms and being more specific, and to then categorize the items with more prioritization.

REVIEW OF 2015 SUMMIT COUNTY CITIZENS SURVEY

Julie Booth, Public and Community Affairs Coordinator, presented a PowerPoint presentation which included results of citizen surveys over the years 2011-2015, primarily to link strategic planning and budgeting for the Council. She explained this would give the Council the ability to evaluate if their views were the same as the citizens, and also to determine if their strategic plan was working.

Anita Lewis, Assistant Manager, explained the seven key issues that have not changed overtime with citizens included: Quality of Life, Planning & Development, Environmental Stewardship, Government Services, Citizen Engagement/Communication, Transportation, and Economic Development.

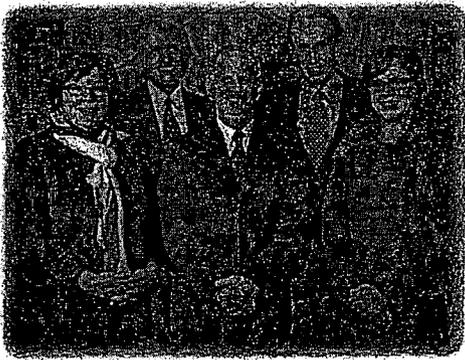
**REVIEW OF
2011, 2013 & 2015
SUMMIT COUNTY
CITIZENS SURVEY**

**TELL US WHAT
YOU THINK**



Julie Booth, Public Affairs
Anita Lewis, Assistant County Manager

**3 STUDIES OVER 6 YEARS TO ASSESS
KEY OUTCOMES
LINKED TO STRATEGIC PLANNING AND
BUDGETING PRIORITIES**

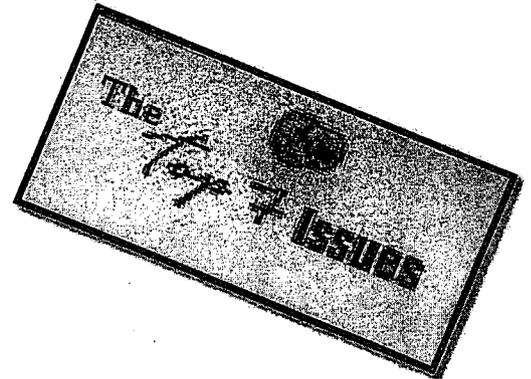


**TO PROVIDE
SUMMIT COUNTY COUNCIL
THE ABILITY TO:**

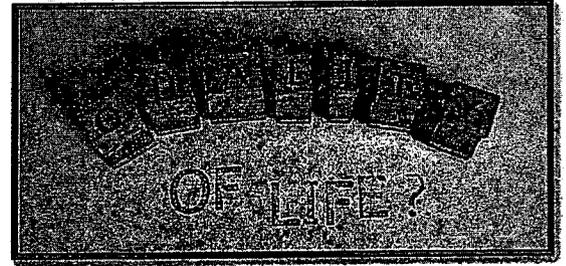
- Evaluate changes in residents' views about issues as demonstrated by survey responses from **2011, 2013** and **2015**
 - Determine if Strategic Plans are aligning with public sentiment
 - Make changes to address resident views/concerns, if necessary

TOP ISSUES FOUND IN 2011, 2013 & 2015 STRATEGIC PLANS:

- ❖ **Quality of Life**
- ❖ **Planning & Development**
- ❖ **Environmental Stewardship**
- ❖ **Government Services**
- ❖ **Citizen Engagement/Communications**
- ❖ **Transportation**
- ❖ **Economic Development**



CITIZENS' VIEWS ABOUT QUALITY OF LIFE



- Commonly high ratings countywide
- A majority of residents were most likely to rate quality of life in Summit County as “excellent”

YEARS COMPARISON: Slight increase in overall quality of life rating in 2015 when compared to results from 2011 and 2013

STRATEGIC PLANNING: Quality of life objectives included in 2011, 2013 and 2015 Council Mission Statements

In 2015, 90% of residents believe Quality of life in Summit County is excellent to above average

CITIZENS' VIEWS ABOUT PLANNING & DEVELOPMENT

- **Most residents strongly agree or somewhat agree that growth and development are causing a loss of important and valued characteristics (73.7% in 2015, 67% in 2013, 70.5% in 2011)**
- **Comparison of 2011, 2013 and 2015 surveys show 44% of residents countywide consider limitations on new residential development to be very important**

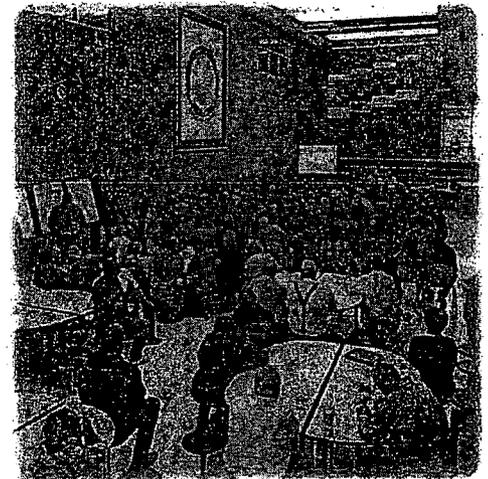
YEARS COMPARISON:

Results trending upward for more controls on growth and development (2013 exception)

STRATEGIC PLANNING:

Planning & Development objectives

included in 2011 and 2015 Council strategic plans

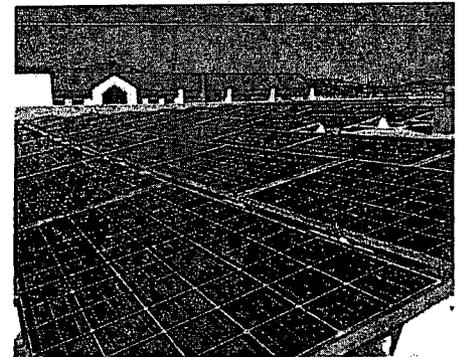


CITIZENS' VIEWS ABOUT ENVIRONMENTAL STEWARDSHIP

- Most residents find it important to very important that Summit County has a clean environment (99.5% in 2015, 98.1% in 2013 and 94.1% in 2011)
- Residents find it moderately to very important the County protect and preserve agricultural land and open space in Summit County (95.3% in 2015, 93.9% in 2013 and 93.1% in 2011)

YEARS COMPARISON: Results trend in favor of continued environmental stewardship policies

STRATEGIC PLANNING: Environmental Stewardship objectives included in 2011, 2013 and 2015 Council strategic plans



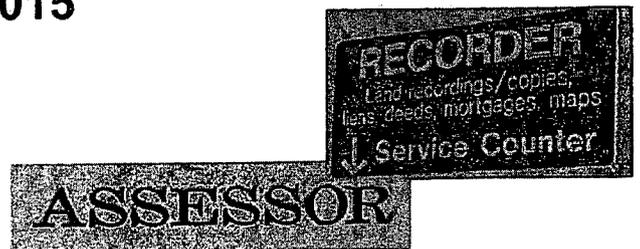
CITIZENS' VIEWS ABOUT PERFORMANCE OF SUMMIT COUNTY GOVERNMENT

- Countywide, over 90% of residents rated the overall quality of county-provided services as average, above average, or excellent
- High levels of satisfaction countywide regarding how effectively county offices address citizens' needs and concerns

YEARS COMPARISON: Results trend up, performance rating increasing.

STRATEGIC PLANNING: Efficient and effective services included in 2011, 2013 and 2015

Council Vision Statements



CITIZENS' VIEWS ABOUT COMMUNICATIONS & CITIZEN ENGAGEMENT

- Almost half of all residents believe Summit County provides excellent to above average information on a regular basis. (41.9% in 2015, 31.6% in 2013 and 27.1% in 2011)
- West County residents rated availability of information about Summit County programs and services the highest, at 49.5%

YEARS COMPARISON:

Results trend upward in communications/engagement success

STRATEGIC PLANNING:

Citizen outreach and communications objectives included in 2011 and 2013 Council strategic plans



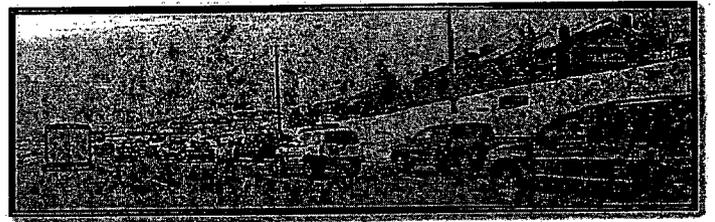
CITIZENS' VIEWS ABOUT TRANSPORTATION

- Overall, county residents support expansion of public bus services to meet the needs of both local residents and visitors
- Across all areas of Summit County, few residents report frequent use of alternative transportation methods for shopping and keeping appointments, or for commuting to work

Even if traffic congestion conditions were to worsen, most residents consider it unlikely that they would use alternative transportation on a regular basis

YEARS COMPARISON: New question for the 2015 survey, no comparison. 2015 results: additional work to be done

STRATEGIC PLANNING: Transportation objectives included in 2013 and 2015 Council strategic plans



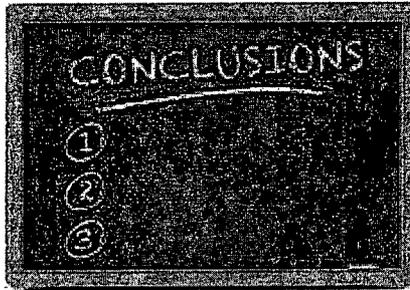
CITIZENS' VIEWS ABOUT ECONOMIC DEVELOPMENT CONDITIONS & PRIORITIES

- Local characteristics identified most often as “competitive strengths” in attracting new economic development opportunities included lifestyle and environmental characteristics
- “Competitive weaknesses” listed in survey were high quality, high wage jobs and limited affordable housing

YEARS COMPARISON: New question for the 2015 survey, no comparison. 2015 results: wages and affordable housing biggest issues.

STRATEGIC PLANNING: Economic Development / Diversity objectives included in 2011, 2013 and 2015 Council strategic plans





**SUMMIT COUNTY COUNCIL STRATEGIC OBLIGATIONS ARE
ALIGNED WITH CITIZEN SENTIMENT**

CITIZENS & ELECTED OFFICIALS HAVE THE SAME CONCERNS

**BUDGET PRIORITIES ALIGNED WITH STRATEGIC PLANS
HAVE NETTED RESULTS**

SUSTAINABILITY, ECONOMIC DEVELOPMENT, COMMUNICATIONS

**THERE WERE NO AREAS OF FOCUS "MISSED" BY COUNTY
COUNCIL RELATED TO PUBLIC DESIRES**

**ALL ISSUES ARE CURRENTLY BEING ADDRESSED OR HAVE ALREADY
BEEN ADDRESSED**



Ms. Booth explained the Council has had the issue, Quality of Life, in their past three mission statements and the trend line on this issue goes from 85.9% in 2011 up to 90% in 2015 of excellent quality of life in Summit County.

Planning & Development was included in the Council's 2011 and 2015 strategic plan and did trend higher in terms of citizens wanting more control and for there to be a range put on growth in Summit County.

Ms. Lewis reviewed Environmental Stewardship with the Council. She stated citizens are concerned about this topic and 99.5% of residents find it is very important to have a clean environment and are in favor of the County continuing their environment stewardship policies.

Ms. Booth stated the Council had government service performance objectives included in their last three vision statements. She stated a combined 92% of residents considered the quality of county-provided services to be average, above average, or excellent in 2015.

Ms. Lewis explained in 2011 the County recognized that Communications & Citizen Engagement was a weak area and that they needed to hire a full-time person to improve this issue. Ms. Lewis stated Julie Booth was hired to fill this role and continues to do an outstanding job in using Facebook, social media, and every avenue that's available to let citizens know what's going on in our county.

Ms. Booth explained Transportation objectives were included in County's last two strategic plans, but it was only included in the 2015 survey so there's no trend line data on that. The 2015 survey stated the County has a lot of work to do for transportation and infrastructure. Citizens have said they want more park and rides, commuter or express transit, and they want more transit in their neighborhoods. The surveys suggested that citizens are not willing to ride just yet, so there's some work to do from a public education standpoint.

Ms. Lewis explained Economic Development Diversity has been in the past three surveys, and was added in 2011 because there was a concern with the recession and what the county experienced during that time. The priority that citizens feel the county needs is a higher livable wage and affordable housing.

Ms. Booth stated in conclusion, the Council's strategic objections that they set forth align with what the citizens want.

CLOSED SESSION

Vice Chair Robinson made a motion to convene in closed session to discuss land acquisition. The motion was seconded by Council Member Carson and passed unanimously, 5 to 0.

The Summit County Council met in closed session for the purpose of discussing land acquisition from 3:18 p.m. to 3:47 p.m. Those in attendance were:

Roger Armstrong, Council Chair
Chris Robinson, Council Vice-Chair
Kim Carson, Council Member
Claudia McMullin, Council Member
Talbot Adair, Council Member

Tom Fisher, Manager
Anita Lewis, Assistant Manager
Robert Hilder, Attorney
David Thomas, Deputy Attorney
**Patrick Putt, Community
Development Director**

Council Member Carson made a motion to leave closed session and reconvene in open session. Council Member Robinson seconded and the motion passed unanimously, 5 to 0.

PRESENTATION OF PAYMENT IN LIEU OF TAXES (PILT) CHECK

Justin Dolling, Northern Region Supervisor of the Utah Division of Wildlife Resources presented the Council with a PILT check in the amount of \$6,184.99.

**PRESENTATION OF THE EAST CANYON WILDLIFE MANAGEMENT AREA
HABITAT MANAGEMENT PLAN**

Pam Kramer, Wildlife Habitat Biologist, presented a PowerPoint presentation regarding the East Canyon Wildlife Management Area Habitat Management Plan. She explained a manager plan was written, and as part of that plan she discussed what it is the Wildlife Management proposes to do with the Summit County property, what limitations for management are existing on the area, what are some of the inventory of both wildlife resources and vegetative resources, property inventory on infrastructure. She stated they put together a list of strategies of what they might want to do to make it better for wildlife and the allocation of water sources or any other resources that goes along with that as a broad-based approach to the whole topic.

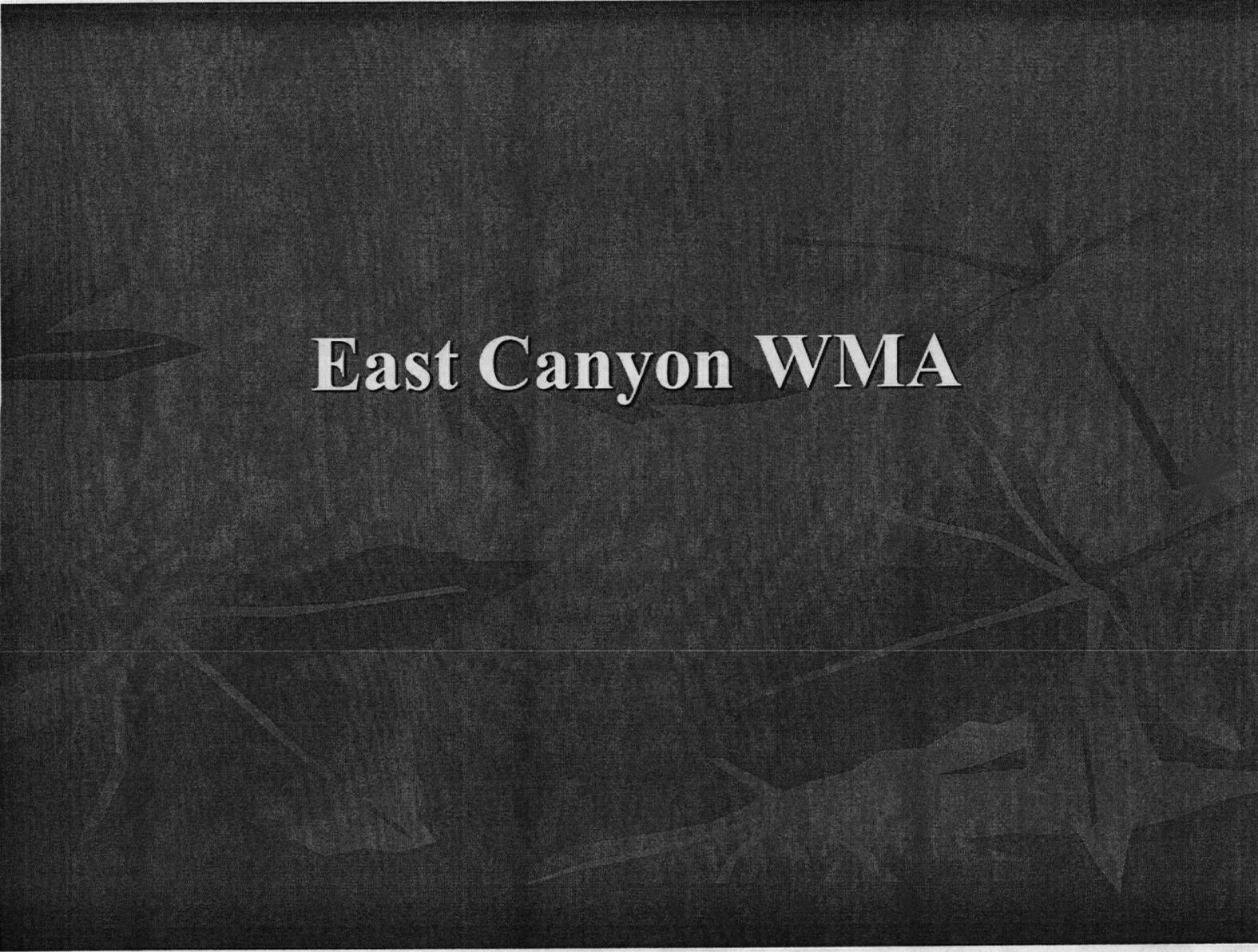
UDWR WMA Habitat Management Plan Review Process

Utah State Code (23-21-2.2)

- UDWR Northern Region Office Staff
- UDWR Habitat Council
- RDCC (Resource Development Coordinating Committee)
- County Commissions
- RAC (Regional Advisory Council)
- Wildlife Board (optional)

23-21-2.1 Management plans.

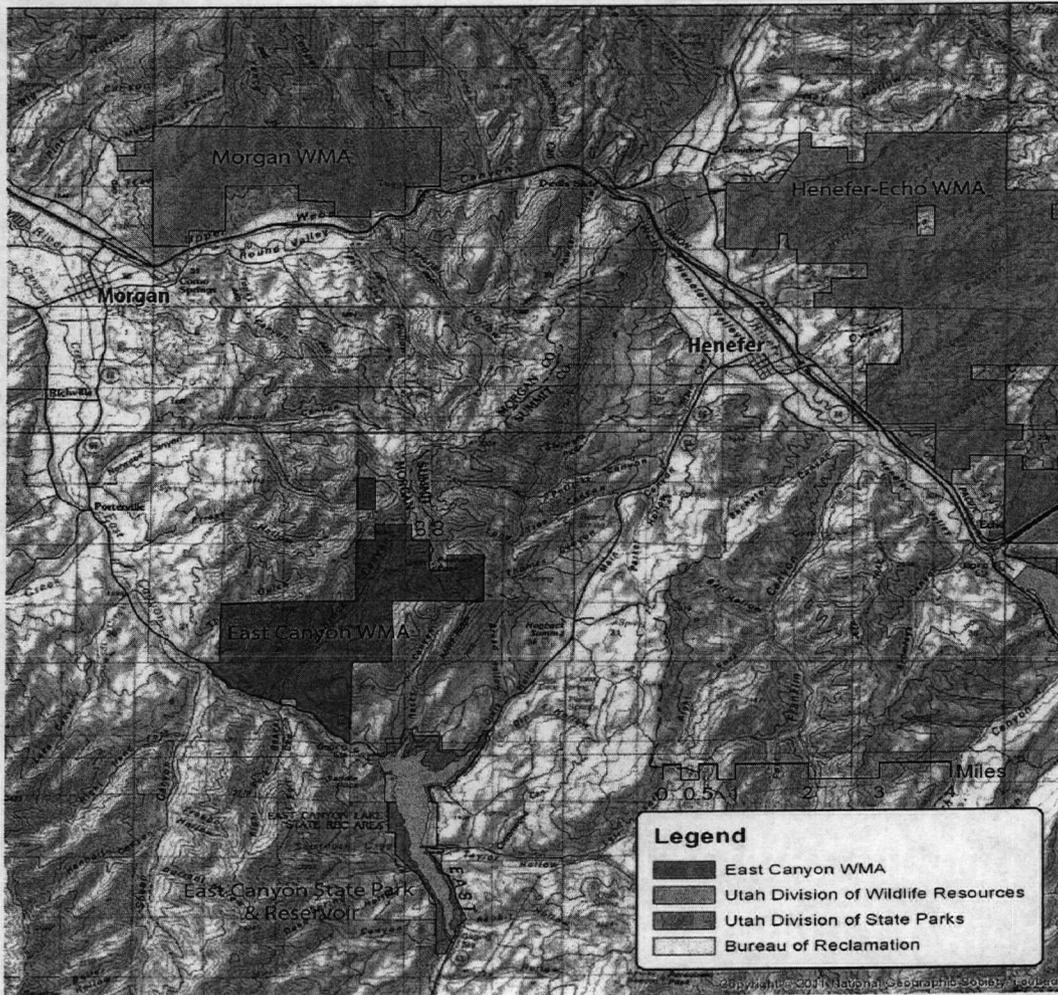
- (1) The division shall prepare a management plan for each wildlife management area. Upon adoption of a management plan by the division director, the lands shall be managed in accordance with the management plan.
- (2) Each plan shall include:
 - (a) a statement of the proposed or anticipated uses;
 - (b) a description of any management limitations or conditions covering the area;
 - (c) an inventory of the existing conditions;
 - (d) a statement of the desired future condition of the area;
 - (e) a list of strategies that may be implemented to achieve the desired future condition; and
 - (f) a description of any reallocation of forage, water, or other resource appurtenant to the land.



East Canyon WMA



East Canyon Wildlife Management Area General Location Map



General Information

- The WMA was purchased in the 1980's, and contains 3343.05 acres in both Morgan and Summit Counties. The Kern River Gas Transmission Pipeline provided UDWR with 160 acres in 2010 as mitigation for their pipeline activities.
- Two walk-in-access areas are located adjacent to the northern boundary of the WMA.
- Morgan County is the most privately owned county in Utah; 75% of deer and 99% of elk winter ranges are in private ownership, making the ECWMA important to maintain and enhance.

Primary Purposes of the East Canyon WMA

- To preserve and protect big game winter range and wintering wildlife, and to reduce deer and elk depredation on surrounding private property.
- Provide recreational opportunities which are compatible with the purpose for which the property was acquired.
- Primary recreation opportunities are upland game and big game hunting in the fall, and turkey hunting and shed antler gathering in the spring. Horseback riding, hiking, and camping are also popular uses of the ECWMA.

East Canyon WMA Capital Facilities at a Glance

ITEM	AS OF 2015
Fence	2.5-3 miles
Gates	5
Parking Lots	1 (30,000 sq. feet); several unofficial vehicle pull outs
Roads	0.3 miles (public use); 3.5 miles (administrative use)
Signs	1 entrance and multiple small boundary; WIA
Water Rights	None.
Water Developments	2 spring fed ponds and one livestock trough (in place before UDWR acquired the property)
Buildings/Structures	1 wooden kiosk 1 Equestrian access opening

Redrock Canyon – Trend Study No. 5-15 (located on the ECWMA)

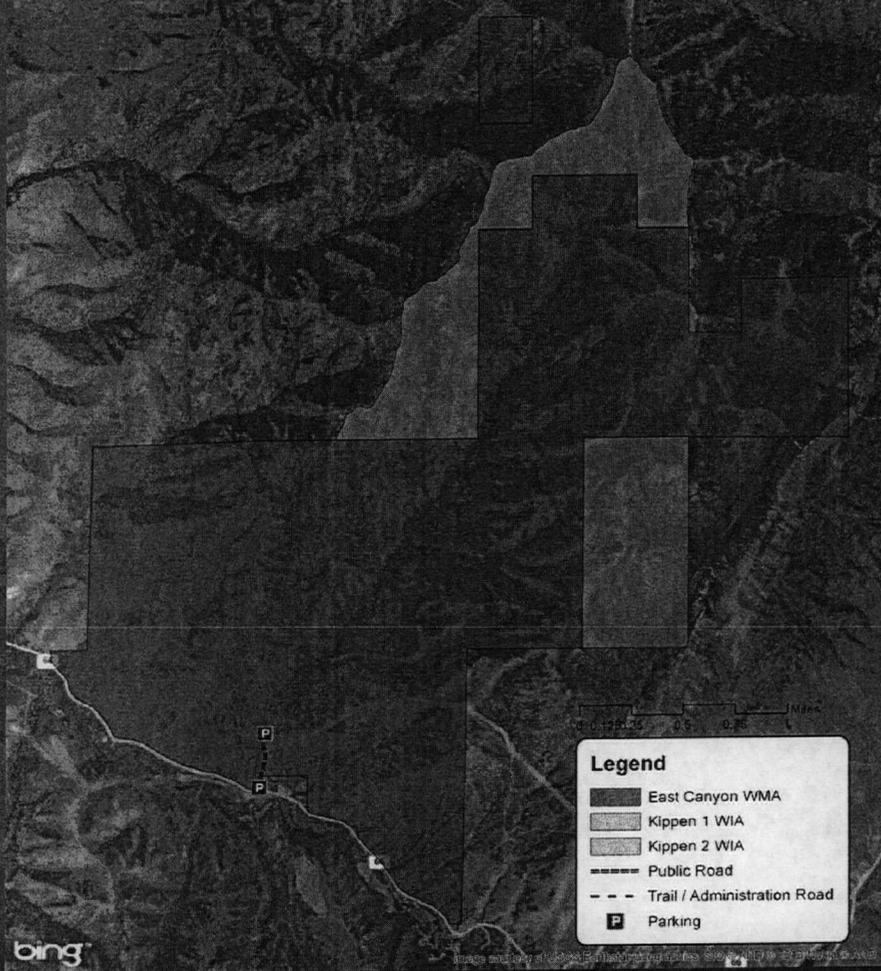
Type	1996	2001	2006	2011	Type
Browse	First year	Stable	Slightly up	Slightly down	Browse
Grasses	First year	Up	Stable	Slightly down	Grasses
Forbs	First year	Up	Slightly down	Up	Forbs
Winter Range Condition (DC Index)	17.0 Very Poor	36.6 Very Poor-Poor	36.8 Very Poor-Poor	40 Poor	Winter Range Condition (DC Index)

McDonnell Hollow- Trend Study No. 5-2 (located just outside of the ECWMA)

Type	1996	2001	2006	2011	Type
Browse	First year	Slightly down	Down	Slightly up	Browse
Grasses	First year	Up	Down	Stable	Grasses
Forbs	First year	Up	Down	Up	Forbs
Winter Range Condition (DC Index)	33.8 Very Poor-Poor	59.7 Fair	60.2 Fair	64.6 Fair-Good	Winter Range Condition (DC Index)



East Canyon Wildlife Management Area Road/Access Map



ECWMA Access/Public Use

- WMA annually closed to all public access, January 1 to the second Saturday of April.
- WMA closed year long to motorized vehicles.
- Maintain large parking lot and horse access gate along Hwy. 66.
- High public use of the property, especially by equestrian users; vandalism, litter and target shooting concerns.
- Two Walk-in-access areas adjacent to the northern boundary.



East Canyon Wildlife Management Area Map of Kern River Pipeline Disturbance



Habitat Improvement Activities

- Weed spraying program targeting Dalmation toadflax and goat grass on the SW side of the property.
- Use grazing as a management tool to create/enhance wildlife habitat

Install fire breaks in the following areas: under the powerline corridor; along the southern boundary; scattered across the landscape, especially ridgelines; and in a large sagebrush area east of the WMA.

- Develop additional management strategies to enhance winter range forage conditions.

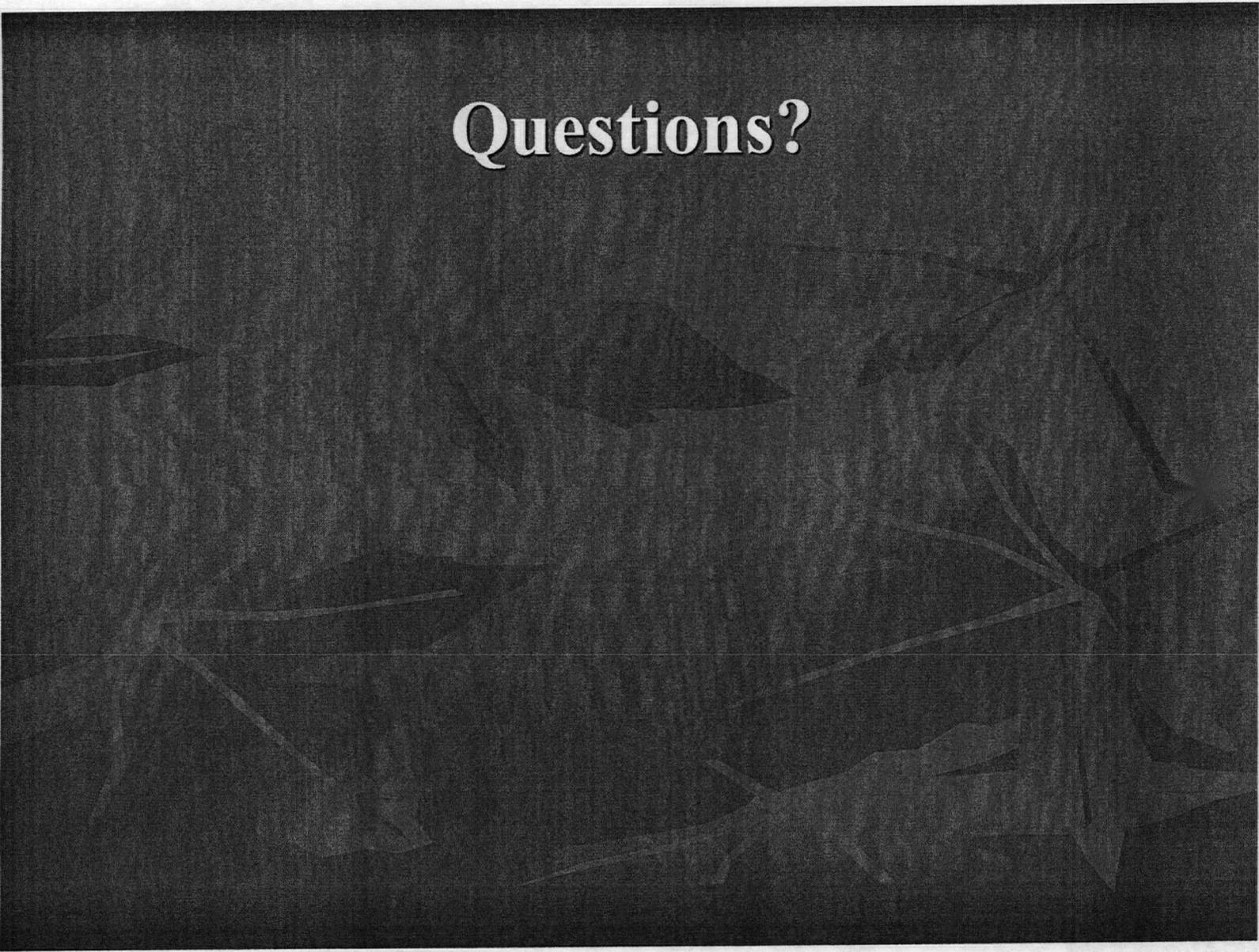
Habitat Improvement Activities (continued)

- Survey WMA for state sensitive terrestrial and aquatic species.
- Undertake activities to improve the grazing program: replace, rebuild and maintain fences; and pursue water development opportunities.
- Pursue acquisition of water rights.
- Relocate range trend study location to provide more valuable winter range information.

Property Management Needs

- Inspect, repair and replace fences, signs, and gates as needed. Clean parking lots as needed.
- Map noxious and invasive weeds on an annual basis and spray as needed.
- Complete land trade to create a contiguous land block.

Questions?



DISCUSSION REGARDING REVENUE FOR TRANSPORTATION

Matt Leavitt, Finance Officer, presented the Council with potential revenue sources for county transportation issues. Mr. Leavitt stated the purpose of this meeting was to address the core value of a transportation system that connects people to job, services, and communities while limiting congestion.

Mr. Leavitt stated capital resources from the general fund are only those made available by cutting portions of the operating budget or using fund balances from prior years' budget savings. As fund balances accumulate, it starts pushing that upper end of the executive orders account maximums. There's no dedicated resource in the general fund for capital projects, which includes anything related to transportation.

Mr. Leavitt explained this year the Council took some steps to improve what may be available in the general fund. One of those steps includes the curbside waste collection fee to be imposed for 2016. A \$3 per month per can fee was discussed that would generate \$720,000 for the County general fund. That \$720,000 is in the general fund budget for 2016.

Mr. Leavitt also explained an increase in landfill tipping fees in the Landfill Enterprise fund included in the 2016 budget. This estimated annual revenue increase of \$110,000 will capture some of those capital needs in the landfill and lessen the burden from the subsidy from the general fund. The Council could consider those resources going to transportation issues.

Mr. Leavitt stated there are some sales and use tax options that have been discussed with the Council before. He presented a table that listed available sales and use taxes that the County may impose in order to continue to move towards meeting the needs for transit, transportation, and infrastructure. He explained the sales and use taxes are restricted in use and may vary due to economic conditions; however, they provide an ongoing resource to the County.

Mr. Leavitt explained that a Property Tax Levy provides the County with a lot more stable revenue resource and gives a better foundation to build from. He stated you don't have the economic variability that you do with sales and use taxes.

He explained there is the possibility of going through truth in taxation and freezing the rate for one or two years. Mr. Leavitt gave some examples and stated if the values go up 5% one year and the County freezes the rate, it would generate about 70- to \$75,000. If it goes up 7%, it's about \$102,000 if the County wanted to freeze that rate within or two years just to continue to build that base to start the transit district. Another example was on a \$265,000 taxable value of a home it would increase about \$106 a year in property tax.



STAFF REPORT

TO: Summit County Council
FROM: Matt Leavitt – Summit County Financial Officer
DATE: January 22, 2016
SUBJECT: Discussion regarding revenue sources for transportation.

In 2015 the Summit County Council adopted the Summit County Strategic Plan, listing four core areas to be addressed in the upcoming years. The first of those core values being, "A transportation system that connects people to jobs, services and communities, while limiting congestion." This discussion regarding transportation related revenue sources is the beginning towards a series of further discussions related to this core value. Manager direction given for discussion with Council are:

1. Revenue related, directly or indirectly, to transportation (Matt Leavitt);
2. Direction and timeline as to implementing certain transportation related revenue resources (Dave Thomas);
3. Various transportation needs of the County (Caroline Ferris); and,
4. Direction and action plan coordinated with County Council (staff).

In order to implement specific aspects of this direction, it is important to have continuous dialogue with the Council in the upcoming weeks. As stated above, the timeline will be addressed by the Attorney's Office.

The 2016 budget continued to address the mission and values set forth in the County Council's Strategic Plan. Budget decisions were prioritized accordingly. Moving forward in to 2016, discussions need to continue to set further direction as to accomplishing more of those priorities. Certain discussions need to continue in order to accomplish what was included in the 2016 budget which, in turn, help accomplish those priorities.

Included in the 2016 budget were revenue estimates based on historical amounts received. The historical revenue sources have been sufficient to get the County to a certain point. However, in order to move beyond what has been accomplished historically, the Council must discuss the possibility of additional resources, revenue, long-term debt, or otherwise, in order to accomplish the Council's values in a time frame that is acceptable.

New Sources

Included in the 2016 budget is a curbside fee for waste collection. This is a \$3.00 per can monthly fee that is anticipated to generate \$720 thousand per year for the County general fund. This fee will

need to be enacted soon in order to maintain general fund stability and allow the County to refocus resources towards a dedicated capital stream.

Currently, capital resources from the general fund are only those that are made available by cutting portions of the operating budget or using fund balances from prior years' budget savings.

Also included in the 2016 budget is an increase in landfill tipping fees in the Landfill Enterprise fund. The current tipping fee was proposed to increase from the \$31/ton fee to \$33/ton (estimated annual revenue increase of \$110 thousand). This fee, as discussed in previous Council meetings, is necessary to reduce the Landfill Enterprise fund's dependency on a general fund subsidy. During 2015, the general fund contributed \$593 thousand to help with capital needs of the Landfill fund. The Landfill fund continues to have capital needs and the increase in tipping fees is necessary for this to be accomplished. These fees were included in the fee schedule that was adopted by the County Council in December 2015.

Enacting these fees in 2016 will begin the process of the Landfill Enterprise fund becoming self-sustaining and reduce the amount of General fund resources needed to pay for the collection contract with Allied Waste.

Transit Specific Sales & Use Taxes

Transportation issues have and continue to be an issue that requires attention. In 2014, the County adopted an increased property tax rate for the Municipal Services fund and Service Area #6 to help address some of the shortcomings in those funds in addressing capital and operational needs. However, the County needs to address shortfalls beyond what was addressed by the tax increase, as identified previously by the Public Works Administrator, within the Municipal Services fund. The following table lists available sales and use taxes that the County may impose in order to continue to move towards meeting the needs for transit, transportation and infrastructure.

	Short Description	Rate	Imposed By	Annual Est. *	Note
	County option for mass trans.	0.30	Transit District	\$1,700,000	Currently imposed
	Additional county option	0.25	County, city or town	4,100,000	County-wide for public transit
or	Fixed guideway	0.30	County	4,920,000	Limited to fixed guideway
	County option for transportation	0.25	County	4,100,000	Limited in use, transit facilities, corridor preservation
	Local option (HB362)	0.25	County	2,350,000	County-wide estimate distributed to municipalities and transit districts

**Estimates based on County historical amounts from similar taxes; local option estimates based on League of Cities and Towns and Wasatch Front Regional Council.*

Those sales and use taxes above are restricted in use, but provide an ongoing resource available to the County which may also permit some leverage towards long-term debt (discussed later). Although these provide an ongoing resource, because they are based on sales and use taxes there is a variability component due to economic conditions.

Property Tax Levy

The County does have the option of imposing a Transit District property tax levy. This tax is capped at 0.000400 by Utah State Code (UCA 17B-1-1002(1)(h)). The levy may be higher if voted on as a capital improvement general obligation bond for the District. Its uses are limited to the District, which does not satisfy the needs of other transportation needs such as roads and infrastructure. This tax would generate an estimated \$2.2 million, providing a reliable revenue foundation for the District.

Currently, the Transit District is not taking any advantage of the property tax levy permissible by State Code. Resources used to fund the Transit District are primarily business assessments and sales and use taxes. Each of these sources contain an economic component of variability and are therefore less reliable in terms of having a solid foundation for program resources. A property tax levy would provide a basis to build from beyond existing resources. While the County looks to expand Transit District services to additional areas within the County, a property tax levy within the District would provide a stable resource to build upon.

Long-term Debt

The County has established guidelines¹ regarding the issuance of long-term debt. This discussion attempts to adhere to those guidelines. Included with those guidelines is the establishment of a seven member Debt Review Committee². A brief summary of those guidelines are as follows:

- General Obligation (G.O.) Debt:
 - The average maturity of debt will not exceed 15 years.
 - Total amount of debt will not exceed 15 percent of generated property tax revenue.
 - Total amount of debt will be less than 2 percent of reasonable fair cash value of taxable property.
- All Other Non G.O. Debt:
 - Total amount outstanding shall not exceed 10 percent of non-property tax related revenues.
 - All other non G.O. debt will not exceed 10 percent of the total annual locally non property tax generated revenue nor exceed two-times debt service coverage on pledged sources.
 - The average maturity of non G.O. debt will not exceed 20 years.

All debt types will not exceed the life of the asset(s) acquired.

¹ The established guidelines are part of the "Summit County Financial Goals, Policies and Practices" last updated April 3, 2015. These guidelines were created using Government Finance Officers Association's (GFOA) best practices as a standard and adapted for the specific needs of Summit County.

² The voting members of the Debt Review Committee are comprised of the Finance Officer; the Auditor; *one* representative from the Attorney's Office; the Treasurer; *one* representative from the Manager's Office; and *two* representatives designated by the County Council.

A summary debt service schedule, principal and interest, is provided in the following table. During 2015, the County retired two outstanding debt issues: general obligation debt and excise tax (gas tax) revenue bonds. The retirement of the general obligation debt results in an automatic lowering of the property tax rate while the retirement of the excise tax revenue bonds resulted in more funds being made available for operations in the 2016 budget as well as funds being set in reserve for future projects. Excise tax revenues are restricted in use and therefore not available for general County operations.

Outstanding County Debt:

Debt Title/ Year	RAP Sales Tax 2012	TRT Sales Tax 2011	Sales Tax 2009	MBA 2007
2016	\$497,169	\$70,813	\$876,522	\$312,610
2017	497,104	71,010	885,347	317,136
2018	496,822	72,125	898,872	325,470
2019	497,822	73,134	907,022	332,532
2020		74,023	927,847	334,344
Beyond 2020		896,456	3,908,906	
Maturity	06/15/2019	12/15/2031	12/15/2023	12/15/2020

The purposes of those bonds shown in the debt service schedule above were as follows:

- RAP Sales Tax 2012: distribution for the construction of County, municipal and district recreational facilities. Original debt issued: \$3,230,000.
- TRT Sales Tax 2011: acquisition of property to be leased to Park City Chamber Bureau. Original debt issued: \$1,300,000.
- Sales Tax 2009: acquisition of property, construction of Quinn's Health Building (\$6,146,000) and road projects. Original debt issued: \$8,545,000.
- SCMBA 2007: \$3,797,000 refunding bonds. Original debt 1999 \$3,170,000 for Richins Building; 2000 \$4,715,000 for courts portion of Justice Complex.

For Council's reference, the following list is included to show examples of other projects financed by long-term debt. This list includes debt that has been retired within the past three years.

- 1998/2009 General Obligation Debt: \$4,310,000 for law enforcement portion of Justice Center; was refinanced in 2009, retired in December 2015.
- 2005/2011 Excise Tax Revenue Bonds: \$6,651,000 to widen and improve Brown's Canyon Road; was refinanced in 2011, retired in June 2015.
- 1998 SCMBA Lease Revenue Bonds: \$4,185,000 for Coalville Courthouse remodel; retired December 2013.

The County may issue long-term debt *without* voter approval for Summit County Municipal Building Authority (SCMBA) or revenue bonds, such as sales and use tax or excise tax bonds. The County pledges with SCMBA bonds that the amount required for debt service will be included in the County's annual budget. Utilizing either SCMBA bonds or revenue bonds results in resources being diverted from operations to finance debt service as no additional revenues are generated.

Public-Private Partnerships (P3s)

In order to address the transit needs of the County, there is the option of researching P3s. While not exactly a revenue source for the County, P3s provide opportunities to work with private organizations or other agencies to achieve common goals. From the Government Finance Officers Association, "P3s imply any agreement as long as it involves a contract between the public sector and the private sector where the private sector is providing public service or public benefits." The decision becomes how to best promote the public interest, including determining the feasibility of the arrangement, assessing performance, etc.

There are certain risks involved with P3s which would require observation and monitoring by a County employee, an analysis of the feasibility of the relationship by a third party and a clear set of performance goals with regular reporting back to the County. Such a relationship would require a clear contract between both parties and the feasibility study would need to be a cost/benefit analysis which may prove that the endeavor would cost the County more in the long-term.

The County has outsourced a component related to transportation by contracting with Park City Municipal for bus services in and between Park City and the Summit County Transit District. Also, The County has an established P3-type relationship with the Park City/Salt Lake City connect. Another, non-transit related, P3-type relationship the County currently has is with Allied Waste for the curbside collection of household waste and recycling.

Conclusion and Recommendations

There are opportunities and options available to the County to fund transportation needs. Included in those options are existing resources, budgeted new revenues, additional sales and use taxes, transportation related property taxes, long-term debt, and P3s. As the County recognizes the different transportation needs, implementing a combination of these opportunities will be the best option for the County. It is the recommendation of staff that, implemented over time, a combination of sales and use taxes, transportation property taxes, and long-term debt be used to achieve the transportation objectives established by the Summit County Strategic Plan.

The County may explore other opportunities to achieve its transportation objectives by analyzing other potential, currently unidentified partnerships. Any additional P3 relationship should be carefully analyzed to ensure that the objectives of the relationship provide a public benefit in the most cost efficient manner.

Vice Chair Robinson asked for clarification on the transportation district and Dave Thomas, Deputy Attorney, explained the Kimball Junction Transportation Special Service District is wholly included within the transit district, and Park City Municipal has their own district.

Matt Leavitt continued to explain another option for revenue sources for transit and transportation are some long-term debt options. There's the general obligation debt options, in that the average maturity not to exceed 15 years and the total amount of debt not to exceed 15% of property tax revenues. The total amount of debt would be less than 2% of taxable values. Mr. Leavitt stated the total amount of general obligation debt shall not exceed 10% of non-property tax related revenues, and all other non G.O. debt will not exceed 10% of the total annual locally non-property tax generated revenue, nor exceed two times debt service coverage on pledged sources. The average maturity of non G.O. debt will not exceed 20 years.

Mr. Leavitt stated another option for transportation funding are public-private partnerships. He stated the GFOA defines that as any agreement, as long as it involves a contract between a public sector and private sector, which provides a public service or a public benefit. Mr. Leavitt stated some examples of P3 relationships include Allied Waste, who contracts with the County and provides a public service, and Park City Municipal, who provides transportation services. He stated there's some potential for the County to explore other P3 relationships. He stated they require some monitoring on the part of the county staff and you have to have some pretty clear and defined goals and objectives for that private enterprise to accomplish. The County needs to look at the cost benefit analysis and decide if it works for the county or not.

Mr. Leavitt recommended that a combination of sales and use taxes, transportation property taxes, and long-term debt be used to achieve the transportation objectives established by the Summit County Strategic Plan.

CONSIDERATION OF APPROVAL

- Pledge of Allegiance

APPOINT MEMBERS TO THE TAX ADVISORY BOARD

Council Member Carson made a motion for the appointment of Michael Showers and Eileen Dunn to the Restaurant Tax Advisory Board for three-year terms each. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

DISCUSSION AND POSSIBLE ACTION REGARDING A PROPOSED VESTED RIGHTS DETERMINATION FOR LOTS 42-44, SILVER CREEK UNIT I

Jennifer Strader, County Planner, presented some history to the Council by stating Silver Creek Unit I was recorded in 1965 prior to any County zoning. She explained that on the plat there's a note that identifies various uses applicable to specific blocks within that plat, so one block will say commercial and another block will say industrial. Then the CCNRs for Unit I broke down the exact uses that are allowed in those commercial or industrial areas. It was the practice of

the County for years to recognize the uses on the plat, even though the underlying zone was always residential.

Ms. Strader explained the applicant, George Mount, owns four lots in Unit I on the west side of Silver Creek Road. She stated in 2011 the applicant applied for an opinion from the Ombudsman's office to verify the plat note had vested the uses. That opinion concluded the County does not have the authority to uphold the uses that are on the plat but should instead apply the uses in zoning.

She explained the community development director at the time sent a letter to all of the effected property owners in Unit I stating that the County would be applying the underlying zoning instead of the CCNRs in the plat note. After receipt of that letter Mr. Mount filed a vested rights application. Shortly afterwards the County initiated a rezone for portions of Unit I, which did include Mr. Mount's four lots. The proposed zone was community commercial. As the rezone was working its way through the process, staff recommended that they hold off on processing the vested rights application pending the outcome of the rezone. The applicant agreed and that's why the application was put on hold. In conclusion, only a portion of Unit I was rezoned and it's on the east side of Silver Creek Road, which did not include the applicant's property. During the rezone process the applicant did meet with the community director to further discuss the applicability of the plat note to his four lots. The director reviewed whatever information was provided to him by the applicant and determined that there was enough information that convinced him that the applicant relied on those plat notes for Lot 45, which included the receipt of a grade increment for Lot 45; however, there wasn't any evidence submitted that warranted the director to make a decision on Lots 42-44. He determined that Lot 45 was essentially vested to be processed under the CCNRs and the plat notes, so lot 45 would be subject to any of the commercial uses or other uses that are identified on the CCNRs.

In 2013 the applicant requested another advisory opinion from the Ombudsman to verify whether or not a property owner can claim vested development rights by incurring substantial expenses. That opinion concluded that if a property owner incurs significant expenses to develop the land, then the owner may claim the right to develop. It also stated that the applicant incurred expenses of approximately \$50,000, which is a significant expense in their opinion. Ms. Strader stated that since that 2013 opinion, staff is not aware of any further action that has taken place with respect to Lots 42-44 and have relied on the information that was provided in the applicant's packet; however, they did receive additional information yesterday that was forwarded to the Council for review. She stated staff did not take that information into account when recommending that Council make a determination that there is not enough evidence to warrant further review and consideration.

Ms. Strader then requested that Council review all of the information provided and decide if there is enough information to move forward with the processing of the vested rights application.

Ms. Strader explained the code states that the Council reviews the information that's provided, makes a decision as to whether or not there is enough information to warrant further review. If there is, the Planning Commission reviews the information and forwards a recommendation back to the Council. She explained in this case there's not any associated development permit applications for any type of specific projects for any of those lots.

Chair Armstrong stated for clarity that the 2011 Ombudsman opinion also stated that a property owner could have vested rights if the property owner relied on a statement by actions by the County and incurred expenses.

Dave Thomas, Deputy Attorney, stated there are two opinions but both of them say it's not technically vested rights. It's zoning estoppel. And what they say is that if there are representations that were made by the County relied upon in good faith by the property owner, and then the property owner incurred substantial expenses based on those outside of just purchasing the property, that those could trigger zoning estoppel.

Joe Tesch, Attorney for George Mount, stated his client bought the property in 1996. Mr. Tesch explained that for 17 years of his ownership, Mr. Mount was told it was zoned vested commercial. Mr. Tesch stated Mr. Mount has essentially put \$82,000 into this, which is significant, and he has a very low yearly income under \$25,000 a year for several years. Mr. Tesch stated there was some development, not just on 45 but 42-45.

Council Member Carson made a motion for the application of George Mount, property owner, Vested Rights Determination for Lots 42-44 is referred to the Snyderville Basin Planning Commission for further consideration. The motion was seconded by Council Member McMullin and passed unanimously, 5 to 0.

COUNCIL COMMENTS:

Council Member McMullin stated she is very interested in a conversation about the west side of that road in Plat I for a number of reasons. She stated the location seems pretty ideal for commercial use, but citizens have no commercial opportunities in Summit County and that has to change because the county can't attract businesses if there's no place to put them.

Council Member Carson stated she, Annette Singleton, and Anita Lewis attended the UAC meeting and met with legislators during lunch. She explained the meeting was focused on rural county issues. It was to talk about economic development opportunities and opportunities for training within those areas, working with the school districts and the technical colleges and the universities in trying to expand the available personnel resources so they could draw in new types of business. She stated they're losing a couple billion dollars in potential wage income in the state if they were to be able to come in and do some of this more technical training and they were talking about coding initiatives and that type of thing.

Chair Armstrong asked Council Member Carson if there were any discussions on Medicaid. Council Member Carson replied that she did obtain a sheet of information regarding Medicaid from her Thursday meeting and will have Ms. Singleton scan it and email it to Council. She stated it appears there's not much desire to push anything forward in the Medicaid expansion. She explained there is some talk about an additional 5 million dollars in Medicaid match. She explained there is a mini version of a Medicaid expansion that they're looking at that would just reach a very small percentage of the people that currently are in that gap, but it would be a better-than-nothing alternative.

Council Member Carson stated in regards to the Public Lands Initiative, the Council is working with the Attorney's office on doing the review of the County's original proposal and then the current-draft version of the proposal they had received that was published two weeks ago, and the Council have a discussion on that next week. She stated what she would like to do is submit what the Council's original proposal is and say they'd like to stick to this language, analyze it a little more next week, and then send over the cover letter to that affect.

Council Member Carson explained one of the representatives is really pushing food freedom bills, so, for example, people that have beehives in their yard or have their own chickens or goats and want to sell the milk, have the ability to sell it on the market without any regulation. She stated there is some concern because of the reduction in regulation. She stated one of them is specifically aimed at beekeeping, and then the other one is just more general food freedom

Chair Armstrong stated Caroline Ferris is having a meeting with the Mountain Core Committee that's working on the study for the Summit County areas and that he would just like to get a report next week about where things are in terms of leading that committee and more reasons behind it. He stated in terms of UDOT leading it because they've got the ability to leverage solutions for the County, he wouldn't object to that, but he's sure what the linkage is between their leadership on the issue and just their participation in the study. He explained that as the County plans for the future, especially on a recreation basis, the County needs to consider how people move around so they're not building new facilities that are going to contribute further to the traffic problem.

MANAGER COMMENTS

Manager Tom Fisher stated on Friday of this week, the Park City Transit is going to start celebrating their 40th anniversary and are doing an open house at the transit center if any of the Council members would like to attend.

Mr. Fisher also explained the County received a Safe Routes to School Grant from the Feds to do two projects on Highway 224 related to the crosswalk where the County has problems. Mr. Fisher stated he doesn't know the details of it yet and doesn't want to represent if it's going to cover one or both projects. The County should be receiving details soon.

APPROVAL OF MINUTES

JANUARY 6, 2016

Council Member Carson requested that the minutes of January 6, 2016, be edited to the spelling from Chris Cherney to Chris Cherniak, C-H-E-R-N-I-A-K.

Vice Chair Robinson made a motion to approve the minutes of the January 6, 2016, Summit County Council meeting as corrected. The motion was seconded by Council Member Adair and passed unanimously, 5 to 0.

PUBLIC INPUT

Chair Armstrong opened the public input.

There was no public input.

Chair Armstrong closed the public input.

PUBLIC HEARING, POSSIBLE ACTION FOR A SPECIAL EXCEPTION FOR SPRING CREEK COMMERCIAL PLAZA, LOT 4, TO ALLOW SINGLE-FAMILY ATTACHED DWELLING UNITS, 6618 NORTH CREEKSIDE LANE

Jennifer Strader, County Planner, explained this is a request for special exception and the parcel in question is located off of Bitner Road in the Spring Creek Commercial Plaza Subdivision. There are four lots in the subdivision. They contain the Creekside Church, Park City Dance, and a medical office building. Parcel Lot 4 is approximately 1 acre in size and is currently vacant. The special exception is to allow single-family attached dwelling units or town homes to be allowed on Lot 4 with a square footage that has been previously established for Lot 4.

Ms. Strader explained the subdivision was approved and developed under the Spring Creek Development Agreement, which was approved in 1998. The agreement contains a land use map that identifies the four-lot subdivision as being located in a neighborhood commercial area. The agreement also identifies a maximum of 45,000 square feet total for Lots 1 through 4. The subdivision plat further breaks down the maximum interior net lease square footage for each lot. She explained Lot 4 is limited to 20,424 square feet of maximum interior net lease square footage, but there's actually a total of 26,930 total square feet that is left for Lot 4 and Council's staff report has the wrong amount of square footage in it.



STAFF REPORT

To: Summit County Council
From: Jennifer Strader, Senior Planner
Date of Meeting: February 3, 2016
Type of Item: Special Exception
Process: Legislative Review

Recommendation:

Staff recommends the Summit County Council (SCC) consider the issues outlined in this report and vote to approve a Special Exception to expand the list of permitted uses allowed in the Spring Creek Specially Planned Area (SPA) Development Agreement to include Single Family Attached Dwelling Units (townhomes) on Lot 4, Spring Creek Commercial Plaza, as defined in the Snyderville Basin Development Code.

Project Description:

Project Name: Spring Creek, Lot 4 Special Exception
Applicant(s): Michael Brodsky, representing Hamlet Homes
Property Owner(s): Cottonwood Partners
Location: 6618 North Creekside Lane
Zone District: Rural Residential (RR)
Parcel Number and Size: LOT4SCCP-4, ~1.0 acre
Final Land Use Authority: Summit County Council

Proposal:

The applicant is requesting a Special Exception to allow townhomes on Lot 4, Spring Creek Commercial Plaza (**Exhibit A**). Currently, the Development Agreement identifies Lot 4 as being located in a neighborhood commercial land use area that does not allow residential uses.

Vicinity Map:



Background:

Spring Creek Commercial Plaza was developed under the terms of the Spring Creek Development Agreement, which was approved by the Board of County Commissioners via Ordinance No. 335 in 1998. In addition to Spring Creek Commercial Plaza, the Agreement also governed the development of Glenwild Subdivision, Blackhawk Station Subdivision, and Somerset (154 multi-family and single-family units which were transferred to other developments). The Development Agreement expired in 2003. In cases where a Development Agreement expires, the land uses permitted under the Agreement remain. All other entitlements not vested at the time of expiration are extinguished.

The Commercial Plaza consists of four (4) lots what were created through a subdivision plat (**Exhibit B**). Lot 1 contains Creekside Christian Fellowship Church, Lot 2 contains Park City Dance, and Lot 3 contains a medical office building. Lot 4 (subject property) is currently vacant. The Development Agreement contains a Zoning and Land Use Plan Map that identifies Lots 1-4 as being located in a neighborhood commercial land use area (**Exhibit C**). Permitted uses include:

"...open space and open recreational uses, church, professional offices, secretarial services, general office, construction office, clothing designer, software service/development, interior design, sporting goods packaging, manufacturer's rep,

building maintenance services, laboratory, real estate brokerage, title services, bed and breakfast, restaurant, government services, child day care, adult day care, catering, parks, trails, and utilities.”

It is important to note that the neighborhood commercial land use area identified in the Development Agreement is not the same as the Neighborhood Commercial (NC) zone found in the Development Code. It was a designation in the Development Agreement prior to the creation of the official zone in 2004.

The Development Agreement identifies a maximum of 45,000 total square feet for Lots 1-4 and the subdivision plat further breaks down the allowed “maximum interior net lease square footage” per lot; Lot 4 is limited to 20,424 “maximum net lease square feet” per the plat. Section 3 of the Development Agreement: SPA Plan Overview: Defined Zoning and Land Use Plan by Parcel states, “Whenever square footage is stated, it shall include the area within the horizontal projection of a floor as measured from outside wall to outside wall.” The total amount of square footage that can be used for Lot 4 is 24,900 square feet.

A Final Site Plan was approved in 2009 for a twenty-four (24) unit condominium office building on Lot 4 in which the uses would comply with those identified in the Development Agreement. The office building was never constructed and the applicant is now requesting to use the square footage that was allotted to Lot 4 for the development of a townhome project.

Staff has discussed various options to accomplish this goal with the applicant. In the current RR zone district, townhomes are an allowed use, but the density requirement must be met (1 unit/20 acres). Staff finds that the development square footage has been vested for Lot 4 through the subdivision plat, Final Site Plan, and Development Agreement. Townhomes are an allowed use in the both the RR and NC zone districts.

Analysis and Findings:

The SCC may approve, approve with conditions, or deny a Special Exception based upon written findings of fact according to each of the following standards. It is the responsibility of the applicant to provide written and graphic evidence demonstrating compliance:

Standard 1: The special exception is not detrimental to the public health, safety and welfare;
COMPLIES

Analysis: Townhomes are an allowed use in the existing RR zone district, based on a density of 1 unit/20 acres. A maximum square footage has been vested for Lot 4 through the subdivision plat, Final Site Plan, and Development Agreement. The applicant is not proposing to increase that square footage. The applicant is also not proposing a use that is not currently allowed in the RR zone district. The Summit County

Engineering Office finds that townhomes would result in a decrease in traffic from an office use based on their review of a report submitted by the applicant.

Standard 2: The intent of the development code and general plan will be met; **COMPLIES**

Analysis: The property is currently zoned RR and is adjacent to existing residential and neighborhood commercial uses. The intent of the RR zone district is to allow existing residential uses to remain, to allow the construction of new single-family dwelling units, and permit residential uses to be developed in accordance with the provisions of previously approved agreements.

Standard 3: The applicant does not reasonably qualify for any other equitable processes provided through the provisions of the Code; **COMPLIES**

Analysis: The property owner considered amending the Development Agreement to address this issue; however, it has expired. A rezone to another possible zoning designation was also considered; however, the current RR zone allows townhomes. The Special Exception would allow a residential use to utilize the square footage allotted by the subdivision plat, Final Site Plan, and Development Agreement. Given the fact that the Board of Adjustment cannot grant use variances, the remaining remedy for the property is a Special Exception.

Standard 4: There are equitable claims or unique circumstances warranting the special exception; **COMPLIES**

Analysis: The expiration of the Development Agreement does not permit an amendment to that Agreement. A certain amount of square footage was allotted to Lot 4 through the subdivision plat, Final Site Plan, and Development Agreement; that square footage is proposed to be applied to a use that is allowed under the current zoning.

Recommendation:

Staff recommends that SCC conduct a public hearing and review the proposal for compliance with the Code. Based upon the review outlines in this report and unless members of the public bring to light new issues or concerns that may affect the findings, Staff also recommends that the SCC vote to approve a Special Exception to allow Single Family Attached Dwelling Units on Lot 4, Spring Creek Commercial Plaza, based on the following Findings of Fact and Conclusions of Law and with the following Conditions of Approval.

Findings of Fact:

1. On December 24, 2015, Michael Brodsky, representing Hamlet Homes, submitted a Special Exception application for Lot 4, Spring Creek Commercial Plaza (LOT4SCCP-4).

2. The property owner of LOT4SCCP-4 is Cottonwood Partners.
3. LOT4SCCP-4 is located at 6618 North Creekside Lane.
4. The current zoning for LOT4SCCP-4 is Rural Residential (RR).
5. LOT4SCCP-4 contains approximately 1.0 acre.
6. The applicant is requesting a Special Exception to expand the list of permitted uses allowed in the Spring Creek Specially Planned Area Development Agreement to include Single Family Attached Dwelling Units on LOT4SCCP-4 as defined in the Snyderville Basin Development Code.
7. Spring Creek Commercial Plaza was developed under the terms of the Spring Creek Development Agreement, which was approved by the Board of County Commissioners via Ordinance No. 335 in 1998.
8. In addition to Spring Creek Plaza, the Agreement also governed the development of Glenwild Subdivision, Blackhawk Station Subdivision, and Somerset (154 multi-family and single-family units which were transferred to other developments).
9. The Development Agreement expired in 2003.
10. In cases where a Development Agreement expires, the land uses permitted under the Agreement remain. All other entitlements not vested at the time of expiration are extinguished.
11. The Commercial Plaza consists of four (4) lots that were created through a subdivision plat. Lot 1 contains Creekside Christian Fellowship Church, Lot 2 contains Park City Dance, and Lot 3 contains a medical office building. Lot 4 is currently vacant.
12. The Development Agreement identifies Lots 1-4 as being located in a neighborhood commercial land use area that does not allow residential uses.
13. The neighborhood commercial land use designation described in the Development Agreement predates the Neighborhood Commercial zone district which was created in 2004.
14. Permitted uses in the neighborhood commercial land use area include: *"...open space and open recreational uses, church, professional offices, secretarial services, general office, construction office, clothing designer, software service/development, interior design, sporting goods packaging, manufacturer's rep, building maintenance services, laboratory, real estate brokerage, title services, bed and breakfast, restaurant, government services, child day care, adult day care, catering, parks, trails, and utilities."*
15. The Development Agreement identifies a maximum of 45,000 total square feet for Lots 1-4 and the subdivision plat further breaks down the allowed square footage per lot; Lot 4 is limited to 20,424 "maximum interior net lease square footage". The total amount of square footage that can be used for Lot 4 is 24,900 square feet.
13. A Final Site Plan was approved in 2009 for a commercial condominium office building on Lot 4 in which the uses would comply with those identified in the Development Agreement. The office building was never constructed.
14. The Summit County Engineering Office finds that townhomes would result in a decrease in traffic from an office use based on their review of a report submitted by the applicant.

15. The intent of the RR zone district is to allow existing residential uses to remain, to allow the construction of new single-family dwelling units, and permit residential uses to be developed in accordance with the provision of previously approved agreements.
16. The expiration of the Development Agreement does not permit an amendment to that Agreement.
17. The Board of Adjustment cannot grant use variances.

Conclusions of Law:

1. The proposed addition of Single Family Attached Dwelling Units to the list of permitted uses in the Neighborhood Commercial zone as identified in the Development Agreement is not detrimental to the public health, safety, and welfare.
2. The intent of the development code and general plan will be met.
3. The applicant does not reasonably qualify for any other equitable processes provide through the provisions of the Development Code.
4. The proposed resident use is compatible with the surrounding residential and neighborhood commercial uses.

Conditions of Approval:

1. The square footage shall not exceed 24,900 gross square feet for the Single Family Attached Dwelling Unit development.
2. The Final Site Plan for the previously approved office building shall be amended to reflect the Single Family Attached Dwelling Unit development. The Final Site Plan amendment shall follow the process outlined in the Snyderville Basin Development Code in effect at the time of application.
3. The applicant shall apply for a subdivision plat for the Single Family Attached Dwelling Unit development in conjunction with the Final Site Plan amendment. The Final Site Plan and Subdivision Plat shall be recorded concurrently.
4. The Final Site Plan for the Single Family Detached Dwelling Unit shall comply with the applicable requirements of the Spring Creek Development Agreement. If the Development Agreement does not address items that are required in the Snyderville Basin Development Code, any applicable requirements of the Code shall apply.

Public Notice and Comments:

This item was noticed as a public hearing and possible action regarding a Special Exception in the January 23, 2016 issue of *The Park Record*. Postcards were also mailed to property owners within 1,000 feet of parcel LOT4SCCP-4.

At the time of this report, Staff has received one phone call in support of the Special Exception. No other comments have been received.

TESCH
LAW OFFICES
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February 2, 2016

VIA EMAIL

Pat Putt, Community Development Director
Jennifer Strader, Senior Planner
Summit County Community Development Department
60 North Main Street
Coalville, Utah 84017

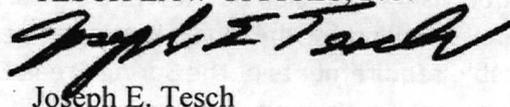
RE: George ("Skip") Mount Application for Vested Rights Determination

Dear Pat and Jennifer:

Attached are materials which I expect to use in my presentation before the Summit County Council on February 3, 2016.

Please disseminate these materials to the County Council as soon as possible. While I know this comes late in the day, since we did not receive a copy of the Staff Report until a couple of business days ago, it left little time for a critic of that Report

Sincerely,
TESCH LAW OFFICES, P.C.



Joseph E. Tesch

JET/tw
Enclosures

cc: Robert Hilder
Dave Thomas
Jami Brackin



STAFF REPORT

To: Summit County Council
From: Jennifer Strader, Senior Planner
Date of Meeting: February 3, 2016
Type of Item: Vested Rights Discussion - AS ANNOTATED

Request

The applicant is requesting that the Summit County Council (SCC) discuss and consider the merits of a proposed Vested Rights application for lots 42-44, Silver Creek Unit I. The lots are owned by George Mount, who is being represented by Joe Tesch.

If the SCC finds the application warrants further consideration, a motion may be made to refer the application along with any instructions related to the merits of the application to the Planning Commission. The Planning Commission then reviews the application and forwards a recommendation to the SCC who is charged with conducting a public hearing before making a final decision.

Vicinity Map



Background

Silver Creek Unit I was recorded in March of 1965 (see page 98 of the attachment). Unit I differed from other plats in Silver Creek in that it was intended for more intense residential, commercial, and industrial uses. As these uses were referenced in a note on the subdivision plat, it was the practice of the County for many years to recognize the uses on the plat even though the underlying zoning was for residential use only. As a result, many of the lots in Unit I have been developed for commercial uses. In the review of applications for commercial uses, Staff reviewed the use against specific development parameters identified in the CC&Rs for the plat (see pages 106-113 of the attachment).

While this is interesting background, whether or not any other lots were developed for commercial use or were development for commercial use is irrelevant to the issue of zoning estoppel which is based on promises and representations of the County. The County did approve commercial use when it approved the plat.

In the spring of 2011, the Mr. Mount requested an Advisory Opinion from the Office of the Utah Property Rights Ombudsman to verify that the plat note had vested the uses. In response, the Ombudsman's office concluded that the County does not have the authority to uphold the uses identified on the plat and the County should apply existing zoning to future development applications. As a result, the Community Development Director (Director) at the time sent a letter to all affected property owners stating that the County would be enforcing existing zoning, which is currently Rural Residential (RR) (see page 30 of the attachment). It is important to note that an Advisory Opinion is not binding, but is rather used to help parties resolve disputes based on a legal analysis of specific land use questions.

This paragraph misquotes the 2011 Opinion in that it fails to this paragraph:

"Based on the information submitted for this Opinion, HJ Silver Creek has incurred extensive expenses to purchase and improve its property, relying upon representations made by the County that the commercial development would be permissible. Thus, HJ Silver Creek may estop the County from denying that commercial development is allowed on the property."

Upon receipt of the letter from the Director, Mr. Mount filed a Vested Rights application. Shortly after, the Community Development Department initiated a rezone for portions of Unit I from RR to Community Commercial (CC). The rezone included Lots 42-45. Mr. Mount requested to put the vested rights application on hold pending the outcome of the rezone.

This paragraph is misleading in that while Mr. Mount requested his Vested Rights Application be put on hold pending the outcome of the rezone, he did so on the urging and the advice of the Planning Department. Frankly, it made sense since if the rezone included rezoning his lots to commercial, there would be no need for the vested rights determination.

As the rezone was working its way through the process, the Director met with Mr. Mount to discuss the applicability of the plat note and CC&Rs to lots 42-45. Based on a grading permit that was granted to Mr. Mount for Lot 45 in 2008, the Director determined that Mr. Mount had relied on representations from the County that commercial development was allowed and

incurred significant expenses upon receipt of the grading permit, therefore the plat note and CC&Rs would be applicable to Lot 45; however, there was no evidence submitted that Lots 42-44 had received any previous development permits and would therefore be subject to existing zoning.

This paragraph notes that the Director only considered the grading permit as evidence as to whether or not he incurred expenses with regard to the other four lots. This is a position contrary to Utah law which requires that all expenses be considered. See *Utah County v. Young*, 615 P2nd 1265 (Utah 1980). When the Director took that position, the Ombudsman specifically disputed it on the legal grounds set forth in *Utah County v. Young*, set forth as follows:

"Therefore, Mr. Mount's right to a commercial development could vest if, due to reliance upon that policy, he incurred substantial expenses and initiated construction on the lots. The County also acknowledges that Mr. Mount relied on its policy... His costs also include costs associated with his efforts to market and sell the property, such as advertising, postage, telephone calls, signage, etc., as well as legal fees tied to efforts to gain approval for development of his property."

As a result, the Director was incorrect in limiting his analysis to only the expenses Mr. Mount had with regard to the grading permit.

The rezone was ultimately approved in April, 2013, but only for the properties located on the east side of Silver Creek Road; the lots on the west side of Silver Creek Road in Unit I remain RR, including Lots 42-45.

Note that in his Application, in Exhibit B, Mr. Mount has submitted an affidavit indicating that with regard to all four lots, hespent, in relying on the County's representations, he incurred expenses of \$68,826. That does not even include the legal fees in the amount of \$13,055.70 which are included expenses under Utah law. These amounts are uncontested.



In 2013, Mr. Mount requested a subsequent Advisory Opinion from the Ombudsman to verify whether or not a property owner may claim vested development rights by incurring substantial expense through reliance on a local government's representations regarding the allowable uses. The Advisory Opinion concluded, *"If a property owner incurs substantial expenses through reliance on representations made by a government entity, the owner may claim the right to develop land based on those representations."* It goes on to state that Mr. Mount *"...incurred expenses of approximately \$50,000...Under the circumstances, \$50,000 is a significant expense, which included physical construction and improvements on all four lots. Therefore, the owner may claim the right to develop according to the County's representations, which allowed commercial development."*

Since the 2013 Ombudsman review, Staff is not aware of any further action that has been taken by the property owner with respect to Lots 42-44. The Community Development Department continues to apply the existing RR zoning to the lots in question.

Recommendation

Staff recommends that the SCC review the packet submitted by the applicant and make a formal determination that there is not enough compelling evidence that would warrant further consideration of a vested rights determination for Lots 42-44, Silver Creek Unit I.

The recommendation of Staff relies on the wrong standard as Section 10-9-17 B.1. of the Land Management Code states that the matter should be referred to the Planning Commission so long as "the application warrants further consideration. There is no reference to the Council making a determination that there is "not enough compelling evidence that would warrant further consideration." Using the correct standard, the Council should refer the application, along with any instructions to the Planning Commission. In 2013, the Ombudsman concluded that the County was estopped based upon Mr. Mounts expenses in reliance on the County's prior statements.

Attachment

**Snyderville Basin Planning Commission
Work Session Notes
October 23, 2001**

Planner Spencer White: "Deputy County Attorney Dave Thomas has determined that, since development has occurred in the area over the years and been somewhat sporadic, the entire plat is vested, and his designated uses are also vested with the record plat."

**Planning Commission Work Session Meeting
7/8/03**

Jamie Brackin, Summit County Deputy Attorney

"it is the opinion of the County Attorneys Office that the zoning that has been placed according to the Declaration of Covenants and the zoning that is part of the plat map, is in fact the zoning that needs to be used. And while it is in conflict with what our current land use plan has and our current development code has, this actually does take precedence."

**Planning Commission Work Session Meeting
7/8/03**

Jamie Brackin, Summit County Deputy Attorney

Time into recording (approximately 26 minutes) regarding intent of 1965 plat & vesting:

"Silver Creek (plat) is very unique, but it does vest uses for industrial or commercial."

Snyderville Basin Land Management Code

10-9-17: DETERMINATIONS OF VESTED RIGHTS AND OTHER DISPUTES:

B. Procedure And Approval: Application for a vested rights determination shall be submitted to the CDD and processed in accordance with the provisions set forth herein:

1. Upon receipt of an application for a vested rights determination, the county council shall consider the merits of an application. If the county council finds that the application warrants further consideration, the county council shall refer the application along with any instructions related to the merits of the application to the commission.

Summit County Treasurer Glen G. Thompson

Account	Parcel Number	Receipt Date	Effective Date	Receipt Number
0131106	SL-I-2-45	Mar 31, 2010	Apr 1, 2010	2010-004074

SAMPLE

MOUNT GEORGE N
PO BOX 3802
PARK CITY, UT 84060-3802

Situs Address	Payor
536 E EARL ST	PARK CITY TITLE COMPANY 1670 BONANZA DRIVE, SUITE 105 PARK CITY, UT 84060 (435) 649-8322

Legal Description
 SUBD: SILVER CREEK ESTATES UNIT I SUBD BLOCK: 2 LOT: 45 PLAT: I000S 16 T 1S R 4E LOT 45 BLK 2 UNIT I SILVER CREEK ESTATES SUBDIVISION CONT 1.53 ACRES
 M78-709 M28-323 M27-45-102 953-231-2-3

Property Code	Actual	Assessed	Year	Area	Tax Rate
COMMERCIAL UNIMPROVED - 03C	265,788	265,785	2009	27	0.008

Payments Received
 Check \$5,168.29
 Check # 20733 FILE 19025
 Paid By PARK CITY TITLE COMPANY

Payments Applied					
Year	Charges	Billed	Prior Payments	New Payments	Balance
2009	Interest Charge	\$2.31	\$0.00	\$2.31	\$0.00
2009	Interest Charge	\$1.64	\$0.00	\$1.64	\$0.00
2009	Special Assessment	\$255.36	\$0.00	\$255.36	\$0.00
2009	Penalty Charge	\$49.28	\$0.00	\$49.28	\$0.00
2009	Interest Charge	\$20.38	\$0.00	\$20.38	\$0.00
2009	Interest Charge	\$14.18	\$0.00	\$14.18	\$0.00
2009	Interest Charge	\$0.32	\$0.00	\$0.32	\$0.00
2009	Tax Charge	\$2,208.41	\$0.00	\$2,208.41	\$0.00
2008	Interest Charge	\$18.45	\$0.00	\$18.45	\$0.00
2008	Interest Charge	\$1.64	\$0.00	\$1.64	\$0.00
2008	Special Assessment	\$254.88	\$0.00	\$254.88	\$0.00
2008	Penalty Charge	\$47.55	\$0.00	\$47.55	\$0.00
2008	Interest Charge	\$157.12	\$0.00	\$157.12	\$0.00

**Summit County Treasurer
Corrie Kirklen**

Account	Parcel Number	Receipt Date	Effective Date	Receipt Number
0131106	SL-I-2-45	Oct 5, 2011	Oct 6, 2011	2011-008827

SAMPLE

MOUNT GEORGE N
PO BOX 3802
PARK CITY, UT 84060-3802

Situs Address
536 E EARL ST

Payor
PARK CITY TITLE CO
1670 BONANZA DR, STE 105
PARK CITY, UT 84060
435-649-8322

Legal Description

LOT 45 BLK 2 UNIT I SLIVER CREEK ESTATES SUBDIVISION CONT 1.53 ACRES
M78-709 M28-323 M27-45-102 953-231-2-3

Property Code	Actual	Assessed	Year	Area	Tax Rate
COMMERCIAL UNIMPROVED - 03C	265,788	265,785	2010	27	0.01

Payments Received

Check Multi-Account Payment
Check # 22569
Paid By PARK CITY TITLE CO - GF# 19025B

Payments Applied

Year	Charges	Billed	Prior Payments	New Payments	Balance
2010	Penalty Charge	\$70.86	\$0.00	\$70.86	\$0.00
2010	Interest Charge	\$15.69	\$0.00	\$15.69	\$0.00
2010	Special Assessment	\$283.20	\$0.00	\$283.20	\$0.00
2010	Interest Charge	\$141.36	\$0.00	\$141.36	\$0.00
2010	Tax Charge	\$2,551.27	\$0.00	\$2,551.27	\$0.00
				\$3,062.38	\$0.00
Balance Due as of Oct 6, 2011					\$0.00

PO Box 128
Coalville, UT 84017
(435) 336-3268

Summit County Treasurer Glen G. Thompson

Account	Parcel Number	Receipt Date	Effective Date	Receipt Number
0131098	SL-I-2-44	Mar 31, 2010	Apr 1, 2010	2010-004073

SAMPLE

MOUNT GEORGE
PO BOX 3802
PARK CITY, UT 84060-3802

Situs Address

488 E EARL ST

Payor

PARK CITY TITLE COMPANY
1670 BONANZA DRIVE, SUITE 105
PARK CITY, UT 84060
649-8322

Legal Description

SUBD: SILVER CREEK ESTATES UNIT I SUBD BLOCK: 2 LOT: 44 PLAT: I000S 16 T 1S R 4E LOT 44 BLK 2 UNIT I SILVER CREEK ESTATES SUBDIVISION CONT .98 AC M54-677
1330-673 1458-1272

Property Code	Actual	Assessed	Year	Area	Tax Rate
COMMERCIAL UNIMPROVED - 03C	170,756	170,755	2009	27	0.008

Payments Received

Check \$2,970.29

Check # 20733 FILE 19025

Paid By PARK CITY TITLE COMPANY

Payments Applied

Year	Charges	Billed	Prior Payments	New Payments	Balance
2009	Penalty Charge	\$28.38	\$0.00	\$28.38	\$0.00
2009	Interest Charge	\$22.36	\$0.00	\$22.36	\$0.00
2009	Tax Charge	\$1,418.80	\$0.00	\$1,418.80	\$0.00
2008	Penalty Charge	\$27.28	\$0.00	\$27.28	\$0.00
2008	Interest Charge	\$109.65	\$0.00	\$109.65	\$0.00
2008	Tax Charge	\$1,363.82	\$0.00	\$1,363.82	\$0.00
				\$2,970.29	\$0.00

PO Box 128
Coalville, UT 84017
(435) 336-3268

**Summit County Treasurer
Corrie Kirklen**

Account	Parcel Number	Receipt Date	Effective Date	Receipt Number
0131098	SL-I-2-44	Oct 5, 2011	Oct 6, 2011	2011-008827

SAMPLE

MOUNT GEORGE
PO BOX 3802
PARK CITY, UT 84060-3802

Situs Address
488 E EARL ST

Payor
PARK CITY TITLE CO
1670 BONANZA DR, STE 105
PARK CITY, UT 84060
435-649-8322

Legal Description

LOT 44 BLK 2 UNIT I SLIVER CREEK ESTATES SUBDIVISION CONT .98 AC M54-677
1330-673 1458-1272

Property Code	Actual	Assessed	Year	Area	Tax Rate
COMMERCIAL UNIMPROVED - 03C	170,756	170,755	2010	27	0.01

Payments Received

Check Multi-Account Payment
Check # 22569
Paid By PARK CITY TITLE CO - GF# 19025B

Payments Applied

Year	Charges	Billed	Prior Payments	New Payments	Balance
2010	Penalty Charge	\$40.98	\$0.00	\$40.98	\$0.00
2010	Interest Charge	\$90.82	\$0.00	\$90.82	\$0.00
2010	Tax Charge	\$1,639.08	\$0.00	\$1,639.08	\$0.00
				\$1,770.88	\$0.00
Balance Due as of Oct 6, 2011					\$0.00

PO Box 128
Coalville, UT 84017
(435) 336-3268

Summit County Treasurer Glen G. Thompson

Account	Parcel Number	Receipt Date	Effective Date	Receipt Number
0131080	SL-I-2-42-43	Mar 31, 2010	Apr 1, 2010	2010-004072



MOUNT GEORGE N
PO BOX 3802
PARK CITY, UT 84060-3802

Situs Address	Payor
462 E EARL ST	PARK CITY TITLE COMPANY 1670 BONANZA DRIVE, SUITE 105 PARK CITY, UT 84060 649-8322

Legal Description
 SUBD: SILVER CREEK ESTATES UNIT I SUBD BLOCK: 2 LOT: 42 UNIT: I000 PLAT: I000S 16 T 1S R 4E
 LOTS 42 & 43 BLK 2 UNIT I SILVER CREEKESTATES SUBD CONT 1.96 AC
 M28-323 M27-48-102 M181-410 (SEE QCDM246-473 BAIN, ROBERTSON, BAIN, HARLEY,
 TO SILVER SPRINGS CORP) 301-9400-375-816 578-829 981-60-62-63-65-66

Property Code	Actual	Assessed	Year	Area	Tax Rate
COMMERCIAL UNIMPROVED - 03C	341,512	341,510	2009	27	0.008

Payments Received

Check \$5,940.57
 Check # 20733 FILE 19025
 Paid By PARK CITY TITLE COMPANY

Payments Applied

Year	Charges	Billed	Prior Payments	New Payments	Balance
2009	Penalty Charge	\$56.75	\$0.00	\$56.75	\$0.00
2009	Interest Charge	\$44.73	\$0.00	\$44.73	\$0.00
2009	Tax Charge	\$2,837.61	\$0.00	\$2,837.61	\$0.00
2008	Penalty Charge	\$54.55	\$0.00	\$54.55	\$0.00
2008	Interest Charge	\$219.29	\$0.00	\$219.29	\$0.00
2008	Tax Charge	\$2,727.64	\$0.00	\$2,727.64	\$0.00
				\$5,940.57	\$0.00

PO Box 128
Coalville, UT 84017
(435) 336-3268

**Summit County Treasurer
Corrie Kirklen**

Account	Parcel Number	Receipt Date	Effective Date	Receipt Number
0131080	SL-I-2-42-43	Oct 5, 2011	Oct 6, 2011	2011-008827



MOUNT GEORGE N
PO BOX 3802
PARK CITY, UT 84060-3802

Situs Address
462 E EARL ST

Payor
PARK CITY TITLE CO
1670 BONANZA DR, STE 105
PARK CITY, UT 84060
435-649-8322

Legal Description

LOTS 42 & 43 BLK 2 UNIT I SILVER CREEKESTATES SUBD CONT 1.96 AC
M28-323 M27-48-102 M181-410 (SEE QCDM246-473 BAIN, ROBERTSON, BAIN, HARLEY,
TO SILVER SPRINGS CORP) 301-9400-375-816 578-829 981-60-62-63-65-66

Property Code	Actual	Assessed	Year	Area	Tax Rate
COMMERCIAL UNIMPROVED - 03C	341,512	341,510	2010	27	0.01

Payments Received

Check Multi-Account Payment
Check # 22569
Paid By PARK CITY TITLE CO - GF# 19025B

Payments Applied

Year	Charges	Billed	Prior Payments	New Payments	Balance
2010	Penalty Charge	\$81.95	\$0.00	\$81.95	\$0.00
2010	Interest Charge	\$181.63	\$0.00	\$181.63	\$0.00
2010	Tax Charge	\$3,278.15	\$0.00	\$3,278.15	\$0.00
				<u>\$3,541.73</u>	\$0.00
Balance Due as of Oct 6, 2011					\$0.00

PO Box 128
Coalville, UT 84017
(435) 336-3268

Vice Chair Robinson asked what's the relationship between the maximum net lease square footage and the fact that there remains 26,930 out of the 45,000. Ms. Strader replied the way that the plat is broken down, it can't exceed the 45,000. The plat has it broken down by the net lease square footage because it's assuming a commercial use. But then there's a provision and development agreement that actually says when you're calculating the density, you're calculating everything, the total amount of square footage.

Ms. Strader continued to explain the agreement also goes on to identify the uses that are allowed in this neighborhood commercial area, which include basic commercial uses such as professional offices, a bed-and-breakfast, child day care, adult day care, but they don't include the residential uses. She also pointed out the neighborhood commercial designation that's in the development agreement is not the same as the neighborhood commercial zone district that the County has on their zoning map. The neighborhood commercial zone district does allow residential uses.

In 2009 a final site plan was approved for a 24-unit condominium office building on Lot No. 4. The uses would be consistent with those found in the agreement, but that building was never constructed. The applicant is now requesting to utilize that square footage to construct town homes.

Ms. Strader explained when she met with the applicant they talked through some various options to accomplish his goals, the first being an amendment to the development agreement to add residential uses into that neighborhood commercial area. However, the development agreement expired in 2003 so it can't be amended. The second option was a variance through the BOA but the Board of Adjustment can't grant variances. The third option was a rezone, but the underlying zone is rural residential which already allows town homes, but it's in a density of one unit per 20 acres. The neighborhood commercial zone also allows town homes, so it didn't seem to make sense to do a rezone for that lot. The final option was a special exception, again utilizing the square footage that has been vested through the final site plan that was previously approved, the subdivision plat, and the development agreement. The applicant is not proposing to increase the square footage and they also submitted a traffic study which found that the town homes would result in a decrease of traffic and that was confirmed by the engineering department.

Ms. Strader explained this was noticed as a public hearing and the staff did receive one email in support of the special exception from a neighboring property owner. They also received an inquiry from another property owner who didn't express an opinion. They just wanted some basic information. No other public comment has been received.

There were some drawings presented to the Council that were submitted by the applicant that showed a conceptual site plan and a building elevation.

Vice Chair Robinson asked how many stories is the proposed building. Michael Brodsky, the applicant, stated it's a three-story building; however, it's a Cape Cod design so the top floor is under the roof and the maximum height of that building is about 30 feet.

Jennifer Strader stated the staff recommends that the Council conduct a public hearing and unless there are members of the public that brings to light new issues or concerns, staff also recommends that the Council votes to approve the special exception to allow single-family

attached home units on Lot 4 based on the findings of facts and conclusions of law and with the conditions of approval found on page 4 of the staff report. However, because of the change in the square footage, Council would change the Finding of Fact No. 15 and the Condition of Approval No. 1 to 26,930 square feet.

Vice Chair Robinson asked if that raises the unit count from 14 and Mr. Brodsky replied it will not exceed 14 units, but it's between 12 and 14 using up that square footage.

Vice Chair Robinson stated he would like a condition, if the Council gets to that point, of limiting this development to no more than 14 units.

Chair Armstrong opened the discussion for public input.

Summit County resident, Tom Murphy, stated he lives across the street in Trail Creek and had a question about parking. He stated he's seen units go up over in the apartments and they're taking over the parking that's there. Right now the parking lot that's going to be consumed by this is full with commercial vehicles from one of the businesses that are over there. He asked if this going to push all of the parking to other places. He stated in the summer this is a huge trailhead parking space, and his concern is where all of those people are going to go. He asked if there is going to be enough parking for the bedrooms that are there for the amount of people they expect, and will there be overflow parking. Vice Chair Robinson asked if there will be tucked-under garages.

Michael Brodsky replied that each of these homes will have a minimum two-car garage and also have two-car parking in the driveway, so each home provides for four parking spaces. He stated there is a conception design that has an additional tentative parking space, so some of these town homes could have three parking spaces in the garage. He stated in addition to that there is ample open space to provide for guest parking as well along the street. Ms. Strader stated the parking within the subdivision is shared parking, so they're allowed to park in other areas as well.

Vice Chair Robinson asked what the setback of the street from these buildings would be. Mr. Brodsky replied from the top back of the mountable curve from the face of the building, at least 18 feet.

Jeff Gochmour, property owner of Cottonwood Glen Wild, LC approached the Council for public input. He stated they acquired this land in 2007 and had it approved for the 24 office condominiums in 2009. They thought that it was a great use for this site and at that time owned two office buildings in Newpark that totaled about 95,000 square feet. He stated they have since built another one and we thought with the success of those Newpark office buildings, that as those filled up they would be able to drive tenants over to the proposed site. Since 2009 they've been marketing it and have had success with the Newpark buildings; however, they have not been able to drive any success over to the Creekside site and couldn't get office users interested in being on that side of I-80. He explained they like the services of Newpark, the proximity of all the amenities there and felt it was too far removed. He stated they are in support of this project Mr. Brodsky is putting forth and thinks it's compatible with the uses in the neighborhood and are very supportive of it.

Chair Armstrong closed public input.

Council Member Carson asked what the price points will be for these town homes. Mr. Brodsky replied they expect them to be in the low \$400K, and he expects the sizes to be between 1700 and 2,000 square feet. He stated that they will design at least a couple of different options for floor plans and mix up the square footage a little bit so they will not all be the same size. Mr. Brodsky explained they are designated as a single-family attached home, which means that they sit on their own lot, and a party wall is also the property line. They own a portion of the front and rear yard and each unit is three floors. He stated there is one home per lot, so no more than 14 lots in here and no more than 14 residential units. Mr. Brodsky described the conceptual design as the first floor would contain an entrance foyer and a two-car garage. The next floor would contain a master bedroom suite, a living room, a kitchen, and a dining area. The top floor would contain two bedrooms and two bathrooms.

Council Member McMullin made a motion to approve the Special Exception for Spring Creek Commercial Plaza, Lot 4, to allow Single-Family Attached Dwelling Units, with the changes set forth by County Planner, Jennifer Strader, that all square footage of 20,424 be changed to 26,930 square feet. The motion was seconded by Vice Council Robinson.

Vice Council Robinson stated he would like to add a condition of approval that there are no more than 14 units. Council Member McMullin accepted the amendment to the motion not to exceed 14 units, and the motion was passed unanimously, 5 to 0.

CLOSED SESSION

Vice Chair Robinson made a motion to convene in closed session to discuss property acquisition. The motion was seconded by Council Member Carson and passed unanimously, 5 to 0.

The Summit County Council met in closed session for the purpose of discussing property acquisition from 7:10 p.m. to 7:20 p.m. Those in attendance were:

Roger Armstrong, Council Chair
Chris Robinson, Council Vice Chair
Kim Carson, Council Member
Talbot Adair, Council Member

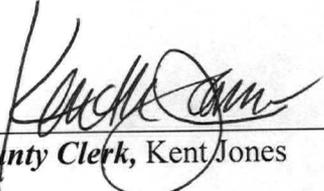
Tom Fisher, Manager
Anita Lewis, Assistant Manager
David Thomas, Deputy Attorney

Council Member Robinson made a motion to leave closed session and adjourn. Council Member Adair seconded the motion which passed unanimously, 5 to 0.



Council Chair, Roger Armstrong





County Clerk, Kent Jones