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# MINUTES

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**SUMMIT COUNTY  
BOARD OF COUNTY COUNCIL  
WEDNESDAY, JUNE 1, 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***

**CLOSED SESSION**

**Council Member McMullin 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 1:00 p.m. to 3:40 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***  
**Dave Thomas, *Deputy Attorney***  
**Lisa Yoder, *Sustainability Program  
Manager***  
**Jami Brackin, *Deputy Attorney***  
**Peter Barnes, *Planning and Zoning  
Administrator***  
**Patrick Putt, *Community  
Development Director***  
**Megan Suhadolc, *Snyderville Basin  
Interim Director***

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

Chair Armstrong called the meeting to order at 3:48 p.m.

## WORK SESSION

- **Discuss recommendations of the Summit County Recreation Arts and Parks – Cultural Committee**

Ben Castro, Summit County Cultural Committee, stated one of the new applicants this year was Ballet West. The committee is excited about this program and believes it will enhance the area and the cultural aspects of it. Mr. Castro stated the committee is also excited that this year Mountain Town Music has announced publicly they are going to expand their concert series to Eastern Summit County, specifically in the DeJoria Center as well.

Mr. Castro stated this year the Summit County Recreation Arts and Parks had \$771,000 to spend, which was significantly more than last year's \$685,000. He explained their total spend requests was \$1.3 million, so they could fund about half of the requests that people were asking for. Mr. Castro stated one item he wanted to highlight was the Park Record digitalization. He explained they've been going back and having the University of Utah help out in actually digitizing the old Park Records and putting them online so people can go in and see them. The Park Record's chairperson, Sally Elliott, has also been in the process of trying to renegotiate the cost and getting some additional organizations to help out with that cost as well.

Council Member Carson asked if the process the way it's set up this year is working well and functioning the way they would like it to. Mr. Castro stated there were some hiccups with the Dropbox feature. Some of the committee members weren't able to access the information. A quick fix that employed was they got a flash drive for everyone and downloaded it and gave everyone the flash drive so they could access that quickly. He explained there were frustrations when applicants or additional information would come in, they wouldn't know until they had gone into the drop box several times to actually find the applicants or the information. One of the things they did this year that they had done in previous years was had a presentation available for all of them. They also did a public announcement with the restaurant committee talking about specifically how the funds work and what it's looking like and when they would start the granting season and application season.

Council Member McMullin asked how the quality of the applications was this year. Mr. Castro stated he felt like there has been an improvement. They specifically sat down with other organizations outside of the actual applicant time talking specifically about some things that they're looking at, such as community outreach. They also looked at organizational capacity. Specifically they wanted these organizations to have a strong board that would help guide and direct them to what their mission specifically was, and several organizations were able to accomplish that. Mr. Castro explained one of the things they continually ask with all of the applicants is, "What are you doing to enhance Eastern Summit County?" because they feel like a lot of times that is the underserved area. A lot of these organizations are getting that message. For example, the Park City Film Series is going to the Kamas library to do some screenings and give people some opportunities to see films that they wouldn't have seen otherwise.

**SUMMIT COUNTY CULTURAL RAP  
TAX RECOMMENDATIONS 2016**

ORGANIZATION	Rationale & Restrictions	2016 Request	2016 Recommend
<p>Alf Engen Ski Museum Foundation</p>	<p>The Alf Engen Ski Museum specifically requested funding for their educational and outreach programs. <b>Funding will support Summit County elementary school field trips with a particular focus on fourth graders. RAP funds will also be used to support funding to update the Weather Exhibit.</b> This is a key educational component for 2,500 educational field trips and 350,000 annual guests. This exhibit will highlight the reasons our resort town claims "The Greatest Snow on Earth." University of Utah Professor Jim Steenburgh and one of his Ph.D. students have committed to support the project in terms of statistics and studies in relation to snowpack history, climate change, blizzard conditions and weather patterns that affect our ski resorts. The current exhibit is 00 years old and the new exhibit will be completed in 2017. The RAP Committee is always impressed with the amount of outreach and programming that the Museum does with only one full-time paid staff member.</p> <p>2015 Funds            \$26,250 2014 Funds            \$22,175 2013 Funds            \$34,265</p>	<p>\$40,000</p>	<p>\$34,000</p>
<p>Ballet West</p>	<p>Ballet West's mission is to entertain and excite audiences by presenting great classical ballet, historical masterpieces, and new cutting-edge creations with the highest standards of artistic and professional excellence. Ballet West also provides excellent classical ballet training, and offers impactful education and outreach programs to inspire children and adults. This is Ballet West's first year applying for Summit County RAP Tax monies. Ballet West will have a foot print here in Summit County as they open their Ballet West Academy, located in Park City, this year. <b>2016 RAP Tax funds will be used to help fund a portion of the production and performance costs for their performance of, The Nutcracker, which will be performed by Park City Ballet West Academy Students for Summit County students and residents. RAP Tax funds will also be used to help fund a portion of Ballet West's Outreach Programs for Students and Senior Citizens within Summit County.</b></p> <p>1<sup>st</sup> year applying for Summit County RAP Cultural</p>	<p>\$45,000</p>	<p>\$20,000</p>

<p>Echo Community &amp; Historical Organization</p>	<p>The Echo Community and Historical Organization (ECHO) aims to maintain the historical significance and increase interest in the Echo area through the preservation of three historical buildings: Echo Church (built in 1876), Echo School (built in 1914) and the Echo Post Office (built in 1920). <b>2016 Tax funds will be used for ECHO's operating expenses, repainting the school building and maintaining all three buildings as well as to keep the doors open for public enjoyment during the 2016 summer months.</b> With the closing of the I-80 Visitor's center near Echo, it is hopeful that the historical buildings will gain more interest and visitors.</p> <p>2015 Funds        \$3,000  2014 Funds        \$2,286  2013 Funds        \$2,500</p>	<p>\$5,000</p>	<p>\$3,000</p>
<p>Egyptian Theater Company</p>	<p>The Egyptian Theater Company is dedicated to enriching lives through the performing arts. The theater is committed to serving the community by providing a variety of artistic performances, education and outreach programs. The number of performances offered by the theatre increased in 2014, as did ticket sales, and Youtheatre participation has increased from 70 students in 2010 to over 400 in 2014. <b>2016 RAP Tax funding will be used to underwrite theatrical productions, music and dance concerts, to support the Youtheatre program and to fund general operating expenses.</b></p> <p>2015 Funds        \$60,000  2014 Funds        \$61,900  2013 Funds        \$85,500</p>	<p>\$96,000</p>	<p>\$65,000</p>
<p>Kimball Art Center</p>	<p>The Kimball Art Center applied for RAP funding to support their free Exhibition and Educational Programs. <b>The KAC offers three free art education programs to Summit County students. The EVA program is a free lesson-based program offered in partnership with the Park City Education Foundation that provides in school arts classes. The EVA programs not eligible for RAP funding.</b></p> <p><b>Their 2016 RAP grant may be used for the other two programs only which include A.R.T.S. This curriculum-based program is free for K-12 schools and provides lesson plans that collaborate with national core subjects and correlates them to KAC gallery exhibits. Funding may be used for the outreach coordinator, materials and visits to the</b></p>	<p>\$125,000</p>	<p>\$65,500</p>

	<p><b>KAC gallery. In addition, funding may be used for the after school program, the Young Artist Academy (YAA). This is a free education program for Summit County teens who would like to further their skills in a more professional setting. Students learn art skills through creative projects, artist workshops and community events. We respectfully request that KAC seek to include additional north summit students in this program.</b></p> <p>We would also like to request that KAC pay close attention to the length of their application next year. It was excessive in length and made numerous references to students outside of Summit County which RAP does not fund</p> <p>2015 Funds      \$70,500  2014 Funds      \$63,900  2013 Funds      \$79,826</p>		
KPCW	<p><b>KPCW proposes to use 2016 tax funding to enhance local programming including; news, traffic, weather, community affairs, emergency reporting, public affairs programming and nonprofit organizational support. The funds specifically will offset production costs for nonprofit organizations, production of music programming with local DJs and salary costs associated with local programming, news and public affairs hours. Local programming includes - The Local View, Mountain Money, Community Voices, The Mountain Life, This Green Earth and the Morning Mix. KPCW supports Summit County nonprofit associations through free on-air promotions, interviews and advertising nonprofit fundraisers throughout the year.</b></p> <p>2015 Funds      \$70,500  2014 Funds      \$62,993  2013 Funds      \$74,933</p>	\$210,151	\$76,000

<p>Mountain Town Music</p>	<p>Mountain Town Music produces live music experiences throughout Summit County. More than 224 live musical performances were held in 2015. Local musicians as well as nationally known artists perform. Performances have free admission or a very low fee required. The organization's Youth Program includes live performances by local youth bands at the Community Concert Series, "behind the scenes" mentoring on the technical side and partnering professional artists with young aspiring musicians in our community. MTM has worked to expand its educational outreach program in elementary schools this year. <b>RAP Tax grant funds will be used in 2016 to support general overhead and production expenses only. No RAP funds are to be used in the purchase of any capital expenditures.</b></p> <p>2015 Funds \$70,500 2014 Funds \$66,096 2013 Funds \$88,805</p>	<p>\$152,000</p>	<p>\$76,000</p>
<p>Park City Chamber Music Society</p>	<p>The Park City Chamber Music Society is dedicated to promoting and preserving the art of classical chamber music. <b>RAP Tax grant funds for 2016 will support the production of the 32nd season of the Beethoven Festival Park City.</b> This consists of six free park concerts held in City Park on Monday evenings throughout the summer.</p> <p>2015 Funds \$14,000 2014 Funds \$15,172 2013 Funds \$17,986</p>	<p>\$35,000</p>	<p>\$7,000</p>
<p>Park City Historical Society &amp; Museum- Park Record Digitalization</p>	<p><b>The Park City Museum/ Park Record Digitization will use the 2016 funding to continue their project of digitizing the past issues of the Park Record. Specifically the project focus is to digitize "The Park Record" newspaper issues from 1986-2004 and "The Newspaper" issues from 1972-1982 (when it merged with "The Park Record").</b> The Museum has previously digitized all the issues from more than 100 years 1880-1985 of "The Park Record" newspaper.</p> <p>Kinza Masood, Project Manager at the University of Utah Marriott Library's Digital Newspapers, works with committee members to deliver microfilm and paper issues of "The Park Record" and "The Newspaper" to iArchives, a subsidiary of Ancestry.com. Those issues are scanned, digitized, indexed and placed on line through Utah Digital Newspapers, a website hosted and supported by the University of Utah.</p>	<p>\$20,000</p>	<p>\$15,000</p>

	2015 Funds \$15,000 1 <sup>st</sup> year application		
Park City Historical Society & Museum	<p>The 2016 RAP Tax will support three main initiatives within the Museum. (1) The focus on educational Museum field trips, classroom curriculum, and hands-on activities for local school children from all three school districts. With this we will assist with transportation costs for the school buses. (2) Conduct a series of docent trainings to prepare our volunteers so they can skillfully guide school field trips and classroom programs. Classes that come on field trips are divided into much smaller groups, keeping docent/student ratios low. (3) Design and create construction documents for the new "Discovery Wall" exhibit at our new annex, the Park City Museum Education and Collection Center.</p> <p>2015 Funds \$47,975 2014 Funds \$45,043 2013 Funds \$53,613</p>	\$66,700	\$52,000
Park City Film Council	<p>The Park City Film Council dba Park City Film Series proposes to use 2016 RAP Tax funding to help with production and programming costs associated with weekly film screenings at the newly remodeled Jim Santy Auditorium. Funds will be used for contracted services associated with the booking agent for their films; film licensing fees and post-film programming including program development, speaker fees and program execution for community, filmmaker and children's programs. Funding will also be used to supplement the Executive Director and Program Director's salaries. Space rental fees and office expenses are also included in the Proposed Project Funding request.</p> <p>2015 Funds \$37,473 2014 Funds \$28,806 2013 Funds \$37,648</p>	\$63,462	\$42,000
Park City Institute	<p>The Park City Institute presents "MainStage" winter programming at the Eccles Center and "Big Stars, Bright Nights" summer programming at Deer Valley. Besides offering discounted tickets to students and other groups within Summit County, the Institute brings visiting entertainers into the classroom offering Park City students a very unique and rich experience. RAP tax funds will support administrative salaries, administrative expenses, and space rental for both Main Stage and Big Stars, Bright Nights.</p>	\$140,000	\$77,000

	2015 Funds \$65,000 2014 Funds \$58,471 2013 Funds \$48,995		
Park City Singers	<p>Park City Singers is a community based choir that produces holiday concerts for the public and participates in the Interfaith Sing-Along Messiah. The choir is non-denominational and non-audition, and therefore provides opportunities for all Summit County residents to perform in a choral group. Under the guidance of a professional music director, choir members receive ongoing music education. We encourage the Singers to increase their outreach to underserved communities and to reach out to other areas of Summit County this year. <b>2016 RAP funds will support production and performance expenses.</b></p> <p>2015 Funds \$0          2014 Funds \$4,800          2013 Funds \$5,977</p>	\$5,000	\$2,500
Park City/Summit County Arts Council	<p>PCSC Arts Council significantly improved their request from 2015 and expanded their board extensively. There is impressive collaboration between the PCSC Arts Council and the two arts advisory boards in Summit County and Park City. They also have a significant presence and offer services to artists within the entire Summit County . <b>They requested funding for the Summit Arts show in Oakley, the Summit County Fair Fine Arts Show, arts and culture networking, various art shows and advocacy and outreach programs. They are in the midst of hiring a new Executive Director and we see this grant as particular important and relevant as they continue to improve and expand their outreach and programming throughout the entire county.</b> These funds many not be used for any all capital expenditures and or marketing.</p> <p>2015 Funds \$27,718          2014 Funds \$36,197          2013 Funds \$55,726</p>	\$47,910	\$36,000
Public Art Program	<p>The Summit County Public Art Advisory board applied for funding to support a series of temporary public art exhibitions and performances designed to bring art experiences into the greater community including a traveling exhibit of County Public Art, Art Piano Program Performances in publicly-accessibly locations and dark storefront/photography installation project that will take advantage of empty storefronts in Kimball Junction. They are a completely volunteer organization and their</p>	\$5,975	\$5,000

	<p>application was one of the most professional and succinct without inflating their request. Our committee was impressed with what they are planning to do with the amount of money they requested</p> <p>2015 Funds \$4,500 2014 Funds \$2,314</p>		
Park Silly	<p>Park Silly Sunday Market hires over 130 local and visiting bands to perform on Historic Main Street over 14 Sundays during the summer. Park Silly Sunday Market offers a venue for locals and visitors to enjoy music, visual art and performing arts during the summer months. <b>2016 RAP funds will be used to cover the cost of production for the musical performances including equipment (stage, sound board, electrical) staffing (set up crew, sound manager) and band/performer appearance fees.</b></p> <p>2015 Funds \$11,000 2014 Funds \$11,371 2013 Funds \$14,175</p>	\$36,948	\$15,000
Sundance Institute	<p>The Sundance Institute is dedicated to the discovery and development of independent artists and audiences. <b>They propose using 2016/17 tax funding to support community programs that provide free, cultural programs for Summit County residents and students year-round and during the Sundance Film Festival.</b> Sundance Institute's Summit County Outreach Programs list Sundance Institute Summer Film Series (3 films); Community Screenings (during Sundance Film Festival); Townie Tuesday Screenings (4 screenings); Best of Fest Screenings (2 free screenings) and Nonprofit Community tickets (approximately 100). The Institute also provides Summit County Student Outreach to approximately 1,900 students with 15 screenings for students.</p> <p>2015 Funds \$70,500 2014 Funds \$60,523 2013 Funds \$79,330</p>	\$130,000	\$77,500
Swaner EcoCenter	<p>The mission of Swaner Preserve and EcoCenter is to preserve the land and the human connection to the natural landscape, to educate the community about the value of nature and to nurture both the ecosystem and the people connected to it. The Swaner Preserve has experienced a lot of growth within the programs</p>	\$48,000	\$37,000

	<p>offered as well as an increase in visitors to exhibits during the past years and continues to grow. <b>2016 RAP Tax funds will be used to help fund a portion of two exhibits; Endangered Landscapes and Small Wonders: The Expansive World of Insects. The funds will also be used to help support The Swaner Preserve and EcoCenter Educational and Outreach programs.</b></p> <p>2015 Funds \$28,000 2014 Funds \$15,000 2013 Funds \$14,800</p>		
Utah Symphony & Opera/Deer Valley Music Festival	<p>The Utah Symphony/Utah Opera's mission is "to serve the people of our State and beyond as the premier provider of the orchestral and operatic art forms." Their presence in Summit County continues to grow every year. Last year they produced the Deer Valley Music Festival featuring classical, pops and chamber performances for 6 weeks. 10,302 Summit County residents attended their productions. This year they have already pre-sold (at discounted prices) over 1,385 for this year's Deer Valley Music Festival. <b>The 2016 funds will be used to support the summer Deer Valley Music Festival, holiday performance / chamber performances</b></p> <p>2015 Funds \$63,300 2014 Funds \$60,371 2013 Funds \$65,885</p>	\$125,000	\$65,500
<b>Total Recommended</b>			<b>\$771,000</b>
<b><u>Organizations that were not funded</u></b>			
A.R.T.S	The committee felt that their application was not inline with the County's requirements for Cultural RAP and has decided to decline this request.		
Cluff House	This project does not meet the State or the County's requirements for Cultural RAP and their application was not considered. We have confirmed this request and action with the County's Attorney's office.		
NSSRD – North Summit Special Recreation District	This project does not meet the State or the County's requirements for Cultural RAP and their request was not considered. We have confirmed this request and action with the County's Attorney's office.		
PRSSD – Peoa Recreation Special Service District	This project does not meet the State or the County's requirements for Cultural RAP and their request was not considered. We have confirmed this request and action with the County's Attorney's office.		

A discussion regarding the funds granted arose and Mr. Castro explained the funds distributed have to satisfy certain criteria such as art, music, natural history, and some of those types of categories. Some of the things that they're limited with are actually education programs, specifically in the schools. They cannot have nonprofits go in and teach specific programs week after week, but they could fund Park City Institute doing an assembly for some of the schools, for example. They had Attorney Robert Hilder talk to the committee specifically about that and they went through several of those organizations and the different programs to make sure they were within the state code. The programs to be funded are required to be for Summit County residents and not for tourists.

- **Discuss recommendations of the Summit County Restaurant Tax Committee**

Summit County Restaurant Tax Committee Chair, Brook Hontz, stated they are thrilled to announce their 25th year as a restaurant tax committee in Summit County because that means they've had 25 years of millions of dollars going back to our cities, towns, and to all the local not-for-profits. Ms. Hontz reviewed the process and explained what the restaurant tax entails. She stated one percent is collected off of all restaurant sales within Summit County. The restaurant tax was created by the County Commission and there was an enabling ordinance created by the state that the county replicated, which is how they are organized and how they utilize that statute. Ms. Hontz stated they have a nine-member committee of volunteers who work very hard to review all the applications. This year there were 48 applications. Each volunteer reads every application and then participates in listening at the interview with each of the applicants and the Q&A and then participates in the deliberation process.

They are allowed to recommend to the Council to give money out based on two things: financing tourism promotions; and the development, operation, and maintenance of publicly owned convention, cultural, or tourist facilities. After the committee receives and goes through all of the applications, there are five criteria they utilize to make sure they meet the state statute. Those are (1) the tourism component, (2) the ability to leverage, (3) the potential to increase the 1 percent restaurant tax, (4) whether the application is a promotion or an asset, (5) and whether the application is a new or developing program. Each application is then given a score and ranked by how they turn out in the outcomes. The deliberations occur after that where they sit down and look at the budget and how the budgets meet the requirements of the statute and then match up to how they scored. There are varying degrees of tourism in these applications. The committee's focus concentrates on the ability to augment this tax by tracking day and overnight visitors, particularly outside Summit County. Some of the applications are from marketing promotions and in other cases they see applications for an event, a service, or a capital improvement of a facility that will enhance the experience of a guest visiting the area. The committee recognizes and agrees that some local events and facilities will not directly drive an overnight visitation and provide opportunities for guests to enjoy their stay in Summit County and enhance the perception of the county as a valuable destination.

## SUMMIT COUNTY RESTAURANT TAX ADVISORY COMMITTEE

### 2016 Grant Request Recommendations Rationale & Restrictions

The 2016 grant cycle is the 25<sup>th</sup> year of Restaurant Tax Grant awards in Summit County. There were 48 qualifying applications requesting a total of over \$4.1M in grant funds for 2016 (up from 40 applications requesting \$2.6M in 2015). After extensive review of the applications, including a presentation and Q&A with each applicant, the Committee ranked the applications based on five criteria: 1) tourism components, 2) the ability to leverage, 3) potential to increase the 1% restaurant tax, 4) whether the application is promotion or an asset, and, 5) whether the application is a new or developing program.

There are varying degrees of tourism components included in these applications. The Committee's review process concentrates on the applicant's ability to augment the Restaurant Tax Fund by attracting day and overnight visitors, particularly from outside of Summit County. Some of the applications are for marketing promotion with the sole purpose of bringing visitors to the County. In other cases, the application is for an event, service or facility that will enhance the experience of guests visiting the area. The Committee recognizes and agrees that some local events and facilities, while not directly driving overnight visitation, provide opportunities for guests to enjoy their stay in Summit County and enhance the perception of the County as a desirable vacation destination.

The Committee has made specific recommendations and restrictions for use of \$2,277,431 of the available total \$2,277,431 in 2016. Specific restrictions for use of the funding are noted after each application's rationale. The Committee has endeavored to weigh and take into consideration all relevant information at its disposal in the formation of the recommendations. The Committee would like applicants and the Council to recognize that recommended funding is determined based upon the merit of the application pool each year. Funding is not based upon past funding levels and should not be considered guaranteed on-going funding. The Committee recommends that the remaining \$929.80 is kept within the Restaurant Tax Grant Fund.

The County Manager's office provides very helpful follow-up on required documentation for grants from previous years. In an effort to encourage better compliance with the reporting requirement for past grants, language in the contract includes financial penalties for non-compliance with reporting deadlines. Our efforts to provide financial compliance with the reporting through the penalty system has historically worked well to keep an acceptable level of financial documentation.

This year, due to many factors, we have a \$0 recommendation for 8 applications. The Committee finds value and appreciates each and every application; however not all applications meet the State Statute (4 of the applications proposed to receive no funding), or do not meet the tourism litmus test during this cycle of funding (4 applications).

The following are the Committee's detailed recommendations for 2016.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1601	Alf Engen Ski Museum Foundation	\$30,000	\$25,000

**2016 RATIONALE:** The Alf Engen Ski Museum, located at the Utah Olympic Park, is a unique attraction and tourist draw for Summit County. Restaurant Tax funding will be used to promote tourism beyond Summit County through a variety of marketing strategies. Surveys conducted at the Utah Olympic Park show that approximately 70% of 350,000 annual visitors reside outside of Summit County. Tax funds will be used to promote our new Entrance to Museum Exhibits installed September 2015 as well as highlight new exhibits slated in the next 12-16 months, in particular, the proposed Weather Exhibit. Their marketing campaigns have increased visitation numbers by 14% in one year alone. Social media campaigns are now the focus, as folks increasingly respond to Facebook, Twitter, Snapchat and Instagram.

**2016 RECIPIENT RESPONSIBILITIES:**

- Funding shall be used for marketing outside Summit County as listed in the application.
- Funding for the bi-annual newsletter is not recommended due to the limited tourism benefit of promoting to membership.
- Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$50,000; 2008: \$50,000; 2009: \$50,000; 2010: \$ 50,000; 2011: \$60,000; 2012: \$73,000 (combined with UOP); 2013: \$20,000; 2014: \$22,000; 2015: \$20,500

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1602	City of Coalville – BBQ Bash	\$110,000	\$10,000

**2016 RATIONALE:** Coalville City will host a BBQ Festival on Saturday, June 11, 2016. The Coalville City BBQ is a family oriented event. Local cooks will be highlighted who will prepare three meats that will be part of the combination plate that will be served. Tickets will be sold for the event and will include the meal, a concert featuring a well-known artist, kid's activity area and culminate the evening with fireworks. This year the entertainment will feature Daryle Singletary, a nationally recognized artist, who should bring people from outside Summit County to Coalville. The requested amount of \$110,000 included \$60,000 for this year's operations and marketing and a request for \$50,000 to fund a nationally recognized performer for the 2017 Festival.

**2016 RECIPIENT RESPONSIBILITIES:**

- Grant funds of \$10,000 can only be used for out-of-county advertising and marketing.
- The Committee would like to see better evidence of overnight stays attributed to the Festival. This should include visitor stays from local lodging entities.
- Future applications shall include a detailed budget of how marketing and entertainment funds are proposed to be spent (for example: \$2,000 to Media One for 4 one-page color ads in the Salt Lake Tribune, \$5,000 to Performer x to book performance.) in order to receive funding.
- Please ensure that Summit County Restaurant Tax Fund is credited as a sponsor and the new logo is used on the event website and printed materials to include, but not limited to,

posters, brochures and programs. The Restaurant Tax logo is available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$2,000; 2008: \$3,000 as the Mountain Spirit Festival; 2009: \$4,000; 2010: \$8,000; 2011: No Funding; 2012: \$50,000; 2013: \$35,000; 2014: \$25,000; 2015: \$35,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1603	City of Coalville – Car Show	\$20,000	\$3,000

**2016 RATIONALE:** Coalville City has hosted a Car Show for the past 25 years. In 2015 the event attracted 3,500 visitors. This year the event will host an evening car show on Main Street. The plan is to have vendors, food vendors, entertainment and a kid’s area. With an evening event this year, the plan is to close Main Street and host a street dance with a live DJ providing music followed by a fireworks display. Organizers anticipate the date and timing of the show can attract more out-of-county overnight participants and guests who dine and stay in Summit County for the event weekend.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Grant funds of a total of \$3,000 are allocated to be spent on out-of-county advertising and marketing.
- b. The Committee would like to see better evidence of overnight stays attributed to the Festival. This should include visitor stays from local lodging entities.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization’s website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** No application in 2014; 2015: \$16,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1604	Egyptian Theatre - Promotion	\$145,000	\$125,000

**2016 RATIONALE:** The Egyptian Theatre is requesting funding to support Marketing and Promotional Outreach for their major shows, national touring acts, and all performances appealing to destination visitors at the Theatre; encouraging Non-Summit County residents to come to Park City, get a room, dine in a restaurant, and enjoy the offerings of the Theatre – every week of the year. For 6 years in a row, the Egyptian has increased ticket sales and grown the number of events and performances on stage, maintaining vibrancy on Main Street. In 2015 City Weekly named them “The Best Venue for...Everything” in their annual Best of Utah awards; citing the Egyptian’s ability to deliver a quality product – no matter what it is on stage. Their patrons numbered over 56,700 last year; and 56% of our audience is from outside Summit County (31,752 people).

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used for print marketing outside of Summit County including, but not limited to: Salt Lake Tribune, Desert News, City Weekly; broadcast advertising outside of Summit County with KRCL and other outlets; and website updates and web based marketing efforts such as Now Playing Utah, City Weekly, Santek Online, and Facebook/other social media outlets; and digital media including Yesco and Utah Digital Services for digital advertising and billboards.

- b. Funds shall not be used marketing within Summit County or towards the purchase of an additional building/space.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$20,000; 2008: \$25,000; 2009: \$40,000; 2010: \$50,000; 2011: \$60,000; 2012: \$65,000; 2013 \$90,000; 2014: \$100,000; 2015: \$125,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1605	Francis City	\$198,854	\$0

**2016 RATIONALE:** There is lack of sufficient justification for the funding request based on state statute. Strong legitimate tie to tourism promotion must be made by applicant for the project in order to obtain Restaurant Tax funding which is solely based on tourism promotion by State Law. The Committee supports future funding to this or similar projects with guaranteed policies in place related to tourism use (in this case link or plan to link to public trails, maintenance plan, operations schedule to show it will be open on weekends Fri/Sat/Sun and holidays and times when users need bathrooms); as our funding mechanism requires.

**PREVIOUS FUNDING:** 2015: No Application

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1606	Historic PC Alliance/Autumn Aloft	\$35,753	\$35,753

**2016 RATIONALE:** Autumn Aloft is a hot air balloon festival held in mid-September. The 2016 Event is scheduled for Friday through Sunday, September 16 – September 18, 2016. The 2016 Autumn Aloft is expected to draw overnight visitors in addition to significant day visitors to the Park City area. This event is designed to drive economic activity to Park City area businesses and restaurants, not create an all-day festival atmosphere at the launch site. Autumn Aloft was specifically designed to bring back a successful and unusual festival to Summit County in a currently slow tourist season.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Grant funds shall be used for equipment rental, event insurance, pilot dinner, propane for balloons, signage, marketing and PR, and swag for balloonists.
- b. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2014: \$34,958; 2015: \$35,530

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1607	Historic PC Alliance/Marketing	\$40,350	\$40,350

**2016 RATIONALE:** The Historic Park City Alliance represents all of the businesses in the Main Street Historic District of Park City. For 2016-17, the HPCA plans to conduct an integrated marketing campaign targeting the Wasatch Front during the key need periods to include information on shopping, dining in the area and will highlight promotions centered during those seasons encouraging visits to shop and dine. The marketing and strategies of the group evolves annually in order to continue to promote the historic district and address the change in the tourism market.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Grant funds shall be used for advertising promotional for Spring/Fall and Holiday promotions.
- b. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2009: \$5,000; 2010: \$20,500; 2011: \$35,000; 2012: \$35,000; 2013: \$38,000; 2014: \$46,490; 2015: \$41,500

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1608	Kimball Art Center	\$65,000	\$55,000

**2016 RATIONALE:** The application is for marketing and promotion outside of Summit County of the 47<sup>th</sup> Annual Park City Kimball Arts Festival. Kimball Art Center continues to be one of the anchor summer for Park City and Summit County. The Festival runs for three days and draws out-of-state as well as Utah artists and local and out-of-area visitors. In an effort to increase out of state visitors this application requests funding for marketing in five out-of-state municipalities that have been identified as having a high density of art patrons and significant likelihood of attendance to our Festival. The event resulted in 57,500 attendees in 2015 and contributed \$28 million in economic impact to Utah. (a 50% increase over 2014).

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding may only be used for marketing and promotion to gain new visitors from outside of Summit County.
- b. Please continue to monitor the event and show that the marketing efforts are resulting in new attendees.
- c. Please increase awareness via marketing that the dates of the festival have changed this year from historical dates.
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$20,000; 2008: \$20,000; 2009: \$30,000; 2010: \$30,000; 2011: \$38,500; 2012: \$5,000; 2013 \$50,000; 2014: \$50,000; 2015: \$55,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1609	Mountain Trails	\$20,000	\$10,000

**2016 RATIONALE:** This application is to support the Mountain Trails 2016 Summer Events. The quality of the Summit County trails system has garnered international accolades and press. Use and popularity of the trails is increasing every year. The revenue generated by these events is used by the Mountain Trails Foundation for trail building, maintenance, and advocacy. Mountain Trails needs to continue to promote the trail system to bring in more high-end trail users who spend more time here and bring out-of-county dollars.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding may be used for: Racing supplies and on-line marketing, PR (Photographer) and be used for marketing outside of Summit County.
- b. Funds may be used for in-county newspapers or radio marketing only if used solely for web promotion that is tracked.
- c. Please provide statistics showing out-of-county on-line use (clicks, buys, views,) of local newspaper/radio marketing during the next application cycle.
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$18,000; 2008: \$16,000; 2009: \$3,000; 2010: \$16,000; 2011: \$10,500; 2012: Application Withdrawn; 2013 \$10,000; 2014: \$12,000; 2015: \$12,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1610	Mountain Town Music	\$34,200	\$18,000

**2016 RATIONALE:** This is the 17th year of funding for the organization that provides hundreds of free live music shows throughout Summit County every year. This year the request is for minor upgrades to [www.parkcitylivemusic.com](http://www.parkcitylivemusic.com) and the migration of [www.mountaintownmusic.org](http://www.mountaintownmusic.org) to mimic the PCLM website's 2016 Site Marketing and Traffic initiative. This is a 2-part request: 1) site marketing and traffic initiative and, 2) to migrate [www.mountaintownmusic.com](http://www.mountaintownmusic.com) so that it mimics and communicates with [www.parkcitylivemusic.com](http://www.parkcitylivemusic.com).

The funding request is to complete the upgrade and launch of the website that was partially funded by this group's 2014 and 2015 applications. The goal is to make [www.ParkCityLiveMusic.com](http://www.ParkCityLiveMusic.com) the vehicle for comprehensive distribution of information on all Summit County live music events. The site will become the location for community organizations and businesses to list live music events, making it easier for visitors to research entertainment on-line before or during their visit. Mountain Town intends to link this site to lodging entities and other organization's sites that publish "what to do in Park City" listings. They plan to use social media and networking to market the website outside of Summit County. The site will list events by venue, music type, and performers with the ability to research each category.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funds shall be used for website production and enhancements, plus out of Summit County marketing, as outlined in the application.

- b. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$16,000; 2008: \$20,000; 2009: \$20,000; 2010: \$25,000; 2011: \$25,000; 2012: \$19,000; 2013: \$19,000; 2014: \$40,000; 2015: \$32,300 (after 5% deduction)

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1611	National Ability Center	\$15,000	\$8,000

**2016 RATIONALE:** As a member of the greater Summit County community for 30 years, the National Ability Center shares the philosophy of County leaders who view the long-term success and growth of our community as directly contingent upon the careful investment in strategic promotion and outreach initiatives that successfully attract more visitors to our local community, particularly during off-peak seasonal periods. Because of the large numbers of people requiring tourism to be barrier-free, proper access to tourism activities will benefit not only people with disabilities, but also many other members of the community, including aging adults. The National Ability Center is requesting funding from the Summit County Restaurant Tax committee for a comprehensive outreach and marketing campaign that directly targets individuals with disabilities and their families from across the country and around the world. This includes the development of partnerships with national and international organizations that provide services for people with disabilities, including state and federal organizations, hospitals, military service organizations and local chapters of disability-specific organizations, schools and universities. This project will promote the wide variety of sport, recreation and educational activities available within Summit County year-round, emphasizing the incredible accessibility and diversity found within our local community.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funds shall only be used for the following: print, web and video advertising to potential visitors from outside Summit County and for promotion for onsite education events, family camps. No local publications such as the Park City Magazine, the Salt Lake Chamber Relocation Guide or the Ski Utah Newsletter can be utilized with this funding.
- b. Funds may be used for nationwide partnership referrals for out of county markets,
- c. Granted funding shall not be used for salaries, attendance at conferences, or to offset or reimburse NAC staff time.
- d. The Committee requests that credit card or other lodging and food collected statistics on participant's lodging and catering/restaurant purchases that generate Restaurant Tax revenue be included in future applications.
- e. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$10,000; 2008: \$10,000; 2009: \$7,000; 2010: \$10,000; 2011: \$8,000; 2012: no application; 2013: \$10,900; 2014: \$12,000; 2015: \$10,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1612	North/South Summit Rodeo Club	\$15,000	\$5,000

**2016 RATIONALE:** South Summit and North Summit High School Rodeo Clubs are working together to put on two days of rodeo competition for all high schools in Utah, parts of Idaho, Wyoming, Colorado and Nevada on August 14<sup>th</sup> and 16<sup>th</sup>, 2016. Each high school rodeo club in the State of Utah has the opportunity to sponsor a rodeo in their home town. Most members of the Utah High School rodeo association attend the rodeos which are each Friday and Saturday during the season. Hosting a high school rodeo in Summit County has been a long time tradition for over 40 years and is a great benefit for our youth and economically for the community. An estimated 450 High School rodeo athletes will come to Oakley, bringing along with them their family and friends for the 2 days of rodeo competition. Putting on a High School Rodeo cost approximately \$21,000.00 each day.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding is to be used for belt buckles or similar awards for prizes for all events.
- b. Suggest that the Rodeo Club continue to track what counties the participants reside in.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2010: 5,000; 2013: \$5,500; 2014: \$7,000; 2015: \$8,500

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1613	Oakley Car Show	\$5,000	\$3,000

**2016 RATIONALE:** This year will be the 11th year of the OOFCC and Oakley City Car Show. The show has been a huge success and it is held at the Oakley City Recreation Facility in Oakley on Saturday, with a classic car cruise in Park City on Friday night. Some of the proceeds of the show are donated equally between the Peace House and the Summit County Children's Justice Center. The rest of the revenue we will put back into the car show to make it bigger and better each year. Many of the car show participants are from out of the County and they plan on traveling to Oakley and Park City early on Friday and returning home on Sunday – making it a mini-vacation. Park City Peaks Hotel is the host hotel for this annual event and they offer special rates for the car show participants. The participants will also eat at the local restaurants and fill up their cars at the local gas stations. In 2015, the car show registered 325 participants and attracted over 1,000 visitors to Oakley and Summit County on a shoulder-season weekend.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall only be used for advertising outside of Summit County, awards, tee shirts, posters and flyers to be used for promotion at other car shows.
- b. The Committee recommends continuing to get letters from the local restaurants stating the positive impacts of the show on their business.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

PREVIOUS FUNDING: 2010: \$2,000; 2011: \$2,500; 2012: \$2,000; 2013: \$2,000; 2014: \$2,000; 2015: \$3,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1614	Oakley Barn	\$50,000	\$20,000

**2016 RATIONALE:** Oakley City maintains two buildings that advertised and marketed to rent to the public for meetings, receptions, reunions, and other gatherings. Cattleman’s Hall is the older of the two buildings and is in need of improvements to the kitchen area as well as to the restrooms to make it more functional for users. The Red Barn is a newly constructed facility that is part of the Oakley Rodeo Grounds. The Red Barn is in need of some minor improvements such as installation of a ventilation hood in the kitchen, cement work for landscaping, an awning, and completion of the bride’s room in order to make the venue more rental to renters. Both facilities are booked year round for weddings, family reunions, parties, as well as small concerts and production companies. These users bring business to the local gas stations, eating establishments, and convenience stores. On average Cattleman’s Hall is booked on most weekends and the Red Barn is becoming a very popular place to host weddings and other functions.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Restaurant Tax funding shall only be released to the Applicant after evidence is provided to the County Attorney that there is matching funds.
- b. Restaurant Tax funding shall only be released to the Applicant after evidence is provided to the County Attorney that the availability of alcohol is allowed at the venues during private rentals and Sunday rental is allowed at the venues via City Ordinance or operating language.
- c. Please use Summit County Vendors for Events held here (as they pay Summit County Restaurant Tax) and reimburse the fund.
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization’s website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

PREVIOUS FUNDING: 2015: No Application

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1615	PC Lodging Assoc./Bike Marketing	\$292,741	\$200,000

**2016 RATIONALE:** The goal of this application is to promote mountain biking in Park City and Summit County by purchasing on-line advertising to promote the IMBA gold designation received in 2013. The promotions will drive interested parties to the website [www.mountainbikingparkcity.com](http://www.mountainbikingparkcity.com) for additional information and lodging packages. The program includes e-mail marketing and brochure production that will be mailed out to participants and also put in the visitor’s center and in southern Utah. The tours are centered around events in Park City. FAM tours for media will be offered and are supported by this grant.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding to be used for website administration, on-line, e-mail marketing and media FAM trips. Please include articles written by the hosted writers from the FAM with the supporting documentation that is submitted to Summit County at the end of the funding period.
- b. Grant monies shall be used for the budgeted items per your submitted 2016/17 budget.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2012: \$145,000; 2013: \$169,000; 2014: \$175,000; 2015: \$200,000; 2016: \$200,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1616	PC Lodging Assoc./Delta	\$300,000	\$275,000

**2016 RATIONALE:** This is a new PCALA program partnership with Delta Airlines for creation and implementation of the "Fly Free" campaign that is designed to increase overnight guest visitation during our community's primary slow periods throughout the winter. Funds shall be used to purchase flight coupons and online advertisement. The grant funding will go directly to pay for the offset ticket price of individuals who purchase airfare on Delta via this program.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Applicant shall provide evidence to the County Attorney that any required agreements for the program (for example with Delta Airlines) are appropriately executed prior to any spending of funds by PCALA.
- b. Full and detailed reporting is to be provided to the County (how much spent, how many visitors generated, how many flights, zip codes of travelers, dates) etc) post promotion.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** New Application.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1617	PC Chamber/Spring	\$300,000	\$252,000

**2016 RATIONALE:** The Park City Chamber/Bureau is proposing the creation and implementation of a dedicated Spring Marketing Campaign that is designed to increase overnight guest visitation during one of our primary need periods (March/April). This campaign will specifically drive consumer traffic to a marketing platform (website landing page) that will allow membership and the local community to present special spring offers, packages and content. The goal is to increase overnight visitation by 4%. Cooperative funding from PCCVB and UOT will be used to enhance this project.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used for out of county advertising – no local media advertising.
- b. Future requests need to detail marketing/advertising placements. For example, the amount of the proposed spend, the entity you are paying and for what exact promotion (web banner, color magazine ad, etc.).
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$230,000; 2008: \$250,000; 2009: \$250,000; 2010: \$250,000; 2011: \$250,000; 2012: \$250,000; 2013: \$250,000; 2014: \$250,000; 2015: \$237,500 (reflects the 5% deduction)

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1618	PC Chamber/Tour of Utah	\$35,000	\$25,000

**2016 RATIONALE:** Tour of Utah is a seven-day professional biking stage race held at the beginning of August. Events are scheduled for several locations in the state, with Park City showcasing a portion of Saturday's event and hosting the final event on Sunday. This event includes internationally renowned cycling teams, team support crews, media and spectators. Organizers anticipate 16,000-20,000 spectators based upon previous year's attendance. Stage 6 on Saturday, August 8th, will showcase Summit County with cyclists racing from Salt Lake through Summit County and Park City to Snowbird Resort. The final stage on Sunday, August 9th, begins on Historic Main Street and travels through eastern Summit County ending on the lower portion of Park City's Historic Main Street. The Chamber/Bureau is proposing a marketing campaign that will target cycling fans in Utah and in the regional drive markets of Arizona and Colorado via 30 second television commercial spots on NBC Sports Network's telecasts of the 2016 Tour de France. In addition, PC Chamber/Bureau is proposing to place two full page print ads in a national cycling magazine and travel magazine to drive overnight visitors to Park City/Summit County for the weekend.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be spent per the detailed budget submitted with the following restrictions listed below.
- b. No salaries can be paid with the grant money.
- c. No traffic management can be paid with the grant money.

- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2011: \$25,000; 2012: \$25,000; 2013: \$25,000; 2014: \$25,000; 2015: \$22,900

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1619	PC Film Council	\$31,000	\$3,000

**2016 RATIONALE:** The primary focus of the Park City Film Council is the screening of independent feature, documentary and foreign films. The Film Council's screening venue located within Park City's Library in the Jim Santy Auditorium. The Film Council screen films typically on weekends about half of the year and their motto is "what locals do in the dark". This year's funding request is for advertising the films to people outside of Summit County, and to obtain Closed Captioning and Descriptive Narration technology for the Film Council.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funds may be used for marketing to out-of-county patrons, specifically to any of the following: Salt Lake City Weekly, SL Trib/Deseret News, and KRCL. No in-county advertising is allowed.
- b. The Committee regrets is cannot fund any of the ADA equipment purchase, as the State Statute dictates we can only fund capital purchases if the asset will be owned by the City.
- c. Print ads in Summit County/Park City publications or radio stations may not be paid for with Restaurant Tax Funds.
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$2,000; 2008: \$3,000; 2009: \$7,000; 2010: \$10,500; 2011: \$12,000; 2012: \$20,000; 2013: \$20,000; 2014: \$5,000; 2015: \$16,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1620	PC Gallery Association	\$6,750	\$6,750

**2016 RATIONALE:** The Park City Gallery Association includes most of the galleries within Summit County, which is now designated as one of the few walkable arts districts in the USA. Marketing Campaign to include Fibonacci Fine Arts Journal, locally produced, distributed in St. George, Las Vegas, Sun Valley, Jackson Hole and throughout Utah. Fibonacci, a bimonthly publication, has been invited to distribute with Barnes and Noble starting in July of 2016. The campaign would consist of two page spreads in two issues (July-August, Sept-Oct). Search Engine Marketing campaign of new Park City Gallery Association Website.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used to supplement the spend on an ad in a national fine arts journal that is distributed throughout the US, and to supplement the funding of the search engine marketing campaign; both as described in the application.

- b. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** No Application in 2015.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1621	PC History Mine Site	\$50,000	\$0

**2016 RATIONALE:** The PC History Mine Site requested \$50,000 toward the stabilization of the historic California Comstock Mill, located at Park City (ski resort), in Summit County (not the City), and is owned by Vail Resorts. Because the Mill has been deteriorating since 1917, this historic structure is in the most danger of collapse. Total funds required over the next 5 years will amount to \$710,000 for the seven priority historic mining properties that are slated by this organization to stabilize and/or revitalize.

The Summit County Attorney has advised the Committee that this request does not fit within the guidelines of the granting restrictions related to the ownership of the structures and the public funding requirements. The applicant will be advised via letter from the Attorney with details.

**PREVIOUS FUNDING:** New Application.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1622	PC Historical & Museum	\$46,130	\$40,000

**2016 RATIONALE:** The Museum proposes to use funds for: creating a greater awareness and understanding of the Park City Museum prior to arrival in Park City. This year the Society will use the funds towards a 3-month fall campaign with Lamar Transit Advertising to continue awareness of the Park City Museum in the Salt Lake Valley with UTA bus wraps, and TRAX full-side advertising. Additionally, the museum will be represented at the Delta Terminal at Baggage Claim number 2 in the fall and the marketing campaign will continue year-round printed brochures and 2-for-1 campaign to SLC residents and drive by traffic. This will be distributed via Certified Folder. They also will be using the money to fund a year-round print and social media campaign with Richter7 Advertising Agency. 102,741 people visited the Museum in 2014.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used for a 3-month fall campaign with Lamar Transit Advertising using UTA bus wraps and TRAX full-side advertising and with Richter7 Advertising for print and on-line advertising.
- b. All advertising funds must be spent on promotions reaching outside of Summit County as outlined in the application.
- c. The Committee would like the Museum to consider revising the survey question to those redeeming the free ticket to ask - "What is the primary reason you are in Park City today?" or "What was your deciding factor for coming to Park City today?"
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$216,100; 2008: \$160,000; 2009: \$80,000; 2010: \$25,000; 2011: \$20,000; 2012: \$20,000; 2013: \$32,000; 2014: \$32,000; 2015: \$38,000 (reflects a 5% deduction)

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1623	Park City Institute	\$160,000	\$95,000

**2016 RATIONALE:** The Park City Institute is requesting funds to market and advertise the upcoming year of concerts and events mainly held at Deer Valley Resort in summer and the winter concert season held at Eccles Auditorium. The concert programs add variety to the Park City event calendar and enhances the desirability of Park City as a tourist destination.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funds may only be used for the online digital media campaign or the Wasatch front print media portion of spending as outlined in the application budget.
- b. Funds may NOT be used for direct mail, brand placement, other print media, radio ads, creative services or niche promotion.
- c. The committee requests that next year's application include detailed results of the 2016/17 online campaign. It is imperative that the committee sees the return on investment of monies spent.
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$50,000; 2008: \$50,000; 2009: \$60,000; 2010: \$50,000; 2011: \$50,000; 2012: \$45,000; 2013: \$65,000; 2014: \$80,000; 2015: \$90,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1624	PC Municipal McPolin Barn	\$100,000	\$0

**2016 RATIONALE:** Park City Municipal requested \$100,000 toward the stabilization of the historic McPolin Barn, located on highway 224 and owned by PCMC. The purpose of the structural upgrade project is to stabilize the Barn and Silos, and to allow small scheduled public tours of the interior of the Barn. The public will be able to see the historic re-use of mining structure materials with which the Barn was built. In 2003, the site and buildings were listed on the National Register of Historic Places. Currently the Building is at significant risk due to snow loads, wind, and seismic forces. The only exterior work is to cut and patch the roof in order to make the structural upgrades and to install replicated windows in all the window openings.

The Barn has been approved for these upgrades and funding for the improvements by the City Council. Based on the exiting funding and the limited tourism component, the Committee did not feel it was an appropriate fund recipient this year. There was also discussion that there would need to be written policies in place for any future grant request to guarantee any monies dedicated toward public capital improvements would link directly to increased tourism. The Committee supports future funding to this or similar projects with guaranteed policies in place related to tourism use; as our funding mechanism requires.

PREVIOUS FUNDING: New Application

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1625	PC Municipal 4 <sup>th</sup> of July	\$100,000	\$50,000

**2016 RATIONALE:** Park City Municipal requested \$100,000 toward the City's annual 4<sup>th</sup> of July festivities to be spent on both 2016 and 2017 celebrations. Over the past few years, Fourth of July has shown tremendous growth in attendance, bringing over 19,000 visitors to Park City to enjoy our nation's birthday. For years, the Park City Ambassadors took on the role of organizing the parade and the various activities that occur at City Park. This volunteer group diminished in size to the point that they could no longer get the support needed to run a successful event. The Chamber of Commerce graciously stepped in and worked with Park City Municipal to pick up the pieces and run the event in 2015. While both groups are supportive of the event and would like to continue to participate, the event has become one that demands the expertise of an event professional to ensure that it continues to be a safe celebration that not only displays the unique Park City community but provides positive economic impacts to local businesses and nonprofit organizations. The City intends to use the funds to accomplish several objectives. The first objective is to hire an event organizer to coordinate and bring the many groups and activities together as one big event. The second objective is to develop additional weekend programming to encourage visitors from outside of Summit County to stay in Park City Fourth of July weekend and to extend their weekend to include Monday night. Additionally, the organizer will be responsible for creating a survey to help gather information on event attendees and help to identify out-of-county visitors during the event weekend and determine their motivation for traveling to Park City. The result will be analyzed to produce a marketing debrief to identify successful methods of promoting the event as well as provide the economic impact that the event brings.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used to make the 4<sup>th</sup> of July event even more appealing to destination visitors through spending on an event manager, advertising, enhanced programming and safety.
- b. All advertising funds must be spent on promotions reaching outside of Summit County as outlined in the application.
- c. No staff salaries can be paid with the grant money.
- d. No traffic management or police protection can be paid with the grant money.
- e. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

PREVIOUS FUNDING: New Application.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1626	PC Soccer Club	\$12,000	\$6,000

**2016 RATIONALE:** The 13<sup>th</sup> Annual Park City Extreme Cup Youth Soccer Tournament will be held Thursday, August 4<sup>th</sup>, through Saturday, August 6, 2016. The event is expected to attract 440 teams with games being held on 41 fields at 14 venues in and around Park City. The Extreme Cup hosts both boys and girls from U9 – high school with games being played every 1 ½ hours from 8 am to 8:30 pm each day.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funds shall be used to market the 2016 Park City Extreme Cup to teams from outside Summit County and out of state, to include marketing the "Stay & Play" lodging package concept.
- b. The Committee requests that the applicant provide event reservation data with next year's application to include zip code analysis of registered teams and data on participant's use of Summit County overnight lodging.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2008: \$8,000; 2009: \$7,000; 2010: \$10,000; 2011: \$10,000; 2012: \$7,000; 2013: \$10,000; 2014: \$8,000; 2015: \$9,500 (reflects a 5% reduction)

	<b><u>Committee Application No.</u></b>	
1627	PC Standup Paddleboard	Applicant did not qualify for a grant. Not a not-for-profit.

	<b><u>Committee Application No.</u></b>	<b><u>Original Request</u></b>	<b><u>Recommended Amount</u></b>
1628	PC Summit County Arts/Marketing	\$40,350	\$40,350

**2016 RATIONALE:** This application is for an online marketing campaign to promote Summit County as a cultural and arts destination during the summer months. Marketing efforts will target the western United States and the surrounding drive markets. The plan will direct visitors to the organization's landing page with a calendar of summer arts and cultural events using banner ads on travel sites, paid searches in geo-targeted markets and social media ads. The Arts Council works with the PC Lodging and PC Restaurant Associations to create packages that can be traced back to the on-line advertising. They co-op with PC Chamber and UOT advertising programs specifically targeted to an arts and culture audience.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used for marketing plan as detailed in the Richter 7 attachment and budget, including: landing page, paid searches, digital media, social media and project management by outside consultants. Restaurant Tax shall not be used for PCSCA staff salaries.
- b. Efforts to provide relevant tracking information on website traffic is encouraged. We appreciate the attention to promoting all cultural and arts events throughout the County as displayed on the current website.
- c. We urge you to continue efforts to reach out to all arts and cultural organizations in the County to insure that all programs are included on the website/calendar.
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2009: \$29,450; 2010: \$10,000; 2011: \$12,000; 2012: \$12,000; 2013: 16,000; 2014: \$18,000; 2015: \$25,000; 2016: \$35,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1629	Park Silly Market	\$36,576	\$4,000

**2016 RATIONALE:** This is the tenth year of funding for this weekly summer event. It is held every Sunday during the summer months from June to September on Main Street in Park City. Temporary booths are set up on lower Main Street, shutting down the street to vehicle traffic, and pedestrians can shop the vendor area. This event is now well-established and well attended; with organizers estimating over 116,000 attendees from outside of Summit County last summer.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used only for advertising outside of Summit County as listed in the application.
- b. Funding shall not be used for in-kind marketing or for staff salaries (including intern salaries).
- c. The Committee requests that Park Silly Market give preference to in-County food vendors and ensure all vendors pay the appropriate sales taxes.
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1630	Snyderville Basin Rec. – Floor	\$152,029	\$0

**2016 RATIONALE:** This application is for new flooring to be installed into the new section of the Snyderville Basin Field House, which begins construction soon under an approved bond. Bids and final types of flooring still need to be procured in order for the SBSRD to make determinations of the selected materials. As the project has approved funding and the final determinations on use, type of floor, costing and other important elements still need to be made, the Committee did not feel it was an appropriate fund recipient this year. There was also discussion that there would need to be written policies in place for any future grant request to guarantee events that would increase tourism; as is mandated in the State Statute. The Committee supports future funding to this or similar projects with guaranteed policies in place related to tourism use; as our funding mechanism requires.

**PREVIOUS FUNDING:** New Application.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1631	Snyderville Basin Rec. – Trail	\$170,000	\$0

**2016 RATIONALE:** This application was for a new two-sided restroom facility located near the trailhead behind the Jeremy Ranch Elementary School on Bluebird Lane. The land designated for the restroom is not owned by the County or SBSRD and a designated off-street trailhead parking area has not been established yet. With limited ties to tourism and some site deficiencies; the committee did not find it appropriate to fund this application this year. The Committee supports future funding to this or similar projects with guaranteed policies in place related to tourism use (in this case contract for land lease or ownership, maintenance plan, trail user numbers for the area); as our funding mechanism requires.

**PREVIOUS FUNDING:** New Application.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1632	South Summit Trails Foundation	\$50,000	\$10,000

**2016 RATIONALE:** It is the intent of the South Summit Trails Foundation to create new trails as well as improve and maintain existing trail systems in the South Summit area. The Foundation is working with local communities to assist with the maintenance of existing trails which may have become overgrown due to the lack of resources as well as connect trails within the South Summit area and eventually to adjacent communities through the creation of new trails. The Foundation promotes non-motorized trails for recreational use including, but not limited to, runners, hikers, bikers, horses, skiers and others. It is the intention of this project to improve those trails, create connecting trails, and create awareness to attract visitors to the community. There are a large number of participants who visit the community to enjoy the mountains, bike the roads and hike the trails. This project is intended to enhance that experience as well as to share the community with new visitors. The Committee supports future funding to this or similar projects with guaranteed policies in place related to tourism use (in this case contract for land lease or ownership, maintenance plan, trail user numbers for the area); as our funding mechanism requires.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall only be used for map development and signage per the application.
- b. No funding shall be used for equipment, staff salaries, or trail building.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to the map, posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** New Application.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1633	Summit County Fair/Barrel Racing	\$15,000	\$10,000

**2016 RATIONALE:** The Summit County Fair Barrel Racing is in its 8<sup>th</sup> year of production. In 2015, Saddle Bronc Riding was added to the two-day event, "Barrels & Broncs". Last year there were 570 participants, making the 2015 Barrel and Broncs event the largest participated barrel race in the State of Utah. Competitors came from Utah, Wyoming, Idaho and Colorado with estimates of over 1,200 people in attendance just as part of the competitor's families, etc.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used only for advertising outside of Summit County.
- b. The Committee requests that, as part of the event's registration, that the Fair continues to track the home zip code of the event participants.
- c. Funding may also be used for awards as outlined in the application.
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2012: \$5,000; 2013: \$5,000\*(due to other funds added to Barrel Racing); 2014: \$5,000; 2015: \$10,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1634	Summit County Fair/Demo Derby	\$8,000	\$4,000

**2016 RATIONALE:** The demolition derby has historically been the anchor event to start the Summit County Fair. The sellout event (2,946 attendees with 33% from out of county) promises to provide spectators an edge of your seat thrill watching experience. With the success of 2015, the coordinators have increased participation again.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used only towards Summit County Fair Demo Derby prize money.
- b. Please continue to provide ticket zip code sales analysis for your event with the application.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2013: \$2,000; 2014: \$4,000; 2015: \$5,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1635	Summit County Fair/Rodeo	\$10,000	\$10,000

**2016 RATIONALE:** The Summit County Fair Board is requesting funds to rent a big screen for use during the PRCA Rodeo in August. The rodeo is the last two nights of the fair and is the final event. Big screen displays at sporting events keep the crowd more involved in the action by offering instant replays and also offer enhanced sponsorship/advertising possibilities. The Committee has sponsored the rental of the big screen for the past 4 years.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funds shall be used for rental and installation of big screen(s)/display(s) during the rodeo associated with the Summit County Fair.
- b. Please continue to provide ticket zip code sales analysis for your event with the application.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs and shown on the big screen during the rodeo. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2012: \$6,500; 2013: \$10,000; 2014: \$10,000; 2015: \$10,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1636	Summit County Historical Society Video Tour	\$43,800	\$0

**2016 RATIONALE:** A scenic aerial video tour of Summit County, shot via high quality drone cameras, that will take in aerial views of all of the towns in Summit County and scenic vistas in a short video clip.

The goal is to promote Summit County from a never before seen perspective, across the beautiful landscapes throughout the area towns and vistas. The project seeks to create both a summer and winter aerial video tour for promotion on web-based platforms, CD's and digital copy. The Committee supports future funding to this or similar projects with guaranteed policies in place related to tourism use (in this case planned distribution); as our funding mechanism requires.

At this time the committee is advising that this application is not ready to be funded as applied this year. Although the committee views this to benefit the County and the County website we did not feel that funding would draw us visitors from outside of Summit County.

**PREVIOUS FUNDING:** 2009: \$6,000; 2010: No request; 2011: \$7,400; 2012: \$25,000; 2013: \$16,000; 2014: \$5,000; 2015: \$53,280

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1637	Sundance Institute	\$200,000	\$200,000

**2016 RATIONALE:** This is the 17th year of funding for this applicant. In 2017 the festival will be celebrating its 33<sup>rd</sup> year and will be held January 19 – January 29, 2017. The money is to be used for statewide, national, and international marketing efforts and media coverage to continue to drive tourism. In the recent 2016 Sundance Film Festival Economic Impact Report, it states that the Institute brought over \$98 million to Utah during the Festival this year. This year 45,000+ visitors (67% from out of state or the country) attended. The Festival helps create over 1,300 jobs. There was over \$28 million spent on lodging, and \$16 million on Food & Beverage, both numbers are up year-over-year. The media exposure has enhanced Park City's name recognition and reputation as a desirable travel destination. Funds from the grant are being requested for various national and international advertising and marketing programs. The Committee would also like to encourage the continued exposure of Park City as a tourism destination in collateral materials and trailers as has been done in previous years.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall only be used for national/international print advertising, electronic advertising, on-line advertising, radio advertising, billboard advertising, and press programs as described in the application.
- b. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2008: \$120,000; 2009: \$120,000; 2010: \$120,000; 2011: \$100,000; 2012: \$120,000; 2013: \$160,000; 2014: \$175,000; 2015: \$200,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1638	Swaner EcoCenter	\$53,942	\$5,000

**2016 RATIONALE:** This proposal seeks to fund marketing efforts that would drive additional visitation to the Swaner EcoCenter and participation in the programs offered. These efforts will largely target the Wasatch Front population centers, but also reach further afield. These marketing efforts will focus on

drawing visitors to the ongoing offerings at the EcoCenter and, in addition, two traveling exhibitions that will be brought in during FY17.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall only be used for marketing to out-of-county visitors utilizing methods specified in the grant application as KUER, SL Trib/Deseret News, Outdoor Utah and Utah Travel Guide.
- b. Funding shall not be used for local marketing or staff salaries.
- c. Please track visitation during the year via zip code and report the data with any future applications.
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** New Application.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1639	USSA DV World Cup 3 Yr.	\$121,500	\$121,500

**2016 RATIONALE:** The 2019 FIS Freestyle and Snowboard World Championships will be a major global event featuring the largest showcase of winter action sports outside of the Olympics. PARK CITY 2019 will be held February 1-10, 2019, at Deer Valley Resort, Park City Mountain Resort, The Canyons, and on Main Street. The 10-day event will be comprised of 12 elite skiing and snowboarding events. Deer Valley will host Aerials, Moguls, and Dual Moguls. PCMR will host ski and snowboard Big Air, Slopestyle, and Halfpipe. Canyons will be host for Skicross, Snowboardcross, and Team Snowboardcross. The 2016 Alpine World Championships held in Vail/Beaver Creek this year was watched by over 10 million US viewers over hours of live coverage on NBC and NBC Sport network. The USSA's goal is to exceed these numbers in 2019 in Park City. The goal of the Organizing Committee is to exceed the spectator numbers that are achieved annually at the Aspen X Games which report attendance of 116,000 people. They estimate over 50% of event visitors will stay overnight. Funding from the Restaurant Tax Fund is requested for 50% of the total cost of Television production in four annual increments of \$121,500. The money would be held in escrow by Summit County or an entity approved by the County until the expenditure in 2019.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding will be held in escrow by Summit County until the event in 2019. Approval of 2016 funding is no guarantee of funding in future years. If due to unforeseen circumstances the event is not held the Committee recommends funds held in escrow be used for other projects consistent with the requirements of the restaurant tax fund.
- b. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2015: \$121,500

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1640	USSA FIS World Champs – TV	\$111,500	\$111,500

**2016 RATIONALE:** USSA and Deer Valley Resort will host the 17<sup>th</sup> annual FIS Freestyle Ski World Cup competition in February, 2017. This event broadcasts the Park City area as a premier winter ski vacation destination via network (NBC) and cable (NBC Sports Network) television exposure. This year the DV World cup will be a selection event for the 2017 World Championships to be held in Spain. This request is for 50% of the cost of the television production to produce high definition broadcasts on NBC, the NBC Sports Network, and international network feeds. In 2016 this event attracted approximately 17,000 spectators attending the four nights of the event.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used for the television coverage as outlined in the application. The Committee would like to encourage continued inclusion of vignettes of Park City as a tourism destination during the television network coverage.
- b. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2008: \$110,000; 2009: \$150,000; 2010: \$100,000; 2011: \$100,000; 2012: \$95,000 (reduced 5%); 2013: \$105,000; 2014: \$105,000; 2015: \$106,250

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1641	Utah Lacrosse	\$12,000	\$10,000

**2016 RATIONALE:** Youth Lacrosse – 12<sup>th</sup> annual ski town shoot out in Park City held in June. The tournament hosts: 97 teams, 1586 players, 147 coaches, 78 officials, and over 2000+ spectators.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Restaurant Tax Dollars shall be spent on Advertising: Facebook advertising \$600; Insurance: \$2,500 Bollinger Insurance; and marketing/branding/gifts: up to \$6,500 on The Campus Stop Sunglasses which must be branded in some way to say/mention Park City, Utah on the glasses.
- b. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** New Application.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1642	Utah Olympic Park	\$126,522	\$65,000

**2016 RATIONALE:** The Utah Athletic Foundation / Utah Olympic Park is a unique venue and provides opportunities that are only available in one other U.S. destination. Three marketing programs have been designed to increase overall visitation to the UOP and Summit County by attracting visitors from outside Summit County to visit the park for a variety of reasons. All programs include partnerships with

tourism focused entities, facility supporters and media advertising partners in order to leverage grant dollars.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funds shall be spent on the marketing efforts as outlined in the application and budget. Please note the Committee has concerns with the both of the marketing programs that use the Gold Pass as part of the marketing tool and/or advertising for the UOP activities when they are not open or available (e.g. dates the park isn't open, dates the park does not have all or most rides available). The Stay and Play package marketing plan seems beneficial to growing the fund until it is noted that the packages have been sold without blackouts or incentive times – basically not promoting outside of times when the visitors are already coming and therefore getting discounted tickets during a very busy time of year in Summit County and at the UOP. The Gold Pass becomes a negative for the community when it cannot be used reasonably during the time people are at the Park.
- b. All vendors who provide food and beverage must pay Summit County Restaurant Tax. Applicant shall provide vendor data and restaurant tax data with their next application. The Committee may reduce funding for future applications if information is not provided.
- c. The Committee encourages marketing to drive-by traffic in areas that are within a one-day's drive to increase overnight visitation in the slow season, (i.e. May, June, September, October).
- d. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2008: \$50,000; 2009: \$50,000; 2010: \$50,000; 2011: \$60,000; 2012: \$73,000 (combined with Alf Engen Museum); 2013: \$84,200; 2014: \$75,000; \$17,250 (reflected a 5% deduction)

	<b><u>Committee Application No.</u></b>	<b><u>Original Request</u></b>	<b><u>Recommended Amount</u></b>
1643	Utah Symphony and Opera	\$140,000	\$85,000

**2016 RATIONALE:** The 2016 Deer Valley® Music Festival (DVMF) offers six weeks of classical and pops concerts performed by Utah Symphony and notable guest artists at Deer Valley's Snow Park Amphitheater; chamber performances at St. Mary's Church; and salon events in Summit County private homes. 44,026 tickets were distributed for the summer 2015 DVMF. This funding request is for marketing using print media, direct mail and brochures, outdoor advertising to include billboards and transit in the Salt Lake Valley, radio/tv, hot deals/lodging packages and online advertising targeting ticket buyers from outside Summit County.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used for marketing to out-of-county residents as described in the application.
- b. Please continue to analyze: how many patrons you have attend events, where they are from (zip code) and if they spend the night or eat out in restaurants.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

PREVIOUS FUNDING: 2008: \$50,000; 2009: \$60,000; 2010: \$70,000; 2011: \$70,000; 2012: \$70,000; 2013: \$80,000; 2014: \$80,000; 2015: \$85,500 reflects a 5% Deduction

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1644	Park City Chamber Music	\$20,000	\$2,000

**2016 RATIONALE:** This application is for marketing for: Chamber Music Concerts in summer (5 weeks), autumn (2 weeks), winter (1 week), spring (1 week) and Film Music Festival. (1 week). The Chamber Music Society performs three to four classical music concerts per week as well as conducting master class programs in the schools. The Film Music Festival screens independent films to the public and grants awards to film composers on the merit of their music, as well as presenting educational seminars for filmmakers, composers and musicians who want to learn about the film music field.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding may be allocated as the applicant chooses based on the outline of the application.
- b. The Summit County Restaurant Tax Advisory Committee would like to see this organization become self-sustaining.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

PREVIOUS FUNDING: 2008: no application; 2009: \$5,000; 2010: \$16,000; 2011: \$7,500; 2012: \$9,500; 2013: \$16,000; 2014: \$8,000; 2015: \$5,000

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1645	PC Restaurant Assoc. - Marketing	\$288,793	\$288,793

**2016 RATIONALE:** PCARA and its members is requesting funding for the 2016-2017 Marketing effort. Funds would be used to assist with marketing and Public Relations for the Park City Area Restaurant Association (PCARA) and its member restaurants. Through their 2015/2016 marketing efforts they will target Salt Lake City, Ogden, Evanston and Provo area residents with a propensity to dine out; delivering a consistent Park City dining message for the association and its members. Additionally, the marketing plan intendeds to reach travelers visiting Utah to encourage them to make a trip to Park City for dining, etc. The marketing plan will utilize a mix of paid media, radio, online and social media as well as public relations to drive our target audience to dine and stay overnight in Summit County. In theory, Restaurant Tax funds spent on marketing for the Restaurants in Summit County provides the most direct marketing spend to continue to grow the fund it generates.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall be used for the print, digital, airport, TV, electronic, web and non-staff marketing team as described in the application and the budget provided.
- b. Funds may be used for in-county newspapers or radio marketing only if used solely for web promotion that is tracked. Please provide statistics showing out-of-county on-line use (clicks, buys, views, etc.) of local newspaper/radio marketing during the next application cycle. Future funding for those marketing efforts will be terminated if out of county tracking is not provided.

- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2007: \$120,000; 2008: \$180,000; 2009: \$180,000; 2010: \$180,000; 2011: \$180,000; 2012: \$185,000; 2013: \$200,000; 2014: \$225,572; 2015: \$225,572

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1646	Summit County Historical Society Brochures	\$1,785	\$1,785

**2016 RATIONALE:** An informative pamphlet describing the all Summit County interpretive panels and where they are located. The goal is to promote Summit County's history and provide tourists (or anyone with an interest in history!) with information guiding them to historic landmarks and sights in Summit County.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding is to be used as outlined in the application.
- b. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2009: \$6,000; 2010: No request; 2011: \$7,400; 2012: \$25,000; 2013: \$16,000; 2014: \$5,000; 2015: \$53,280

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1647	North Summit Recreation SSD	\$50,000	\$0

**2016 RATIONALE:** This application was for a new recreation field or fields located at the current site of the County Fairgrounds in Coalville, which are under study to be renovated and redesigned as the Fair location. The land designated for the fields is not owned by NSRSSD and not designated as a location for recreation fields (yet). With limited ties to tourism and some site deficiencies; the committee did not find it appropriate to fund this application this year. The Committee supports future funding to this or similar projects with guaranteed policies in place related to tourism use (in this case contract for land lease or ownership, maintenance plan, master plan approval from the County); as our funding mechanism requires.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. No funding is recommended for the following reasons: 1) North Summit does not have a master plan nor approval for use of any land to build or make improvements as proposed with the funding. Tax funding shall not be used to finance improvements that are currently not actionable due to entitlements, ownership or other implementation hurdles. 2) North Summit Recreation SSD has over \$200,000 granted to them from the Restaurant Tax in 2014 for fields and improvements that were not actionable and the money has not been spent yet. 3) In 2016 the granting requests exceeded the available funding by over \$1.5 M. The Committee did not fund any capital requests in 2016.

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1648	Peoa Recreation SSD	\$5,225	\$3,000

**2016 RATIONALE:** The Peoa Special Service District does not have a taxing mechanism, is unfunded by the County, and is run by a voluntary Board. 2016 funding is proposed to support the Memorial Day "Dirty Rotten Buckers" bucking horse futurity which brings around 500 attendees including competitors and multiple stock contractors from Arizona, Nevada, and Wyoming; and the Peoa Stampede every June includes a Ranch Rodeo, Kids Rodeo, and a cowboy mounted shooting competition. The Stampede can potentially draw out of state competitors and their families from Arizona and Wyoming.

**2016 RECIPIENT RESPONSIBILITIES:**

- a. Funding shall only be used for advertising outside of Summit County and related expenses and awards and prize money to enhance the competition and potentially draw more out of county participants and attendees.
- b. It is requested that organizers develop a tracking system to document statistics including home zip codes, number in party, lodging and restaurant patronage from all event attendees to include with in future applications.
- c. Please ensure that the Summit County Restaurant Tax Fund is credited as a sponsor and the logo is used on the organization's website and printed materials to include but not limited to posters, brochures, and programs. The Restaurant Tax logo available on [www.summitcounty.org](http://www.summitcounty.org).

**PREVIOUS FUNDING:** 2008: \$1,000, 2009: \$1,000, 2010: \$3,000, 2011: \$7,800; 2012: \$3,200; 2013: \$2,000; 2014: \$2,000 2015: No Grant Request

	<u>Committee Application No.</u>	<u>Original Request</u>	<u>Recommended Amount</u>
1649	Cluff House	\$225,000	\$0

**2016 RATIONALE:** The Summit County Attorney advised that funding of this real estate purchase is incompatible with the use of restaurant tax funds as outlined in the governing statute. The applicant will be advised via letter from the Attorney with details.

**PREVIOUS FUNDING:** First time application. Does not meet State or County Statute.

2016 Restaurant Tax Grant Applicant Score Sheet

Rank	Applicant Name	Amount Requested	Final Score	Amount
1	Park City Restaurant Association	\$ 288,793	83.50	\$ 288,793
2	Sundance Institute	\$ 200,000	82.25	\$ 200,000
3	PC Lodging Assoc/Delta	\$ 300,000	80.50	\$ 275,000
4	USSA FIS World Champs-TV	\$ 111,500	80.50	\$ 111,500
5	USSA DV World Cup 3yr	\$ 121,500	77.50	\$ 121,500
6	PC Chamber/Spring	\$ 300,000	77.50	\$ 252,000
7	Egyptian Theatre	\$ 145,000	77.38	\$ 125,000
8	Kimball Art Center	\$ 65,000	77.89	\$ 55,000
9	PC Lodging Assoc/Bike Marketing	\$ 292,741	71.25	\$ 200,000
10	Historic PC Alliance/Autumn Aloft	\$ 35,753	70.85	\$ 35,753
11	PC Chamber/Tour of Utah	\$ 35,000	69.19	\$ 25,000
12	Utah Symphony and Opera	\$ 140,000	65.22	\$ 85,000
13	PC Gallery Association	\$ 6,750	65.19	\$ 6,750
14	Historic PC Alliance/Marketing	\$ 40,350	64.11	\$ 40,350
15	Park City Institute	\$ 160,000	62.94	\$ 95,000
16	PC Municipal 4th of July	\$ 100,000	61.88	\$ 50,000
17	Utah Olympic Park	\$ 126,522	60.88	\$ 65,000
18	PC Summit County Arts/Marketing	\$ 38,400	60.38	\$ 35,000
19	Utah Lacrosse	\$ 30,000	59.78	\$ 10,000
20	All Engen Ski Museum	\$ 20,000	59.38	\$ 10,000
21	Mountain Trails	\$ 12,000	59.78	\$ 10,000
22	PC Historical & Museum	\$ 46,130	57.78	\$ 40,000
23	Oakley Barn	\$ 50,000	55.88	\$ 20,000
24	Mountain Town Music	\$ 34,200	51.33	\$ 18,000
25	Summit County Fair/Barrel Racing	\$ 15,000	50.75	\$ 10,000
26	Summit County Fair/Rodeo	\$ 10,000	50.33	\$ 10,000
27	South Summit Trails Foundation	\$ 50,000	50.25	\$ 10,000
28	National Ability Center	\$ 15,000	50.11	\$ 8,000
29	PC Soccer Club	\$ 12,000	48.50	\$ 6,000
30	Park Silly Market	\$ 36,576	47.88	\$ 4,000
31	Snyderville Basin Rec - Floor	\$ 152,029	47.25	\$ 3,000
32	Oakley Car Show	\$ 5,000	47.63	\$ 3,000
33	North/South Summit Rodeo Club	\$ 15,000	47.13	\$ 5,000
34	Summit County Fair/D Derby	\$ 8,000	47.00	\$ 4,000
35	PC Municipal McPolin Barn	\$ 100,000	46.94	\$ 3,000
36	Coalville City/Car	\$ 20,000	44.50	\$ 3,000
37	PC Film Council	\$ 31,000	44.00	\$ 3,000
38	Summit County History/Navee	\$ 43,800	42.89	\$ 10,000
39	Coalville City/BBQ	\$ 110,000	42.38	\$ 10,000
40	Summit County History/Navee	\$ 1,785	41.99	\$ 1,785
41	Snyderville Basin Rec - Trail	\$ 170,000	41.80	\$ 3,000
42	Peoa Recreation Special Service District	\$ 5,225	40.85	\$ 3,000
43	PC History Mine Site	\$ 50,000	37.44	\$ 5,000
44	Swanee Nature	\$ 53,942	35.38	\$ 5,000
45	Cluff House	\$ 265,000	35.11	\$ 7,000
46	Park City Chamber Music	\$ 20,000	29.21	\$ 7,000
47	Francis City	\$ 198,854	28.22	\$ 2,000
48	North Summit Recreation Special Service District	\$ 50,000	25.67	\$ 2,000
<b>TOTAL REQUESTED:</b>		<b>\$ 3,249,057</b>		<b>\$ 2,277,431</b>
<b>TOTAL FUNDS AVAILABLE 2016:</b>		<b>2,278,360.80</b>		<b>\$2,278,360.80</b>
		(1,970,888.20)		<b>929.80</b>

This year there were 48 qualifying applications requesting a total of over \$4.1 million. In comparison, last year they had 40 applications and a request for \$2.6 million. They have made specific recommendations for nearly the entire amount of \$2.27 million, so the shortfall is \$1.57 million.

Ms. Hontz stated specific restrictions for use of the funds is provided in the report that was sent to Council and they have a rationale developed about why and how the applicants should receive the money and specific restrictions that will hopefully go into their contract about how the money needs to be spent. There would be a \$929.80 reserve that they feel is an appropriate amount to carry over to the next year. She explained, due to many factors they have eight applications that have a zero dollar recommendation. Four of those, per working with the county attorney, they found do not meet the statute. The other four they didn't feel were appropriate during this cycle of funding based on how the applications came in and the tourism component. Every year is different in terms of who comes in, how much they ask for, and how many funds are available. This year there will be \$2.2 million going back into the community.

Council Member Carson asked what the purpose of the remaining \$929.80 was going forward. Ms. Hontz replied volunteers are allowed to submit travel expenses and things like that and the committee felt like it would cover any costs of the restaurant tax committee going forward. Council Member Adair asked if they underfunded a project and they really needed the total amount, do they have the opportunity to keep the money until they get the amount to fund the project, and Council Member McMullin asked if they have to spend the money in a certain amount of time. Ms. Hontz replied they have 18 months to spend it. There have been a couple of special cases. Pre-Olympics set aside money annually to go into an escrow account that was used at the appropriate time, and that was deemed appropriate by the county attorney. They are also doing that with a very similar type of scenario with the USSA regarding setting aside some money that they will need and the committee feels it's important to spend in a few years, but they don't want them to spend it now. The county holds that in escrow so the committee gives it to them this year, but the county holds it for them until the time of the ski event in 2019. She stated the committee doesn't like to hold on to too much money because the statute frowns on that and they like to get the money back in the community as soon as possible.

Council Member Carson asked if they saw any glitches that they feel need to be changed next year. Ms. Hontz replied they have worked closely with Assistant Manager Anita Lewis and discussed a couple of things that need to be changed such as some Dropbox issues, but they feel each year it's going to get better and this year was better than last year.

## **CONSIDERATION OF APPROVAL**

- **Pledge of Allegiance**

## **COUNCIL COMMENTS**

Council Member Adair stated he went to the Mountain Lands Association of Governments meeting and they reviewed the budget for Mountain Lands and it passed unanimously. Kim Carson was nominated to sit on the steering committee and he thinks she will do a great job.

## MANAGER COMMENTS

There were no manager comments.

## APPROVAL OF MINUTES

MAY 4, 2016

MAY 11, 2016

MAY 16, 2016

**Council Member Carson made a motion to approve the minutes of May 4, 2016, as written. The motion was seconded by Council Member Adair and passed unanimously, 4 to 0. Vice Chair Robinson abstained from the vote, as he was not present for the May 4, 2016 meeting.**

**Council Member McMullin made a motion to approve the minutes of May 11, 2016, as written. The motion was seconded by Council Member Adair and passed unanimously, 3 to 0. Vice Chair Robinson and Council Member Carson abstained from the vote, as they were not present for the May 11, 2016 meeting.**

**Council Member Adair made a motion to approve the minutes of May 16, 2016, as written. The motion was seconded by Vice Chair Robinson and passed unanimously, 3 to 0. Council Member Carson and Council Member McMullin abstained from the vote, as they were not present for the May 16, 2016 meeting.**

(A brief recess was taken from 4:17 p.m. to 4:33 p.m.)

Chair Armstrong called the Consideration of Approval session back to order at 4:33 p.m.

- **Discussion and possible action regarding an appeal of the Community Development Director's interpretation of a Plat Note of the Sunrise Ridge Subdivision, appellant Steve Luczak dba Kodiak, LLC; Patrick Putt**

Dave Thomas, from the County Attorney's office, presented a PowerPoint presentation to outline the legal issues and use of the Plat Note in question. Mr. Thomas stated agricultural preservation is one of the driving things behind Eastern Summit County general planning code. As part of that Eastern Summit County code there's a specialized bonus density that allows you to basically triple your density in exchange for the preservation of agricultural land and open space. The density bonus is intended to be incentive for the property owner. As a condition to any approval of getting this density bonus, there is a mandatory plat note. The purpose of the plat note is to preserve the land for agricultural use. Usually they also would require a conservation easement, and while that's preferable under the code, you can, in fact, simply have subdivision lots that are oversized lots that have the agricultural use restriction on them, as the code says: "So long as there are adequate restrictions on the agricultural preservation area for it to continue to function as continuous agricultural use."



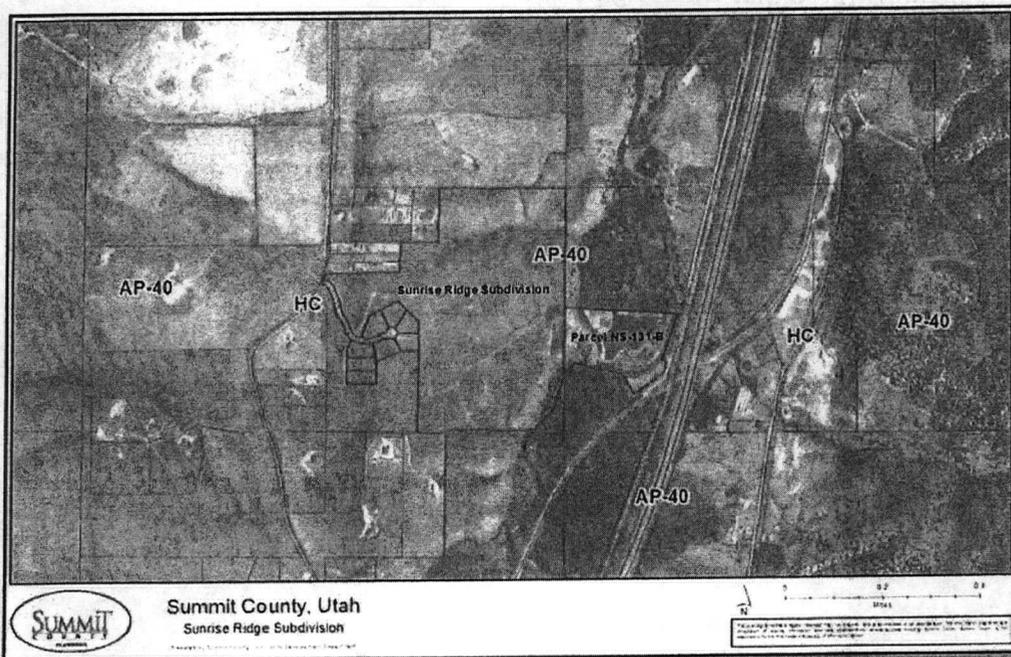
**MEMORANDUM**

**To:** Summit County Council (SCC)  
**From:** Dave Thomas, Deputy County Attorney  
Patrick Putt, Community Development Director  
**Date of Meeting:** Wednesday, June 1, 2016  
**Type of Item:** Quasi-Judicial; Appeal of Community Development Director's Determination Relating to Land Use within the Sunrise Ridge Subdivision.

On April 13, 2016, Ryan Robison of SEB Legal on behalf of Kodiak America, LLC, filed an appeal of the Summit County Community Development Director's April 7, 2016 determination regarding specific land uses within the Sunrise Ridge Subdivision. The Community Development Director determined that a motocross track and use is prohibited and constitutes a violation of Sunrise Ridge Subdivision First Amended Plat. A copy of the complete Community Development Director's determination and exhibits are attached to this memorandum. The purpose of this memorandum is to provide Council with a concise explanation and illustration of the key facts associated with the determination.

**LOCATION**

The Sunrise Ridge Subdivision is located in the Agricultural Preservation (AP) Zone approximately 1.5 miles north of Wanship, Utah between Interstate 80 and West Hoytsville Road.



## BACKGROUND

The Eastern Summit County Development Code provides an incentive density program for landowners who preserve agricultural lands within the Agricultural Protection ("AP") zone district.<sup>1</sup> As an express condition of subdivision plat approval under this program, landowners are required to place the following use restriction on the plat and on each deeded lot:

This agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for the development of residential lots [sic] was allowed in exchange for the preservation of the active and productive agricultural lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property.<sup>2</sup>

While the preferable method is to hold the agricultural lands in a conservation easement, such lands can be placed into subdivision lots "so long as there are adequate restrictions on the agricultural preservation area for it to continue to function as contiguous agricultural use."<sup>3</sup>

Agriculture is a defined term in the Code. It means

[t]he tilling of the soil, raising of crops, forage, grazing and animals/fish for commercial agricultural purposes, and not including logging, animal hospitals, recreational activity not normally associated with a farm/ranch, or similar uses. It must be demonstrated that water rights and sources exist to sustain the existing agricultural use of the property. In the case of dry farm usage, it must be demonstrated that the land has been tilled and produced a mechanically harvested crop within the immediately preceding three (3) years and that the land qualifies for greenbelt designation.<sup>4</sup>

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1. Code §11-4-9; Exhibit A. "The purpose of this section is to give property owners an option for development that will reduce county infrastructure and service costs, minimize the visual impact of development to the community, reduce access points on county roads, and preserve agricultural lands and open space. . . This option is intended to promote a pattern of development that is most likely to be consistent with the underlying community values and to encourage the preservation of agricultural lands." Code §11-4-9(A)(emphasis added).

2. Code §11-4-9(C)(4); Exhibit A.

3. Id.; Exhibit A.

4. Code, Title 11, Appendix A (Definitions); Exhibit A.

In May 2007, the County approved the Sunrise Ridge Subdivision, a 10 lot Agricultural Cluster Bonus subdivision in Wanship, Utah. The Sunrise Ridge Subdivision was amended in November 2012. The Sunrise Ridge Subdivision plat contains the following Plat Note #8:

The agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for development of residential lots numbered 1-10 was allowed in exchange for the preservation of the active and productive lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property.<sup>5</sup>

Lots 1 and 10 of the Sunrise Ridge Subdivision are oversized lots that contain the agricultural lands.<sup>6</sup> Kodiak America, LLC ("Kodiak America") acquired the Sunrise Ridge Subdivision on June 25, 2014.<sup>7</sup>

A grading permit is not a land use development permit under the Code. Rather it is an engineering permit required to ensure erosion control measures are in place when land is disturbed.<sup>8</sup> Grading permits are valid for 180 days and by their very nature, are temporary.<sup>9</sup> Grading permits do not grant land use approvals or development rights to uses or densities. Development rights are granted under Code Titles 10 (Snyderville Basin Development Code) and 11 (Eastern Summit County Development Code).

On November 18, 2014, a grading permit (Grading Permit 14-G-31) was issued to Kodiak America on Lot 1 in the Sunrise Ridge Subdivision. The grading permit was for "bike trails & new pasture space & landscaping." The grading permit was limited to a total net disturbance of 4,860 cubic yards on 6.2 acres. The grading permit expired on May 17, 2015.<sup>10</sup> According to the email which accompanied the grading permit, the issuance of such "does not constitute approval of the grading permit by the Community Development Department."<sup>11</sup>

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5. Exhibit B (Sunrise Ridge Subdivision Plat).

6. Exhibit B.

7. Exhibit C (Special Warranty Deed).

8. Code, Title 7, Chapter 2 (Excavation, Grading and Filling on Private Property); Exhibit A.

9. Code § 7-2-4; Exhibit A.

10. Exhibit D (Grading Permit 14-G-31, inclusive of site plan).

11. Exhibit E (email from Jennifer Strader, County Planner, to Heather Judd, Engineering Technician, dated November 11, 2014, referenced specifically in Grading Permit 14-G-31).

A stop work order was issued by the County Engineer on December 16, 2015 to Kodiak America indicating a violation of Title 7, Chapter 2 of the Code. Kodiak America was charged with engaging in grading activities which were (1) inconsistent with the original Grading Permit 14-G-31, in that the net disturbance amounted to ~ 250,000 cubic yards of material; (2) outside the area covered by Grading Permit 14-G-31, in that the grading occurred on an area in excess of 50 acres, encompassing not only Lot 1, but also Lot 10; and (3) occurring after the expiration of Grading Permit 14-G-31.<sup>12</sup>

On March 16, 2016, neighboring property owners filed a formal complaint with the Summit County Department of Community Development asserting that Kodiak America was operating a commercial motocross track in violation of zoning laws.<sup>13</sup>

Thereafter, the County obtained additional evidence of the use of Lots 1 and 10 of the Sunrise Ridge Subdivision for a commercial motocross track.<sup>14</sup>

On March 23, 2016, the Director issued a Cease & Desist Letter to Kodiak America prohibiting the use of lots within the Sunrise Ridge Subdivision for motocross uses, as such is not consistent with Plat Note #8 which restricts use to agricultural uses.<sup>15</sup>

Mr. Steve Luczak, a principal in Kodiak America, appeared on Fox 13 News to indicate that Kodiak America had no intention of ceasing its motocross activities. "We'll be riding our motorcycles tomorrow up here. We'll use our land as we see fit."<sup>16</sup>

On April 7, 2016, the Director issued his Use Determination Letter in accordance with Code §§11-7-11; 11-7-13(B). In accordance with Code §11-4-9, the Director found that a motocross use is prohibited and constitutes a violation of Plat Note #8 to the Sunrise Ridge Subdivision.<sup>17</sup> The Director specifically determined that a motocross track and motocross use are not agricultural uses, nor are they customarily associated with an agricultural use of the property.<sup>18</sup>

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12. Exhibit F (Stop Work Order, dated December 16, 2015). According to separate accounts, Mike Kendell and Kyle Monez, Summit County Engineering Department, and Peter Barnes, Summit County Planning Administrator, were present when Steve Luczak, Kodiak America, LLC, represented to them that ~ 250,000 cubic yards of material had been disturbed on site. Further, additional site plans submitted by Kodiak America indicate the expansion of the acreage outside of the 6.2 acre area. Exhibit G (Affidavits of Kendell, Monez, and Barnes; updated site plans, dated February 2016).

13. Exhibit H (dbs & Associates Complaint & Petition).

14. Exhibit I (advertisement photos).

15. Exhibit J (Cease & Desist Letter, March 23, 2016).

16. Exhibit K (Fox News, April 4, 2016).

17. Exhibit A.

18. Exhibit L (Use Determination Letter, April 7, 2016).

On May 3, 2016, the County Engineer ordered Kodiak America to begin restoring Lot 10 to its original pre-graded condition.<sup>19</sup>

Kodiak America filed its appeal under Code §11-7-16 on April 13, 2016. Thereafter, Mr. Luczak stated with regard to its appeal hearing that "We're just not using the track right now out of kindness, [but] if the hearing doesn't go well, we will start riding right away."<sup>20</sup>

In summary, Staff finds that

1. The Sunrise Ridge Subdivision was granted increased densities in exchange for the preservation of Lots 1 and 10 as agricultural lands. Plat Note #8 is unambiguous. Uses are restricted to agriculture; meaning farming of crops and grazing of animals, or open space purposes.
2. A motocross track and usage is not an agricultural use, nor is it customarily associated with an agricultural use. The Director's Use Determination is based upon these facts.
3. A grading permit, as a matter of state law, cannot amend or waive Plat Note #8.
4. Grading Permit 14-G-31 contemplated minimal disturbance for a bike trail, pasture, and landscaping. Instead, Kodiak America engaged in grading activities over 50 times than what was approved in the grading permit and over an area 10 times larger. Kodiak America engaged in these activities after the permit expired.
5. The County is not estopped from requiring that Kodiak America comply with Plat Note #8, nor does the doctrine of waiver apply.

#### **KODIAK AMERICA, LLC's POSITION**

Kodiak America asserts that:

1. A motocross track is not inconsistent with Plat Note #8's agricultural use restriction because "[n]early all farmers and ranchers ride motorcycles, ATV's, and/or horses on their properties."
2. The Director approved the grading permit and hence, must have interpreted the motocross track to be consistent with Plat Note #8.

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19. Exhibit M (County Engineer Letter, May 3, 2016).

20. Exhibit N (Park Record, April 30-May 3, 2016 edition).

3. The Director waived his ability "to enforce any alleged restrictions on riding motorcycles on the motocross track or anywhere on the property." Kodiak America cites to Soter's, Inc. v. Deseret Fed. Sav. & Loan Ass'n, 857 P.2d 935, 940 (Utah 1993).
4. The County Engineer does not possess the legal authority to require Kodiak America to restore Lots 1 and 10 to their pre-graded conditions.
5. The County's actions amount to a constitutional taking of Kodiak America's property.

#### DIRECTOR'S POSITION

*Plat Note #8 and Takings Jurisprudence.* In interpreting regulatory language, such as a plat note, the best evidence is the "plain language," interpreting terms according to their "ordinary and accepted meanings." One should always ensure that any interpretation reads provisions "as a whole, and interpret[s] provisions in harmony" with other related provisions. These rules of construction are more fully set forth in LeBeau v. State, 337 P.3d 254, 260 (Utah 2014). Using these rules of construction, it becomes apparent that Plat Note #8 to the Sunrise Ridge Subdivision is not ambiguous. Nonagricultural uses are prohibited on Lots 1 and 10. Such is not a "taking" of property, but rather those were the conditions of approval that afforded the landowner additional residential densities. The County has not determined that Lots 1-10 are unbuildable, but rather that outside of the residential dwelling units reserved for each lot, the uses are limited by mutual agreement. Consequently, "all economically beneficial use of the property," as a matter of law, has not been "taken."<sup>21</sup>

It is undisputed that Kodiak America is operating a motocross track on Lots 1 and 10. Motocross is defined as "a closed-course motorcycle race over natural or simulated rough terrain (as with steep inclines, hairpin turns, and mud)."<sup>22</sup> Kodiak America asserts that such a land use is the functional equivalent to ranchers and farmers using motorcycles, ATV's and horses in their agricultural operations. Staff finds such a comparison lacking merit. Motocross has nothing to do with agriculture.

Further, Utah law is clear – subdivision plats may only be amended through a specific statutory process.<sup>23</sup> The Eastern Summit County Planning District, in which the subject property lies, requires a noticed public hearing and a decision of the Eastern Summit County Planning Commission in order to amend a plat note.<sup>24</sup> Such did not occur here. A grading permit is not a

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21. Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992) (a taking lies where the government has taken "all economically beneficial uses of land"); National Parks and Conservation Association v. Board of State Lands, 869 P.2d 909, 925 (Utah 1993); Smith Investment Company v. Sandy City, 958 P.2d 245 (Utah App. 1998).

22. <http://www.merriam-webster.com/dictionary/motocross>.

23. UCA §§17-27a-608; 17-27a-609.

24. Code §11-14-18(C)(2); Exhibit A.

land use development permit. Rather, it is an engineering permit used to ensure that erosion control measures are in place when land is disturbed.<sup>25</sup> Such is not the proper vehicle to grant use, density or to amend a subdivision plat. Thus, Plat Note #8 remains the controlling legal authority prohibiting nonagricultural uses on Lots 1 and 10.

*Waiver.* Utah land use law addresses waiver utilizing specialized rules. Soter's Inc. involves a contractual dispute between private parties and is inapplicable to land use regulatory decisions.

Kodiak America asserts that the Director expressly waived Plat Note #8. However, the Director specifically did no such thing. In fact, the Community Development Department expressly stated that it was not approving the Grading Permit 14-G-31.<sup>26</sup> Further, neither the Director, nor the County Engineer through the issuance of the grading permit, or any of their respective staffs have authority to waive or modify a plat note. That authority is held by the planning commission.<sup>27</sup> As the Utah Supreme Court has stated, a local government is not bound by the representations of its employee who, having no authority whatsoever to do so, leads a landowner to believe that he can do something which is a direct departure from the provisions required by an ordinance.<sup>28</sup>

*Zoning Estoppel.* "The Utah Supreme Court has stated that equitable [or zoning] estoppel applies only when 'the county has committed an act or omission upon which developer could rely on in good faith in making substantial changes in position or incurring extensive expenses.'<sup>29</sup> However, "something beyond mere ownership of the land is required before the doctrine . . . will apply, and in most cases the doctrine will not apply absent exceptional circumstances."<sup>30</sup> The change in position must be motivated by an act or omission of local government. "The action upon which the developer claims reliance must be of a clear, definite and affirmative nature. If the claim be based on an omission of the local zoning authority, omission means negligent or culpable omission where the party failing to act was under a duty to do so. Silence or inaction will not operate to work an estoppel."<sup>31</sup> Further, zoning estoppel "may not be used as defense by one who has acted fraudulently, or in bad faith, or with knowledge."<sup>32</sup> He who comes seeking equity, as Kodiak America is doing here, must come with *clean hands*.

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25. Code §7-2-1; Exhibit A.

26. Exhibit E.

27. Code §11-14-18(C)(2); Exhibit A.

28. Dansie v. Murray City, 560 P.2d 1123, 1124 (Utah 1977).

29. Stucker v. Summit County, 870 P.2d 283, 290 (Utah App. 1994) (quoting Utah County v. Young, 615 P.2d 1265, 1267 (Utah 1980)).

30. Id.

31. Young, 615 P.2d at 1267-68.

32. Id., 615 P.2d at 1265.

Kodiak America was on actual notice of the prohibitions contained in Plat Note #8.<sup>33</sup> A grading permit does not act as a substitute for a development permit or as an amendment to a subdivision plat.<sup>34</sup> Attempting to misuse such a permit to do so has no legal effect under Utah law and is tantamount to bad faith. What's more, Kodiak America intentionally mised the County Engineer as to the scope of the excavation and grading under Grading Permit 14-G-31. Kodiak America proposed 4,860 cubic yards of net disturbance on 6.2 acres of Lot 1.<sup>35</sup> A relatively small excavation and grading activity. Without permission or permit, Kodiak America then proceeded to move upwards of 250,000 cubic yards of material spread over 50 acres of land (Lots 1 and 10). This was confirmed by documents submitted in February 2016 from Kodiak America and from conversations between Mr. Luczak and at least three separate County employees.<sup>36</sup>

Under no circumstance can Kodiak America claim the protections of either Stucker or Young. In furtherance of such unclean hands, one need only review the latest comments of Mr. Luczak: "We're just not using the track right now out of kindness, [but] if the hearing doesn't go well, we will start riding right away."<sup>37</sup> Lawlessness is the essence of bad faith.

*County Engineer without Authority.* Upon the failure of a landowner to comply with Title 7, Chapter 2, of the Code, the County Engineer has express authority to require said landowner to "restore the property to its original condition."<sup>38</sup> The County Engineer's letter of May 3, 2016 satisfies the written notice requirement of the Code.<sup>39</sup> In making its claim, apparently Kodiak America failed to read the entire chapter of the Code dealing with excavation and grading activities.

## CONCLUSIONS AND RECOMMENDATION

Kodiak America, LLC is aware of the subdivision plat restrictions on Lots 1 and 10 of the Sunrise Ridge Subdivision. Notwithstanding, it engaged in a series of development and land use actions in contradiction to Plat Note #8; while simultaneously benefitting from the agricultural bonus density without having to abide by the subdivision plat conditions. Kodiak America filed for a grading permit to excavate a relatively small area for a bike trail, pasture and landscaping.

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33. Exhibit B.

34. Code §11-14-18(C)(2); §7-2-1; Exhibit A.

35. Exhibit D.

36. Exhibit G.

37. Exhibit N.

38. Code §7-2-10(C); Exhibit A.

39. Exhibit M.

Instead, in violation of that grading permit and inconsistent with Plat Note #8, it constructed and began operations of a motocross track 10 times the size and 50 times the disturbance from what was told to the County Engineer. The plat note is unambiguous on its face. A motocross track and use is not a use customarily associated with agriculture.

Staff asks that the County Council uphold the Community Development Director's determination and direct the County Attorney's Office to prepare formal findings and conclusions of law denying the Kodiak America, LLC appeal at a subsequent Council meeting.

**Attachments:**

Letter to the Office of the Property Rights Ombudsman, dated May 9, 2016, inclusive of exhibits A-O

Power Point presentation entitled Kodiak America, Administrative Zoning Appeal

# EXHIBIT A

## CHAPTER 2

## EXCAVATION, GRADING AND FILLING ON PRIVATE PROPERTY

## SECTION:

7-2- 1:	Permit Required
7-2- 2:	Emergency Conditions
7-2- 3:	Applications
7-2- 4:	Permits
7-2- 5:	Exemptions
7-2- 6:	Fees
7-2- 7:	Completion Bond
7-2- 8:	Supervision And Inspection
7-2- 9:	Appeals
7-2-10:	Failure To Comply
7-2-11:	Penalty
7-2-12:	Specific Requirements

## 7-2-1: PERMIT REQUIRED:

- A. It shall be unlawful for any person, firm, public utility or corporation to place, make, enlarge or change any excavation, regrade existing contours or place fill on private property without complying with the provisions of this chapter and obtaining a permit as provided for herein.
- B. It shall be unlawful, and punishable as provided for herein, to make any excavation or to place any fill on private property not described in the approved permit application or which exceeds in size the dimensions or which does not conform to the conditions described in said application.
- C. Whenever the county engineer determines that any existing excavation, embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person

or agent in control of said property, upon receipt of notice in writing from the county engineer, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter. (Ord. 315-C, 5-27-2009)

7-2-2: **EMERGENCY CONDITIONS:** Emergency excavations, grading or placement of fill may be made without prior permit approval if the reason for the excavation or grading or placement fill is to prevent loss of life or damage to property which appears to be imminent, if the action is delayed by waiting to secure said permits. In such emergency situations, those making the excavation, grading or placement of fill must contact the county engineer's office at the earliest possible time, but in no case later than the first working day following the emergency work in order to secure a formal permit. None of the provisions of these specifications are waived for emergency situations except for the prior permit requirement. (Ord. 315-C, 5-27-2009)

7-2-3: **APPLICATIONS:** Applications shall be made by the owner of the property, their agents or assigns, on which the work is being done. Applications for all permits shall be made to the county engineer's office on forms provided and shall describe the:

- A. Excavation, grading, or placement of fill.
- B. Site plan of the intended excavation, fill and/or grading.
- C. Site plan containing pertinent dimensions thereof.
- D. Purpose thereof.

List the person, firm, public utility, or corporation doing the actual work and the name of the person, firm, public utility, or corporation for whom or by which the work is being done.

The application shall contain an agreement that the applicant will comply with all ordinances and laws of Summit County and the state of Utah relating to the work to be done. The application shall also provide for an agreement that the applicant shall indemnify the county for any loss, liability, or damage that may result from or because of the making, placement, existence or manner of guarding or constructing any such excavation, grading, or placement of fill.

No application shall be accepted when the intended work is for, or includes the excavation or construction of a footing or foundation for a structure regulated by the Summit County building department, or for underground utilities requiring a low impact permit from the Summit County community development department. (Ord. 315-C, 5-27-2009)

7-2-4:         **PERMITS:** All permits issued pursuant to this chapter shall be valid for a period of one hundred eighty (180) days. A copy of the permit issued shall be posted on the property in a location that is visible from the adjacent street and be available at all times when work is under way. (Ord. 315-C, 5-27-2009)

7-2-5:         **EXEMPTIONS:** The following activities are exempt from obtaining a permit and from the requirements of this chapter:

- A.    Actions by a public agency or utility, the county, or other governmental agency, to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- B.    Action by any person when the county determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- C.    Bona fide agricultural and farming operations which constitute the principal use of any parcel or tract of land located in the county and which meet the requirements of the zoning for that portion of the county in which the operation is located. (Ord. 315-C, 5-27-2009)

7-2-6:         **FEES:** A review fee, in the current amount as set by resolution of the county council, shall accompany each application for a permit. Fees must accompany the application. (Ord. 315-C, 5-27-2009)

7-2-7:         **COMPLETION BOND:** Applicants shall file a completion bond with the county engineer in the amount as set by resolution of the county council at the time the permit is approved. This may be cash, a letter of credit from an FDIC insured financial institution, or a corporate surety bond. The bond shall be valid until all work shown in the permit is

completed to guarantee that the conditions of any permit, together with any restoration work, is completed properly. The bond will be released upon recommendation of the county engineer. (Ord. 315-C, 5-27-2009)

**7-2-8: SUPERVISION AND INSPECTION:** The county engineer shall from time to time inspect all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. Notification shall be given to the county engineer at least twenty four (24) hours prior to the commencement of any work. The completion bond shall not be released without an inspection made to determine satisfaction of all applicable provisions of this chapter. (Ord. 315-C, 5-27-2009)

**7-2-9: APPEALS:** An applicant whose application has been denied or approved with conditions, may appeal the denied or imposed conditions to the county council. A notice of appeal must be filed with the county engineer's office within ten (10) days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A. An application containing the applicant's name, address and daytime telephone number;
- B. A statement describing the basis for the appeal; and
- C. The relief sought by the applicant.

The appeal shall be scheduled on the next available council meeting. (Ord. 315-C, 5-27-2009)

**7-2-10: FAILURE TO COMPLY:** In the event of failure on the part of any person, firm, public utility or corporation to comply fully with the provisions of this chapter, law enforcement authorities of Summit County are authorized to:

- A. Initiate criminal action by citation or information under section 7-2-11 of this chapter and/or proceed to forfeit bond; or
- B. Remove such installation from the right of way or require such person, firm or corporation to remove the same; or

7-2-10

7-2-11

- C. Give written notice to such person, firm, public utility or corporation to restore the property to its original condition. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the restoration work is not implemented or restored within ten (10) days after the notice is complete, said authorities may implement the restoration at the expense of the person, firm or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the property is not restored after notice was complete, in an action for that purpose; or
- D. If such person, firm, public utility or corporation refuses to restore the property, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after notice was given for its implementation in the manner provided in subsection C of this section<sup>1</sup>. (Ord. 315-C, 5-27-2009)

7-2-11: **PENALTY:**

- A. Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) per day, or a jail term of up to ninety (90) days, or by both such fine and jail term.
- B. Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah or the federal government.
- C. In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, the county shall have the right to issue a stop work order on the entire construction site, and/or take measures to restore the property to its original condition and to implement any measures necessary to bring the property into compliance with all local, state or federal requirements required by this chapter. The county shall have the right to have such work completed and/or maintained by county personnel or to hire a private contractor to perform such work at the expense of the permittee, property owner, developer or contractor responsible for such

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1. UCA 27-12-135.

July 2009

7-2-11

7-2-12

violation. The county may assess said expenses against the bond posted by the permittee or to lien the property for such expenses.

- D. It is unlawful for any person, firm, public utility, public agency, or corporation to continue any further work on the construction site after a stop work order has been issued. A violation of a stop work order is punishable as a class C misdemeanor.
- E. The county may also pursue civil remedies for a violation of this chapter. (Ord. 315-C, 5-27-2009)

7-2-12: **SPECIFIC REQUIREMENTS:** Specific standards and requirements for the enforcement of this chapter, attached to the ordinance codified herein and on file in the county office as appendix A, are made a part of this chapter by reference. (Ord. 315-C, 5-27-2009)

11-4-8

11-4-9

e. Upon approval of the county attorney and once all required signatures are obtained, the detailed final plat shall be recorded in the records of the county recorder. (Ord. 768, 3-14-2012)

**11-4-9: CLUSTER BONUS/AGRICULTURAL PRESERVATION SUB-DIVISION REVIEW:**

- A. **Purpose:** The purpose of this section is to give property owners an option for development that will reduce county infrastructure and service costs, minimize the visual impact of development to the community, reduce access points on county roads, and preserve agriculture lands and open space. In exchange, a property owner can receive an increase in the number of lots otherwise allowed. The density bonus is intended as an incentive to a property owner in exchange for the above public benefits. This option is intended to promote a pattern of development that is most likely to be consistent with the underlying community values and to encourage the preservation of agricultural lands.
- B. **Applicability:** The cluster bonus/agricultural preservation subdivision review process can be utilized to create up to two (2) times the number of lots that would otherwise be allowed based upon the base density of the parcel if at least eighty percent (80%) of the entire parcel under consideration is designated as protected for agricultural use, or three (3) times the number of lots that would otherwise be allowed based upon the density of the parcel if at least ninety percent (90%) of the entire parcel under consideration is designated as protected for agricultural use. Only density derived from the AP zone will be allowed to qualify for the bonus provisions of this section. If a parcel contains property in the HC zone, the density derived from that area will not qualify for the bonus but can be added to the subdivision. The specific number is directly related to specific parcel/lot size. To qualify for a cluster bonus/agricultural preservation subdivision, the parcel shall have been a lawfully created lot of record that is not within an existing platted subdivision. Once a lot has been created by this process, it is then no longer eligible for further subdivision.
- C. **Criteria For Approval:** Before an application for a cluster bonus/agricultural preservation incentive subdivision is approved, it shall conform to the following criteria:
1. Only property in the AP zone will be eligible for the bonus provisions of this section, but the density should be placed in the

June 2012

most appropriate location based on a site specific agricultural plan, regardless of the zoning designation.

2. The parcel of land identified in the application is actively used for agriculture purposes, as defined in this title.

3. All new lots created shall be clustered to the greatest extent possible and practical and shall be placed in locations that are most suitable to allow and enhance the continued agricultural use of the property.

4. At a minimum, there shall be a note placed on the plat and a deed restriction applied to each parcel involved in the subdivision regarding the area to be preserved for agricultural purposes, which shall include the following language:

*This agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for the development of residential lots numbered to was allowed in exchange for the preservation of the active and productive agricultural lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property.*

The preferable method of preserving land for agricultural use is to place a conservation easement on the property. The agricultural preservation area may be shown as one large agricultural parcel, or may be split into the subdivision lots so long as there are adequate restrictions on the agricultural preservation area for it to continue to function as a contiguous agricultural use.

5. Access to all new lots shall be consolidated to the greatest extent practicable and reasonable.

6. Each lot shall have legal access through a recorded right of way or easement. Access to the property from a public road must be granted by the state or county, whichever is appropriate.

7. Adequate water shall remain on site to serve the culinary needs of the proposed homes and the irrigation needs of the agricultural use of the parcel.

8. The project must comply with the development evaluation standards provided in chapter 2 of this title.

9. The project must comply with the infrastructure standards provided in chapter 6 of this title.

10. The minimum lot size will be three-fourths ( $\frac{3}{4}$ ) acre unless smaller lots are deemed more appropriate to preserve the agricultural uses on the property and are approved by the health department.

- D. **Submission Requirements:** An application for the cluster bonus/ agricultural preservation subdivision of property approval shall not be accepted as complete unless such application contains the information set forth herein; provided, however, that the CDD or designated planning staff member may request, and the applicant shall submit, such additional information as may be needed to ascertain whether such application conforms to the requirements of this title. The CDD or designated planning staff member may also determine that due to the nature of the parcel and of the subdivision proposed, some of the submission requirements can be waived in an effort to simplify the application process.

1. **Sketch Plan:** Prior to submitting a formal application for development review, an applicant shall submit a sketch plan, which shall be prepared in pen or pencil, and shall be drawn to a convenient scale of not more than one hundred feet to an inch (1" = 100'), and shall show the following information:

a. The creation date of the parcel(s) to be subdivided in accordance with the definition of a "lot of record", as defined in appendix A of this title.

b. The name of the subdivision. This name shall not duplicate the name of any plat previously recorded.

c. Name and address, including telephone number, of the legal owner, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference.

d. Legal description and location of property, including citation of any existing legal rights of way, irrigation ditches, or easements affecting the property; and existing covenants on the property, if any.

e. The approximate location, dimensions, and areas of all proposed or existing lots, existing easements, burial grounds, railroad rights of way, watercourses, and names of all existing streets or other public roads adjacent to the proposed lots.

f. A delineation of environmentally sensitive areas including, but not limited to, wetlands, and slopes exceeding thirty percent (30%), and ridgelines.

g. Identification of the means for providing water supply, power, sanitary sewage systems, collection and discharge of surface water drainage, and fire protection, including an analysis of the feasibility of connecting to a centralized sewer disposal or water systems if requested.

h. All areas within and adjacent to the project, including areas separated by a street, highway, road, right of way, railroad line, or stream or watercourse, under common ownership, shall be identified in the sketch plan.

i. A site specific agricultural plan shall be required to be submitted at the time of sketch plan. The purpose of this study will be to identify the significant features and characteristics that make the property viable for agricultural use. Development should be planned in such a way as to preserve or enhance the agricultural use of the property.

j. All contiguous property under one ownership shall be planned in a unified and comprehensive fashion and shall be included in an application for subdivision consideration and approval.

2. Final Plat: An application for final plat approval shall be submitted with a completed final subdivision plat application form. The application shall also include the following:

a. Preliminary title report covering all property located within the subdivision. The report shall be prepared or be updated to within thirty (30) days of the date of recording the subdivision plat.

b. Approval of the power company on its ability to provide service.

c. An endorsement from the county health department that on site and off site impacts of septic system development can be mitigated and its recommended mitigation measures.

d. Approval of the local fire protection district and its recommended mitigation measures.

e. Approval of the county department of public works or the Utah department of transportation for curb cuts and other roadway improvement requirements necessitated by the proposed development.

f. Approval of the county sheriff's department.

g. A detailed final plat that incorporates the following. The final plat shall be prepared by a licensed land surveyor on reproducible mylar at a scale of not more than one inch equals one hundred feet (1" = 100'). The size shall be twenty four inches by thirty six inches (24" x 36").

- (1) The locations, dimensions, and areas of all proposed lots.
- (2) Indication of the use of each lot (single-family, open space, agricultural, etc.).
- (3) The date of the plat, approximate true north point, scale, title of the subdivision, and the name of the land surveyor.
- (4) The location and dimensions of all boundary lines of the property (expressed in feet and decimals of a foot), water bodies, streams, drainage ditches, existing streets, easements, alleys, and other public ways; and building envelopes, if necessary.
- (5) All monuments erected, corners, and other points established in the field in their proper places. The material of which the monuments, corners, or other points are made shall be noted at the representation thereof or by legend; except, that lot corners need not be shown. The legend for metal monuments shall indicate the kind of metal and the diameter, length, and weight per linear foot of the monuments.
- (6) Lots shall be consecutively numbered or lettered in alphabetical order with addresses, approved by the county, for each lot.
- (7) A notation and explanation of drainage easements, site easements, and reservations, if any; and endorsement of the owner.

(8) Notation of any self-imposed and other restrictions or requirements of service providers and the community development director.

(9) Signature blocks for the county health department, county recorder, planning commission, CDD, and county engineer.

(10) Endorsement on the plat by every person having a security interest in the subdivision property that he is subordinating his liens to all covenants, servitude and easements imposed on the property, and all conditions of subdivision approval imposed by the county.

(11) A statement certifying that all lots within the proposed subdivision are buildable, and that any further subdivision of such lots, whether by deed, bequest, divorce decree, or other recorded instrument shall not result in a buildable lot.

(12) A note on the plat stating:

*All lots within this subdivision must meet all building permit requirements at the time of building permit issuance.*

(13) A note on the plat stating that no minor subdivision of the property will be allowed and that any further subdivision must comply with the major development review process.

(14) A note on the plat stating:

*The owners of property within Eastern Summit County recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. (Owners of each lot platted in this subdivision/the owner of the residence constructed upon this lot) have/has been given notice and recognizes that there are active agricultural lands and operations and rural business enterprises within Eastern Summit County and acknowledge(s) and accept(s) that, so long as such lands and operations exist, there may be dust, noise, odor,*

*prolonged work hours, use of roadways for the purposes of herding/moving animals, and other attributes associated with normal agricultural operations and rural businesses.*

(15) A note on the plat stating:

*Water has not been approved for this site. It shall be the responsibility of each lot owner to demonstrate that water of adequate quantity is available for each lot prior to the issuance of a building permit. This shall be accomplished with a memorandum of decision from the state engineer for a private well or a written commitment from a municipality or private service company.*

(16) A note on the plat stating:

*Septic or sewerage has not been approved for this site. The property owner shall demonstrate that the property can adequately support a septic system per state/county requirements or has access to an operational, approved sewer system prior to the issuance of a building permit though an approval letter from the County Health Department.*

E. Review Procedure:

1. Sketch Plan: The CDD or designated planning staff member shall review the sketch plan and identify relevant issues for the applicant to address with the final plat application and any deficiencies of information in the application. The sketch plan shall not constitute an application for development approval.

2. Final Plat:

a. The applicant shall submit an application containing all of the information required in subsection D2 of this section. The CDD or designated planning staff member shall secure input regarding the proposed development from all affected agencies and service providers. Upon receiving such information, the CDD or designated planning staff member shall prepare a report identifying issues and concerns related to the proposal.

b. After completion of the report identifying issues and concerns related to the project for the planning commission, the CDD or designated planning staff member shall schedule a public hearing before the planning commission as soon as practicable.

c. After hearing public comment, reviewing the project, comments from service providers, and the recommendation from the CDD or designated planning staff member, the planning commission shall make a recommendation to the CDD for approval, approval with conditions, or denial of the application.

d. Once the CDD approves the final plat and all applicable signatures are obtained, the county attorney will review the preliminary title report for acceptability.

e. Upon approval of the county attorney and once all required signatures are obtained, the detailed final plat shall be recorded in the records of the county recorder. (Ord. 768, 3-14-2012)

**11-4-10: MAJOR DEVELOPMENT REVIEW PROCESS:**

- A. Purpose: The major development review process shall serve as a procedure to ensure that all significant development, due to its size, type, and/or location, protects actively farmed and ranched lands, natural resources, and open space; is appropriately clustered; consolidates access; and incorporates appropriate infrastructure and design standards based on location and proximity to existing county and municipal infrastructure and service areas. It is an integrated site layout and subdivision process and is, therefore, applicable to residential, commercial, and industrial development.
- B. Applicability: The major development review process shall be used to review all development, regardless of the zone district within which it is proposed, that is not eligible for consideration under the minor subdivision of lands or cluster bonus/agricultural preservation subdivision provisions of this title. All specially planned areas shall be reviewed in accordance with this procedure.
- C. Criteria For Approval: Before an application being considered under the terms of this section can be approved, including a specially planned area plan, the application shall conform to the following criteria: (Ord. 768, 3-14-2012)

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c. Location and dimensions of all property lines, existing easements, existing streets, and other public rights of way and identification of any structures and their setbacks from the adjusted property boundaries.

d. Narrative (explanation of the lot line adjustment).

**D. Review Procedure:**

1. The CDD or designated planning staff member shall review the application and determine if the application complies with the criteria for approving a lot line adjustment as identified in this title.
2. The request will be sent to the Summit County engineering office and the Summit County recorder's office for their review and comment.
3. Final deeds reflecting the changes are required to be submitted upon request from the CDD or designated planning staff member.
4. The CDD or designated planning staff member shall prepare a "lot line adjustment" memorandum that shall be executed by the owner(s) and recorded in the records of the Summit County recorder with the final deeds and survey. (Ord. 768, 3-14-2012)

**11-4-18: AMENDMENTS TO RECORDED SUBDIVISION PLATS:**

- A. **Purpose:** The purpose of the plat amendment process is to provide a procedure for amending a recorded subdivision plat. Upon compliance with the provisions of this section and other applicable requirements of this title, an amendment to a recorded subdivision plat may be granted by the CDD, planning commission or county manager or county council.
- B. **Applicability:** The CDD, planning commission, county manager, or county council may, with or without petition, consider any proposed vacation, alteration or amendment of a subdivision plat, any portion of such subdivision plat, or any road or lot contained in such plat.
- C. **Review Procedures:**
  1. Plat amendments that result in the combination of lots and adjusting and/or altering lot lines within a platted subdivision:

a. Land Use Authority: The CDD shall be the land use authority for all plat amendments resulting in the combination of lots and adjusting and/or altering lot lines within a platted subdivision.

b. Public Hearing: The CDD or designated planning staff member shall give notice of the proposed plat amendment and associated public hearing. Notice shall be mailed to each owner of property located within three hundred feet (300') of the affected parcels. If adverse public comment concerning the proposed plat amendment is received within ten (10) days from the date of the notice, a public hearing shall be scheduled with the planning commission.

c. Recommendation: Following the public hearing, the planning commission shall make a recommendation to the CDD regarding an approval, approval with conditions or denial of the plat amendment.

d. Approval Or Denial: If no public comment is received within ten (10) days from the date of the notice, a public hearing is not required and the CDD shall approve, approve with conditions, or deny the plat amendment.

2. Plat amendments that result in building pad adjustments, subdivision title changes, plat note revisions, altering of utility easements, and all other amendments that do not affect a public or private road, lot line adjustments, or the combination of lots:

a. Land Use Authority: The planning commission shall be the land use authority for all of the above mentioned plat amendments.

b. Public Hearing: The planning commission shall hold a public hearing prior to its decision, and shall approve, approve with conditions, or deny the plat amendment.

c. Notice: Notice of the planning commission public hearing shall be given in compliance with subsection D of this section.

3. Plat amendments that alter a private road shown on a subdivision plat:

a. The planning commission shall hold a public hearing prior to its decision, and shall make a recommendation to the county manager.

b. The county manager shall approve, approve with conditions, or deny the plat amendment.

c. Notice of the public hearing shall be given in compliance with subsection D of this section.

4. Plat amendments that alter a public road shown on a subdivision plat:

a. The planning commission shall hold a public hearing, and shall thereafter make a recommendation to the county council.

b. The county council shall hold a public hearing and approve, approve with conditions, or deny the plat amendment.

c. Notice of the public hearing shall be given in compliance with subsection D of this section.

D. Required Notice Of Public Hearings For Plat Amendments:

1. The CDD or designated planning staff member shall give notice of the proposed plat amendment and associated public hearing. Notice shall be mailed to each owner of property located within three hundred feet (300') and may also be mailed to each owner of property within one thousand feet (1,000') for a representative public notice. In addition, notice may be sent to all owners within the affected plat and the affected homeowners' association. The notice shall fulfill the requirements of Utah Code Annotated sections 17-27a-207 and 17-27a-208.

2. If the proposed plat amendment involves the vacation, alteration, or amendment of a road, the CDD or designated planning staff member shall give notice of the date, place, and time of the public hearing by:

a. Mailing notice, as required in subsection D1 of this section; and

b. For public roads, publishing the notice once a week for four (4) consecutive weeks before the hearing in a newspaper of general circulation.

3. Once a petition is filed and it is determined that a public hearing is required, the land use authority shall hold the public hearing within forty five (45) days following the receipt of a complete application.

4. Any fee owner of land within a platted and recorded subdivision, as shown on the last county assessment rolls, may petition in writing to have the plat, any portion or road or lot contained therein to be vacated, altered or amended, as provided for in this section.

5. At the CDD's discretion, the public hearing requirement may be waived for plat amendments if the following criteria are met:

a. The name and address and consenting signatures of all owners of record of the land contained in the entire subdivision plat are submitted with the application; or

b. The name and address and consenting signatures of all owners of record of land adjacent to any road that is proposed to be vacated, altered or amended is submitted with the application; or

c. The signatures of all owners within the subdivision acknowledging consent to the petition is submitted with the application.

E. General Criteria:

1. Upon approval of the plat amendment, the following signatures are required on the final amended plat: CDD (only required for plat amendments resulting in the combination of lots and adjusting and/or altering lot lines); ~~county manager~~ (only required for plat amendments that alter a private road shown on a subdivision plat), county council (only required for plat amendments that alter a public road shown on a subdivision plat), planning commission (only required for plat amendments that result in building pad adjustments, subdivision title changes, plat note revisions and all other amendments that do not affect a public or private road, lot line adjustments, or the combination of lots), county recorder, county engineer, county attorney, and county assessor. A "certificate of consent" from any and all mortgagors, lienholders, or others with a real property interest in the affected parcels is also required.

2. Once the application is approved and all applicable signatures are obtained on the plat amendment, the county attorney shall review a preliminary title report for acceptability.

3. Upon approval of the county attorney, and once all required signatures are obtained, the plat amendment shall be recorded in the records of the county recorder.

- F. **Vacation By County Manager, Or County Council:** When the county manager or county council proposes to vacate, alter or amend a subdivision plat, or any road or lot within a subdivision plat, the county manager or county council shall consider the issue at a public hearing after giving notice required by this section.
- G. **Grounds For Vacating Or Amending A Plat:**
1. If the county manager or land use authority is satisfied that the public interest will not be materially injured by the proposed vacation, alteration or amendment, and there is good cause for the vacation, alteration or amendment, the county manager or land use authority, may vacate, alter or amend the plat, any portion of the plat, or any road or lot therein.
  2. No plat amendment shall be approved which results in an increase in density.
- H. **Appeal:** An aggrieved party may appeal the final decision of a plat amendment in accordance with appeals procedures set forth in section 11-7-16 of this title. (Ord. 768, 3-14-2012)

11-4-19: **CONDOMINIUM PLATS:**

- A. **Plat Requirements:** A detailed condominium plat is required in all cases which comply with the definition of "condominium" contained in appendix A of this title. A condominium plat shall contain the information required for a final site plan as identified in section 11-4-11 of this chapter. CC&Rs for the development shall be submitted for review by the Summit County attorney's office prior to recordation of the plat.
- B. **Review Procedure:** The review procedure for a condominium plat shall be the same as the review procedure for a final site plan, as outlined in section 11-4-11 of this chapter.
- C. **Issuance Of Building Permit:** Building permits for condominium units can be issued following approval of the final plat by the planning commission and county manager as provided by this chapter. The building permit will be issued based upon a certified architectural plan for the building elevation and floor plans as approved by the building official.

11-7-11

11-7-13

11-7-11: **INTERPRETATION:** The director shall be responsible for interpreting the provisions of this title. Any final decision of the director with regard to the interpretation of this title may be appealed to the board of adjustment. The appeal shall be made in writing no later than ten (10) days of the date of the decision. The appeal shall state the basis of the appeal in detail. The appeal shall be heard by the board of adjustment at a regularly scheduled meeting as soon thereafter as may be practicable. (Ord. 708, 12-10-2008)

11-7-12: **VESTED RIGHTS DETERMINATION:** It is the intent of the county to review applications for development that were made prior to the adoption of this title under the provisions of the code then in effect, so long as the application was determined to be complete prior to this title. Applications submitted after the effective date hereof shall be reviewed under the provisions herein. The county council shall develop a procedure for considering any vested rights claims that are affected by the approval of this title and to effectuate public policy favoring the settlement disputes. Said procedure may include the processing of consent agreements for the settlement of disputes pertaining to vested rights or other legal claims arising from this title. It is the intent of the county to adjudge vested rights in accordance with state law, and nothing in this section should be read or construed as suggesting a standard different from that provided by such state law. (Ord. 737, 4-14-2010)

11-7-13: **ENFORCEMENT:**

- A. **Generally:** This title may be enforced by the county by any appropriate means authorized by state law and county ordinances, including, but not limited to, injunctive relief, fines, withholding of building permits and revocation of approvals/permits.
- B. **Duties Of CDD:** It shall be the duty of the CDD or designated planning staff member to enforce these requirements and to bring to the attention of the county attorney or his designated agent any violations of this title.
- C. **Civil Enforcement:** Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of this title, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of buildings, structures or premises. These remedies shall be in addition to the penalties described above.

September 2010

11-7-13

11-7-14

- D. Stay Order: Notwithstanding any provision of this title to the contrary, in order to maintain the status quo pending the appeal of any decision hereunder or otherwise, the CDD or designated planning staff member may issue a stay order mandating that all development activities cease in accordance with the terms of the order. Said stay order may be appealed to the county council within five (5) days of the receipt thereof by an aggrieved person. (Ord. 737, 4-14-2010)

11-7-14: VIOLATIONS AND PENALTIES:

- A. Whenever under the provision of this title an act is prohibited or whenever under these regulations the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, each violation of any such provision of this title shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code. Each day a violation of these regulations continues shall constitute a separate offense, unless otherwise prohibited.
- B. The county attorney reserves the right to enforce this title using any of the remedies provided for in Utah Code Annotated section 17-27a-802.
- C. Businesses in violation of this title shall be subject to license revocation proceedings in accordance with the provisions of title 3, chapter 1 of this code. Such business shall also be subject to conditional use permit revocation proceedings in accordance with the provisions of the applicable development code. Where revocations occur, those businesses which are legal nonconforming under the current development code shall thereafter cease to be legal nonconforming uses within the county.
- D. Sexually oriented business employees in violation of this title shall be subject to license revocation proceedings. A hearing shall be afforded to the individual by the county manager, or by an official whom the manager may designate. The individual shall be given written notice of the violation and an opportunity to be heard before the county manager or designated hearing official.
- E. It shall be unlawful to submit false or materially misleading information on or with a conditional use permit application for an adult/sex oriented facility or business or to fail to disclose or omit information for the purpose of obtaining said permit.

11-7-14

11-7-16

- F. Prior to any permit or license revocation hearing, as provided for by the applicable development code, county business license ordinance<sup>1</sup>, or this title, a stay of enforcement action shall be granted, pending the outcome of the hearing and subsequent appeals, upon written application to the county by the permit or license holder. (Ord. 737, 4-14-2010)

11-7-15: **REMEDIES:** No person may challenge in district court a land use decision under this title until they have exhausted all of their administrative remedies provided herein. Any person adversely affected by any final administrative decision made pursuant to this title must file a petition for review of that final decision with the district court within thirty (30) days and comply with all other requirements of Utah Code Annotated section 17-27a-801. Failure to comply with this section of the state law divests the district court of subject matter jurisdiction to review decisions of the county. (Ord. 737, 4-14-2010)

11-7-16: **APPEAL PROCEDURES:**

- A. Appeals of administrative, commission, board of adjustment, and county council actions shall occur as follows in the appeals chart:

Decision Maker	Action	Form Of Appeal To	Appeal Period	Appellate Body	Comments
CDD		Form to the CDD	10 calendar days	County council	If the appeal is for a decision regarding a building permit, the permit shall be stayed until action is taken
Commission		Form to the CDD	10 calendar days	County council	If the appeal is for a decision regarding a CUP, the CUP shall be stayed until action is taken. The county council has to schedule the appeal within 30 days from the date of the appeal
County manager		Form to the CDD	10 calendar days	County council	

1. See title 3, chapter 1 of this code.

11-7-16

11-7-16

Decision Maker	Action	Form Of Appeal To	Appeal Period	Appellate Body	Comments
County manager	Amendments to a road within a subdivision, including road vacatlons	Court filing	30 days	District court	In accordance with Utah code, as amended
County manager	Enforcement actions	Court filing	30 days	District court	In accordance with Utah code, as amended
County council		Court filing	30 days	District court	In accordance with Utah code, as amended
Board of adjustment		Court filing	30 days	District court	In accordance with Utah code, as amended

(Ord. 730, 12-2-2009; amd. Ord. 737, 4-14-2010)

- B. An appeal of a county council action goes to district court. (Ord. 708, 12-10-2008; amd. Ord. 737, 4-14-2010)

pants, employees, customers or visitors of the principal use. No accessory use shall be allowed on any lot or parcel unless the permitted use is being actively utilized.

**ADMINISTRATIVE PERMIT:**

A permit issued by the planning staff, community development director or building official for specified uses after compliance with applicable zoning or development code regulations is determined.

**AGRICULTURE:**

The tilling of the soil, raising of crops, forage, grazing and animals/fish for commercial agricultural purposes, and not including logging, animal hospitals, recreational activity not normally associated with a farm/ranch, or similar uses. It must be demonstrated that water rights and sources exist to sustain the existing agricultural use of the property. In the case of dry farm usage, it must be demonstrated that the land has been tilled and produced a mechanically harvested crop within the immediately preceding three (3) years and that the land qualifies for greenbelt designation.

**AGRICULTURE ADVISORY BOARD:**

The agriculture advisory board (advisory board) as so designated by the county manager for the purposes of assisting in the implementation of the agricultural protection measures and incentives described in this title.

**ANCILLARY SUPPORT BUILDING:**

A building which is subordinate to a utility tower, necessary for the normal function of the utility tower and located on the same site as the utility tower.

**ANTENNA:**

Any system of wires, poles, rods, arms, reflecting disks or similar devices of various sizes, materials and shapes, including, but not limited to, solid or wire mesh dish, cone, spherical or bar configurations used for wireless transmission. Types of antennas include, but are not limited to, the following:

# EXHIBIT B



# EXHIBIT C

00997844 B: 2245 P: 1809

Page 1 of 2

Mary Ann Trussell, Summit County Utah Recorder

06/26/2014 12:51:44 PM Fee \$21.00

By INWEST TITLE SERVICES - PARK CITY

Electronically Recorded

WHEN RECORDED MAIL TO:  
STEVE LUCZAK  
2185 EAST 3380 SOUTH  
SALT LAKE CITY, UT 84109  
FILE #192984

## SPECIAL WARRANTY DEED (CORPORATE FORM)

HOME SAVINGS BANK

GRANTOR(S)

OF DRAPER, COUNTY OF SALT LAKE, STATE OF UT  
HEREBY CONVEYS AND WARRANTS AGAINST THE ACTS OF THE GRANTOR ONLY TO:

KODIAK AMERICA, LLC , A UTAH LIMITED LIABILITY COMPANY

GRANTEE(S)

OF SALT LAKE CITY, COUNTY OF SALT LAKE, STATE OF UT  
FOR THE SUM OF TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION,  
THE FOLLOWING DESCRIBED TRACT OF LAND IN SUMMIT COUNTY,  
STATE OF UTAH

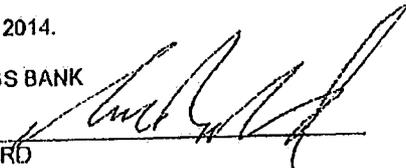
See Attached Exhibit "A"

SUBJECT TO EASEMENTS, RESTRICTIONS, ENCUMBRANCES AND RIGHTS OF WAY OF RECORD, AND  
TAXES FOR THE YEAR 2014 AND THEREAFTER.

THE OFFICERS WHO SIGN THIS DEED HEREBY CERTIFY THAT THIS DEED AND THE TRANSFER  
REPRESENTED THEREBY WAS DULY AUTHORIZED UNDER A RESOLUTION DULY ADOPTED BY THE BOARD  
OF DIRECTORS OF THE GRANTOR AT A LAWFUL MEETING DULY HELD AND ATTENDED BY A QUORUM.  
IT WITNESS WHEREOF, THE GRANTOR HAS CAUSED ITS CORPORATE NAME TO BE HEREUNTO AFFIXED  
BY ITS DULY AUTHORIZED OFFICERS THIS 23RD DAY OF JUNE, A.D., 2014

WITNESS, THE HAND(S) OF SAID GRANTOR(S), THIS 25th DAY OF June, 2014.

HOME SAVINGS BANK

  
DON C. BALLARD

STATE OF UTAH )  
                          )SS  
COUNTY OF SALT LAKE )

ON THE 25th DAY OF JUNE, 2014 PERSONALLY APPEARED BEFORE ME, DON C. BALLARD, WHO BEING  
DULY SWORN DID SAY THAT HE IS THE VICE-PRESIDENT OF HOME SAVINGS BANK AND THAT THE WITHIN  
AND FOREGOING INSTRUMENT WAS SIGNED IN BEHALF OF SAID CORPORATION BY AUTHORITY OF A  
RESOLUTION OF ITS BOARD OF DIRECTORS AND SAID DON C. BALLARD DULY ACKNOWLEDGED TO ME  
THAT SAID CORPORATION EXECUTED THE SAME.



  
KAREN KASPERICK  
NOTARY PUBLIC

  
INWEST TITLE SERVICES, INC.  
1571 W REDSTONE CNTR. DR. #110  
PARK CITY, UT 84098

## EXHIBIT "A"

PARCEL 1: (SRRDG-1-AM)  
ADDRESS: 391 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 1, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 2: (SRRDG-2-AM)  
ADDRESS: 409 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 2, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 3: (SRRDG-3-AM)  
ADDRESS: 413 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 3, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 4: (SRRDG-4-AM)  
ADDRESS: 417 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 4, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 5: (SRRDG-5-AM)  
ADDRESS: 416 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 5, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 6: (SRRDG-6-AM)  
ADDRESS: 412 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 6, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 7: (SRRDG-7-AM)  
ADDRESS: 402 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 7, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 8: (SRRDG-8-AM)  
ADDRESS: 398 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 8, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 9: (SRRDG-9-AM)  
ADDRESS: 394 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 9, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 10: (SRRDG-10-AM)  
ADDRESS: 390 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 10, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

# EXHIBIT D



Summit County Engineering Division  
Grading Permit Application

60 North Main - P.O. Box 128, Coalville, UT 84017  
Coalville (435) 336-3250 - Kamas (435) 783-4351 x 3250 - Park City (435) 615-3250  
Fax (435) 336-3043 - www.summitcounty.org/engineering

Engineering Permit # 14-G-31 Plan Check # \_\_\_\_\_ N.O.I. # \_\_\_\_\_

Applicant / Owner	<u>Kodak America</u>
Phone #	<u>801 971 4066</u>
Fax #	<u>801 - 466 0632</u>
email	<u>KodakAmerica@gmail.com</u>
Mailing Address	<u>2185 E 3580 S</u>
City	<u>SALT LAKE</u> Zip <u>84109</u>
Project Address	<u>LOT 391 Shadow Hill Rd 1800 S West Haysville</u>

Contractor	<u>Kodak America</u>
Phone #	<u>801 971-6</u>
Fax #	
email	
Mailing Address	
City	Zip

Parcel # SRRD6-1-AM

- \* The applicant shall be the party responsible for the work and to whom all communications are to be directed.
- \* Grading permits are valid for a period of 180 days from the date received.
- \* Excavation, Grading and placement of fill ("Grading") (Refer to Ordinance 315-C for Requirements and Specifications)
- \* All work under this permit requires a 48 hour notice prior to work.
- \* Grading permits are not valid for work in the County right-of-way.
- \* All restoration and a final inspection must be requested prior to expiration of permit, unless extended in writing by the Summit County Engineer.

GRADING PERMIT FEES

- \$40 per Regular Grading Application \$ \_\_\_\_\_
- \*Regular Grading (less than 5000 Cu. Yd.)
- \$110 per Engineered Grading Application \$ 110
- \*Engineered Grading (more than 5000 Cu. Yd.)

← Permit Fee \$ 185

Completion Bond \$ \_\_\_\_\_  
ECP & SWP3 Bond \$ EFA

SWP3 & ECP FEE (Area to be disturbed)

\$25 Sites of 1 Acre or less \$ 25

*via acres* \$10 per Additional Acre \$ 50

Weed Bond \$ \_\_\_\_\_  
Total Due \$ \_\_\_\_\_

BOND REQUIREMENTS

Completion Bond (120% of Estimated Cost) \$ \_\_\_\_\_

Amt Paid \$ 185

SWP3 & ECP Bond (120% of Estimated Cost) \$ \_\_\_\_\_

Balance \$ \_\_\_\_\_

Sq. Ft. Disturbed \_\_\_\_\_

Re-veg/stabilization 5.10 sq ft= \$ \_\_\_\_\_

Silt Fence \$1.50 x \_\_\_\_\_ ft= \$ \_\_\_\_\_

Flood Zone: A (X) Shaded X

\*\*Notations and/or conditions of Approval:

By applying for this permit I acknowledge that I have confirmed that I will be complying with all federal, state and local laws concerning this property and that any permit issued pursuant to my application does not grant to me the right to develop my property under any existing land use and zoning laws, nor does it supersede any federal, state or local law which prevent the grading activity for which I am applying, in the event a permit is issued erroneously. This permit is not a grant of easement or other similar interest. Applicant shall acquire easements from affected fee owners as required.

Applicant / Owner Signature: [Signature] Date \_\_\_\_\_

Engineering Approved By: [Signature] Date 11-18-14

Planning Approved By: [Signature] Date 11-11-14

Weed Dept Approved By: [Signature] Date 11-10-14

Bond Money Posted	Date Released
Completion <u>EFA</u>	_____
ECP/SWP3 <u>EFA</u>	_____
Weeds _____	_____

Exhibit 1

SUMMIT COUNTY COMMUNITY DEVELOPMENT  
DRIVEWAY GRADING PERMIT FORM

(for applicants requesting a grading permit for a driveway who do not have an approved permit prior through the Building Division)

Name of Applicant: Kodak America

Mailing Address: 2185 E 3380 S

Phone Number: 801 971 4066

Project Address/Location: 1800 S West Hoytsville rd

Parcel Serial #: SR RDG-1-A17

Project Description: Bike Trails & new Pasture  
Space & Landscaping  
New Utilities to be excavated through property

Reason For Request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I SUBMIT THAT I FULLY UNDERSTAND THAT APPROVAL FROM THE COMMUNITY DEVELOPMENT DEPARTMENT FOR A GRADING PERMIT IS NOT APPROVAL OF A BUILDING SITE LOCATION. I FURTHER UNDERSTAND THAT, UPON SUBMITTAL OF BUILDING PLANS TO THE BUILDING DIVISION, AN ALTERNATE ACCESS TO THE BUILDING SITE MAY HAVE TO BE CONSTRUCTED. FURTHERMORE, I UNDERSTAND THAT NATURAL GRADE (i.e. before any grading is done) IS USED TO CALCULATE BUILDING HEIGHT.

Dated this 8 of Sept 20, 14

Parcel Owner(s) signature: [Signature]

Please Print Name: Steve Luczak

**SUMMIT  
COUNTY  
GRADING  
PERMIT**



**APPLICANT: Kodiak America**

**ADDRESS: 391 Shadow Hill Rd**

**PERMIT NO. 14-G-31**

**DATE ISSUED: Nov. 18, 2014**

**EXPIRATION DATE: May. 17, 2015**

Summit County  
P.O. Box 128  
Coalville UT 84017

435-336-3016

Receipt No: 17.006434

Sep 9, 2014

Kodiak America

Previous Balance:	.00
SUMMIT COUNTY / ENGINEERING - 14-G-31	148.00
14-3226-000-000 ENGINEERING PERMIT FEES	
SUMMIT COUNTY / ENGINEERING - 14-G-31	37.00
10-3226-000-000 ENGINEERING PERMIT FEES	
<b>Total:</b>	<b>185.00</b>
Check - Zions	185.00
Check No: 6238	
Payor: Kodiak America	
<b>Total Applied:</b>	<b>185.00</b>
Change Tendered:	.00

09/09/2014 04:09PM

ZIONS FIRST NATIONAL BANK  
1-800-759-BANK(2265)  
ZionsBank.com

6238  
9/5/2014  
19

KODIAK AMERICA, LLC .02/05

PAY TO THE ORDER OF Summit County

one Hundred Eighty Five 00/100 \$ 185.00 DOLLARS

MEMO Grading Permit Fee

Sh J C  
AUTHORIZED SIGNATURE

⑆006238⑆ ⑆124000054⑆ 019 02503 0⑆

**Heather Judd**

---

**From:** Joni Richins  
**Sent:** Friday, November 14, 2014 10:13 AM  
**To:** Heather Judd  
**Cc:** Leslie Crawford  
**Subject:** Steve Luczak Bond

Heather,

The Luczak bond is still valid with Bank of American Fork. You can hold it in full for the new portion of the project since it is all within the same property. My suggestion is you have something in writing from Mr. Luczak stating they would like to have the bond guarantee the work on the new phase and that the bank will also guarantee the bond for the new phase.

*Joni Richins*

Assistant Technician/Secretary  
Summit County Engineering  
60 North Main Street, PO Box 128  
Coalville, UT 84017  
phone: 435-336-3250  
fax: 435-336-3043  
email: [jrichins@summitcounty.org](mailto:jrichins@summitcounty.org)

Called Steve 11-14-14

## Heather Judd

---

**From:** Jennifer Strader  
**Sent:** Tuesday, November 11, 2014 8:48 AM  
**To:** Heather Judd; Peter Barnes  
**Subject:** Re: 14-G-31

Heather,

This email confirms that the Planning Department is aware of the submittal of a grading permit referenced in your email below; however, this acknowledgement does not constitute approval of the grading permit by the Community Development Department.

Jennifer Strader  
County Planner  
435-615-3152

---

**From:** Heather Judd  
**Sent:** Monday, November 10, 2014 3:17 PM  
**To:** Jennifer Strader; Peter Barnes  
**Subject:** 14-G-31

Hi Jenn or Peter,

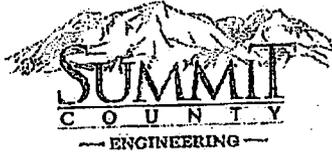
By chance have you sent an email about the motorcycle jumps (phase II) and I somehow missed it?

Thanks



*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)



County Engineering

Gary Horton, S.E.

## File Memo

TO: Office file: Bond Steve Luczak, Bank of American Fork

FROM: Joni Richins, Office Secretary *JR*

DATE: January 6, 2016

RE: 14-G-31

In reviewing the permit file 14-G-31, and then the bond file for that permit, Steve Luczak, Bank of American Fork, I questioned if the bond was still active. I made a phone call to Ryan Jones at Bank of American Fork (801-428-0802) to check on the status of the bond. Mr. Jones said the bond had expired and was no longer good. He mentioned that Mr. Luczak could easily get the bond reactivated.

It is not Summit County Engineering's responsibility to reactivate the bond, I suggest a hold be put on the project until a new bond is in place.



November 17, 2014

To: Summit County Engineering & Planning Department

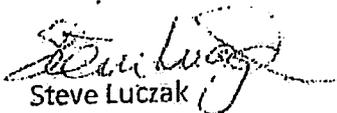
RE: This letter is in reference to a \$10,000 bond for property at 1779 E Hoytsville Road, NS-131-B for grass re-seeding

Kodiak America and Summit County Engineering agree to let bond ride while work is being done to adjacent property that was purchased by Kodiak America this summer.

Sunrise Ridge Subdivision, lots 1 and 10, legal description, SRRDG-1-am.409 Shadow Hill Road, and SRRDG-10-am.390 Shadow Hill Road.

Work to be done has been submitted in site plan, grading, and utilities. Bond will be in place until both projects are complete. Bond for grass is in the form of monies being held by Bank of American Fork, branch manager is Ryan Jones and letter of credit is on file with county.

Best Regards,

  
Steve Luczak

Kodiak America

**Heather Judd**

---

**From:** Steve (Gmail) ·  
**Sent:** Thursday, November 06, 2014 12:14 PM  
**To:** Heather Judd  
**Subject:** Grading permit

Heather I dropped by 3 new plans with corrected utility corridor, access elevations and stone wall description . . .

Thanks for your help let me know if that's all you need

Kodiak America  
Steve Luczak

Sent from my iPhone

**Heather Judd**

---

**From:** Steve (Gmail) ·  
**Sent:** Monday, November 03, 2014 7:59 PM  
**To:** Heather Judd  
**Subject:** Re: Wanship Site Plan

Heather the walls are only 3 footers terraced just to clean up any run off and dress it up a little  
Road cut is in through the berm for the purpose of future tractor access to cut pasture grass and utility area for fire hydrant and power transformer

Kodiak America  
Steve Luczak

Sent from my iPhone

On Nov 3, 2014, at 3:46 PM, Heather Judd <[hjudd@summitcounty.org](mailto:hjudd@summitcounty.org)> wrote:

Hi Steve,

I have had a chance to review the new drawings you brought in. Just have 2 questions.

1. What are the heights of the proposed retaining walls?
2. The site plan shows a proposed road cut. For a "road" we will need more information for a road such as finished grade lines. What is the road going to be used for?

<image001.jpg>

*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

---

**From:** Heather Judd  
**Sent:** Thursday, October 16, 2014 2:37 PM  
**To:** \_\_\_\_\_  
**Cc:** Leslie Crawford  
**Subject:** RE: Wanship Site Plan

Hi Steve,

I have had a chance to review the new site plan with the County Engineer.  
Here is a link to the grading Ordinance 315-C  
<http://www.summitcounty.org/DocumentCenter/View/182>.  
Below I have highlighted from the ordinance what is required to be on the drawings:

**Section 3. Grading Permit Requirements**

1. **Permits Required.** Except as exempted in Section 2 of this appendix, no person shall do any Excavation, Grading or placement of Fill material without first obtaining a Grading Permit from the County Engineer's office. A separate permit shall be obtained for each Site, and may cover Excavations, Grading and Fills.
2. **Grading Designation.** Grading in excess of 5,000 cubic yards shall be performed in accordance with the approved Grading plan prepared by a Civil Engineer, and shall be designated as "Engineered Grading." Grading involving less than 5,000 cubic yards shall be designated "Regular Grading" unless the permittee chooses to have the Grading performed as Engineered Grading, or the County Engineer determines that special condition or unusual hazards exist, in which case Grading shall conform to the requirements for Engineered Grading.
3. **Regular Grading Requirements.** Each application for a Grading permit shall be accompanied by a plan in sufficient clarity to indicate the nature and extent of the work. The plans shall give the location of the work, the name of the owner and the name of the person who prepared the plan. The plan shall include the following information:
  - (a) General vicinity of the proposed Site.
  - (b) Limiting dimensions and depth of cut and Fill.
  - (c) Location of any buildings or structures where work is to be performed and the location of any buildings or structures within 15 feet of the proposed Grading.
  - (d) Property Limits.
  - (e) Location of all drainages and any drainage devices.
  - (f) Erosion control plan and revegetation plan (See applicable sections of the Summit County Code).
  - (g) When the application is for the construction of a driveway in advance of receiving a Building Permit, the Site plan shall conform to the requirements currently set forth by policy.
  - (h) When the application is for work that may alter a potential building Site, the site plan shall conform to the requirements currently set forth by policy.

The County Engineer may require that Grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.

4. **Engineered Grading Requirements.** Application for an "Engineered Grading Permit" shall be accompanied by three sets of plans and specifications, and any other supporting data consisting of, but not limited to, a Soils Engineering report and/or Engineering Geology report if the Work is located within a known Geologic Hazard Area. The plans and specifications shall be prepared and signed by an individual licensed by the State of Utah to prepare such plans or specifications.

Specifications shall contain information covering construction and material requirements.

Plans shall be drawn to scale upon substantial paper or mylar and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this ordinance and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give location of work, the name and address of the owner and the person by whom they were prepared.

The plans shall include the following information:

- (a) General vicinity of the proposed site.
- (b) Property limits and accurate contours, at 2-foot intervals, of existing ground and details of terrain and area drainage.
- (c) Limiting dimensions, elevations or finish contours, at 2-foot intervals, to be achieved by the grading, and proposed drainage channels and related construction.
- (d) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with or as part of the proposed work together with a map showing the drainage area and the estimated run-off of the area served by any drains.
- (e) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed grading operations.
- (f) Recommendations included in the Soils Engineering report, and when the work is located within a known Geological Hazard Area, the Engineering Geology report, shall be incorporated in the grading plans or specifications. When approved by the County Engineer, specific recommendations contained in the Soils Engineering Report and the Engineering Geology Report which are applicable to grading, may be included by reference.
- (g) The dates of the Soils Engineering Report and if required, the Engineering Geology Reports, together with the names, addresses and phone numbers of the firms or individuals who prepared the reports.
- (h) Erosion control plan and revegetation plan. (See applicable sections of the Summit County Code)

5. Soils Engineering Report. The Soils Engineering Report required by Subsection 4 shall include data regarding the nature, distribution and strength of existing soils,

conclusions and recommendations for Grading procedures and design criteria for corrective measures, including buttress Fills, when necessary, and opinion on adequacy for the intended use of Sites to be developed by the proposed Grading as affected by Soils Engineering factors, including the stability of slopes.

6. Engineering Geology Report. The Engineering Geology Report If required by Subsection 4 shall include an adequate description of the geology of the Site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinion on the adequacy for the intended use of Sites to be developed by the proposed Grading, as affected by geologic factors.
7. When the application is for the construction of a driveway in advance of receiving a Building Permit, the site plan shall conform to the requirements currently set forth by policy.
8. When the application is for work that may alter a potential building Site, the site plan shall conform to the requirements currently set forth by policy.

If you have any questions please feel free to contact me.

---

**From:** Heather Judd  
**Sent:** Tuesday, September 16, 2014 4:07 PM  
**To:** \_\_\_\_\_  
**Subject:** FW: Wanship Site Plan

Hi Steve,

On the site plan it needs to indicate what is existing and what is proposed with depths of cuts and fills. Also need to show where the construction access's will be. And another reminder that no grading can take place until this permit is issued.

<image001.jpg>

*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

---

**From:** Steve (Gmail) [mailto:\_\_\_\_\_  
**Sent:** Wednesday, September 10, 2014 2:07 PM  
**To:** Heather Judd  
**Subject:** Fwd: Wanship Site Plan

Kodiak America  
Steve Luczak

Sent from my iPhone

Begin forwarded message:

From: "Nathan B. Weber, PLS" <\_\_\_\_\_>  
Date: September 5, 2014 at 2:31:00 PM MDT  
To: <\_\_\_\_\_>  
Subject: Wanship Site Plan

Attached is the site plan for your property in Wanship. Please let me know if you would like to see anything else. I can have 3 copies printed to be picked up at the office. Call and let me know when you are coming so I can be sure someone will be here.

Nathan B. Weber, PLS  
Diamond Land Surveying, LLC

**Heather Judd**

**From:** Heather Judd  
**Sent:** Monday, November 03, 2014 3:47 PM  
**To:**  
**Subject:** RE: Wanship Site Plan

Hi Steve,

I have had a chance to review the new drawings you brought in. Just have 2 questions.

1. What are the heights of the proposed retaining walls?
2. The site plan shows a proposed road cut. For a "road" we will need more information for a road such as finished grade lines. What is the road going to be used for?



*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

11-3-14  
- label contours  
- height of ret walls  
- pond??  
- road cut needs finished grades

**From:** Heather Judd  
**Sent:** Thursday, October 16, 2014 2:37 PM  
**To:**  
**Cc:** Leslie Crawford  
**Subject:** RE: Wanship Site Plan

Hi Steve,

I have had a chance to review the new site plan with the County Engineer.  
Here is a link to the grading Ordinance 315-C <http://www.summitcounty.org/DocumentCenter/View/182>.  
Below I have highlighted from the ordinance what is required to be on the drawings:

Section 3. Grading Permit Requirements

1. Permits Required. Except as exempted in Section 2 of this appendix, no person shall do any Excavation, Grading or placement of Fill material without first obtaining a Grading Permit from the County Engineer's office. A separate permit shall be obtained for each Site, and may cover Excavations, Grading and Fills.

2. Grading Designation. Grading in excess of 5,000 cubic yards shall be performed in accordance with the approved Grading plan prepared by a Civil Engineer, and shall be designated as "Engineered Grading." Grading involving less than 5,000 cubic yards shall be designated "Regular Grading" unless the permittee chooses to have the Grading performed as Engineered Grading, or the County Engineer determines that special condition or unusual hazards exist, in which case Grading shall conform to the requirements for Engineered Grading.
3. Regular Grading Requirements. Each application for a Grading permit shall be accompanied by a plan in sufficient clarity to indicate the nature and extent of the work. The plans shall give the location of the work, the name of the owner and the name of the person who prepared the plan. The plan shall include the following information:
  - (a) General vicinity of the proposed Site.
  - (b) Limiting dimensions and depth of cut and Fill.
  - (c) Location of any buildings or structures where work is to be performed and the location of any buildings or structures within 15 feet of the proposed Grading.
  - (d) Property Limits.
  - (e) Location of all drainages and any drainage devices.
  - (f) Erosion control plan and revegetation plan (See applicable sections of the Summit County Code).
  - (g) When the application is for the construction of a driveway in advance of receiving a Building Permit, the Site plan shall conform to the requirements currently set forth by policy.
  - (h) When the application is for work that may alter a potential building Site, the site plan shall conform to the requirements currently set forth by policy.

The County Engineer may require that Grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.

4. Engineered Grading Requirements. Application for an "Engineered Grading Permit" shall be accompanied by three sets of plans and specifications, and any other supporting data consisting of, but not limited to, a Soils Engineering report and/or Engineering Geology report if the Work is located within a known Geologic Hazard Area. The plans and specifications shall be prepared and signed by an individual licensed by the State of Utah to prepare such plans or specifications.

Specifications shall contain information covering construction and material requirements.

Plans shall be drawn to scale upon substantial paper or mylar and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this ordinance and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give location of work, the name and address of the owner and the person by whom they were prepared.

The plans shall include the following information:

- (a) General vicinity of the proposed Site.

(b) Property limits and accurate contours, at 2-foot intervals, of existing ground and details of terrain and area drainage.

(c) Limiting dimensions, elevations or finish contours, at 2-foot intervals, to be achieved by the Grading, and proposed drainage channels and related construction.

(d) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as part of, the proposed work together with a map showing the drainage area and the estimated run-off of the area served by any drains.

(e) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed Grading operations.

(f) Recommendations included in the Soils Engineering report, and when the Work is located within a known Geological Hazard Area, the Engineering Geology report, shall be incorporated in the Grading plans or specifications. When approved by the County Engineer, specific recommendations contained in the Soils Engineering Report and the Engineering Geology Report which are applicable to Grading, may be included by reference.

(g) The dates of the Soils Engineering Report and if required, the Engineering Geology Reports, together with the names, addresses and phone numbers of the firms or individuals who prepared the reports.

(h) Erosion control plan and revegetation plan. (See applicable sections of the Summit County Code)

5. Soils Engineering Report. The Soils Engineering Report required by Subsection 4 shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for Grading procedures and design criteria for corrective measures, including buttress Fills, when necessary, and opinion on adequacy for the Intended use of Sites to be developed by the proposed Grading as affected by Soils Engineering factors, including the stability of slopes.
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If you have any questions please feel free to contact me.

---

**From:** Heather Judd  
**Sent:** Tuesday, September 16, 2014 4:07 PM  
**To:**  
**Subject:** FW: Wanship Site Plan

Hi Steve,

On the site plan it needs to indicate what is existing and what is proposed with depths of cuts and fills. Also need to show where the construction access's will be. And another reminder that no grading can take place until this permit is issued.



*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

---

**From:** Steve (Gmail)  
**Sent:** Wednesday, September 10, 2014 2:07 PM  
**To:** Heather Judd  
**Subject:** Fwd: Wanship Site Plan

Kodlak America  
Steve Luczak

Sent from my iPhone

Begin forwarded message:

**From:** "Nathan B. Weber, PLS"  
**Date:** September 5, 2014 at 2:31:00 PM MDT

To:

Subject: Wanship Site Plan

Attached is the site plan for your property in Wanship. Please let me know if you would like to see anything else. I can have 3 copies printed to be picked up at the office. Call and let me know when you are coming so I can be sure someone will be here.

Nathan B. Weber, PLS  
Diamond Land Surveying, LLC

**Heather Judd**

---

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**Cc:** Leslie Crawford  
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If you have any questions please feel free to contact me.

---

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**Sent:** Tuesday, September 16, 2014 4:07 PM  
**To:**  
**Subject:** FW: Wanship Site Plan

Hi Steve,

On the site plan it needs to indicate what is existing and what is proposed with depths of cuts and fills. Also need to show where the construction access's will be. And another reminder that no grading can take place until this permit is issued.



*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

---

**From:** Steve (Gmail)  
**Sent:** Wednesday, September 10, 2014 2:07 PM  
**To:** Heather Judd  
**Subject:** Fwd: Wanship Site Plan

Kodiak America  
Steve Luczak

Sent from my iPhone

Begin forwarded message:

**From:** "Nathan B. Weber, PLS"  
**Date:** September 5, 2014 at 2:31:00 PM MDT  
**To:** \_\_\_\_\_  
**Subject:** Wanship Site Plan

Attached is the site plan for your property in Wanship. Please let me know if you would like to see anything else. I can have 3 copies printed to be picked up at the office. Call and let me know when you are coming so I can be sure someone will be here.

Nathan B. Weber, PLS  
Diamond Land Surveying, LLC

Heather Judd

From: Heather Judd  
Sent: Tuesday, October 14, 2014 3:36 PM  
To: Leslie Crawford  
Subject: 14-G-31 Steve Luczak motorcycle jumps in Wanship

Hi Leslie,

Mr. Luczak has brought in revised drawings of the cut and fills as you had requested. The surveyor has labeled things as existing (just because the work has already been done without a permit). He has also added some table top jumps to the site plan that have not been constructed yet. It looks like this new plan still does not show the construction access, the proposed utilities, and the pond elevations. When you have a moment to review this drawing with me (this is my first "engineered grading permit" review) please let me know. Also none of the topography is labeled to determine 2:1 grade slopes, or the depths of the cut and fills as required on an engineered permit.

Thanks



Heather Judd

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

~~soils eng report~~ ?

details, topo - labeled - 2' intervals ex/proposed.  
prop. lines 2:1 max slopes

Even though the work that has been labeled as existing is actually the proposed

ord. 315-C

SEC. 3-4

R-O-W - UTILITIES

**Heather Judd**

---

**From:** Heather Judd  
**Sent:** Tuesday, September 16, 2014 4:07 PM  
**To:**  
**Subject:** FW: Wanship Site Plan  
**Attachments:** 14-067 Kodiak Site Plan-Survey Color.pdf; ATT00001.htm; 14-067 Kodiak Site Plan-Survey.pdf; ATT00002.htm

Hi Steve;

On the site plan it needs to indicate what is existing and what is proposed with depths of cuts and fills. Also need to show where the construction access's will be. And another reminder that no grading can take place until this permit is issued.



*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

---

**From:** Steve (Gmail)  
**Sent:** Wednesday, September 10, 2014 2:07 PM  
**To:** Heather Judd  
**Subject:** Fwd: Wanship Site Plan

Kodiak America  
Steve Luczak

Sent from my iPhone

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**From:** "Nathan B. Weber, PLS"  
**Date:** September 5, 2014 at 2:31:00 PM MDT  
**To:** < >  
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Nathan B. Weber, PLS  
Diamond Land Surveying, LLC

**Heather Judd**

---

**From:** Steve (Gmail) ·  
**Sent:** Monday, September 15, 2014 5:57 PM  
**To:** Heather Judd  
**Subject:** fwd: bid

Bid from Grass Masters  
Dave Sullivan

Kodiak America  
Steve Luczak

Sent from my iPhone

Begin forwarded message:

**From:** Dave Sullivan · \_\_\_\_\_ >  
**Date:** September 15, 2014 at 4:35:21 PM MDT  
**To:** ' \_\_\_\_\_ >  
**Subject:** bid

Steve,

As per your request, listed below is the bid for your parcel SRRDG-1-AM in Wanship, Utah.

Total project size is 11.5 acres but most likely will be around 7 acres because 4 acres is already sufficiently vegetated.

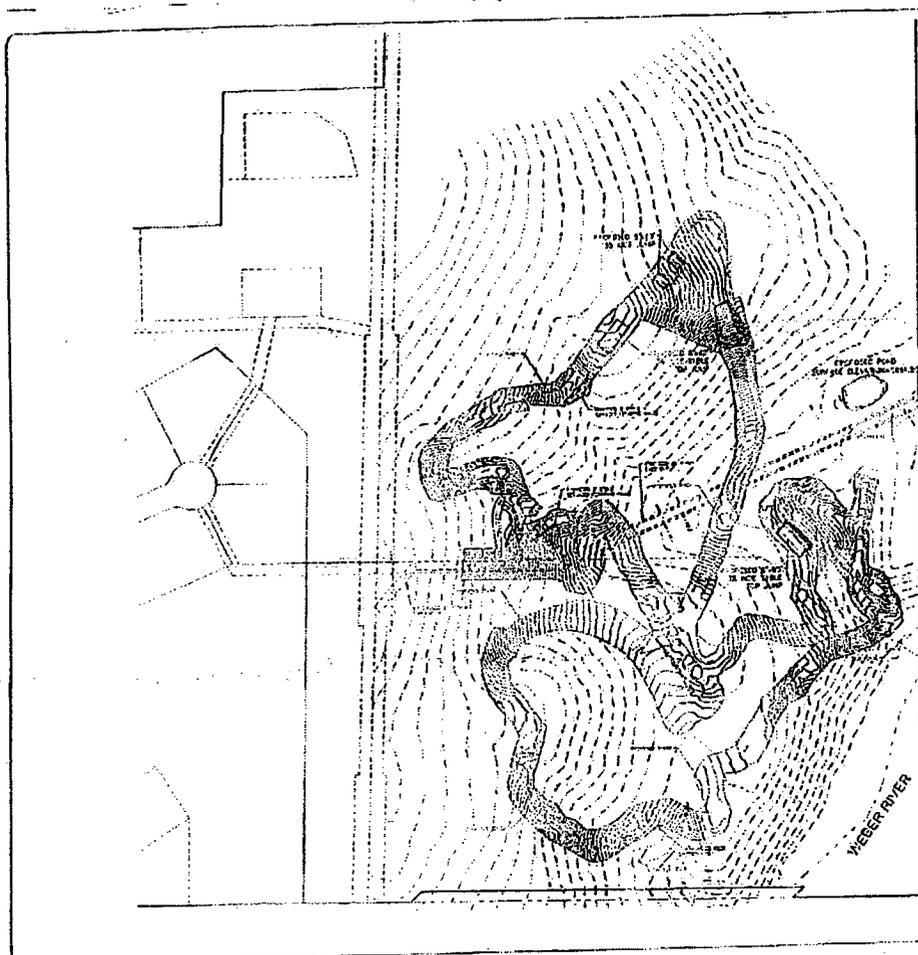
Price is .03 cents per sf.

$\$1,306.80 \text{ per acre} \times 7 \text{ Acres} = \$9,147.60$

Specifications are native grass seeded at a rate of 25 pls per acre and covered with wood fiber mulch as 1,500 lbs per acre.

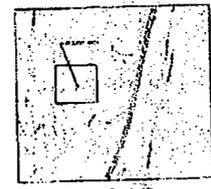
Thanks,

David Sullivan

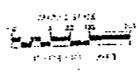


**PROPOSED TRACK**  
 CUT= 3794 CU. YD.  
 FILL= 3401 CU. YD.  
 NET= 392 (CUT) CU. YD.

**PROPOSED JUMPS**  
 FILL= 6253 CU. YD.



**VELOCITY MAP**  
 2.00 MPH  
 4.00 MPH  
 6.00 MPH  
 8.00 MPH  
 10.00 MPH  
 12.00 MPH



**LEGEND**  
 PROPOSED TRACK  
 PROPOSED JUMP  
 EXISTING ROAD  
 EXISTING TRAIL  
 EXISTING UTILITY

DATE	10/15/2010
BY	STEVE LUCEK
CHECKED BY	
SCALE	AS SHOWN
PROJECT NO.	10-00000000000000000000

THIS IS A PRELIMINARY DRAWING  
 AND SHOULD NOT BE USED FOR CONSTRUCTION  
 WITHOUT THE APPROVAL OF THE ENGINEER

<b>DIAMOND</b> LAND SURVEYING, L.L.C. 10000 S. 10000 W. 10000 SALT LAKE CITY, UT 84119 (801) 555-1000 WWW.DIAMONDLANDSURVEYING.COM	
TRACK AND SYSTEMS GRADING DESIGN WASHINGTON, UTAH <b>STEVE LUCEK</b>	
DATE PLOTTED: 10/15/2010 PLOT BY: STEVE LUCEK PLOT NO.: 1	DATE PLOTTED: 10/15/2010 PLOT BY: STEVE LUCEK PLOT NO.: 1

# EXHIBIT E

**Heather Judd**

---

**From:** Jennifer Strader  
**Sent:** Tuesday, November 11, 2014 8:48 AM  
**To:** Heather Judd; Peter Barnes  
**Subject:** Re: 14-G-31

Heather,

This email confirms that the Planning Department is aware of the submittal of a grading permit referenced in your email below; however, this acknowledgement does not constitute approval of the grading permit by the Community Development Department.

Jennifer Strader  
County Planner  
435-615-3152

---

**From:** Heather Judd  
**Sent:** Monday, November 10, 2014 3:17 PM  
**To:** Jennifer Strader; Peter Barnes  
**Subject:** 14-G-31

Hi Jenn or Peter,

By chance have you sent an email about the motorcycle jumps (phase II) and I somehow missed it?

Thanks



*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

# EXHIBIT F

SUMMIT COUNTY  
DEPARTMENT OF PUBLIC WORKS  
DIVISION OF ENGINEERING

# STOP WORK NOTICE

If you have a permit, please post it on the property and notify the Engineering Department at once.

THIS ACTIVITY IS IN VIOLATION OF:

- Excavation in County Right-of-Way without a Permit, Ordinance No. 181-D
- Driveway Encroachment without a Permit, Ordinance No. 181-D
- Structure Encroachment without a Permit, Ordinance No. 181-D
- Blockage of County Right-of-Way, Ordinance No. 181-D
- On Street Parking (November 15<sup>th</sup> to April 15<sup>th</sup>), Ordinance (Snow Removal)
- Depositing Snow on County Road from Private Property, Ordinance (Snow Removal)
- Excavating, Grading or Placement of Fill outside County Right-of-Way, Ordinance No. 315
- Construction activity prior to Final Site Plan or Subdivision Approval, (Snyderville Basin Development Code) (Eastern Summit County Development Code)
- Other: Ordinance No. 381 Storm water pollution prevention

Description of Violation: Permit expired, work outside permitted drawings

Location of Violation: Entrance site

Issued by: Kyle Monez Date: 12/16/15 Time: 11:37

YOU ARE HEREBY NOTIFIED THAT YOU MUST STOP ALL WORK ONLY WORK IN CONJUNCTION WITH RESTORATION AND/OR PROTECTION AS REQUIRED TO PROTECT AND SAFEGUARD LIFE AND PROPERTY. THIS NOTICE WILL REMAIN IN EFFECT UNTIL ALL VIOLATIONS HAVE BEEN CORRECTED AND THIS NOTICE IS ISSUED.

**Kyle Monez**  
Engineer/Technician

THE SUMMIT COUNTY ENGINEERING DIVISION

60 North Main  
PO Box 126  
Coalville, Utah 84017  
Phone (435) 336-3292  
Cell (435) 640-6623  
Fax (435) 336-3043  
kmonez@summitcounty.org



COALVILLE KAMAS  
435-336-3250 435-783-4351 Ext 3250

www.summitcounty.org/engineering

# EXHIBIT G

DAVID L. THOMAS, CHIEF CIVIL DEPUTY (7106)  
SUMMIT COUNTY ATTORNEY'S OFFICE  
60 N. Main Street  
P.O. Box 128  
Coalville, Utah 84017  
Telephone (435) 336-3206  
Facsimile (435) 336-3287  
*Attorney for Summit County Department of Community Development*

---

BEFORE THE SUMMIT COUNTY COUNCIL  
STATE OF UTAH

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In the matter of KODIAK AMERICA, LLC

:  
: AFFIDAVIT OF PETER  
: BARNES

:  
:  
: Administrative Appeal  
:  
:

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I, Peter Barnes, being duly sworn, state that I am over the age of 18, I have knowledge of all the matters of which I attest, and I am competent to give an affidavit in the above-captioned proceeding. I am the Summit County Planning Administrator and have served in that capacity since November 18, 2013.

1. I am familiar with the Kodiak America, LLC ("Kodiak America") Grading Permit 14-G-31.
2. On or about April 4, 2016, I was in a meeting with Steve Luczak, a principal in Kodiak America. During the course of the meeting, Mr. Luczak stated that Kodiak America had "spent \$1,000,000 so far . . . and moved 250,000 yards of dirt" within the Sunrise Ridge Subdivision for the motocross track.

I declare under penalty of perjury, under the laws of the State of Utah, that the foregoing is true and correct.

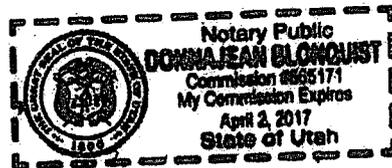
Dated this 10 day of May, 2016

  
\_\_\_\_\_  
Peter Barnes

STATE OF UTAH    )  
                          ) ss  
SUMMIT COUNTY )

The foregoing instrument was acknowledged before me this 10 day of May, 2016, by Peter Barnes.

  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



DAVID L. THOMAS, CHIEF CIVIL DEPUTY (7106)  
SUMMIT COUNTY ATTORNEY'S OFFICE  
60 N. Main Street  
P.O. Box 128  
Coalville, Utah 84017  
Telephone (435) 336-3206  
Facsimile (435) 336-3287  
*Attorney for Summit County Department of Community Development*

---

BEFORE THE SUMMIT COUNTY COUNCIL  
STATE OF UTAH

---

In the matter of KODIAK AMERICA, LLC

AFFIDAVIT OF MICHAEL  
KENDELL

Administrative Appeal

---

I, Michael Kendell, being duly sworn, state that I am over the age of 18, I have knowledge of all the matters of which I attest, and I am competent to give an affidavit in the above-captioned proceeding. I am an Engineer II, Summit County Engineering, and have served in that capacity since March 31, 2015.

1. I am familiar with the Kodiak America, LLC ("Kodiak America") Grading Permit 14-G-31.
2. On or about April 4, 2016, I was in a meeting with Steve Luczak, a principal in Kodiak America. During the course of the meeting, Mr. Luczak stated that Kodiak America had excavated, graded and filled on Lots 1 and 10 of the Sunrise Ridge Subdivision some 250,000 cubic yards of material.



DAVID L. THOMAS, CHIEF CIVIL DEPUTY (7106)  
SUMMIT COUNTY ATTORNEY'S OFFICE  
60 N. Main Street  
P.O. Box 128  
Coalville, Utah 84017  
Telephone (435) 336-3206  
Facsimile (435) 336-3287  
*Attorney for Summit County Department of Community Development*

---

**BEFORE THE SUMMIT COUNTY COUNCIL  
STATE OF UTAH**

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**In the matter of KODIAK AMERICA, LLC**

**AFFIDAVIT OF KYLE MONEZ**

**Administrative Appeal**

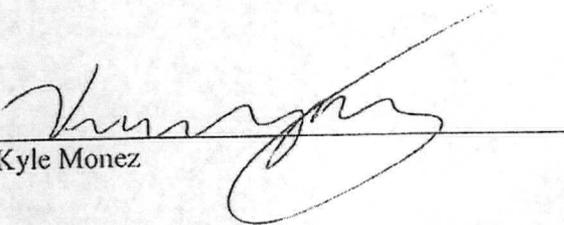
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I, Kyle Monez, being duly sworn, state that I am over the age of 18, I have knowledge of all the matters of which I attest, and I am competent to give an affidavit in the above-captioned proceeding. I am the Engineering Technician, Summit County Engineering, and have served in that capacity since June 15, 2015.

1. I am familiar with the Kodiak America, LLC ("Kodiak America") Grading Permit 14-G-31.
2. On or about April 4, 2016, I was in a meeting with Steve Luczak, a principal in Kodiak America. During the course of the meeting, Mr. Luczak stated that Kodiak America had excavated, graded and filled on Lots 1 and 10 of the Sunrise Ridge Subdivision some 250,000 cubic yards of material.

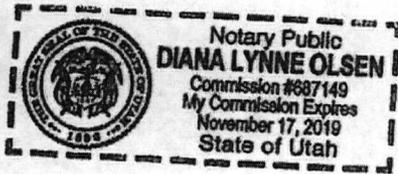
I declare under penalty of perjury, under the laws of the State of Utah, that the foregoing is true and correct.

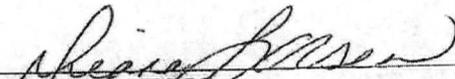
Dated this 6th day of May, 2016

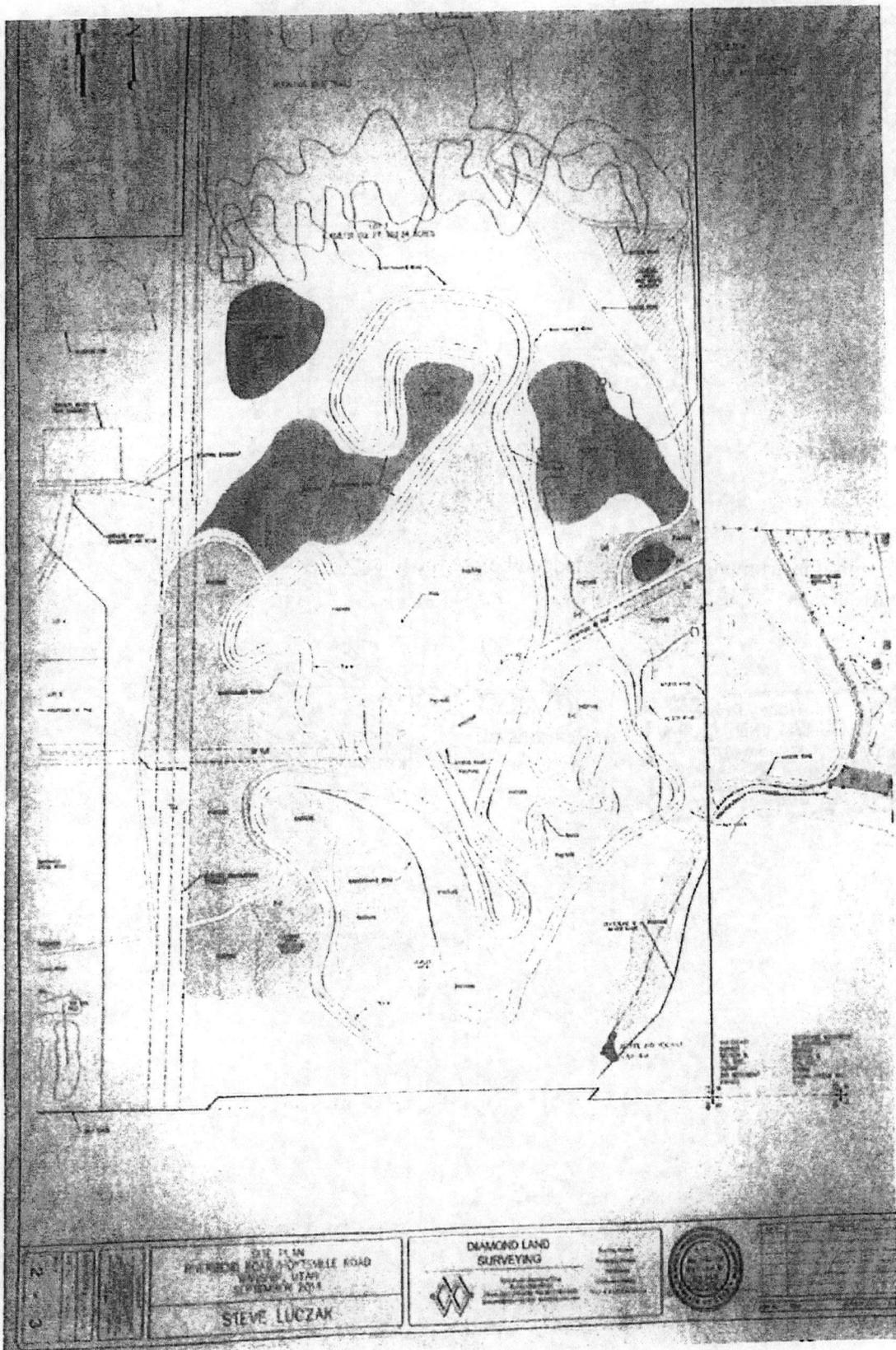
  
\_\_\_\_\_  
Kyle Monez

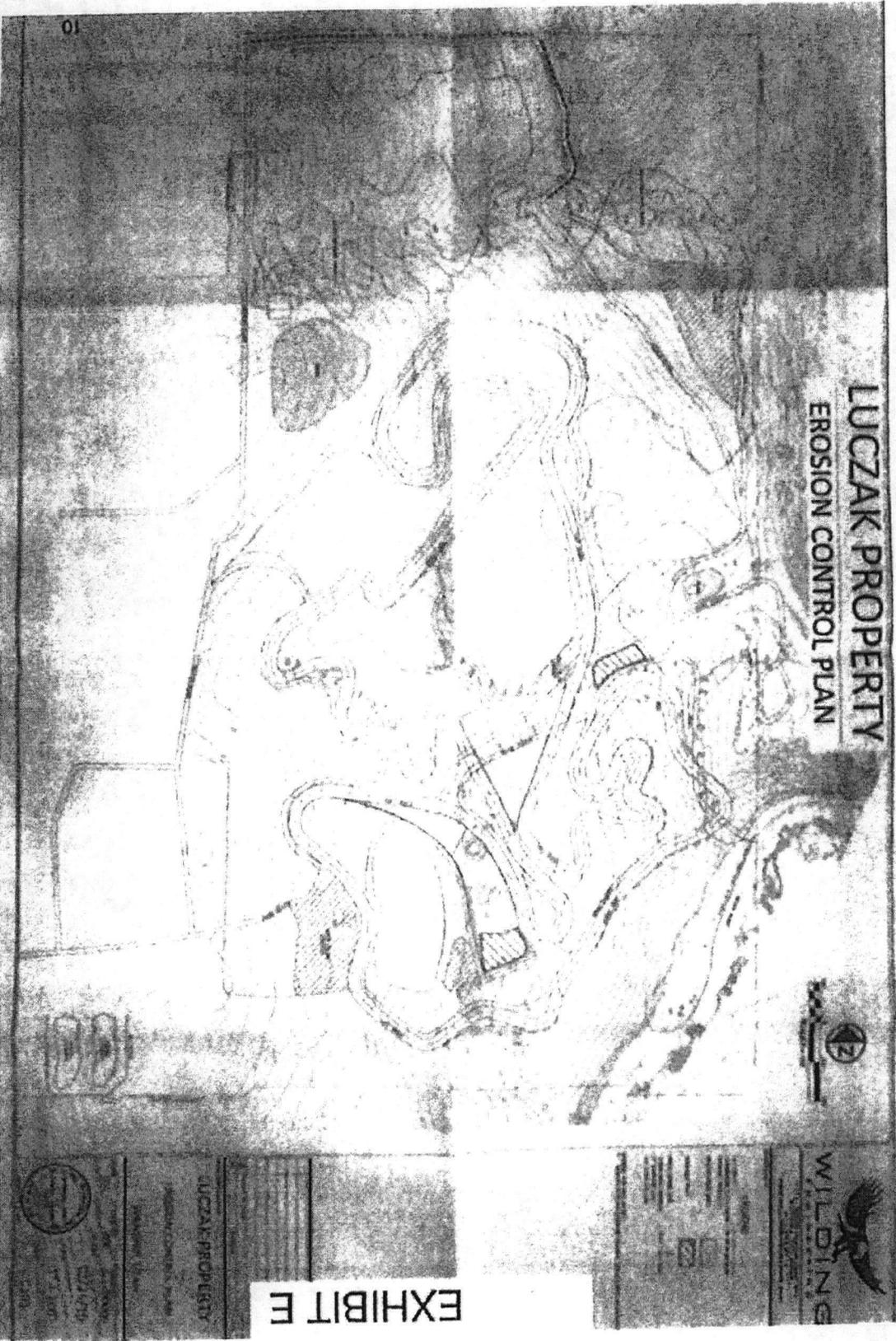
STATE OF UTAH    )  
                          ) ss  
SUMMIT COUNTY )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of May, 2016, by Kyle Monez.



  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: Summit County  
My Commission Expires: 17 Nov 2019





**LUCZAK PROPERTY**  
**EROSION CONTROL PLAN**



**EXHIBIT E**



LUCZAK PROPERTY



# EXHIBIT H



May 2, 2016

VIA EMAIL: [pputt@summitcounty.org](mailto:pputt@summitcounty.org)

Summit County Council  
c/o Patrick Putt  
P.O. Box 128  
Coalville, Utah 84017

*Re:* Response to Appeal of Land Use Decision Prohibiting Use of Agriculturally Zoned Land as a Motorcycle Track.

Dear Summit County Council:

Wrona, Gordon & DuBois and Don Sargent represent Diane and Lowell Johnson as well as numerous other parties who wish to remain anonymous (collectively, the "Johnsons") with regard to the unlawful installation and operation of a motorcycle racetrack on parcels SRRDG-1-2AM and SRRDG-10-2AM located in Wanship, Utah ("the Sunrise Ridge Subdivision") and on an adjoining parcel NS-131-B that abuts the Sunrise Subdivision (all three parcels are collectively referred to as the "Agriculturally Zoned Lands").

These three parcels are owned and managed by Kodiak America, LLC ("Kodiak"), and the two Sunrise Subdivision parcels were formed out of a single former parcel designated as SRRDG-1-AM. Kodiak's predecessor subdivided the '1-AM' Parcel in order to cluster that large parcel's residential development rights into a cul-de-sac subdivision on top of a hill at one of the parcel. In order to induce Summit County to approve of the subdivision of the parcel and the clustering of development rights on the hilltop, Kodiak's predecessor agreed to impose a development restriction on the remaining land outside to the cul-de-sac. The development restriction limited the use of that land to 'agricultural' uses, and the subdivided parcels were platted with that specific restriction. The resulting Sunrise Subdivision lands outside of the residential cul-de-sac have been subject to that restriction ever since, and the NS-131-B parcel is subject to a virtually identical restriction.

In 2014, Kodiak applied for a Grading Permit to be used solely for "bike trails and new pasture space and landscaping" on the former 1-AM Parcel. On November 18, 2014, the Summit County Engineering Department issued the Grading Permit that Kodiak had requested. But instead of installing mountain bike trails and landscaping, Kodiak installed a parking lot, a bridge

across the Weber River, an extensive riverbank redevelopment of the Weber River, and an adjoining motorcycle racetrack. Kodiak then began advertising the motorcycle racetrack as a commercial racetrack and using the racetrack for commercial purposes. The development of the Agricultural Lands has exceeded the scope of the engineering permit and has resulted in very tangible violations of Summit County's ordinances (the "County Code"). Kodiak's use of the motorcycle racetrack has likewise violated the County Code, and those violations are detailed in the letter that was submitted to Summit County on behalf of the Johnsons on March 28, 2016. See Exhibit A.

On April 7, 2016, Summit County issued a Notice of Final Land Use Decision for Sunrise Ridge Subdivision ("Land Use Decision"), which requires Kodiak to: 1) comply with the Code by ceasing construction of its illegal motorcycle race track; and 2) restore the vegetation of the agriculturally protected Sunrise Subdivision lands to its original state.

Kodiak has filed an appeal to the Land Use Decision (the "Kodiak Appeal") that consists of legally invalid arguments and factually unsupported assertions. The Johnsons have set forth below a brief response to each one of the arguments that Kodiak raises in the Kodiak Appeal.

**I. The County's Land Use Decision Does Not Violate Kodiak's Constitutional Rights.**

Kodiak alleges that Summit County has violated the Takings Clause of the United States Constitution. See Kodiak Appeal at 1-2. Specifically, Kodiak claims that the County's "Cease and Desist" Order amounts to a taking of a private property right. But Kodiak cannot identify any legitimate right that has been taken because Kodiak had previously agreed to the agricultural use restriction on its land.

The Takings Clause of the Fifth Amendment, applicable to Utah through the Fourteenth Amendment states that "private property shall not be taken for public use without just compensation." See U.S. Const. amend V. It is certainly true that the Takings Clause includes "regulatory takings" where county regulation is so strict that it deprives the property owner of legally authorized use of property. See *Diamond B-Y Ranches, v. Tooele County*, 2004 UT App 135 at ¶ 14 citing *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393. But a county regulation will only be deemed to be a taking when the "regulation denies all economically beneficial or production use of land." See *id.* (citing *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1015).

In the present case, Summit County's determination that Kodiak cannot continue to use an expired Grading Permit cannot possibly be deemed to be a Takings because the Grading Permit expired on May 17, 2015. Additionally, the County's prohibition against allowing Kodiak to build and operate a motorcycle racetrack on land that is restricted to agricultural use does not 'take' anything away from Kodiak that was not already taken when the restriction was imposed. There simply is no right being taken from Kodiak in this instance.

**II. Summit County is Authorized to Prohibit the Use of the Agriculturally Zoned Lands as a Motorcycle Racetrack.**

In the Kodiak Appeal, Kodiak alleges that it is entitled to use the motorcycle racetrack because the County Code does not specifically prohibit its use and that the County therefore has no authority to prohibit that use. See Kodiak Appeal at 2-3. But Plat Note #8 for the Sunrise

Ridge Subdivision and Section 11-4-9 of the County Code prohibit land uses that are not consistent with "agricultural and open space purposes." *See* Land Use Decision at 1-2. Indeed, Appendix A to Section 11 of the County Code specifically prohibits the use of subject lands for "recreational activity not normally associated with a farm or ranch, or similar activities."

The motorcycle racetrack has been installed smack dab in the center of an Agricultural Protection zoning area ("AP Zone"). The stated intent of the AP Zone is to allow only that use of land that "preserves, promotes, maintains, and enhances the use of land for commercial *agricultural* purposes" and that "protects and preserves natural resource areas" and that "protects and promotes the open space values of eastern Summit County." *See* Section 11-3-2 of the County Code (emphasis added). A motorcycle racetrack doesn't grow crops or feed livestock, and it doesn't preserve any natural resources or open space, either. The Agriculturally Zoned Lands were open space before the earth was excavated and developed into stadium sized jumps, but Kodiak's creation of a stadium style motorcycle racetrack on those lands violates any functional definition of 'open space.'

Summit County's Rural Agricultural Protection Program was established to "protect the right to farm in eastern Summit County and promote and encourage the preservation of agricultural lands, operations, and open space;" to "ensure that new development is undertaken in a manner that is sensitive to the rural, agricultural and small town character, and make every effort to ensure that new development will not bring change that is inconsistent with the underlying community values and resources;" and "ensure that development is compatible with wildlife habitats and environmentally sensitive areas." *See* Section 11-1-1 of the County Code. A motorcycle racetrack that resembles the "Superbowl of Motocross" does not serve these policy goals.

### **III. Summit County has Not Waived its Right to Enforce the Code.**

Kodiak argues that Summit County waived its right to prohibit the development and use of a stadium-style motocross motorcycle track when it approved the Grading Permit in 2014. But the Grading Permit only allowed Kodiak to "regrade existing contours or place fill" on 6.2 acres of land, and the Permit only authorized that limited activity until May 17, 2015. *See* Code, § 7-2-1. Moreover, the Grading Permit was issued in reliance upon Kodiak's stated purpose of building mountain bike trail and landscaping.

According to Utah law, a waiver must be 'an intentional relinquishment of a known right.' *See, e.g., Soter's, Inc. v. Deseret Fed. Sav. & Loan Ass'n*, 857 P.2d 935, 939-940 (Utah 1993). Given that what Kodiak expressly applied for was permission to build mountain biking trails and make landscaping improvements, it is absurd to suggest that the County intentionally relinquished its right to enforce the AP Zone restriction when it issued a permit to allow Kodiak to build some mountain bike trail.

### **IV. Kodiak has Designed the Motorcycle Track to be a Commercial 'Superbowl of Motocross' Style Racetrack.**

Kodiak argues that it has an unfettered right to ride motorcycles on its 'private' motocross track and invite "friends and family to the same." *See* Kodiak Appeal at 4. But even the most cursory glance at the actual racetrack reveals that is a commercial sized 'Superbowl of

Motocross' style installation, and Kodiak has the audacity to publicly advertise the racetrack (which it calls "the Flying Iron Horse Ranch" in its commercial advertisements) as a commercial training course for the Superbowl of Motocross. *See, e.g.*, 2016 Motocross Site List (Exhibit B). Even the petitions being circulated by the "Flying Iron Horse Ranch" (i.e., "Kodiak") request the County to allow the motorcycle track to bring "revenue for both Summit County and the entire state of Utah." *See* Flying Iron Horse Ranch Petition (Exhibit C). Kodiak's own petitions concede that the motorcycle track's intended use is commercial in nature.

**V. The County Council should uphold the Planning Department's Land Use Decision.**

On March 31, 2016, the Summit County Engineer issued a Stop Work Order to Kodiak for excavating without a permit. On April 7, 2016, the Summit County Planning Department issued a Cease and Desist order to stop the illegal development and use of the Agricultural Lands as a motorcycle track. Despite receiving not one, but two Stop Work Orders, Kodiak continues to develop the motocross track and race motorcycles on that track. *See* Exhibit D (documenting Kodiak's defiance of the Stop Work Orders).

The community of people who live near the Agricultural Parcels expect Summit County to require Kodiak to respect the AP Zone restriction that governs use of the Agricultural lands at issue. Attached to this letter is a copy of a petition with over 100 signatures of Kodiak's neighbors and fellow citizens who oppose the development and use of the motorcycle track in an AP Zone. *See* Exhibit E. These petitioners, including the Johnsons, request that the Summit County Council deny Kodiak's appeal, uphold the Rural Agriculture Protection Program and defend the APU Zone designation that governs the land upon which the Kodiak motorcycle track exists. Kodiak should be required to erase the illegal motorcycle racetrack from the land and thereafter restore the land to its original vegetated condition.

Respectfully Submitted,

WRONA GORDON & DUBOIS, P.C.



Joseph E. Wrona



Don B. Sargent

ROBERT K. HILDER  
COUNTY ATTORNEY



Criminal Division

MATTHEW D. BATES  
Chief Prosecutor

JOY NATALE  
Prosecuting Attorney

RYAN P. C. STACK  
Prosecuting Attorney

IVY TELLES  
Prosecuting Attorney

Summit County Courthouse \$ 60 N. Main \$ P.O. Box 128 \$ Coalville, Utah 84017  
Telephone (435) 336-3206 Facsimile (435) 336-3287  
email: (first initial)(last name)@summitcounty.org

Civil Division

DAVID L. THOMAS  
Chief Deputy

JAMI R. BRACKIN  
Deputy County Attorney

HELEN E. STRACHAN  
Deputy County Attorney

May 9, 2016

Jim Wright  
Office of the Property Rights Ombudsman  
160 East 300 South  
Box 146702  
Salt Lake City, Utah 84114-6702

Re: *Advisory Opinion Request – Kodiak America, LLC*

*Property Address: 391 Shadow Hill road & 1800 So. West Hoytsville Rd.,  
Part of Sunrise Ridge Subdivision, Wanship, Utah*

Dear Mr. Wright:

Summit County is in receipt of the above request for an advisory opinion. Summit County provides an express appellate process in its Code for reviewing administrative zoning decisions of its Director of Community Development ("Director").<sup>1</sup>

Kodiak America, LLC has appealed a use determination decision of the Director. That appeal is scheduled to be heard by the Summit County Council ("Council") on June 1, 2016.

**Background**

Summit County ("County") provides an incentive density program for landowners who preserve agricultural lands within the Agricultural Protection ("AP") zone district in Eastern Summit County.<sup>2</sup> As an express condition of subdivision plat approval under this program, landowners

1. Summit County Code ("Code") §11-7-16; Exhibit A (selected portions of the Summit County Code).

2. Code §11-4-9; Exhibit A. "The purpose of this section is to give property owners an option for development that will reduce county infrastructure and service costs, minimize the visual impact of development to the community, reduce access points on county roads, and preserve agricultural lands and open space. . . This option is intended to promote a pattern of development that is most likely to be consistent with the underlying community values and to encourage the preservation of agricultural lands." Code §11-4-9(A)(emphasis added).

are required to place the following use restriction on the plat and on each deeded lot:

This agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for the development of residential lots [sic] was allowed in exchange for the preservation of the active and productive agricultural lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property.<sup>3</sup>

While the preferable method is to hold the agricultural lands in a conservation easement, such lands can be placed into subdivision lots "so long as there are adequate restrictions on the agricultural preservation area for it to continue to function as contiguous agricultural use."<sup>4</sup>

Agriculture is a defined term in the Code. It means

[t]he tilling of the soil, raising of crops, forage, grazing and animals/fish for commercial agricultural purposes, and not including logging, animal hospitals, recreational activity not normally associated with a farm/ranch, or similar uses. It must be demonstrated that water rights and sources exist to sustain the existing agricultural use of the property. In the case of dry farm usage, it must be demonstrated that the land has been tilled and produced a mechanically harvested crop within the immediately proceeding three (3) years and that the land qualifies for greenbelt designation.<sup>5</sup>

In May 2007, the County approved the Sunrise Ridge Subdivision, a 10 lot Agricultural Cluster Bonus subdivision in Wanship, Utah. The Sunrise Ridge Subdivision was amended in November 2012. The Sunrise Ridge Subdivision plat contains the following Plat Note #8:

The agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for development of residential lots numbered 1-10 was allowed in exchange for the preservation of the active and productive lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property.<sup>6</sup>

- 
3. Code §11-4-9(C)(4); Exhibit A.
  4. Id.; Exhibit A.
  5. Code, Title 11, Appendix A (Definitions); Exhibit A.
  6. Exhibit B (Sunrise Ridge Subdivision Plat).

Lots 1 and 10 of the Sunrise Ridge Subdivision are oversized lots which contain the agricultural lands.<sup>7</sup> Kodiak America, LLC (“Kodiak America”) acquired the Sunrise Ridge Subdivision on June 25, 2014.<sup>8</sup>

A grading permit is not a land use development permit under the Code. Rather it is an engineering permit required to ensure erosion control measures are in place when land is disturbed.<sup>9</sup> Grading permits are valid for 180 days and by their very natures, are temporary.<sup>10</sup> Grading permits do not grant land use approvals or development rights to uses or densities. Development rights are granted under Code Titles 10 (Snyderville Basin Development Code) and 11 (Eastern Summit County Development Code).

On November 18, 2014, a grading permit (Grading Permit 14-G-31) was issued to Kodiak America on Lot 1 in the Sunrise Ridge Subdivision. The grading permit was for “bike trails & new pasture space & landscaping.” The grading permit was limited to a total net disturbance of 4,860 cubic yards on 6.2 acres. The grading permit expired on May 17, 2015.<sup>11</sup> According to the email which accompanied the grading permit, the issuance of such “does not constitute approval of the grading permit by the Community Development Department.”<sup>12</sup>

A stop work order was issued by the County Engineer on December 16, 2015 to Kodiak America indicating a violation of Title 7, Chapter 2 of the Code. Kodiak America was charged with engaging in grading activities which were (1) inconsistent with the original Grading Permit 14-G-31, in that the net disturbance amounted to ~ 250,000 cubic yards of material; (2) outside the area covered by Grading Permit 14-G-31, in that the grading occurred on an area in excess of 50 acres, encompassing not only Lot 1, but also Lot 10; and (3) occurring after the expiration of Grading Permit 14-G-31.<sup>13</sup>

On March 16, 2016, neighboring property owners filed a formal complaint with the Summit

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7. Exhibit B.

8. Exhibit C (Special Warranty Deed).

9. Code, Title 7, Chapter 2 (Excavation, Grading and Filling on Private Property); Exhibit A.

10. Code § 7-2-4; Exhibit A.

11. Exhibit D (Grading Permit 14-G-31, inclusive of site plan).

12. Exhibit E (email from Jennifer Strader, County Planner, to Heather Judd, Engineering Technician, dated November 11, 2014, referenced specifically in Grading Permit 14-G-31).

13. Exhibit F (Stop Work Order, dated December 16, 2015). According to separate accounts, Mike Kendell and Kyle Monez, Summit County Engineering Department, and Peter Barnes, Summit County Planning Administrator, were present when Steve Luczak, Kodiak America, LLC, represented to them that ~ 250,000 cubic yards of material had been disturbed on site. Further, additional site plans submitted by Kodiak America indicate the expansion of the acreage outside of the 6.2 acre area. Exhibit G (Affidavits of Kendell, Monez, and Barnes; updated site plans, dated February 2016).

County Department of Community Development asserting that Kodiak America was operating a commercial motocross track in violation of zoning laws.<sup>14</sup>

Thereafter, the County obtained additional evidence of the use of Lots 1 and 10 of the Sunrise Ridge Subdivision for a commercial motocross track.<sup>15</sup>

On March 23, 2016, the Director issued a Cease & Desist Letter to Kodiak America prohibiting the use of lots within the Sunrise Ridge Subdivision for motocross uses, as such is not consistent with Plat Note #8 which restricts use to agricultural uses.<sup>16</sup>

Mr. Steve Luczak, a principal in Kodiak America, appeared on Fox 13 News to indicate that Kodiak America had no intention of ceasing its motocross activities. "We'll be riding our motorcycles tomorrow up here. We'll use our land as we see fit."<sup>17</sup>

On April 7, 2016, the Director issued his Use Determination Letter in accordance with Code §§11-7-11; 11-7-13(B). In accordance with Code §11-4-9, the Director found that a motocross use is prohibited and constitutes a violation of Plat Note #8 to the Sunrise Ridge Subdivision.<sup>18</sup> The Director specifically determined that a motocross track and motocross use are not agricultural uses, nor are they customarily associated with an agricultural use of the property.<sup>19</sup>

On May 3, 2016, the County Engineer ordered Kodiak America to begin restoring Lot 10 to its original pre-graded condition.<sup>20</sup>

Kodiak America filed its appeal under Code §11-7-16, which appeal hearing is set for June 1, 2016. Thereafter, Mr. Luczak stated with regard to its appeal hearing that "We're just not using the track right now out of kindness, [but] if the hearing doesn't go well, we will start riding right away."<sup>21</sup> Thus demonstrating the lawless attitude which has pervaded throughout the actions of Kodiak America.

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14. Exhibit H (dbs & Associates Complaint & Petition).

15. Exhibit I (advertisement photos).

16. Exhibit J (Cease & Desist Letter, March 23, 2016).

17. Exhibit K (Fox News, April 4, 2016).

18. Exhibit A.

19. Exhibit L (Use Determination Letter, April 7, 2016).

20. Exhibit M (County Engineer Letter, May 3, 2016).

21. Exhibit N (Park Record, April 30-May 3, 2016 edition).

## Summary of Position

The Sunrise Ridge Subdivision was granted increased densities in exchange for the preservation of Lots 1 and 10 as agricultural lands. Plat Note #8 is unambiguous. Uses are restricted to agriculture; meaning, farming crops and grazing animals.

A motocross track and usage is not an agricultural use, nor is it customarily associated with an agricultural use. The Director's Use Determination is based upon these facts.

A grading permit, as a matter of state law, cannot amend or waive Plat Note #8.

Further, Grading Permit 14-G-31 contemplated minimal disturbance for a bike trail, pasture and landscaping. Instead, Kodiak America engaged in grading activities over 50 times greater than what was approved in the grading permit and over an area 10 times larger. Kodiak America engaged in these activities after the permit had expired. Kodiak America does not come with "clean hands."

The County is not estopped from requiring that Kodiak America comply with Plat Note #8, nor does the doctrine of waiver apply. Those seeking equity must come with "clean hands." Kodiak America knew of the Plat Note restriction and misrepresented the scope of their grading activities to the County Engineer.

## Kodiak America's Position

Kodiak America asserts that:

1. A motocross track is not inconsistent with Plat Note #8's agricultural use restriction because "[n]early all farmers and ranchers ride motorcycles, ATV's, and/or horses on their properties."
2. The Director approved the grading permit and hence, must have interpreted the motocross track to be consistent with Plat Note #8.
3. The Director waived his ability "to enforce any alleged restrictions on riding motorcycles on the motocross track or anywhere on the property." Kodiak America cites to Soter's, Inc. v. Deseret Fed. Sav. & Loan Ass'n, 857 P.2d 935, 940 (Utah 1993).
4. The County Engineer does not possess the legal authority to require Kodiak America to restore Lots 1 and 10 to their pre-graded conditions.
5. The County's actions amount to a constitutional taking of Kodiak America's property.

## County's Position

*Plat Note #8 and Takings Jurisprudence.* In interpreting regulatory language, such as a plat note, the best evidence is the "plain language," interpreting terms according to their "ordinary and accepted meanings." One should always ensure that any interpretation reads provisions "as a whole, and interpret[s] provisions in harmony" with other related provisions. These rules of construction are more fully set forth in LeBeau v. State, 337 P.3d 254, 260 (Utah 2014). Using these rules of construction, it becomes apparent that Plat Note #8 to the Sunrise Ridge Subdivision is not ambiguous. Nonagricultural uses are prohibited on Lots 1 and 10. Such is not a "taking" of property, but rather those were the conditions of approval that afforded the landowner additional residential densities. The County has not determined that Lots 1-10 are unbuildable, but rather that outside of the residential dwelling units reserved for each lot, the uses are limited by mutual agreement. Consequently, "all economically beneficial use of the property," as a matter of law, has not been "taken."<sup>22</sup>

It is undisputed that Kodiak America is operating a motocross track on Lots 1 and 10. Motocross is defined as "a closed-course motorcycle race over natural or simulated rough terrain (as with steep inclines, hairpin turns, and mud)."<sup>23</sup> Kodiak America asserts that such a land use is the functional equivalent to ranchers and farmers using motorcycles, ATV's and horses in their agricultural operations. Such a comparison is nonsensical. Motocross has nothing to do with agriculture. A simple visual inspection of the motocross track in question answers the inquiry.<sup>24</sup> Kodiak America's disingenuous argument as to use is indicative of the attitude with which it has treated the County and its neighbors.

Further, Utah law is clear – subdivision plats may only be amended through a specific statutory process.<sup>25</sup> The Eastern Summit County Planning District, in which the subject property lies, requires a noticed public hearing and a decision of the Eastern Summit County Planning Commission in order to amend a plat note.<sup>26</sup> Such did not occur here. A grading permit is not a land use development permit. Rather, it is an engineering permit used to ensure that erosion control measures are in place when land is disturbed.<sup>27</sup> Such is not the proper vehicle to grant use, density or to amend a subdivision plat. Thus, Plat Note #8 remains the controlling legal authority prohibiting nonagricultural uses on Lots 1 and 10.

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22. Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992) (a taking lies where the government has taken "all economically beneficial uses of land"); National Parks and Conservation Association v. Board of State Lands, 869 P.2d 909, 925 (Utah 1993); Smith Investment Company v. Sandy City, 958 P.2d 245 (Utah App. 1998).

23. <http://www.merriam-webster.com/dictionary/motocross>.

24. Exhibit O (Photographs of Kodiak America's motocross track, Wanship, Utah).

25. UCA §§17-27a-608; 17-27a-609.

26. Code §11-14-18(C)(2); Exhibit A.

27. Code §7-2-1; Exhibit A.

*Waiver.* Utah land use law addresses waiver utilizing specialized rules. Soter's Inc. involves a contractual dispute between private parties and is inapplicable to land use regulatory decisions.

Kodiak America asserts that the Director expressly waived Plat Note #8. However, the Director specifically did no such thing. In fact, the Department of Community Development expressly stated that it was not approving the Grading Permit 14-G-31.<sup>28</sup> Further, neither the Director, nor the County Engineer through the issuance of the grading permit, or any of their respective staffs have authority to waive or modify a plat note. That authority is held by the planning commission.<sup>29</sup> As the Utah Supreme Court has stated, a local government is not bound by the representations of its employee who, having no authority whatsoever to do so, leads a landowner to believe that he can do something which is a direct departure from the provisions required by an ordinance.<sup>30</sup>

*Zoning Estoppel.* "The Utah Supreme Court has stated that equitable [or zoning] estoppel applies only when 'the county has committed an act or omission upon which developer could rely on in good faith in making substantial changes in position or incurring extensive expenses.'<sup>31</sup> However, "something beyond mere ownership of the land is required before the doctrine . . . will apply, and in most cases the doctrine will not apply absent exceptional circumstances."<sup>32</sup> The change in position must be motivated by an act or omission of local government. "The action upon which the developer claims reliance must be of a clear, definite and affirmative nature. If the claim be based on an omission of the local zoning authority, omission means negligent or culpable omission where the party failing to act was under a duty to do so. Silence or inaction will not operate to work an estoppel."<sup>33</sup> Further, zoning estoppel "may not be used as defense by one who has acted fraudulently, or in bad faith, or with knowledge."<sup>34</sup> He who comes seeking equity, as Kodiak America is doing here, must come with *clean hands*.

Kodiak America was on actual notice of the prohibitions contained in Plat Note #8.<sup>35</sup> A grading permit does not act as a substitute for a development permit or as an amendment to a subdivision

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28. Exhibit E.

29. Code §11-14-18(C)(2); Exhibit A.

30. Dansie v. Murray City, 560 P.2d 1123, 1124 (Utah 1977).

31. Stucker v. Summit County, 870 P.2d 283, 290 (Utah App. 1994) (quoting Utah County v. Young, 615 P.2d 1265, 1267 (Utah 1980)).

32. Id.

33. Young, 615 P.2d at 1267-68.

34. Id., 615 P.2d at 1265.

35. Exhibit B.

plat.<sup>36</sup> Attempting to misuse such a permit to do so has no legal effect under Utah law and is tantamount to *bad faith*. What's more, Kodiak America intentionally *mised* the County Engineer as to the scope of the excavation and grading under Grading Permit 14-G-31. Kodiak America proposed 4,860 cubic yards of net disturbance on 6.2 acres of Lot 1.<sup>37</sup> A relatively small excavation and grading activity. Without permission or permit, Kodiak America then proceeded to move upwards of 250,000 cubic yards of material spread over 50 acres of land (Lots 1 and 10). This was confirmed by documents submitted in February 2016 from Kodiak America and from conversations between Mr. Luczak and at least three separate County employees.<sup>38</sup>

Under no circumstance can Kodiak America claim the protections of either *Stucker* or *Young*. In furtherance of such unclean hands, one need only review the latest comments of Mr. Luczak: "We're just not using the track right now out of kindness, [but] if the hearing doesn't go well, we will start riding right away."<sup>39</sup> Lawlessness is the essence of bad faith.

*County Engineer without Authority.* Upon the failure of a landowner to comply with Title 7, Chapter 2, of the Code, the County Engineer has express authority to require said landowner to "restore the property to its original condition."<sup>40</sup> The County Engineer's letter of May 3, 2016 satisfies the written notice requirement of the Code.<sup>41</sup> In making its claim, apparently Kodiak America failed to read the entire chapter of the Code dealing with excavation and grading activities.

## Conclusion

Kodiak America is a tale of a landowner who knew the restrictions on Lots 1 and 10 of the Sunrise Ridge Subdivision. Notwithstanding, it engaged in a series of actions deliberately designed to circumvent Plat Note #8 and simultaneously gain the windfall from the agricultural bonus density without having to abide by its conditions. Kodiak America filed for a grading permit to excavate a relatively small area for a bike trail, pasture and landscaping. Instead, in violation of that grading permit and inconsistent with Plat Note #8, it constructed and began operations of a motocross track 10 times the size and 50 times the disturbance from what was told to the County Engineer. Having acted with unclean hands, equity is unavailable to Kodiak America. The plat note is unambiguous on its face. A motocross track and use is not a use

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36. Code §11-14-18(C)(2); §7-2-1; Exhibit A.

37. Exhibit D.

38. Exhibit G.

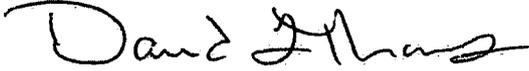
39. Exhibit N.

40. Code §7-2-10(C); Exhibit A.

41. Exhibit M.

customarily associated with agriculture. Only novices to land use law in Utah would suggest that living up to the commitments that were made on property is tantamount to a "taking."

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Thomas". The signature is fluid and cursive, with the first name "David" being the most prominent.

David L. Thomas  
Chief Civil Deputy

enclosures: Exhibits A-O

cc: Sam Bell  
Thomas C. Fisher, County Manager  
Patrick Putt, Community Development Director  
Gary Horton, County Engineer

# EXHIBIT A

## CHAPTER 2

**EXCAVATION, GRADING AND FILLING ON PRIVATE PROPERTY**

## SECTION:

7-2- 1:	Permit Required
7-2- 2:	Emergency Conditions
7-2- 3:	Applications
7-2- 4:	Permits
7-2- 5:	Exemptions
7-2- 6:	Fees
7-2- 7:	Completion Bond
7-2- 8:	Supervision And Inspection
7-2- 9:	Appeals
7-2-10:	Failure To Comply
7-2-11:	Penalty
7-2-12:	Specific Requirements

7-2-1: **PERMIT REQUIRED:**

- A. It shall be unlawful for any person, firm, public utility or corporation to place, make, enlarge or change any excavation, regrade existing contours or place fill on private property without complying with the provisions of this chapter and obtaining a permit as provided for herein.
- B. It shall be unlawful, and punishable as provided for herein, to make any excavation or to place any fill on private property not described in the approved permit application or which exceeds in size the dimensions or which does not conform to the conditions described in said application.
- C. Whenever the county engineer determines that any existing excavation, embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person

or agent in control of said property, upon receipt of notice in writing from the county engineer, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter. (Ord. 315-C, 5-27-2009)

7-2-2:       **EMERGENCY CONDITIONS:** Emergency excavations, grading or placement of fill may be made without prior permit approval if the reason for the excavation or grading or placement fill is to prevent loss of life or damage to property which appears to be imminent, if the action is delayed by waiting to secure said permits. In such emergency situations, those making the excavation, grading or placement of fill must contact the county engineer's office at the earliest possible time, but in no case later than the first working day following the emergency work in order to secure a formal permit. None of the provisions of these specifications are waived for emergency situations except for the prior permit requirement. (Ord. 315-C, 5-27-2009)

7-2-3:       **APPLICATIONS:** Applications shall be made by the owner of the property, their agents or assigns, on which the work is being done. Applications for all permits shall be made to the county engineer's office on forms provided and shall describe the:

- A.   Excavation, grading, or placement of fill.
- B.   Site plan of the intended excavation, fill and/or grading.
- C.   Site plan containing pertinent dimensions thereof.
- D.   Purpose thereof.

List the person, firm, public utility, or corporation doing the actual work and the name of the person, firm, public utility, or corporation for whom or by which the work is being done.

The application shall contain an agreement that the applicant will comply with all ordinances and laws of Summit County and the state of Utah relating to the work to be done. The application shall also provide for an agreement that the applicant shall indemnify the county for any loss, liability, or damage that may result from or because of the making, placement, existence or manner of guarding or constructing any such excavation, grading, or placement of fill.

No application shall be accepted when the intended work is for, or includes the excavation or construction of a footing or foundation for a structure regulated by the Summit County building department, or for underground utilities requiring a low impact permit from the Summit County community development department. (Ord. 315-C, 5-27-2009)

7-2-4:           **PERMITS:** All permits issued pursuant to this chapter shall be valid for a period of one hundred eighty (180) days. A copy of the permit issued shall be posted on the property in a location that is visible from the adjacent street and be available at all times when work is under way. (Ord. 315-C, 5-27-2009)

7-2-5:           **EXEMPTIONS:** The following activities are exempt from obtaining a permit and from the requirements of this chapter:

- A.    Actions by a public agency or utility, the county, or other governmental agency, to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- B.    Action by any person when the county determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- C.    Bona fide agricultural and farming operations which constitute the principal use of any parcel or tract of land located in the county and which meet the requirements of the zoning for that portion of the county in which the operation is located. (Ord. 315-C, 5-27-2009)

7-2-6:           **FEES:** A review fee, in the current amount as set by resolution of the county council, shall accompany each application for a permit. Fees must accompany the application. (Ord. 315-C, 5-27-2009)

7-2-7:           **COMPLETION BOND:** Applicants shall file a completion bond with the county engineer in the amount as set by resolution of the county council at the time the permit is approved. This may be cash, a letter of credit from an FDIC insured financial institution, or a corporate surety bond. The bond shall be valid until all work shown in the permit is

completed to guarantee that the conditions of any permit, together with any restoration work, is completed properly. The bond will be released upon recommendation of the county engineer. (Ord. 315-C, 5-27-2009)

7-2-8:           **SUPERVISION AND INSPECTION:** The county engineer shall from time to time inspect all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. Notification shall be given to the county engineer at least twenty four (24) hours prior to the commencement of any work. The completion bond shall not be released without an inspection made to determine satisfaction of all applicable provisions of this chapter. (Ord. 315-C, 5-27-2009)

7-2-9:           **APPEALS:** An applicant whose application has been denied or approved with conditions, may appeal the denied or imposed conditions to the county council. A notice of appeal must be filed with the county engineer's office within ten (10) days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A.     An application containing the applicant's name, address and daytime telephone number;
- B.     A statement describing the basis for the appeal; and
- C.     The relief sought by the applicant.

The appeal shall be scheduled on the next available council meeting. (Ord. 315-C, 5-27-2009)

7-2-10:           **FAILURE TO COMPLY:** In the event of failure on the part of any person, firm, public utility or corporation to comply fully with the provisions of this chapter, law enforcement authorities of Summit County are authorized to:

- A.     Initiate criminal action by citation or information under section 7-2-11 of this chapter and/or proceed to forfeit bond; or
- B.     Remove such installation from the right of way or require such person, firm or corporation to remove the same; or

- C. Give written notice to such person, firm, public utility or corporation to restore the property to its original condition. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the restoration work is not implemented or restored within ten (10) days after the notice is complete, said authorities may implement the restoration at the expense of the person, firm or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the property is not restored after notice was complete, in an action for that purpose; or
- D. If such person, firm, public utility or corporation refuses to restore the property, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after notice was given for its implementation in the manner provided in subsection C of this section<sup>1</sup>. (Ord. 315-C, 5-27-2009)

7-2-11: **PENALTY:**

- A. Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) per day, or a jail term of up to ninety (90) days, or by both such fine and jail term.
- B. Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah or the federal government.
- C. In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, the county shall have the right to issue a stop work order on the entire construction site, and/or take measures to restore the property to its original condition and to implement any measures necessary to bring the property into compliance with all local, state or federal requirements required by this chapter. The county shall have the right to have such work completed and/or maintained by county personnel or to hire a private contractor to perform such work at the expense of the permittee, property owner, developer or contractor responsible for such

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1. UCA 27-12-135.

violation. The county may assess said expenses against the bond posted by the permittee or to lien the property for such expenses.

- D. It is unlawful for any person, firm, public utility, public agency, or corporation to continue any further work on the construction site after a stop work order has been issued. A violation of a stop work order is punishable as a class C misdemeanor.
- E. The county may also pursue civil remedies for a violation of this chapter. (Ord. 315-C, 5-27-2009)

7-2-12: **SPECIFIC REQUIREMENTS:** Specific standards and requirements for the enforcement of this chapter, attached to the ordinance codified herein and on file in the county office as appendix A, are made a part of this chapter by reference. (Ord. 315-C, 5-27-2009)

e. Upon approval of the county attorney and once all required signatures are obtained, the detailed final plat shall be recorded in the records of the county recorder. (Ord. 768, 3-14-2012)

**11-4-9: CLUSTER BONUS/AGRICULTURAL PRESERVATION SUB-DIVISION REVIEW:**

- A. Purpose: The purpose of this section is to give property owners an option for development that will reduce county infrastructure and service costs, minimize the visual impact of development to the community, reduce access points on county roads, and preserve agriculture lands and open space. In exchange, a property owner can receive an increase in the number of lots otherwise allowed. The density bonus is intended as an incentive to a property owner in exchange for the above public benefits. This option is intended to promote a pattern of development that is most likely to be consistent with the underlying community values and to encourage the preservation of agricultural lands.
- B. Applicability: The cluster bonus/agricultural preservation subdivision review process can be utilized to create up to two (2) times the number of lots that would otherwise be allowed based upon the base density of the parcel if at least eighty percent (80%) of the entire parcel under consideration is designated as protected for agricultural use, or three (3) times the number of lots that would otherwise be allowed based upon the density of the parcel if at least ninety percent (90%) of the entire parcel under consideration is designated as protected for agricultural use. Only density derived from the AP zone will be allowed to qualify for the bonus provisions of this section. If a parcel contains property in the HC zone, the density derived from that area will not qualify for the bonus but can be added to the subdivision. The specific number is directly related to specific parcel/lot size. To qualify for a cluster bonus/agricultural preservation subdivision, the parcel shall have been a lawfully created lot of record that is not within an existing platted subdivision. Once a lot has been created by this process, it is then no longer eligible for further subdivision.
- C. Criteria For Approval: Before an application for a cluster bonus/agricultural preservation incentive subdivision is approved, it shall conform to the following criteria:
1. Only property in the AP zone will be eligible for the bonus provisions of this section, but the density should be placed in the

most appropriate location based on a site specific agricultural plan, regardless of the zoning designation.

2. The parcel of land identified in the application is actively used for agriculture purposes, as defined in this title.

3. All new lots created shall be clustered to the greatest extent possible and practical and shall be placed in locations that are most suitable to allow and enhance the continued agricultural use of the property.

4. At a minimum, there shall be a note placed on the plat and a deed restriction applied to each parcel involved in the subdivision regarding the area to be preserved for agricultural purposes, which shall include the following language:

*This agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for the development of residential lots numbered to was allowed in exchange for the preservation of the active and productive agricultural lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property.*

The preferable method of preserving land for agricultural use is to place a conservation easement on the property. The agricultural preservation area may be shown as one large agricultural parcel, or may be split into the subdivision lots so long as there are adequate restrictions on the agricultural preservation area for it to continue to function as a contiguous agricultural use.

5. Access to all new lots shall be consolidated to the greatest extent practicable and reasonable.

6. Each lot shall have legal access through a recorded right of way or easement. Access to the property from a public road must be granted by the state or county, whichever is appropriate.

7. Adequate water shall remain on site to serve the culinary needs of the proposed homes and the irrigation needs of the agricultural use of the parcel.

8. The project must comply with the development evaluation standards provided in chapter 2 of this title.

9. The project must comply with the infrastructure standards provided in chapter 6 of this title.

10. The minimum lot size will be three-fourths ( $\frac{3}{4}$ ) acre unless smaller lots are deemed more appropriate to preserve the agricultural uses on the property and are approved by the health department.

- D. **Submission Requirements:** An application for the cluster bonus/ agricultural preservation subdivision of property approval shall not be accepted as complete unless such application contains the information set forth herein; provided, however, that the CDD or designated planning staff member may request, and the applicant shall submit, such additional information as may be needed to ascertain whether such application conforms to the requirements of this title. The CDD or designated planning staff member may also determine that due to the nature of the parcel and of the subdivision proposed, some of the submission requirements can be waived in an effort to simplify the application process.

1. **Sketch Plan:** Prior to submitting a formal application for development review, an applicant shall submit a sketch plan, which shall be prepared in pen or pencil, and shall be drawn to a convenient scale of not more than one hundred feet to an inch (1" = 100'), and shall show the following information:

a. The creation date of the parcel(s) to be subdivided in accordance with the definition of a "lot of record", as defined in appendix A of this title.

b. The name of the subdivision. This name shall not duplicate the name of any plat previously recorded.

c. Name and address, including telephone number, of the legal owner, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference.

d. Legal description and location of property, including citation of any existing legal rights of way, irrigation ditches, or easements affecting the property; and existing covenants on the property, if any.

e. The approximate location, dimensions, and areas of all proposed or existing lots, existing easements, burial grounds, railroad rights of way, watercourses, and names of all existing streets or other public roads adjacent to the proposed lots.

f. A delineation of environmentally sensitive areas including, but not limited to, wetlands, and slopes exceeding thirty percent (30%), and ridgelines.

g. Identification of the means for providing water supply, power, sanitary sewage systems, collection and discharge of surface water drainage, and fire protection, including an analysis of the feasibility of connecting to a centralized sewer disposal or water systems if requested.

h. All areas within and adjacent to the project, including areas separated by a street, highway, road, right of way, railroad line, or stream or watercourse, under common ownership, shall be identified in the sketch plan.

i. A site specific agricultural plan shall be required to be submitted at the time of sketch plan. The purpose of this study will be to identify the significant features and characteristics that make the property viable for agricultural use. Development should be planned in such a way as to preserve or enhance the agricultural use of the property.

j. All contiguous property under one ownership shall be planned in a unified and comprehensive fashion and shall be included in an application for subdivision consideration and approval.

2. Final Plat: An application for final plat approval shall be submitted with a completed final subdivision plat application form. The application shall also include the following:

a. Preliminary title report covering all property located within the subdivision. The report shall be prepared or be updated to within thirty (30) days of the date of recording the subdivision plat.

b. Approval of the power company on its ability to provide service.

c. An endorsement from the county health department that on site and off site impacts of septic system development can be mitigated and its recommended mitigation measures.

d. Approval of the local fire protection district and its recommended mitigation measures.

e. Approval of the county department of public works or the Utah department of transportation for curb cuts and other roadway improvement requirements necessitated by the proposed development.

f. Approval of the county sheriff's department.

g. A detailed final plat that incorporates the following. The final plat shall be prepared by a licensed land surveyor on reproducible mylar at a scale of not more than one inch equals one hundred feet (1" = 100'). The size shall be twenty four inches by thirty six inches (24" x 36").

- (1) The locations, dimensions, and areas of all proposed lots.
- (2) Indication of the use of each lot (single-family, open space, agricultural, etc.).
- (3) The date of the plat, approximate true north point, scale, title of the subdivision, and the name of the land surveyor.
- (4) The location and dimensions of all boundary lines of the property (expressed in feet and decimals of a foot), water bodies, streams, drainage ditches, existing streets, easements, alleys, and other public ways; and building envelopes, if necessary.
- (5) All monuments erected, corners, and other points established in the field in their proper places. The material of which the monuments, corners, or other points are made shall be noted at the representation thereof or by legend; except, that lot corners need not be shown. The legend for metal monuments shall indicate the kind of metal and the diameter, length, and weight per linear foot of the monuments.
- (6) Lots shall be consecutively numbered or lettered in alphabetical order with addresses, approved by the county, for each lot.
- (7) A notation and explanation of drainage easements, site easements, and reservations, if any; and endorsement of the owner.

(8) Notation of any self-imposed and other restrictions or requirements of service providers and the community development director.

(9) Signature blocks for the county health department, county recorder, planning commission, CDD, and county engineer.

(10) Endorsement on the plat by every person having a security interest in the subdivision property that he is subordinating his liens to all covenants, servitude and easements imposed on the property, and all conditions of subdivision approval imposed by the county.

(11) A statement certifying that all lots within the proposed subdivision are buildable, and that any further subdivision of such lots, whether by deed, bequest, divorce decree, or other recorded instrument shall not result in a buildable lot.

(12) A note on the plat stating:

*All lots within this subdivision must meet all building permit requirements at the time of building permit issuance.*

(13) A note on the plat stating that no minor subdivision of the property will be allowed and that any further subdivision must comply with the major development review process.

(14) A note on the plat stating:

*The owners of property within Eastern Summit County recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. (Owners of each lot platted in this subdivision/the owner of the residence constructed upon this lot) have/has been given notice and recognizes that there are active agricultural lands and operations and rural business enterprises within Eastern Summit County and acknowledge(s) and accept(s) that, so long as such lands and operations exist, there may be dust, noise, odor,*

*prolonged work hours, use of roadways for the purposes of herding/moving animals, and other attributes associated with normal agricultural operations and rural businesses.*

(15) A note on the plat stating:

*Water has not been approved for this site. It shall be the responsibility of each lot owner to demonstrate that water of adequate quantity is available for each lot prior to the issuance of a building permit. This shall be accomplished with a memorandum of decision from the state engineer for a private well or a written commitment from a municipality or private service company.*

(16) A note on the plat stating:

*Septic or sewerage has not been approved for this site. The property owner shall demonstrate that the property can adequately support a septic system per state/county requirements or has access to an operational, approved sewer system prior to the issuance of a building permit through an approval letter from the County Health Department.*

E. Review Procedure:

1. Sketch Plan: The CDD or designated planning staff member shall review the sketch plan and identify relevant issues for the applicant to address with the final plat application and any deficiencies of information in the application. The sketch plan shall not constitute an application for development approval.

2. Final Plat:

a. The applicant shall submit an application containing all of the information required in subsection D2 of this section. The CDD or designated planning staff member shall secure input regarding the proposed development from all affected agencies and service providers. Upon receiving such information, the CDD or designated planning staff member shall prepare a report identifying issues and concerns related to the proposal.

b. After completion of the report identifying issues and concerns related to the project for the planning commission, the CDD or designated planning staff member shall schedule a public hearing before the planning commission as soon as practicable.

c. After hearing public comment, reviewing the project, comments from service providers, and the recommendation from the CDD or designated planning staff member, the planning commission shall make a recommendation to the CDD for approval, approval with conditions, or denial of the application.

d. Once the CDD approves the final plat and all applicable signatures are obtained, the county attorney will review the preliminary title report for acceptability.

e. Upon approval of the county attorney and once all required signatures are obtained, the detailed final plat shall be recorded in the records of the county recorder. (Ord. 768, 3-14-2012)

**11-4-10: MAJOR DEVELOPMENT REVIEW PROCESS:**

- A. Purpose: The major development review process shall serve as a procedure to ensure that all significant development, due to its size, type, and/or location, protects actively farmed and ranched lands, natural resources, and open space; is appropriately clustered; consolidates access; and incorporates appropriate infrastructure and design standards based on location and proximity to existing county and municipal infrastructure and service areas. It is an integrated site layout and subdivision process and is, therefore, applicable to residential, commercial, and industrial development.
- B. Applicability: The major development review process shall be used to review all development, regardless of the zone district within which it is proposed, that is not eligible for consideration under the minor subdivision of lands or cluster bonus/agricultural preservation subdivision provisions of this title. All specially planned areas shall be reviewed in accordance with this procedure.
- C. Criteria For Approval: Before an application being considered under the terms of this section can be approved, including a specially planned area plan, the application shall conform to the following criteria: (Ord. 768, 3-14-2012)

c. Location and dimensions of all property lines, existing easements, existing streets, and other public rights of way and identification of any structures and their setbacks from the adjusted property boundaries.

d. Narrative (explanation of the lot line adjustment).

**D. Review Procedure:**

1. The CDD or designated planning staff member shall review the application and determine if the application complies with the criteria for approving a lot line adjustment as identified in this title.

2. The request will be sent to the Summit County engineering office and the Summit County recorder's office for their review and comment.

3. Final deeds reflecting the changes are required to be submitted upon request from the CDD or designated planning staff member.

4. The CDD or designated planning staff member shall prepare a "lot line adjustment" memorandum that shall be executed by the owner(s) and recorded in the records of the Summit County recorder with the final deeds and survey. (Ord. 768, 3-14-2012)

**11-4-18: AMENDMENTS TO RECORDED SUBDIVISION PLATS:**

A. Purpose: The purpose of the plat amendment process is to provide a procedure for amending a recorded subdivision plat. Upon compliance with the provisions of this section and other applicable requirements of this title, an amendment to a recorded subdivision plat may be granted by the CDD, planning commission or county manager or county council.

B. Applicability: The CDD, planning commission, county manager, or county council may, with or without petition, consider any proposed vacation, alteration or amendment of a subdivision plat, any portion of such subdivision plat, or any road or lot contained in such plat.

**C. Review Procedures:**

1. Plat amendments that result in the combination of lots and adjusting and/or altering lot lines within a platted subdivision:

a. Land Use Authority: The CDD shall be the land use authority for all plat amendments resulting in the combination of lots and adjusting and/or altering lot lines within a platted subdivision.

b. Public Hearing: The CDD or designated planning staff member shall give notice of the proposed plat amendment and associated public hearing. Notice shall be mailed to each owner of property located within three hundred feet (300') of the affected parcels. If adverse public comment concerning the proposed plat amendment is received within ten (10) days from the date of the notice, a public hearing shall be scheduled with the planning commission.

c. Recommendation: Following the public hearing, the planning commission shall make a recommendation to the CDD regarding an approval, approval with conditions or denial of the plat amendment.

d. Approval Or Denial: If no public comment is received within ten (10) days from the date of the notice, a public hearing is not required and the CDD shall approve, approve with conditions, or deny the plat amendment.

2. Plat amendments that result in building pad adjustments, subdivision title changes, plat note revisions, altering of utility easements, and all other amendments that do not affect a public or private road, lot line adjustments, or the combination of lots:

a. Land Use Authority: The planning commission shall be the land use authority for all of the above mentioned plat amendments.

b. Public Hearing: The planning commission shall hold a public hearing prior to its decision, and shall approve, approve with conditions, or deny the plat amendment.

c. Notice: Notice of the planning commission public hearing shall be given in compliance with subsection D of this section.

3. Plat amendments that alter a private road shown on a subdivision plat:

a. The planning commission shall hold a public hearing prior to its decision, and shall make a recommendation to the county manager.

b. The county manager shall approve, approve with conditions, or deny the plat amendment.

c. Notice of the public hearing shall be given in compliance with subsection D of this section.

4. Plat amendments that alter a public road shown on a subdivision plat:

a. The planning commission shall hold a public hearing, and shall thereafter make a recommendation to the county council.

b. The county council shall hold a public hearing and approve, approve with conditions, or deny the plat amendment.

c. Notice of the public hearing shall be given in compliance with subsection D of this section.

D. Required Notice Of Public Hearings For Plat Amendments:

1. The CDD or designated planning staff member shall give notice of the proposed plat amendment and associated public hearing. Notice shall be mailed to each owner of property located within three hundred feet (300') and may also be mailed to each owner of property within one thousand feet (1,000') for a representative public notice. In addition, notice may be sent to all owners within the affected plat and the affected homeowners' association. The notice shall fulfill the requirements of Utah Code Annotated sections 17-27a-207 and 17-27a-208.

2. If the proposed plat amendment involves the vacation, alteration, or amendment of a road, the CDD or designated planning staff member shall give notice of the date, place, and time of the public hearing by:

a. Mailing notice, as required in subsection D1 of this section; and

b. For public roads, publishing the notice once a week for four (4) consecutive weeks before the hearing in a newspaper of general circulation.

3. Once a petition is filed and it is determined that a public hearing is required, the land use authority shall hold the public hearing within forty five (45) days following the receipt of a complete application.

4. Any fee owner of land within a platted and recorded subdivision, as shown on the last county assessment rolls, may petition in writing to have the plat, any portion or road or lot contained therein to be vacated, altered or amended, as provided for in this section.

5. At the CDD's discretion, the public hearing requirement may be waived for plat amendments if the following criteria are met:

a. The name and address and consenting signatures of all owners of record of the land contained in the entire subdivision plat are submitted with the application; or

b. The name and address and consenting signatures of all owners of record of land adjacent to any road that is proposed to be vacated, altered or amended is submitted with the application; or

c. The signatures of all owners within the subdivision acknowledging consent to the petition is submitted with the application.

E. General Criteria:

1. Upon approval of the plat amendment, the following signatures are required on the final amended plat: CDD (only required for plat amendments resulting in the combination of lots and adjusting and/or altering lot lines), county manager (only required for plat amendments that alter a private road shown on a subdivision plat), county council (only required for plat amendments that alter a public road shown on a subdivision plat), planning commission (only required for plat amendments that result in building pad adjustments, subdivision title changes, plat note revisions and all other amendments that do not affect a public or private road, lot line adjustments, or the combination of lots), county recorder, county engineer, county attorney, and county assessor. A "certificate of consent" from any and all mortgagors, lienholders, or others with a real property interest in the affected parcels is also required.

2. Once the application is approved and all applicable signatures are obtained on the plat amendment, the county attorney shall review a preliminary title report for acceptability.

3. Upon approval of the county attorney, and once all required signatures are obtained, the plat amendment shall be recorded in the records of the county recorder.

- F. **Vacation By County Manager, Or County Council:** When the county manager or county council proposes to vacate, alter or amend a subdivision plat, or any road or lot within a subdivision plat, the county manager or county council shall consider the issue at a public hearing after giving notice required by this section.
- G. **Grounds For Vacating Or Amending A Plat:**
1. If the county manager or land use authority is satisfied that the public interest will not be materially injured by the proposed vacation, alteration or amendment, and there is good cause for the vacation, alteration or amendment, the county manager or land use authority, may vacate, alter or amend the plat, any portion of the plat, or any road or lot therein.
  2. No plat amendment shall be approved which results in an increase in density.
- H. **Appeal:** An aggrieved party may appeal the final decision of a plat amendment in accordance with appeals procedures set forth in section 11-7-16 of this title. (Ord. 768, 3-14-2012)

**11-4-19: CONDOMINIUM PLATS:**

- A. **Plat Requirements:** A detailed condominium plat is required in all cases which comply with the definition of "condominium" contained in appendix A of this title. A condominium plat shall contain the information required for a final site plan as identified in section 11-4-11 of this chapter. CC&Rs for the development shall be submitted for review by the Summit County attorney's office prior to recordation of the plat.
- B. **Review Procedure:** The review procedure for a condominium plat shall be the same as the review procedure for a final site plan, as outlined in section 11-4-11 of this chapter.
- C. **Issuance Of Building Permit:** Building permits for condominium units can be issued following approval of the final plat by the planning commission and county manager as provided by this chapter. The building permit will be issued based upon a certified architectural plan for the building elevation and floor plans as approved by the building official.

11-7-11: **INTERPRETATION:** The director shall be responsible for interpreting the provisions of this title. Any final decision of the director with regard to the interpretation of this title may be appealed to the board of adjustment. The appeal shall be made in writing no later than ten (10) days of the date of the decision. The appeal shall state the basis of the appeal in detail. The appeal shall be heard by the board of adjustment at a regularly scheduled meeting as soon thereafter as may be practicable. (Ord. 708, 12-10-2008)

11-7-12: **VESTED RIGHTS DETERMINATION:** It is the intent of the county to review applications for development that were made prior to the adoption of this title under the provisions of the code then in effect, so long as the application was determined to be complete prior to this title. Applications submitted after the effective date hereof shall be reviewed under the provisions herein. The county council shall develop a procedure for considering any vested rights claims that are affected by the approval of this title and to effectuate public policy favoring the settlement disputes. Said procedure may include the processing of consent agreements for the settlement of disputes pertaining to vested rights or other legal claims arising from this title. It is the intent of the county to adjudge vested rights in accordance with state law, and nothing in this section should be read or construed as suggesting a standard different from that provided by such state law. (Ord. 737, 4-14-2010)

11-7-13: **ENFORCEMENT:**

- A. **Generally:** This title may be enforced by the county by any appropriate means authorized by state law and county ordinances, including, but not limited to, injunctive relief, fines, withholding of building permits and revocation of approvals/permits.
- B. **Duties Of CDD:** It shall be the duty of the CDD or designated planning staff member to enforce these requirements and to bring to the attention of the county attorney or his designated agent any violations of this title.
- C. **Civil Enforcement:** Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of this title, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of buildings, structures or premises. These remedies shall be in addition to the penalties described above.

- D. Stay Order: Notwithstanding any provision of this title to the contrary, in order to maintain the status quo pending the appeal of any decision hereunder or otherwise, the CDD or designated planning staff member may issue a stay order mandating that all development activities cease in accordance with the terms of the order. Said stay order may be appealed to the county council within five (5) days of the receipt thereof by an aggrieved person. (Ord. 737, 4-14-2010)

11-7-14: **VIOLATIONS AND PENALTIES:**

- A. Whenever under the provision of this title an act is prohibited or whenever under these regulations the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, each violation of any such provision of this title shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code. Each day a violation of these regulations continues shall constitute a separate offense, unless otherwise prohibited.
- B. The county attorney reserves the right to enforce this title using any of the remedies provided for in Utah Code Annotated section 17-27a-802.
- C. Businesses in violation of this title shall be subject to license revocation proceedings in accordance with the provisions of title 3, chapter 1 of this code. Such business shall also be subject to conditional use permit revocation proceedings in accordance with the provisions of the applicable development code. Where revocations occur, those businesses which are legal nonconforming under the current development code shall thereafter cease to be legal nonconforming uses within the county.
- D. Sexually oriented business employees in violation of this title shall be subject to license revocation proceedings. A hearing shall be afforded to the individual by the county manager, or by an official whom the manager may designate. The individual shall be given written notice of the violation and an opportunity to be heard before the county manager or designated hearing official.
- E. It shall be unlawful to submit false or materially misleading information on or with a conditional use permit application for an adult/sex oriented facility or business or to fail to disclose or omit information for the purpose of obtaining said permit.

F. Prior to any permit or license revocation hearing, as provided for by the applicable development code, county business license ordinance<sup>1</sup>, or this title, a stay of enforcement action shall be granted, pending the outcome of the hearing and subsequent appeals, upon written application to the county by the permit or license holder. (Ord. 737, 4-14-2010)

11-7-15: **REMEDIES:** No person may challenge in district court a land use decision under this title until they have exhausted all of their administrative remedies provided herein. Any person adversely affected by any final administrative decision made pursuant to this title must file a petition for review of that final decision with the district court within thirty (30) days and comply with all other requirements of Utah Code Annotated section 17-27a-801. Failure to comply with this section of the state law divests the district court of subject matter jurisdiction to review decisions of the county. (Ord. 737, 4-14-2010)

11-7-16: **APPEAL PROCEDURES:**

A. Appeals of administrative, commission, board of adjustment, and county council actions shall occur as follows in the appeals chart:

Decision Maker	Action	Form Of Appeal To	Appeal Period	Appellate Body	Comments
CDD		Form to the CDD	10 calendar days	County council	If the appeal is for a decision regarding a building permit, the permit shall be stayed until action is taken
Commission		Form to the CDD	10 calendar days	County council	If the appeal is for a decision regarding a CUP, the CUP shall be stayed until action is taken. The county council has to schedule the appeal within 30 days from the date of the appeal
County manager		Form to the CDD	10 calendar days	County council	

1. See title 3, chapter 1 of this code.

Decision Maker	Action	Form Of Appeal To	Appeal Period	Appellate Body	Comments
County manager	Amendments to a road within a subdivision, including road vacations	Court filing	30 days	District court	In accordance with Utah code, as amended
County manager	Enforcement actions	Court filing	30 days	District court	In accordance with Utah code, as amended
County council		Court filing	30 days	District court	In accordance with Utah code, as amended
Board of adjustment		Court filing	30 days	District court	In accordance with Utah code, as amended

(Ord. 730, 12-2-2009; amd. Ord. 737, 4-14-2010)

- B. An appeal of a county council action goes to district court. (Ord. 708, 12-10-2008; amd. Ord. 737, 4-14-2010)

pants, employees, customers or visitors of the principal use. No accessory use shall be allowed on any lot or parcel unless the permitted use is being actively utilized.

**ADMINISTRATIVE PERMIT:**

A permit issued by the planning staff, community development director or building official for specified uses after compliance with applicable zoning or development code regulations is determined.

**AGRICULTURE:**

The tilling of the soil, raising of crops, forage, grazing and animals/fish for commercial agricultural purposes, and not including logging, animal hospitals, recreational activity not normally associated with a farm/ranch, or similar uses. It must be demonstrated that water rights and sources exist to sustain the existing agricultural use of the property. In the case of dry farm usage, it must be demonstrated that the land has been tilled and produced a mechanically harvested crop within the immediately proceeding three (3) years and that the land qualifies for greenbelt designation.

**AGRICULTURE ADVISORY BOARD:**

The agriculture advisory board (advisory board) as so designated by the county manager for the purposes of assisting in the implementation of the agricultural protection measures and incentives described in this title.

**ANCILLARY SUPPORT BUILDING:**

A building which is subordinate to a utility tower, necessary for the normal function of the utility tower and located on the same site as the utility tower.

**ANTENNA:**

Any system of wires, poles, rods, arms, reflecting disks or similar devices of various sizes, materials and shapes, including, but not limited to, solid or wire mesh dish, cone, spherical or bar configurations used for wireless transmission. Types of antennas include, but are not limited to, the following:

# EXHIBIT B



# EXHIBIT C

WHEN RECORDED MAIL TO:  
STEVE LUCZAK  
2185 EAST 3380 SOUTH  
SALT LAKE CITY, UT 84109  
FILE #192984

## SPECIAL WARRANTY DEED (CORPORATE FORM)

HOME SAVINGS BANK

GRANTOR(S)

OF DRAPER, COUNTY OF SALT LAKE, STATE OF UT  
HEREBY CONVEYS AND WARRANTS AGAINST THE ACTS OF THE GRANTOR ONLY TO:

KODIAK AMERICA, LLC , A UTAH LIMITED LIABILITY COMPANY

GRANTEE(S)

OF SALT LAKE CITY, COUNTY OF SALT LAKE, STATE OF UT  
FOR THE SUM OF TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION,  
THE FOLLOWING DESCRIBED TRACT OF LAND IN SUMMIT COUNTY,  
STATE OF UTAH

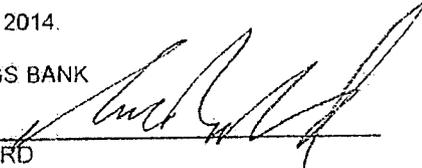
See Attached Exhibit "A"

SUBJECT TO EASEMENTS, RESTRICTIONS, ENCUMBRANCES AND RIGHTS OF WAY OF RECORD, AND  
TAXES FOR THE YEAR 2014 AND THEREAFTER.

THE OFFICERS WHO SIGN THIS DEED HEREBY CERTIFY THAT THIS DEED AND THE TRANSFER  
REPRESENTED THEREBY WAS DULY AUTHORIZED UNDER A RESOLUTION DULY ADOPTED BY THE BOARD  
OF DIRECTORS OF THE GRANTOR AT A LAWFUL MEETING DULY HELD AND ATTENDED BY A QUORUM.  
IT WITNESS WHEREOF, THE GRANTOR HAS CAUSED ITS CORPORATE NAME TO BE HEREUNTO AFFIXED  
BY ITS DULY AUTHORIZED OFFICERS THIS 23RD DAY OF JUNE, A.D., 2014

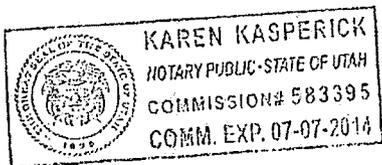
WITNESS, THE HAND(S) OF SAID GRANTOR(S), THIS 25th DAY OF June, 2014.

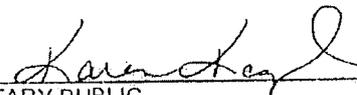
HOME SAVINGS BANK

  
DON C. BALLARD

STATE OF UTAH )  
                          )SS  
COUNTY OF SALT LAKE )

ON THE 25th DAY OF JUNE, 2014 PERSONALLY APPEARED BEFORE ME, DON C. BALLARD, WHO BEING  
DULY SWORN DID SAY THAT HE IS THE VICE-PRESIDENT OF HOME SAVINGS BANK AND THAT THE WITHIN  
AND FOREGOING INSTRUMENT WAS SIGNED IN BEHALF OF SAID CORPORATION BY AUTHORITY OF A  
RESOLUTION OF ITS BOARD OF DIRECTORS AND SAID DON C. BALLARD DULY ACKNOWLEDGED TO ME  
THAT SAID CORPORATION EXECUTED THE SAME.



  
NOTARY PUBLIC

  
INWEST TITLE SERVICES, INC.  
1571 W REDSTONE CNTR. DR. #110  
PARK CITY, UT 84098

## EXHIBIT "A"

PARCEL 1: (SRRDG-1-AM)  
ADDRESS: 391 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 1, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 2: (SRRDG-2-AM)  
ADDRESS: 409 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 2, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 3: (SRRDG-3-AM)  
ADDRESS: 413 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 3, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 4: (SRRDG-4-AM)  
ADDRESS: 417 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 4, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 5: (SRRDG-5-AM)  
ADDRESS: 416 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 5, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 6: (SRRDG-6-AM)  
ADDRESS: 412 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 6, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 7: (SRRDG-7-AM)  
ADDRESS: 402 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 7, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 8: (SRRDG-8-AM)  
ADDRESS: 398 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 8, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 9: (SRRDG-9-AM)  
ADDRESS: 394 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 9, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

PARCEL 10: (SRRDG-10-AM)  
ADDRESS: 390 SHADOW HILL ROAD WANSHIP, UTAH 84017

ALL OF LOT 10, SUNRISE RIDGE SUBDIVISION FIRST AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE, STATE OF UTAH.

# EXHIBIT D

SUMMIT COUNTY COMMUNITY DEVELOPMENT  
DRIVEWAY GRADING PERMIT FORM

(for applicants requesting a grading permit for a driveway who do not have an approved permit prior through the Building Division)

Name of Applicant: KODIAK AVENUE

Mailing Address: 2185 E 3380 S

Phone Number: 801 971 4066

Project Address/Location: 1800 S West Hoytsville rd

Parcel Serial #: SR RDG-1-A77

Project Description: Bike Trails & new Pasture  
Space & Landscaping  
New Utilities to be Excavated Through Property

Reason For Request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I SUBMIT THAT I FULLY UNDERSTAND THAT APPROVAL FROM THE COMMUNITY DEVELOPMENT DEPARTMENT FOR A GRADING PERMIT IS NOT APPROVAL OF A BUILDING SITE LOCATION. I FURTHER UNDERSTAND THAT, UPON SUBMITTAL OF BUILDING PLANS TO THE BUILDING DIVISION, AN ALTERNATE ACCESS TO THE BUILDING SITE MAY HAVE TO BE CONSTRUCTED. FURTHERMORE, I UNDERSTAND THAT NATURAL GRADE (i.e. before any grading is done) IS USED TO CALCULATE BUILDING HEIGHT.

Dated this 8 of Sept 2014

Parcel Owner(s) signature: [Signature]

Please Print Name: Steve Luzzak



Summit County Engineering Division  
 Grading Permit Application  
 60 North Main - P.O. Box 128, Coalville, UT 84017  
 Coalville (435) 336-3250 - Kamas (435) 783-4351 x 3250 - Park City (435) 615-3250  
 Fax (435) 336-3043 - www.summitcounty.org/engineering

Engineering Permit # 14-9-31 Plan Check # \_\_\_\_\_ N.O.I. # \_\_\_\_\_

Applicant / Owner	<u>Kodak America</u>
Phone #	<u>801 971 4066</u>
Fax #	<u>801 - 466 0632</u>
email	<u>KodakAmerica@gmail.com</u>
Mailing Address	<u>2185 E 3580 S</u>
City	<u>SALT LAKE</u> Zip <u>84109</u>
Project Address	<u>LOT 391 Shadow Hill Rd 1800 S West Haysville</u>

Contractor	<u>Kodak America</u>
Phone #	<u>801 971 -</u>
Fax #	
email	
Mailing Address	
City	
Parcel #	<u>SR RD 6-1-AM</u>

- \* The applicant shall be the party responsible for the work and to whom all communications are to be directed.
- \* Grading permits are valid for a period of 180 days from the date received.
- \* Excavation, Grading and placement of fill ("Grading") (Refer to Ordinance 315-C for Requirements and Specifications)
- \* All work under this permit requires a 48 hour notice prior to work.
- \* Grading permits are not valid for work in the County right-of-way.
- \* All restoration and a final inspection must be requested prior to expiration of permit, unless extended in writing by the Summit County Engineer.

**GRADING PERMIT FEES**

- \$40 per Regular Grading Application \$ \_\_\_\_\_
- \*Regular Grading (less than 5000 Cu. Yd.)
- \$110 per Engineered Grading Application \$ 110
- \*Engineered Grading (more than 5000 Cu. Yd.)

← Permit Fee \$ 185  
 \*SWP3/ECP & Grading\*  
 Completion Bond \$ \_\_\_\_\_  
 ECP & SWP3 Bond \$ EFA  
 Weed Bond \$ \_\_\_\_\_  
 Total Due \$ \_\_\_\_\_  
 Amt Paid \$ 185.  
 Balance \$ \_\_\_\_\_

SWP3 & ECP FEE (Area to be disturbed)  
 \$25 Sites of 1 Acre or less \$ 25  
 \$10 per Additional Acre \$ 50

*1.2 acres*

**BOND REQUIREMENTS**

Completion Bond (120% of Estimated Cost) \$ \_\_\_\_\_  
 SWP3 & ECP Bond (120% of Estimated Cost) \$ \_\_\_\_\_  
 Sq. Ft. Disturbed \_\_\_\_\_  
 Re-veg/stabilization \$.10 sq ft= \$ \_\_\_\_\_  
 Silt Fence \$1.50 x \_\_\_\_\_ ft= \$ \_\_\_\_\_

Flood Zone: A (X) Shaded X

\*\*Notations and/or conditions of Approval:

By applying for this permit I acknowledge that I have confirmed that I will be complying with all federal, state and local laws concerning this property and that any permit issued pursuant to my application does not grant to me the right to develop my property under any existing land use and zoning laws, nor does it supersede any federal, state or local law which prevent the grading activity for which I am applying, in the event a permit is issued erroneously. This permit is not a grant of easement or other similar interest. Applicant shall acquire easements from affected fee owners as required.

Applicant / Owner Signature: [Signature] Date \_\_\_\_\_  
 Engineering Approved By: [Signature] Date 11-18-14  
 Planning Approved By: Sed email Date 11-11-14  
 Weed Dept Approved By: [Signature] Date 11-10-14

Bond Money Posted	Date Released
Completion <u>EFA</u>	_____
ECP/SWP3 <u>EFA</u>	_____
Weeds _____	_____

Exhibit 1

**SUMMIT  
COUNTY  
GRADING  
PERMIT**



**APPLICANT: Kodiak America**

**ADDRESS: 391 Shadow Hill Rd**

**PERMIT NO. 14-G-31**

**DATE ISSUED: Nov. 18, 2014**

**EXPIRATION DATE: May. 17, 2015**

Summit County  
P.O. Box 128  
Coalville UT 84017

435-335-3016

Receipt No: 17.006434

Sep 9, 2014

Kodiak America

Previous Balance:	.00
SUMMIT COUNTY / ENGINEERING - 14-G-31	148.00
14-3226-000-000 ENGINEERING PERMIT FEES	
SUMMIT COUNTY / ENGINEERING - 14-G-31	37.00
10-3226-000-000 ENGINEERING PERMIT FEES	
<b>Total:</b>	<b>185.00</b>
Check - Zions	Check No: 6238
Payor: Kodiak America	185.00
<b>Total Applied:</b>	<b>185.00</b>
Change Tendered:	.00

09/08/2014 04:09PM

**KODIAK AMERICA, LLC** .02/05

ZIONS FIRST NATIONAL BANK  
1-800-765-BANK(2265)  
zionsbank.com

6238  
31-5/1240  
19

PAY TO THE ORDER OF *Summit County* \$ *185<sup>00</sup>*

*one Hundred Eighty Five <sup>00</sup>/<sub>100</sub>* DOLLARS

MEMO *Trading Permit Fee*

*[Signature]*  
AUTHORIZED SIGNATURE

⑈006238⑈ ⑆124000054⑆ 019 02503 0⑈

## Heather Judd

---

**From:** Jennifer Strader  
**Sent:** Tuesday, November 11, 2014 8:48 AM  
**To:** Heather Judd; Peter Barnes  
**Subject:** Re: 14-G-31

Heather,

This email confirms that the Planning Department is aware of the submittal of a grading permit referenced in your email below; however, this acknowledgement does not constitute approval of the grading permit by the Community Development Department.

Jennifer Strader  
County Planner  
435-615-3152

---

**From:** Heather Judd  
**Sent:** Monday, November 10, 2014 3:17 PM  
**To:** Jennifer Strader; Peter Barnes  
**Subject:** 14-G-31

Hi Jenn or Peter,

By chance have you sent an email about the motorcycle jumps (phase II) and I somehow missed it?

Thanks



*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

**Heather Judd**

---

**From:** Joni Richins  
**Sent:** Friday, November 14, 2014 10:13 AM  
**To:** Heather Judd  
**Cc:** Leslie Crawford  
**Subject:** Steve Luczak Bond

Heather,

The Luczak bond is still valid with Bank of American Fork. You can hold it in full for the new portion of the project since it is all within the same property. My suggestion is you have something in writing from Mr. Luczak stating they would like to have the bond guarantee the work on the new phase and that the bank will also guarantee the bond for the new phase.

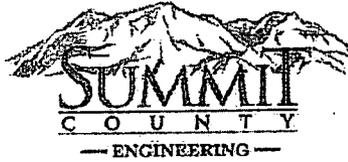
*Joni Richins*

Assistant Technician/Secretary  
Summit County Engineering  
60 North Main Street, PO Box 128  
Coalville, UT 84017  
phone: 435-336-3250  
fax: 435-336-3043  
email: [jrichins@summitcountv.org](mailto:jrichins@summitcountv.org)

*called*

*Steve*

*11-14-14*



County Engineering

Gary Horton, S.E.

## File Memo

TO: Office file: Bond Steve Luczak, Bank of American Fork

FROM: Joni Richins, Office Secretary *JR*

DATE: January 6, 2016

RE: 14-G-31

In reviewing the permit file 14-G-31, and then the bond file for that permit, Steve Luczak, Bank of American Fork, I questioned if the bond was still active. I made a phone call to Ryan Jones at Bank of American Fork (801-428-0802) to check on the status of the bond. Mr. Jones said the bond had expired and was no longer good. He mentioned that Mr. Luczak could easily get the bond reactivated.

It is not Summit County Engineering's responsibility to reactivate the bond, I suggest a hold be put on the project until a new bond is in place.



November 17, 2014

To: Summit County Engineering & Planning Department

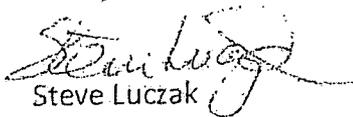
RE: This letter is in reference to a \$10,000 bond for property at 1779 E Hoytsville Road, NS-131-B for grass re-seeding

Kodiak America and Summit County Engineering agree to let bond ride while work is being done to adjacent property that was purchased by Kodiak America this summer.

Sunrise Ridge Subdivision, lots 1 and 10, legal description, SRRDG-1-am 409 Shadow Hill Road, and SRRDG-10-am 390 Shadow Hill Road.

Work to be done has been submitted in site plan, grading, and utilities. Bond will be in place until both projects are complete. Bond for grass is in the form of monies being held by Bank of American Fork, branch manager is Ryan Jones and letter of credit is on file with county.

Best Regards,

  
Steve Luczak

Kodiak America

Office

**Heather Judd**

---

**From:** Steve (Gmail)  
**Sent:** Thursday, November 06, 2014 12:14 PM  
**To:** Heather Judd  
**Subject:** Grading permit

Heather I dropped by 3 new plans with corrected utility corridor, access elevations and stone wall description

Thanks for your help let me know if that's all you need

Kodiak America  
Steve Luczak

Sent from my iPhone

## Heather Judd

---

**From:** Steve (Gmail) ·  
**Sent:** Monday, November 03, 2014 7:59 PM  
**To:** Heather Judd  
**Subject:** Re: Wanship Site Plan

Heather the walls are only 3 footers terraced just to clean up any run off and dress it up a little  
Road cut is in through the berm for the purpose of future tractor access to cut pasture grass and utility area for fire  
hydrant and power transformer

Kodiak America  
Steve Luczak

Sent from my iPhone

On Nov 3, 2014, at 3:46 PM, Heather Judd <[hjudd@summitcounty.org](mailto:hjudd@summitcounty.org)> wrote:

Hi Steve,

I have had a chance to review the new drawings you brought in. Just have 2 questions.

1. What are the heights of the proposed retaining walls?
2. The site plan shows a proposed road cut. For a "road" we will need more information for a road such as finished grade lines. What is the road going to be used for?

<image001.jpg>

*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

---

**From:** Heather Judd  
**Sent:** Thursday, October 16, 2014 2:37 PM  
**To:** \_\_\_\_\_  
**Cc:** Leslie Crawford  
**Subject:** RE: Wanship Site Plan

Hi Steve,

I have had a chance to review the new site plan with the County Engineer.

Here is a link to the grading Ordinance 315-C

<http://www.summitcounty.org/DocumentCenter/View/182>.

Below I have highlighted from the ordinance what is required to be on the drawings:

**Section 3. Grading Permit Requirements**

1. Permits Required. Except as exempted in Section 2 of this appendix, no person shall do any Excavation, Grading or placement of Fill material without first obtaining a Grading Permit from the County Engineer's office. A separate permit shall be obtained for each Site, and may cover Excavations, Grading and Fills.
2. Grading Designation. Grading in excess of 5,000 cubic yards shall be performed in accordance with the approved Grading plan prepared by a Civil Engineer, and shall be designated as "Engineered Grading." Grading involving less than 5,000 cubic yards shall be designated "Regular Grading" unless the permittee chooses to have the Grading performed as Engineered Grading, or the County Engineer determines that special condition or unusual hazards exist, in which case Grading shall conform to the requirements for Engineered Grading.
3. Regular Grading Requirements. Each application for a Grading permit shall be accompanied by a plan in sufficient clarity to indicate the nature and extent of the work. The plans shall give the location of the work, the name of the owner and the name of the person who prepared the plan. The plan shall include the following information:
  - (a) General vicinity of the proposed Site.
  - (b) Limiting dimensions and depth of cut and Fill.
  - (c) Location of any buildings or structures where work is to be performed and the location of any buildings or structures within 15 feet of the proposed Grading.
  - (d) Property Limits.
  - (e) Location of all drainages and any drainage devices.
  - (f) Erosion control plan and revegetation plan (See applicable sections of the Summit County Code).
  - (g) When the application is for the construction of a driveway in advance of receiving a Building Permit, the Site plan shall conform to the requirements currently set forth by policy.
  - (h) When the application is for work that may alter a potential building Site, the site plan shall conform to the requirements currently set forth by policy.

The County Engineer may require that Grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.

4. Engineered Grading Requirements. Application for an "Engineered Grading Permit" shall be accompanied by three sets of plans and specifications, and any other supporting data consisting of, but not limited to, a Soils Engineering report and/or Engineering Geology report if the Work is located within a known Geologic Hazard Area. The plans and specifications shall be prepared and signed by an individual licensed by the State of Utah to prepare such plans or specifications.

Specifications shall contain information covering construction and material requirements.

Plans shall be drawn to scale upon substantial paper or mylar and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this ordinance and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give location of work, the name and address of the owner and the person by whom they were prepared.

The plans shall include the following information:

- (a) General vicinity of the proposed Site.
- (b) Property limits and accurate contours, at 2-foot intervals, of existing ground and details of terrain and area drainage.
- (c) Limiting dimensions, elevations or finish contours, at 2-foot intervals, to be achieved by the Grading, and proposed drainage channels and related construction.
- (d) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as part of, the proposed work together with a map showing the drainage area and the estimated run-off of the area served by any drains.
- (e) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed Grading operations.
- (f) Recommendations included in the Soils Engineering report, and when the Work is located within a known Geological Hazard Area, the Engineering Geology report, shall be incorporated in the Grading plans or specifications. When approved by the County Engineer, specific recommendations contained in the Soils Engineering Report and the Engineering Geology Report which are applicable to Grading, may be included by reference.
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5. Soils Engineering Report. The Soils Engineering Report required by Subsection 4 shall include data regarding the nature, distribution and strength of existing soils,

conclusions and recommendations for Grading procedures and design criteria for corrective measures, including buttress Fills, when necessary, and opinion on adequacy for the intended use of Sites to be developed by the proposed Grading as affected by Soils Engineering factors, including the stability of slopes.

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8. When the application is for work that may alter a potential building Site, the site plan shall conform to the requirements currently set forth by policy.

If you have any questions please feel free to contact me.

---

**From:** Heather Judd  
**Sent:** Tuesday, September 16, 2014 4:07 PM  
**To:** \_\_\_\_\_  
**Subject:** FW: Wanship Site Plan

Hi Steve,

On the site plan it needs to indicate what is existing and what is proposed with depths of cuts and fills. Also need to show where the construction access's will be. And another reminder that no grading can take place until this permit is issued.

<image001.jpg>

*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

---

**From:** Steve (Gmail) [<mailto:>]  
**Sent:** Wednesday, September 10, 2014 2:07 PM  
**To:** Heather Judd  
**Subject:** Fwd: Wanship Site Plan

Kodiak America  
Steve Luczak

Sent from my iPhone

Begin forwarded message:

**From:** "Nathan B. Weber, PLS" <\_\_\_\_\_>  
**Date:** September 5, 2014 at 2:31:00 PM MDT  
**To:** <\_\_\_\_\_>  
**Subject:** Wanship Site Plan

Attached is the site plan for your property in Wanship. Please let me know if you would like to see anything else. I can have 3 copies printed to be picked up at the office. Call and let me know when you are coming so I can be sure someone will be here.

Nathan B. Weber, PLS  
Diamond Land Surveying, LLC

**Heather Judd**

**From:** Heather Judd  
**Sent:** Monday, November 03, 2014 3:47 PM  
**To:**  
**Subject:** RE: Wanship Site Plan

Hi Steve,

I have had a chance to review the new drawings you brought in. Just have 2 questions.

1. What are the heights of the proposed retaining walls?
2. The site plan shows a proposed road cut. For a "road" we will need more information for a road such as finished grade lines. What is the road going to be used for?



*Heather Judd*

Code Enforcement Tech.  
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11-3-14  
- label contours  
- height of ret walls  
- pond??  
- road cut needs finished grades

**From:** Heather Judd  
**Sent:** Thursday, October 16, 2014 2:37 PM  
**To:**  
**Cc:** Leslie Crawford  
**Subject:** RE: Wanship Site Plan

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Here is a link to the grading Ordinance 315-C <http://www.summitcounty.org/DocumentCenter/View/182>.

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**Sent:** Tuesday, September 16, 2014 4:07 PM  
**To:**  
**Subject:** FW: Wanship Site Plan

Hi Steve,

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*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
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**Subject:** Fwd: Wanship Site Plan

Kodiak America  
Steve Luczak

Sent from my iPhone

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**From:** "Nathan B. Weber, PLS"  
**Date:** September 5, 2014 at 2:31:00 PM MDT

To:

Subject: Wanship Site Plan

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## Heather Judd

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**Sent:** Tuesday, September 16, 2014 4:07 PM  
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**Subject:** FW: Wanship Site Plan

Hi Steve,

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*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

---

**From:** Steve (Gmail)  
**Sent:** Wednesday, September 10, 2014 2:07 PM  
**To:** Heather Judd  
**Subject:** Fwd: Wanship Site Plan

Kodiak America  
Steve Luczak

Sent from my iPhone

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**From:** "Nathan B. Weber, PLS"  
**Date:** September 5, 2014 at 2:31:00 PM MDT  
**To:** \_\_\_\_\_  
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Nathan B. Weber, PLS  
Diamond Land Surveying, LLC

Heather Judd

---

From: Heather Judd  
Sent: Tuesday, October 14, 2014 3:36 PM  
To: Leslie Crawford  
Subject: 14-G-31 Steve Luczak motorcycle jumps in Wanship

Hi Leslie,

Mr. Luczak has brought in revised drawings of the cut and fills as you had requested. The surveyor has labeled things as existing (just because the work has already been done without a permit). He has also added some table top jumps to the site plan that have not been constructed yet. It looks like this new plan still does not show the construction access, the proposed utilities, and the pond elevations. When you have a moment to review this drawing with me (this is my first "engineered grading permit" review) please let me know. Also none of the topography is labeled to determine 2:1 grade slopes, or the depths of the cut and fills as required on an engineered permit.

Thanks



*Heather Judd*

Code Enforcement Tech.

Summit County Engineering

435.336.3141

[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

~~soils eng report ?~~

details, topo - labeled - 2' intervals exp/proposed  
prop. lines 2:1 max slopes

Even though the work that has been  
labeled as existing is actually the proposed

ord. 315-C

SEC. 3-4

R-O-W - UTILITIES

## Heather Judd

---

**From:** Heather Judd  
**Sent:** Tuesday, September 16, 2014 4:07 PM  
**To:**  
**Subject:** FW: Wanship Site Plan  
**Attachments:** 14-067 Kodiak Site Plan-Survey Color.pdf; ATT00001.htm; 14-067 Kodiak Site Plan-Survey.pdf; ATT00002.htm

Hi Steve;

On the site plan it needs to indicate what is existing and what is proposed with depths of cuts and fills. Also need to show where the construction access's will be. And another reminder that no grading can take place until this permit is issued.



*Heather Judd*

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**From:** Steve (Gmail)  
**Sent:** Wednesday, September 10, 2014 2:07 PM  
**To:** Heather Judd  
**Subject:** Fwd: Wanship Site Plan

Kodiak America  
Steve Luczak

Sent from my iPhone

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**From:** "Nathan B. Weber, PLS"  
**Date:** September 5, 2014 at 2:31:00 PM MDT  
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Nathan B. Weber, PLS  
Diamond Land Surveying, LLC

**Heather Judd**

---

**From:** Steve (Gmail) <  
**Sent:** Monday, September 15, 2014 5:57 PM  
**To:** Heather Judd  
**Subject:** Fwd: bid

Bid from Grass Masters  
Dave Sullivan

Kodiak America  
Steve Luczak

Sent from my iPhone

Begin forwarded message:

**From:** Dave Sullivan < >  
**Date:** September 15, 2014 at 4:35:21 PM MDT  
**To:** ' >  
**Subject:** bid

Steve,

As per your request, listed below is the bid for your parcel SRRDG-1-AM in Wanship, Utah.

Total project size is 11.5 acres but most likely will be around 7 acres because 4 acres is already sufficiently vegetated.

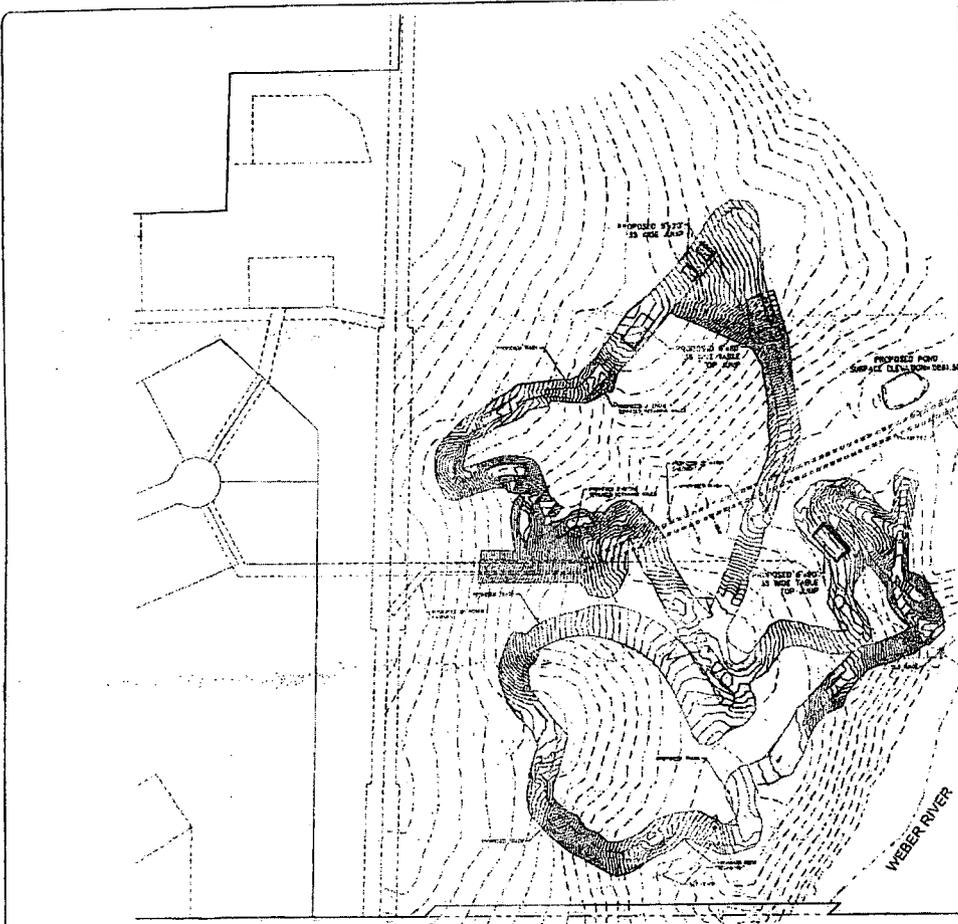
Price is .03 cents per sf.

$\$1,306.80 \text{ per acre} \times 7 \text{ Acres} = \$9,147.60$

Specifications are native grass seeded at a rate of 25 pls per acre and covered with wood fiber mulch as 1,500 lbs per acre.

Thanks,

David Sullivan

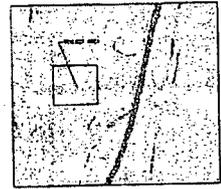


**PROPOSED TRACK**

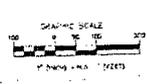
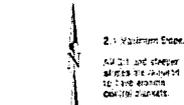
CUT= 3794 CU. YD.  
 FILL=3401 CU. YD.  
 NET= 392 (CUT) CU. YD.

**PROPOSED JUMPS**

FILL=5253 CU. YD.



VICINITY MAP



**NOTES**

1. All work shall be in accordance with the Utah State Engineering Board's Rules and Regulations.
2. All work shall be in accordance with the Utah State Engineering Board's Rules and Regulations.
3. All work shall be in accordance with the Utah State Engineering Board's Rules and Regulations.

PLANS REVIEWED	
Date:	11/12/04
By:	SK
Approved By:	SK
Date:	11/12/04
SOUTH COUNTY ENGINEERING	

LOCATED IN THE RECORDS DIVISION OF SOUTH COUNTY ENGINEERING & SURVEYING, 1000 SOUTH MAIN STREET, SUITE 100, SALT LAKE CITY, UTAH 84143

<b>DIAMOND LAND SURVEYS, LLC</b> 1000 SOUTH MAIN STREET, SUITE 100, SALT LAKE CITY, UTAH 84143 (801) 555-1234	
TRACK AND EXISTING GROUND SHEET WASHINGTON, UTAH <b>STEVE LUCZAK</b>	
DATE PLOTTED: 11/12/04 PLOT BY: SK	SHEET NO. 1 OF 1

# EXHIBIT E

## Heather Judd

---

**From:** Jennifer Strader  
**Sent:** Tuesday, November 11, 2014 8:48 AM  
**To:** Heather Judd; Peter Barnes  
**Subject:** Re: 14-G-31

Heather,

This email confirms that the Planning Department is aware of the submittal of a grading permit referenced in your email below; however, this acknowledgement does not constitute approval of the grading permit by the Community Development Department.

Jennifer Strader  
County Planner  
435-615-3152

---

**From:** Heather Judd  
**Sent:** Monday, November 10, 2014 3:17 PM  
**To:** Jennifer Strader; Peter Barnes  
**Subject:** 14-G-31

Hi Jenn or Peter,

By chance have you sent an email about the motorcycle jumps (phase II) and I somehow missed it?

Thanks



*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

# EXHIBIT F

SUMMIT COUNTY  
DEPARTMENT OF PUBLIC WORKS  
DIVISION OF ENGINEERING

# STOP WORK NOTICE

If you have a permit, please post it on the property and notify the Engineering Department at once.

THIS ACTIVITY IS IN VIOLATION OF:

- Excavation in County Right-of-Way without a Permit, Ordinance No. 181-D
- Driveway Encroachment without a Permit, Ordinance No. 181-D
- Structure Encroachment without a Permit, Ordinance No. 181-D
- Blockage of County Right-of-Way, Ordinance No. 181-D
- On Street Parking (November 15<sup>th</sup> to April 15<sup>th</sup>), Ordinance (Snow Removal)
- Depositing Snow on County Road from Private Property, Ordinance (Snow Removal)
- Excavating, Grading or Placement of Fill outside County Right-of-Way, Ordinance No. 315
- Construction activity prior to Final Site Plan or Subdivision Approval, (Snyderville Basin Development Code) (Eastern Summit County Development Code)
- Other: \_\_\_\_\_ Ordinance No. 381 Storm water pollution prevention

Description of Violation: Permit expired, work outside permitted drainage

Location of Violation: Entrance St

Issued by: Kyle Monez Date: 12/10/15 Time: 11:57

YOU ARE HEREBY NOTIFIED THAT YOU MUST STOP ALL WORK. ONLY WORK IN CONJUNCTION WITH NOTIFICATION AND/OR PROTECTION AS REQUIRED TO PROTECT AND SAFEGUARD LIFE AND PROPERTY WILL REMAIN IN EFFECT UNTIL ALL VIOLATIONS HAVE BEEN CORRECTED AND IT IS ISSUED.

**Kyle Monez**  
Professional Technician

60 North Main  
PO Box 128  
Escalante, Utah 84017

Phone (435) 336-3292  
Cell (435) 640-6623  
Fax (435) 336-3043

[kmonez@summitcounty.org](mailto:kmonez@summitcounty.org)



[www.summitcounty.org/Engineering](http://www.summitcounty.org/Engineering)

THE SUMMIT COUNTY ENGINEERING DIVISION

COALVILLE KAMAS  
435-336-3250 435-783-4351 Ext 3250

# EXHIBIT G

DAVID L. THOMAS, CHIEF CIVIL DEPUTY (7106)  
**SUMMIT COUNTY ATTORNEY'S OFFICE**  
60 N. Main Street  
P.O. Box 128  
Coalville, Utah 84017  
Telephone (435) 336-3206  
Facsimile (435) 336-3287  
*Attorney for Summit County Department of Community Development*

---

**BEFORE THE SUMMIT COUNTY COUNCIL  
STATE OF UTAH**

---

**In the matter of KODIAK AMERICA, LLC**

**AFFIDAVIT OF PETER  
BARNES**

Administrative Appeal

---

I, Peter Barnes, being duly sworn, state that I am over the age of 18, I have knowledge of all the matters of which I attest, and I am competent to give an affidavit in the above-captioned proceeding. I am the Summit County Planning Administrator and have served in that capacity since November 18, 2013.

1. I am familiar with the Kodiak America, LLC ("Kodiak America") Grading Permit 14-G-31.

2. On or about April 4, 2016, I was in a meeting with Steve Luczak, a principal in Kodiak America. During the course of the meeting, Mr. Luczak stated that Kodiak America had "spent \$1,000,000 so far . . . and moved 250,000 yards of dirt" within the Sunrise Ridge Subdivision for the motocross track.

I declare under penalty of perjury, under the laws of the State of Utah, that the foregoing is true and correct.

Dated this 10 day of May, 2016

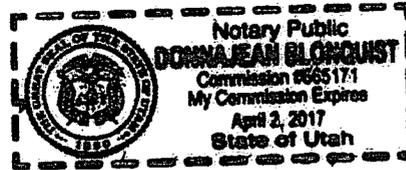


\_\_\_\_\_  
Peter Barnes

STATE OF UTAH    )  
                          ) ss  
SUMMIT COUNTY )

The foregoing instrument was acknowledged before me this 10 day of May, 2016, by Peter Barnes.

Donna Jean Blonquist  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



DAVID L. THOMAS, CHIEF CIVIL DEPUTY (7106)  
SUMMIT COUNTY ATTORNEY'S OFFICE  
60 N. Main Street  
P.O. Box 128  
Coalville, Utah 84017  
Telephone (435) 336-3206  
Facsimile (435) 336-3287  
*Attorney for Summit County Department of Community Development*

---

**BEFORE THE SUMMIT COUNTY COUNCIL  
STATE OF UTAH**

---

**In the matter of KODIAK AMERICA, LLC**

**AFFIDAVIT OF MICHAEL  
KENDELL**

Administrative Appeal

---

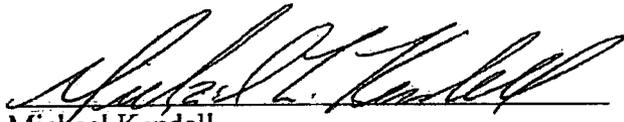
I, Michael Kendell, being duly sworn, state that I am over the age of 18, I have knowledge of all the matters of which I attest, and I am competent to give an affidavit in the above-captioned proceeding. I am an Engineer II, Summit County Engineering, and have served in that capacity since March 31, 2015.

1. I am familiar with the Kodiak America, LLC ("Kodiak America") Grading Permit 14-G-31.

2. On or about April 4, 2016, I was in a meeting with Steve Luczak, a principal in Kodiak America. During the course of the meeting, Mr. Luczak stated that Kodiak America had excavated, graded and filled on Lots 1 and 10 of the Sunrise Ridge Subdivision some 250,000 cubic yards of material.

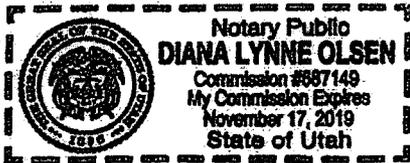
I declare under penalty of perjury, under the laws of the State of Utah, that the foregoing is true and correct.

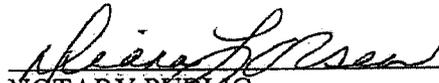
Dated this 6<sup>th</sup> day of May, 2016

  
Michael Kendell

STATE OF UTAH    )  
                                  ) ss  
SUMMIT COUNTY )

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of May 2016, by Michael Kendell.

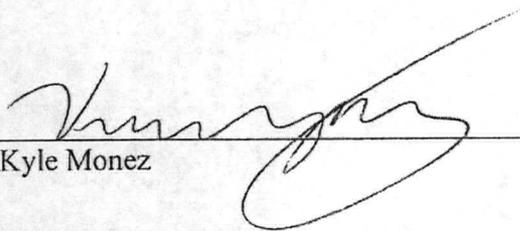


  
NOTARY PUBLIC  
Residing at: Summit County  
My Commission Expires: 17 Nov 2019



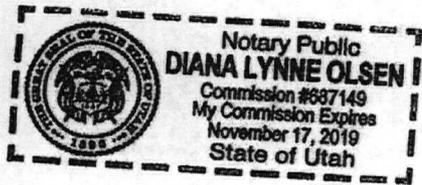
I declare under penalty of perjury, under the laws of the State of Utah, that the foregoing is true and correct.

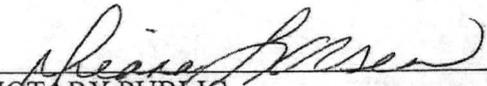
Dated this 6th day of May, 2016

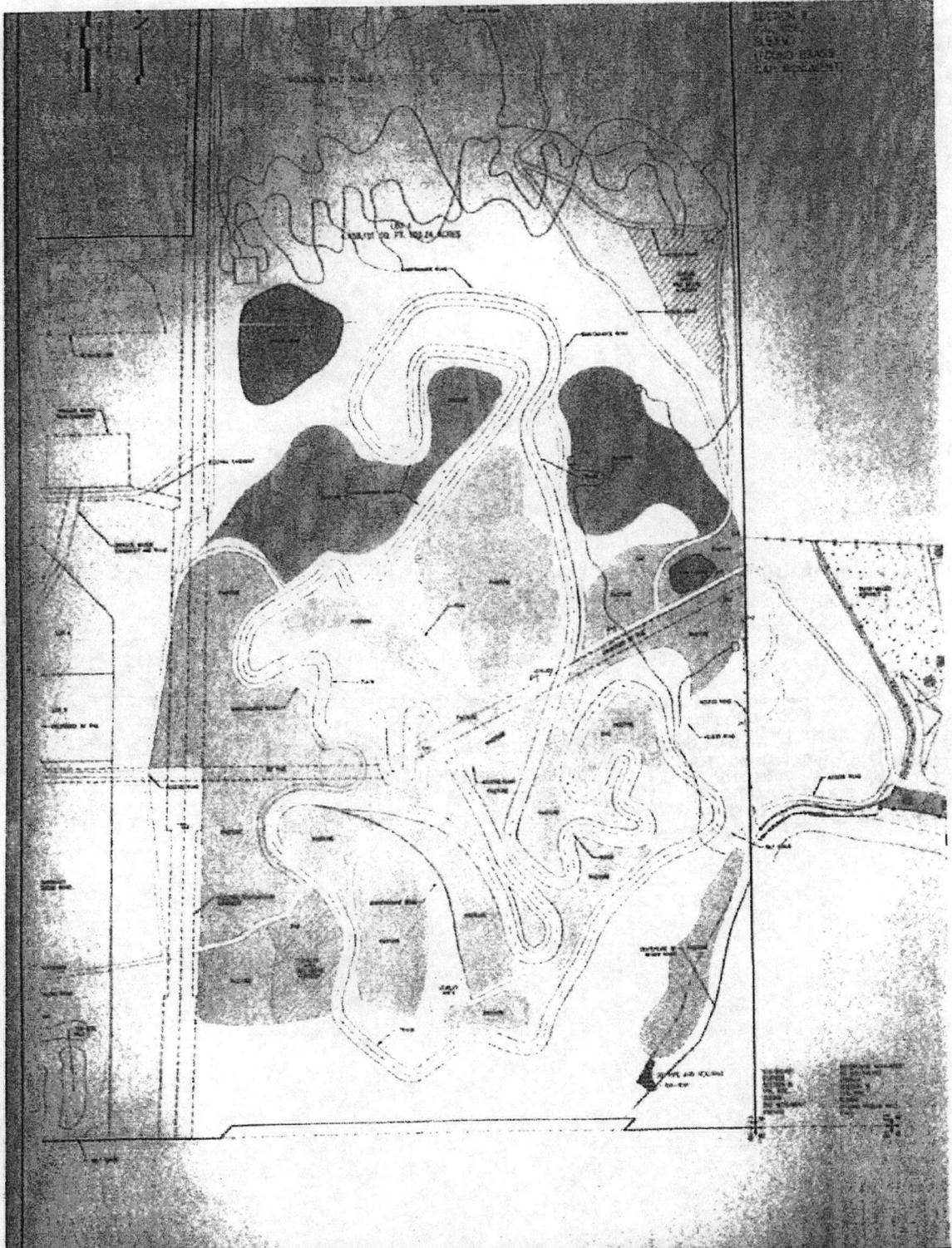
  
\_\_\_\_\_  
Kyle Monez

STATE OF UTAH    )  
                          ) ss  
SUMMIT COUNTY )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of May 2016, by Kyle Monez.



  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: Summit County  
My Commission Expires: 17 Nov 2019



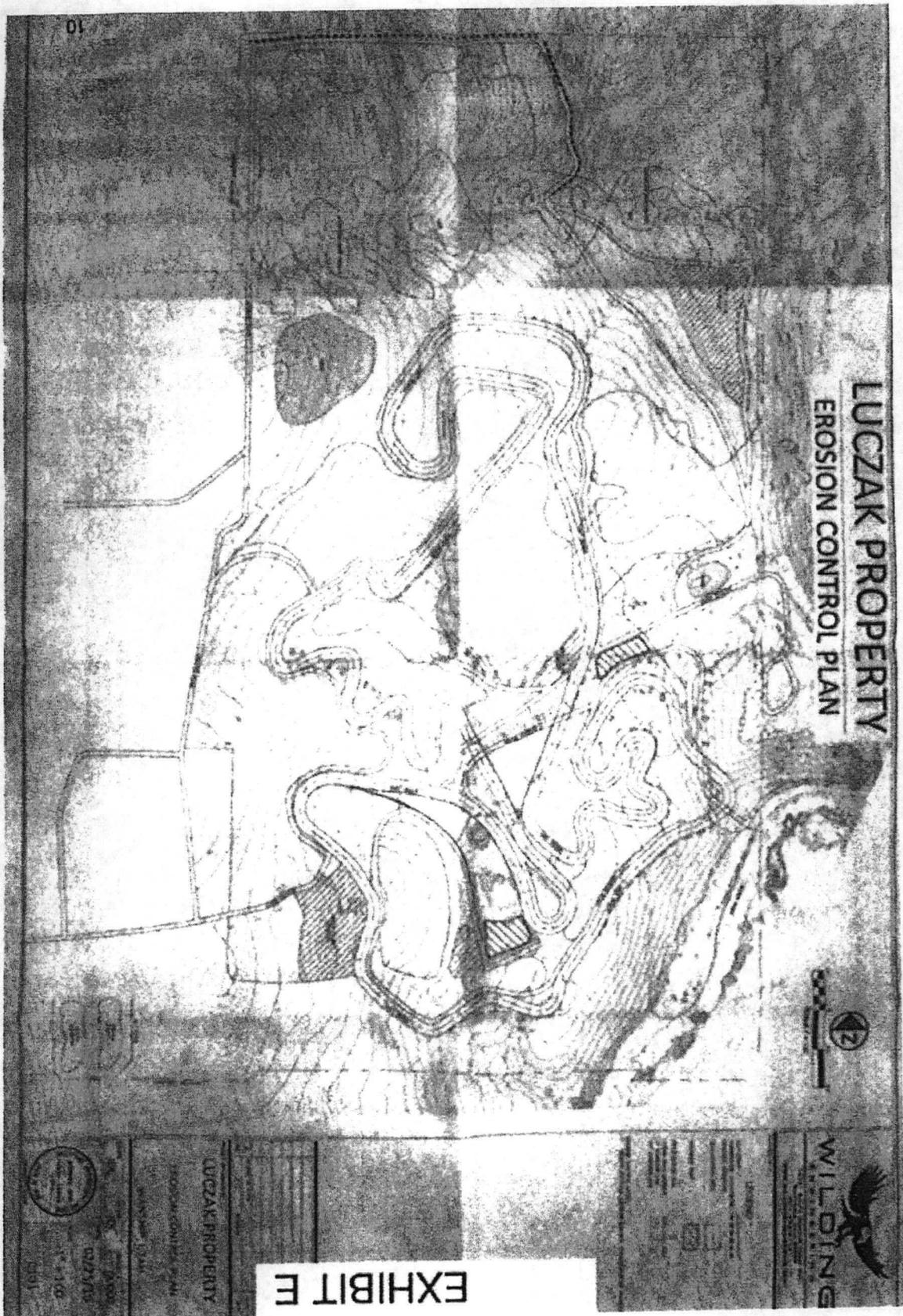
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SITE PLAN  
 RIVERBEND ROAD & CRYSTLE ROAD  
 WASHINGTON, UTAH  
 SEPTEMBER 2014  
 STEVE LUCZAK

**DIAMOND LAND SURVEYING**  
 1000 S. 1000 E. SUITE 100  
 WASHINGTON, UTAH 84794  
 (435) 735-1111  
 www.diamondland.com



DATE	SEP 2014
BY	STEVE LUCZAK
CHECKED BY	
SCALE	AS SHOWN
PROJECT NO.	
CLIENT	
DESCRIPTION	
REVISIONS	



**LUCCZAK PROPERTY**  
**EROSION CONTROL PLAN**



**EXHIBIT E**

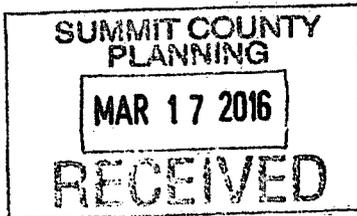
**WILDING**  
ENGINEERS & ARCHITECTS  
INC.

**LUCCZAK PROPERTY**



02/27/15  
10:11:00  
101

# EXHIBIT H



March 16, 2016

Summit County Planning Department  
60 North Main Street / P.O. Box 128  
Coalville, UT 84017

Hand Delivered 03/17/16

RE: Wanship Moto-cross Race Track Development

Dear Planning Staff,

I represent land owners adjacent to the moto-cross race track located in the Wanship area on Parcels SRRDG-1-AM, SRRGD-10-AM and NS-131-B. My clients are very concerned with the on-going activity that has occurred on the property over the past several years. It appears the race track property owner has been allowed to conduct a commercial sized development operation on the property comprised of grading, excavating, staging materials, filling, cutting, material screening, vegetation removal, equipment storage and other associated activities.

My clients, as well as other residents in the area have and are experiencing adverse impacts from this project. The impacts include: noise, dust, erosion, off-site drainage, unsightly spoil piles and hillside scarring, mink breeding disturbance, irrigation waterway alteration, wildlife habitat displacement and incompatibility with surrounding uses. From review of the information on file with the county, until just recently by the county engineering staff, it appears little if any monitoring or regulation has occurred on this property for compliance with development code and engineering standards.

**Background**

The only official approved document on file for the project appears to be the attached Grading Permit 14-G-31 (Exhibit A) which was issued by the engineering department on November 18, 2014 for grading, landscaping and utility installation on Parcel SRRDG-1-AM, represented as 6.2 acres. The specific project description included bike trails, new pasture area, landscaping and utility installation through the property. The attached drawing (Exhibit B) appears to have been associated with the grading permit. The permit expired on May 17, 2015.

It is important to note that although the application form indicates that the planning department had approved the permit, there is no planning staff signature, only a reference to an email. From recently discussing the project with Jennifer Strader at the Planning Department, the project has not been approved by the community development department. The attached November 11, 2014 email (Exhibit C) in the file from Jennifer Strader to Heather Judd, indicates the grading permit was never approved by the community development department.

On-going grading and other activity has been occurring on the property after the expiration date of the grading permit up until last winter when my clients again brought attention of the development activity

to the county. In response, a Stop Work Notice was posted on the property by the engineering department on 12/16/15. The attached Stop Work Notice (Exhibit D) indicated a violation of excavating, grading and placement of fill without a current permit and that work was being conducted outside of the scope of previously permitted drawings.

Engineering staff required the land owner to submit an updated and current grading, erosion control and site plan for the project. Attached, as Exhibit E, are copies of the plans that were recently submitted to the engineering department. Although the plans show an area of land disturbance much greater than the original grading permit, the engineering department staff has indicated the project is currently in general compliance with county engineering standards. According to the drawings, the land area for the project has increased from 6.2 acres up to approximately 100 acres as shown on the attached Land Area Map (Exhibit F). It is my understanding that the engineering department has or will be forwarding these most recent plan submittals to the planning department for review.

### **Development Impact Analysis**

As you are aware, the property is currently zoned Agricultural Protection (AP) and in accordance with that zoning designation as outlined in Chapter 11-3-2 of the Eastern Summit County Development Code, development should only be allowed *"in a manner that preserves, promotes, maintains, and enhances the use of land for commercial agricultural purposes; minimizes scattered and leapfrog nonagricultural development; protects and preserves natural resource areas; and protects and promotes the open space values of eastern Summit County."*

The extensive grading, filling, cutting, and excavating activities for the moto-cross race track and other non-agriculture uses on the property are scattered across the lower meadow area near the Weber River and across the hillsides above as shown on the attached photographs (Exhibit G). The race track does not preserve, promote, maintain or enhance the use of the land for agricultural purposes nor preserves or protects natural resource areas and open space values of the community.

The immediate neighbors as well as other residents and land owners in the Wanship and Hoytsville communities do not believe this use on the property is compatible with the surrounding agriculture and small-town residential character of the area. The attached petition (Exhibit H) was recently signed by 82 residents in the community voicing their opposition to the project and lack of opportunity from the county to be heard on the matter. Activities of much less impact defined as Open Recreational Uses in Appendix A of the Development Code require a public hearing and conditional use permit in the AP Zone.

We understand the applicant has referred to and represented that the project is for private use only and not for commercial purposes. However, as the information depicts in the internet links below, it appears the use is intended for commercial purposes. Attached, as Exhibit I, are also copies of the initial webpages in several of the links.

[http://websta.me/p/1181584378953117718\\_213277475](http://websta.me/p/1181584378953117718_213277475)

<http://www.motoxaddicts.com/2015/09/07/possible-new-track-for-2016-utah-national-flying-iron-horse-ranch/>

<https://www.instagram.com/p/7NWyq3Ftxh/>

<http://websta.me/n/flyingironhorseranch>

<http://www.bing.com/videos/search?q=kodiak+america+race+tracks&&view=detail&mid=860EF1C854C683F21881860EF1C854C683F21881&rvsmid=D5C550DBAE7FF8FBA5D8D5C550DBAE7FF8FBA5D8&fsscr=0>

<http://tofo.me/luczak101>

<https://www.youtube.com/embed/dxRZp3ntLbg>

It appears this project has evolved into a major operation that is intended as a future commercial use. If the use is only restricted to private use of the land owner, the scale and scope of the project is at a commercial size with commercial development impacts that should be addressed. And, the surrounding property owners and general public should be provided an opportunity to be heard.

The concerns and questions regarding the project from the surrounding neighborhood include the following:

1. The extensive scale and scope of the project activity across the property creates impacts at a commercial use level rather than a private use and should be addressed accordingly.
2. The impacts of the project voiced by the petitioners include: noise, dust, erosion, off-site drainage, unsightly spoil piles and hillside scaring, mink breeding disturbance, irrigation waterway alteration, wildlife habitat displacement and incompatibility with surrounding uses.
3. The project has slowly evolved over the years into a major development with little if any county review and approval or public input.
4. Has the Army Corp of Engineers and/or State division of Water Right reviewed and approved the alteration of the Weber River waterway and proposed ponds on the property?
5. Does the land owner have sufficient water rights for the pond use and irrigation of the proposed pasture areas on the hillside as identified on the recently submitted site plans?

### **Requested Action**

We respectfully request the community development department review the most recent plan submittals for the project in accordance with applicable zoning, development code and other state or federal regulations and require a public hearing to allow community input prior to any governmental action related to the activity.

We are also requesting to be immediately notified upon submittal by the property owner or representative of any new information, plans or other materials regarding this project.

Sincerely,



Don B Sargent

# EXHIBIT A



Summit County Engineering Division  
 Grading Permit Application  
 60 North Main - P.O. Box 128, Coalville, UT 84017  
 Coalville (435) 336-3250 - Kamas (435) 783-4351 x 3250 - Park City (435) 615-3250  
 Fax (435) 336-3043 - www.summitcounty.org/engineering

Engineering Permit # 14-G-31 Plan Check # \_\_\_\_\_ N.O.I. # \_\_\_\_\_

Applicant / Owner	<u>Kodak America</u>
Phone #	<u>801 [REDACTED]</u>
Fax #	<u>801-466-0637</u>
email	<u>[REDACTED]@gmail.com</u>
Mailing Address	<u>2185 E 3380 S</u>
City	<u>SALT LAKE</u> Zip <u>84109</u>
Project Address	<u>Lot 391 Shadow Hill Rd 1800 S West Haysville</u>

Contractor	<u>Kodak America</u>
Phone #	<u>801 971- [REDACTED]</u>
Fax #	_____
email	_____
Mailing Address	_____
City	_____ Zip _____
Parcel #	<u>SRRD6-1-AM</u>

- \* The applicant shall be the party responsible for the work and to whom all communications are to be directed.
- \* Grading permits are valid for a period of 180 days from the date received.
- \* Excavation, Grading and placement of fill ("Grading") (Refer to Ordinance 315-C for Requirements and Specifications)
- \* All work under this permit requires a 48 hour notice prior to work.
- \* Grading permits are not valid for work in the County right-of-way.
- \* All restoration and a final inspection must be requested prior to expiration of permit, unless extended in writing by the Summit County Engineer.

### GRADING PERMIT FEES

- \$40 per Regular Grading Application \$ \_\_\_\_\_
- \*Regular Grading (less than 5000 Cu. Yd.) \$ \_\_\_\_\_
- \$110 per Engineered Grading Application \$ 110
- \*Engineered Grading (more than 5000 Cu. Yd.) \$ \_\_\_\_\_

SWP3 & ECP FEE (Area to be disturbed)  
 \$25 Sites of 1 Acre or less \$ 25  
 \$100 per Additional Acre \$ 50

2.2 acres

### BOND REQUIREMENTS

Completion Bond (120% of Estimated Cost) \$ \_\_\_\_\_  
 SWP3 & ECP Bond (120% of Estimated Cost) \$ \_\_\_\_\_  
 Sq. Ft. Disturbed \_\_\_\_\_ \$ \_\_\_\_\_  
 Re-veg/stabilization \$.10 sq ft= \_\_\_\_\_ \$ \_\_\_\_\_  
 Silt Fence \$1.50 x \_\_\_\_\_ ft= \_\_\_\_\_ \$ \_\_\_\_\_

← Permit Fee \$ 185  
 \*SWP3/ECP & Grading\*  
 Completion Bond \$ \_\_\_\_\_  
 ECP & SWP3 Bond \$ EPA  
 Weed Bond \$ \_\_\_\_\_  
 Total Due \$ \_\_\_\_\_  
 Amt Paid \$ 185  
 Balance \$ \_\_\_\_\_

Flood Zone: A  Shaded X

\*\*Notations and/or conditions of Approval:

By applying for this permit I acknowledge that I have confirmed that I will be complying with all federal, state and local laws concerning this property and that any permit issued pursuant to my application does not grant to me the right to develop my property under any existing land use and zoning laws, nor does it supersede any federal, state or local law which prevent the grading activity for which I am applying, in the event a permit is issued erroneously. This permit is not a grant of easement or other similar interest. Applicant shall acquire easements from affected fee owners as required.

Applicant / Owner Signature: [Signature] Date \_\_\_\_\_  
 Engineering Approved By: [Signature] Date 11-18-14  
 Planning Approved By: see email Date 11-11-14  
 Weed Dept Approved By: [Signature] Date 11-10-14

Bond Money Posted	Date Released
Completion <u>EPA</u>	_____
ECP/SWP3 _____	_____
Weeds _____	_____

SUMMIT COUNTY COMMUNITY DEVELOPMENT  
DRIVEWAY GRADING PERMIT FORM

(for applicants requesting a grading permit for a driveway who do not have an approved permit prior through the Building Division)

Name of Applicant: Kodiak America

Mailing Address: 2185 E 3380 S

Phone Number: 801 [REDACTED]

Project Address/Location: 1800 S West Hoytsville rd

Parcel Serial #: SR RDG-1-AM

Project Description: Bike Trails & new Pasture  
Space & Landscaping  
New Utilities to be Excavated Through Property

Reason For Request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I SUBMIT THAT I FULLY UNDERSTAND THAT APPROVAL FROM THE COMMUNITY DEVELOPMENT DEPARTMENT FOR A GRADING PERMIT IS NOT APPROVAL OF A BUILDING SITE LOCATION. I FURTHER UNDERSTAND THAT, UPON SUBMITTAL OF BUILDING PLANS TO THE BUILDING DIVISION, AN ALTERNATE ACCESS TO THE BUILDING SITE MAY HAVE TO BE CONSTRUCTED. FURTHERMORE, I UNDERSTAND THAT NATURAL GRADE (i.e. before any grading is done) IS USED TO CALCULATE BUILDING HEIGHT.

Dated this 8 of Sept 20, 14

Parcel Owner(s) signature: [Signature]

Please Print Name: Steve Lutzak

**SUMMIT  
COUNTY  
GRADING  
PERMIT**



**APPLICANT: Kodiak America**

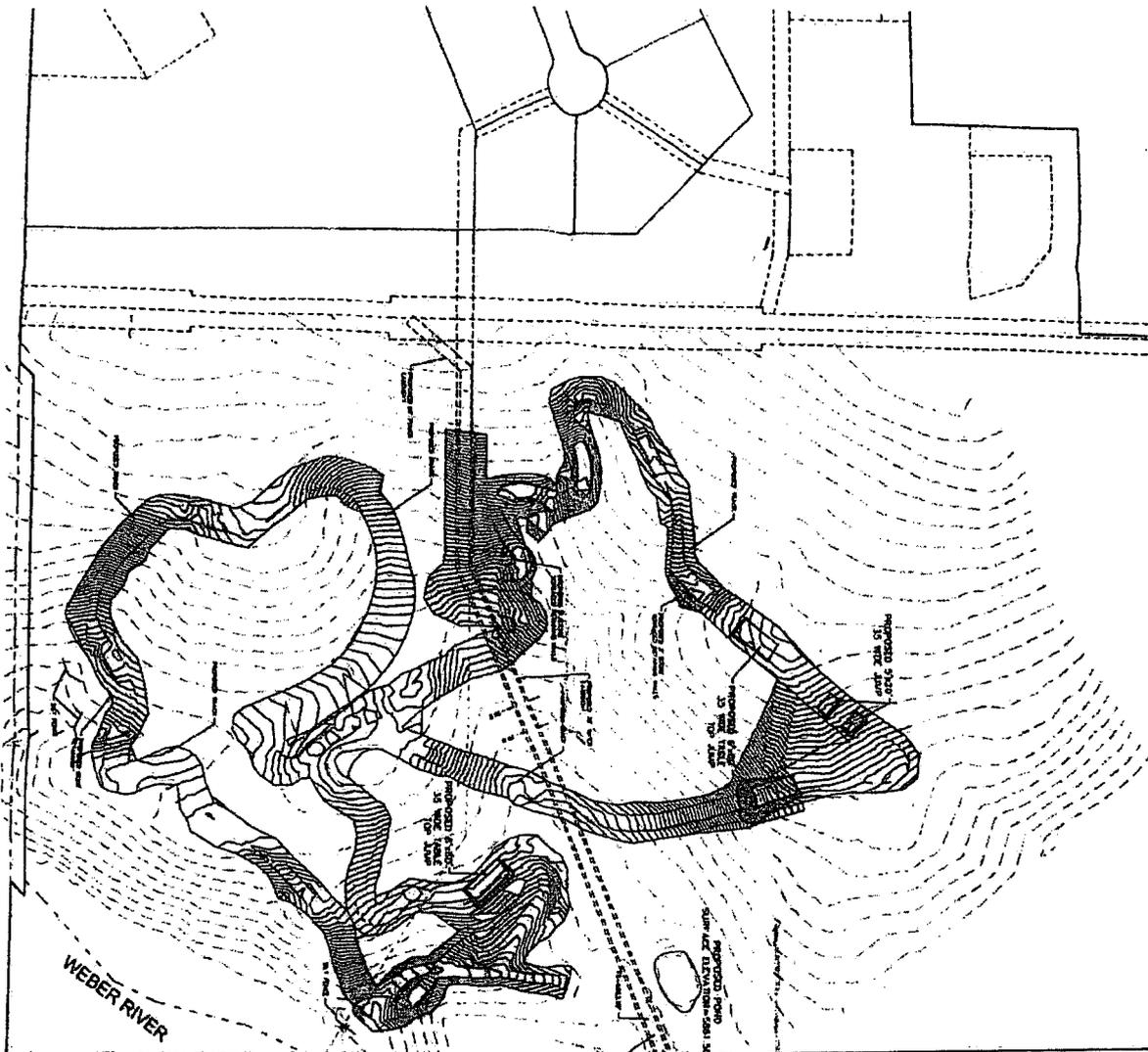
**ADDRESS: 391 Shadow Hill Rd**

**PERMIT NO. 14-G-31**

**DATE ISSUED: Nov. 18, 2014**

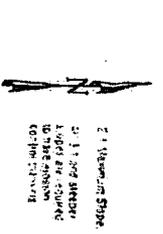
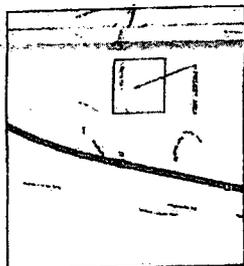
**EXPIRATION DATE: May. 17, 2015**

# EXHIBIT B



**PROPOSED TRACK**  
 CUT= 3784 CU. YD.  
 FILL=3401 CU. YD.  
 ET= 392 (CUT) CU. YD.

**PROPOSED JUMPS**  
 FILL=6253 CU. YD.



**LEGEND**  
 Existing Ground  
 Proposed Track  
 Proposed Jump  
 Weber River

DATE: 11/13/11  
 BY: [Signature]  
 APPROVED BY: [Signature]  
 DATE: 11/13/11  
 SIGNED: [Signature]  
 TITLE: COUNTY ENGINEER

LOCATED IN THE ASSIGNED QUARTER  
 TRAPERS OF SECTION 16, T4N, R10E, S10E  
 COUNTY OF WARD, STATE OF UTAH

TRACK AND EXISTING GROUND EXHIBIT WASHSHIP, UTAH <b>STEVE LUCZAK</b>	<b>DIAMOND LAND SURVEYING, LLC</b> 1000 W. 1000 S. SUITE 100 WASHINGTON, UT 84787 (435) 735-1111 WWW.DIAMONDLANDSURVEYING.COM	UTAH SURVEYOR RAYMOND S. WEBER 10000 2008	NO. DATE REVISION _____ _____ _____
			DRAWN BY: [Signature] CHECKED BY: [Signature]

# EXHIBIT C

**Heather Judd**

---

**From:** Jennifer Strader  
**Sent:** Tuesday, November 11, 2014 8:48 AM  
**To:** Heather Judd; Peter Barnes  
**Subject:** Re: 14-G-31

Heather,

This email confirms that the Planning Department is aware of the submittal of a grading permit referenced in your email below; however, this acknowledgement does not constitute approval of the grading permit by the Community Development Department.

Jennifer Strader  
County Planner  
435-615-3152

---

**From:** Heather Judd  
**Sent:** Monday, November 10, 2014 3:17 PM  
**To:** Jennifer Strader; Peter Barnes  
**Subject:** 14-G-31

Hi Jenn or Peter,

By chance have you sent an email about the motorcycle jumps (phase II) and I somehow missed it?

Thanks



*Heather Judd*

Code Enforcement Tech.  
Summit County Engineering  
435.336.3141  
[www.summitcounty.org/engineering](http://www.summitcounty.org/engineering)

SUMMIT COUNTY  
DEPARTMENT OF PUBLIC WORKS  
DIVISION OF ENGINEERING

# STOP WORK NOTICE

If you have a permit, please post it on the property and notify the Engineering Department at once.

THIS ACTIVITY IS IN VIOLATION OF:

- Excavation in County Right-of-Way without a Permit, Ordinance No. 181-D
- Driveway Encroachment without a Permit, Ordinance No. 181-D
- Structure Encroachment without a Permit, Ordinance No. 181-D
- Blockage of County Right-of-Way, Ordinance No. 181-D
- On Street Parking (November 15<sup>th</sup> to April 15<sup>th</sup>), Ordinance (Snow Removal)
- Depositing Snow on County Road from Private Property, Ordinance (Snow Removal)
- Excavating, Grading or Placement of Fill outside County Right-of-Way, Ordinance No. 315
- Construction activity prior to Final Site Plan or Subdivision Approval, (Snyderville Basin Development Code) (Eastern Summit County Development Code)
- Other: Ordinance No. 381 Storm water pollution prevention

Description of Violation: Permit expired, work outside permitted Drawings

Location of Violation: Entire Site

Issued by: Kyle Monz Date: 12/16/15 Time: 11:37

YOU ARE HEREBY NOTIFIED THAT YOU MUST STOP ALL WORK. ONLY WORK IN CONJUNCTION WITH PERMIT AND/OR PROTECTION AS REQUIRED TO PROTECT AND SAFE GUARD LIFE AND WILL REMAIN IN EFFECT UNTIL ALL VIOLATIONS HAVE BEEN IT IS ISSUED.

Kyle Monz  
Engineer/Technician

THE SUMMIT COUNTY ENGINEERING DIVISION

60 North Main  
PO Box 128  
Coalville, Utah 84017  
Phone (435) 336-3292  
Call (435) 640-6623  
Fax (435) 336-3043  
kmonz@summitcounty.org



COALVILLE 435-336-3250 KAMAS 435-783-4351 Ext 3250

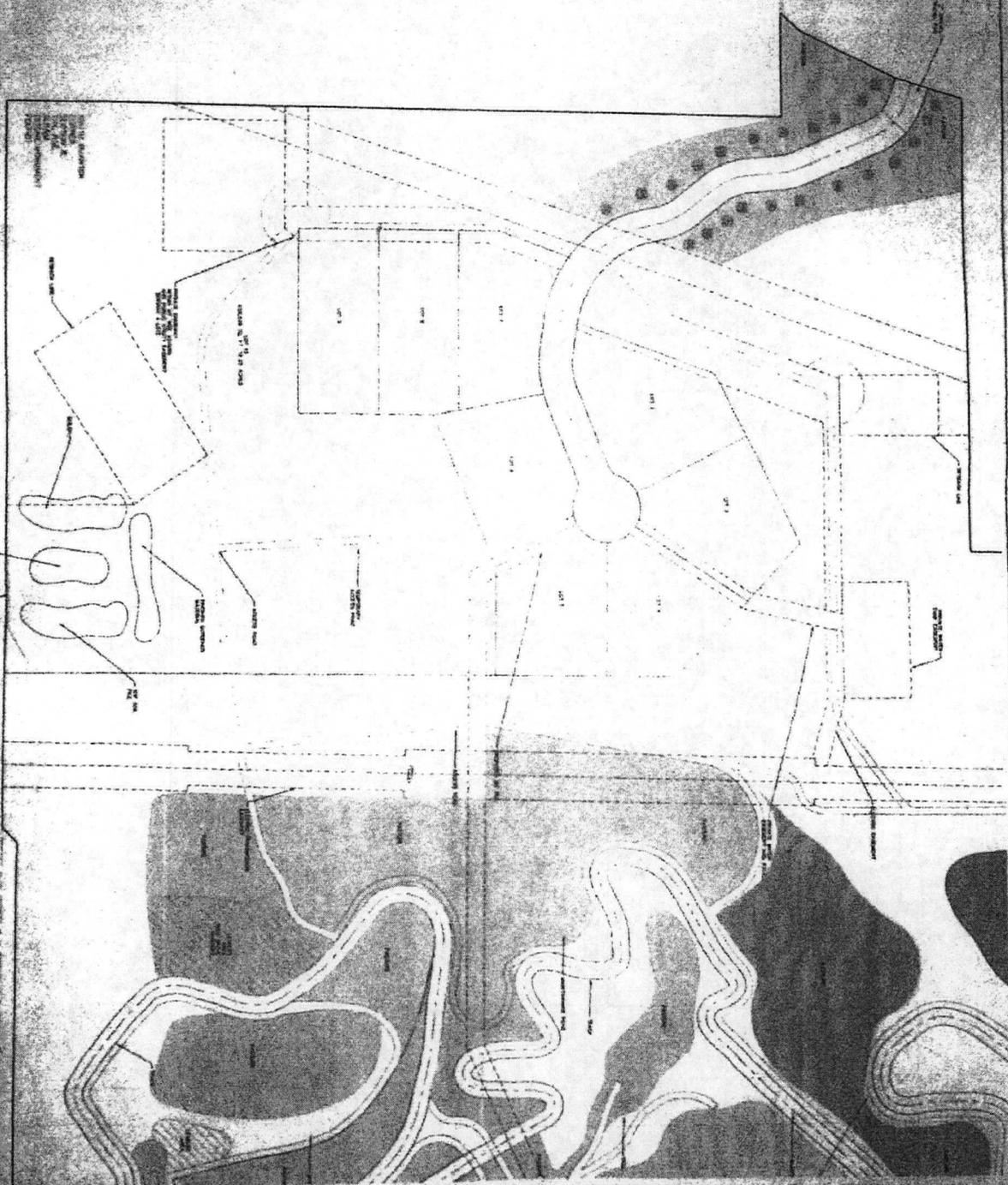
www.summitcounty.org/engineering

Approved By: [Signature]  
Date: 12/17/15

Summit County Engineering Division  
Coalville, Utah 84017  
Permit City (435) 615-3250







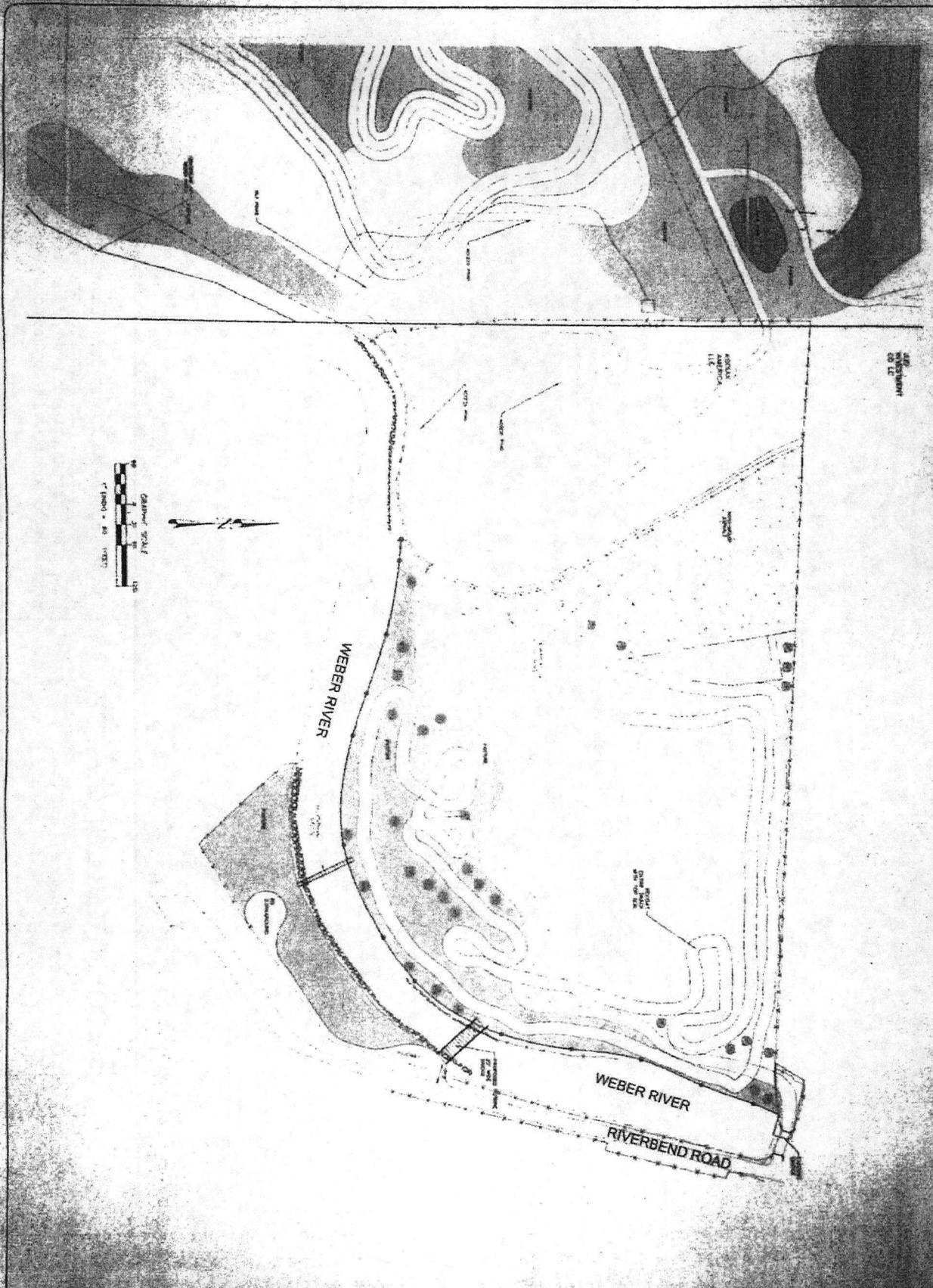
1	
2	
3	

SITE PLAN  
 RIVERBEND ROAD, HOYTENVILLE ROAD  
 WARDEN, UTAH  
 SEPTEMBER 2011  
 STEVE LUCZAK

**DIAMOND LAND SURVEYING**  
 1000 W. 1000 N.  
 WARDEN, UTAH 84303  
 (435) 833-1111  
 www.diamondland.com



DATE	BY



<p>C B</p>	<p>STEVE LUCZAK</p>	<p><b>DIAMOND LAND SURVEYING</b></p> <p>13</p>	<p>STATE OF UTAH COUNTY OF KANE</p> <p>STEVE LUCZAK REGISTERED SURVEYOR</p>
----------------	---------------------	--	---

# EXHIBIT F



Summit County, Snyderville Basin Water Reclamation District, Park City School District, Park District, Park City Municipal Corporation, Mountain Regional Water Summit County, Source: DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroX, GeoEye, AeroGRID, IGN, SPSwissTopo, and the GIS User Community

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



## Race Track Land Area

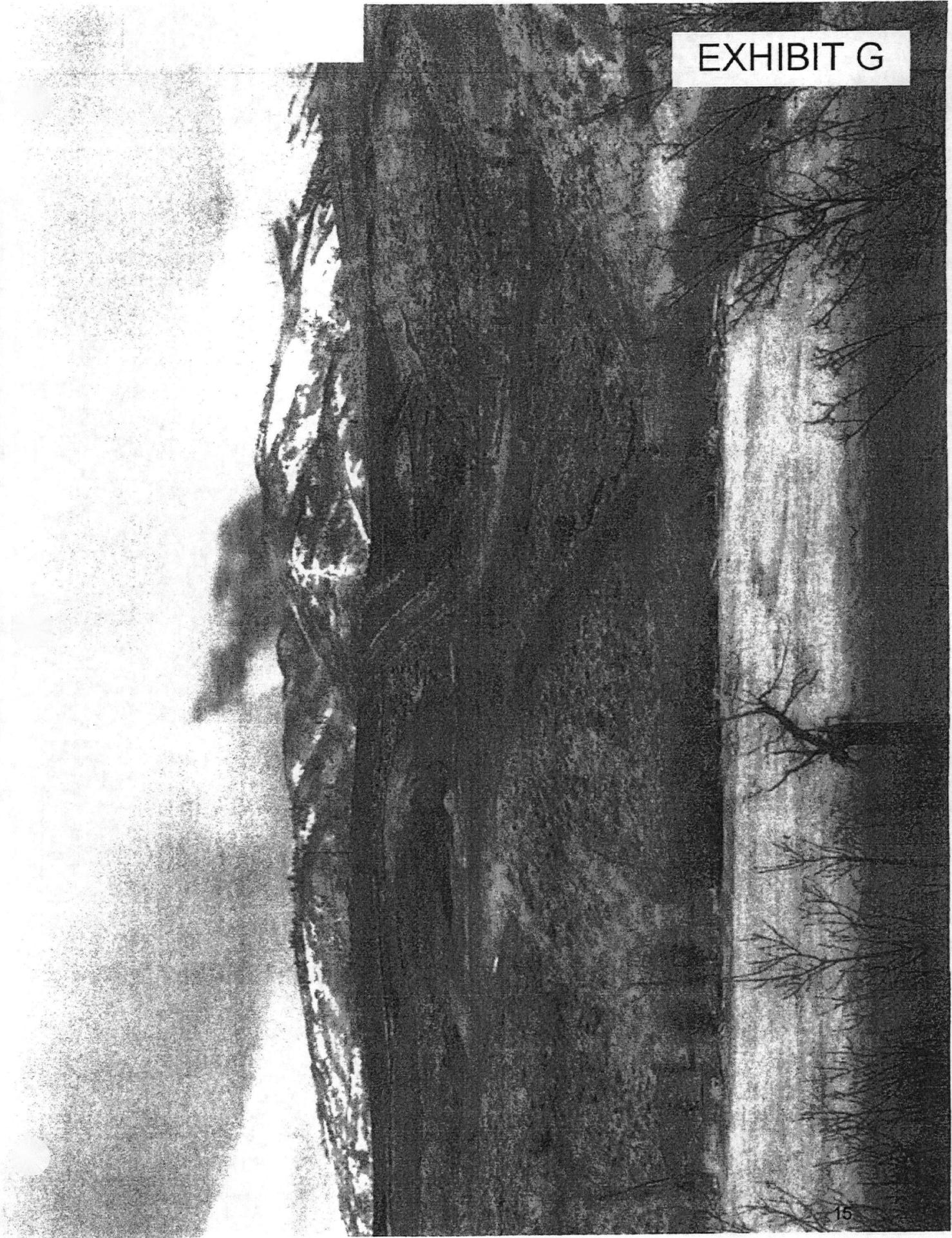
Summit County Online Parcel Reference Map

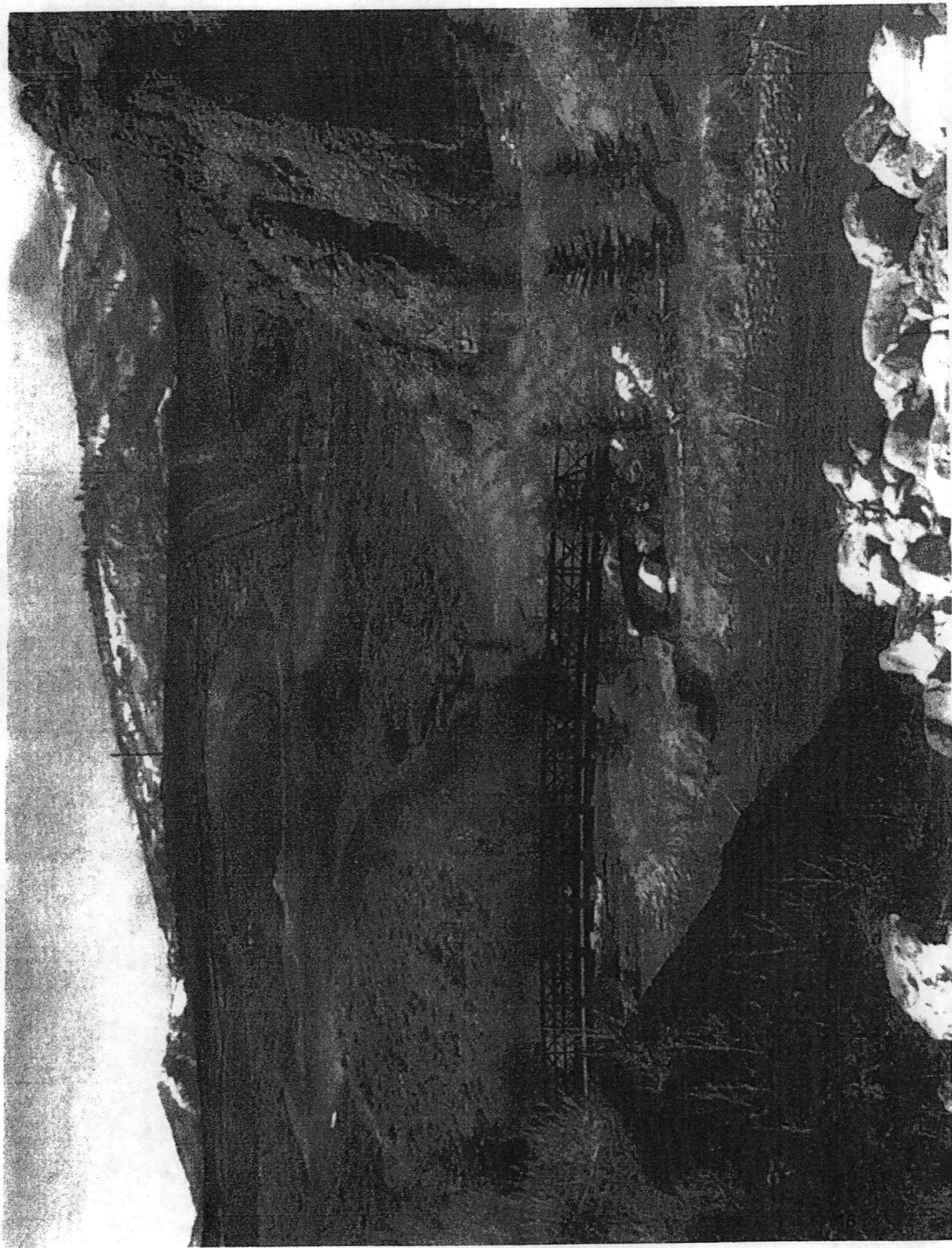
Printed on: 3/14/2016

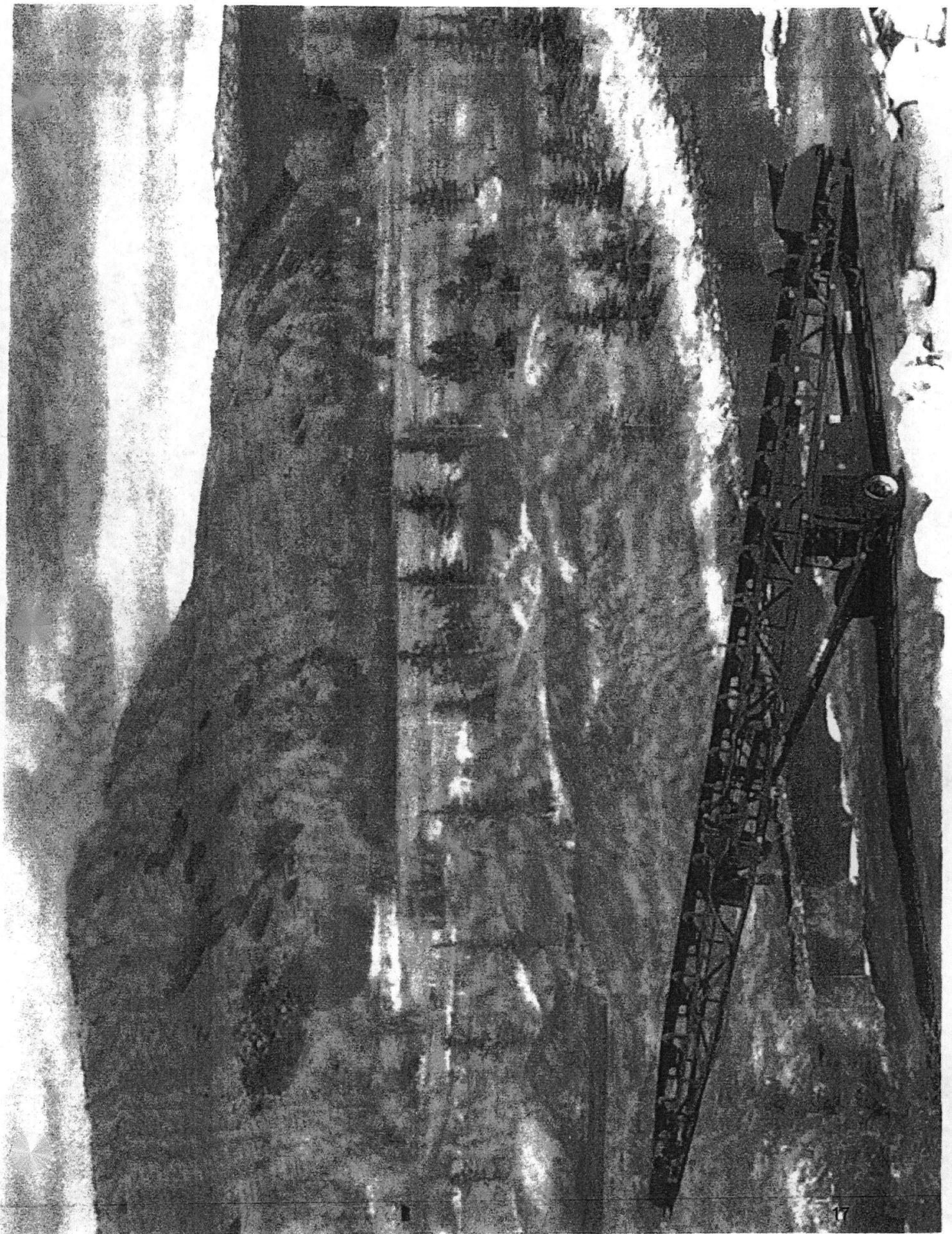
SUMMIT

1 in = 1,180 feet

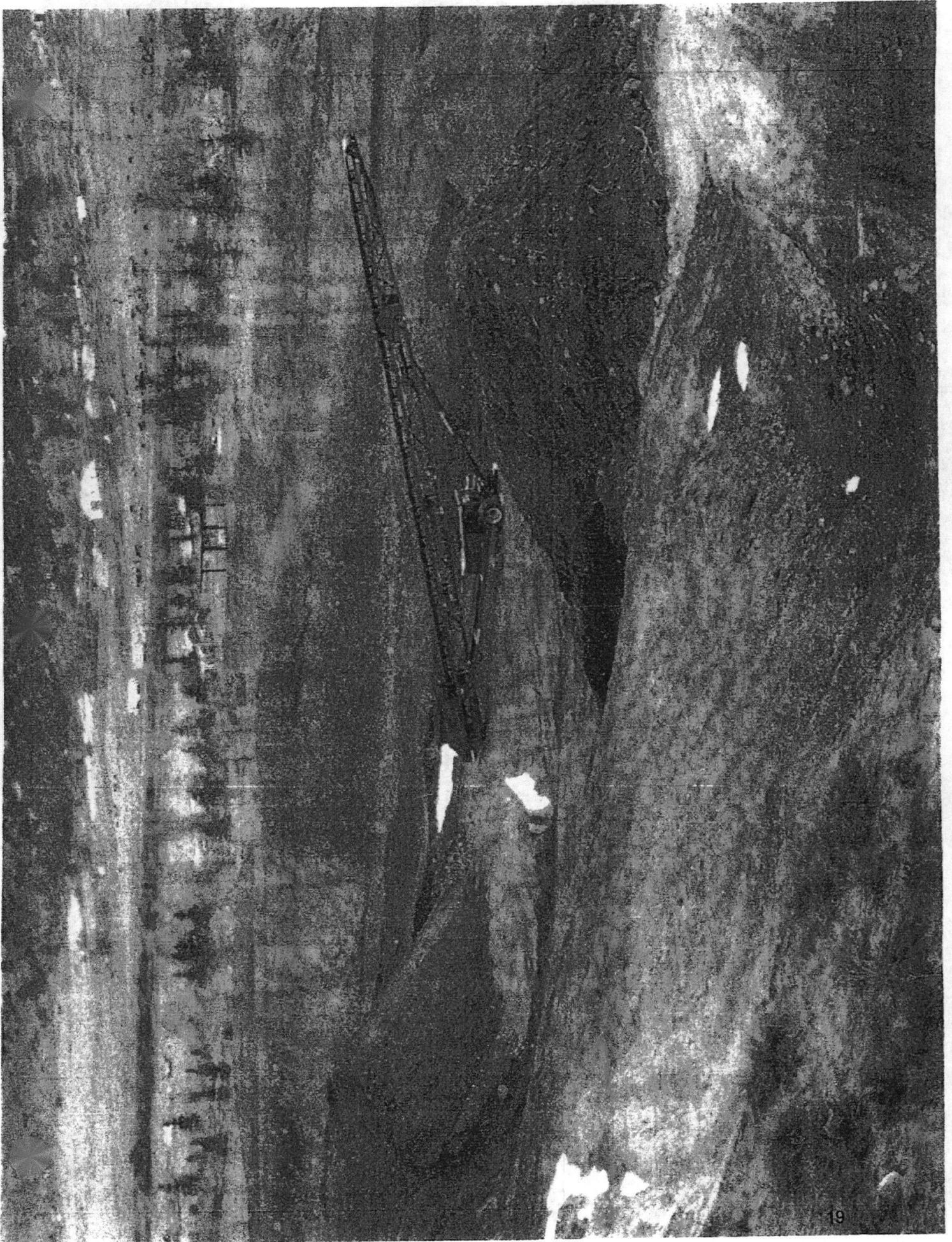
EXHIBIT G













PETITION TO REQUIRE PUBLIC HEARING ON COMMERCIAL MOTORCYCLE TRACK

The Undersigned request that Summit County conduct a public hearing to allow public input regarding any governmental approval related to the development of a commercial sized motocross track and event center at 1800 S West Hoytsville Road, Wanship, Utah (parcel serial number: SRDG-1-AM).

DATE	PRINTED NAME	SIGNATURE	PHONE NUMBER	EMAIL ADDRESS
3/9/16	LOWELL R. JOHNSON	<i>Lowell R. Johnson</i>	435-336-2097	
3/9/16	DIANE R. JOHNSON	<i>Diane R. Johnson</i>	435-336-2097	dianejohnson@gmail.com
3/9/16	TALIN BINGHAM	<i>Talin Bingham</i>	801-471-4754	TalinBingham@gmail.com
3/9/16	CURTIS JUDD	<i>Curtis Judd</i>	801-916-6875	CURTIS.JUDD@GMAIL.COM
3/9/16	ROBERT F. WALLY	<i>Robert F. Wally</i>	435-647-6396	wallybobf@yahoo.com
3/9/16	LORRAINE V. WALLY	<i>Lorraine V. Wally</i>	435-901-1050	wallylorraine@yahoo.com
3/9/16	LAURCI TRANCERE	<i>Laurci Trancere</i>	716-969-7511	LAURCI.FRANCI@YIMMAIL.COM
3/9/16	TERRY FRITZ	<i>Terry Fritz</i>	801-381-8018	terryfritz23@aol.com
3/9/16	ROBERT (BUD) CROOKER	<i>Robert Crooker</i>	435-649-6247	crooker.bud@gmail.com
3/10/16	JAY CICHOSZ	<i>Jay Cichosz</i>	435-336-2553	JAY.C.CICHOSZ@GMAIL.COM
3/10/16	JOHN KRUDSEN	<i>John Krudsen</i>	435-336-2549	silverjivdranch@gmail.com

EXHIBIT H

March 9, 2016

**PETITION TO REQUIRE PUBLIC HEARING ON COMMERCIAL MOTORCYCLE TRACK**

The Undersigned request that Summit County conduct a public hearing to allow public input regarding any governmental approval related to the development of a commercial sized motocross track and event center at 1800 S West Hoytsville Road, Wanship, Utah (parcel serial number: SRDG-1-AM).

DATE	PRINTED NAME	SIGNATURE	PHONE NUMBER	EMAIL ADDRESS
3/10/16	ARNITH KNUDSON	<i>Arnth Knudson</i>	435-336-2519	Same as JOURNAL
3/10/16	Richard Hulbert	<i>Richard Hulbert</i>	435-336-1028	richard.hulbert@nt
3/10/16	Rick Hulbert	<i>Rick Hulbert</i>	435-336-6098	randre@westnet
3/10/16	NANCY SHAW	<i>Nancy Shaw</i>	435-336-4428	NANCY@WALLSTREET.NET
3/10/16	Mark Wagner	<i>Mark Wagner</i>	435-336-2782	mark.wagner@crvcs.org
3/10/16	MONICA LARA	<i>Monica Lara</i>	435-336-3788	monica.lara.68@gmail.com
3/10/16	STEE TOMMINS	<i>Stee Tommings</i>	937-336-6222	STTomms@aol.com
3/12/16	Devick Petersen	<i>Devick Petersen</i>	435-336-7275	devickpetersen54@gmail.com
3/10/16	BRANT PETERSEN	<i>Brant Petersen</i>	435-336-2912	devickpetersen.com
3/12/16	DIANE PETERSEN	<i>Diane Petersen</i>	435-640-2295	devickpetersen@gmail.com
3/12/16	Paul Beale	<i>Paul Beale</i>	707-257-0030	PaulBeale@comcast.net

March 9, 2016

PETITION TO REQUIRE PUBLIC HEARING ON COMMERCIAL MOTORCYCLE TRACK

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DATE	PRINTED NAME	SIGNATURE	PHONE NUMBER	EMAIL ADDRESS
3-12-15	Katherine Christensen		(801) 580-3311	UTP@EKKC.com
	Victor Ryan		435-650-6051	Bye to a way
3/12/15	Catherine Legge		435-336-3372	catherine.legge@utah.gov
3/12/15	Nicole Legge		435-336-3332	SAM
3/12/15	Veronica Christie		435-645-5600	vernicr@ps.chsd.us
3/12/15	Sara Sargent		(435) 336-4037	Sara.sargent@yahoo.com
3/12/15	Colleen Pace		435-336-2195	
3/12-15	April Whiting		801-643-6800	
3-12-15	Christine Pace		336-5396	-None
3-12-15	Na. Pace		336-5396	
3/12/15	CHRISSEY PACE		330-2195	

PETITION TO REQUIRE PUBLIC HEARING ON COMMERCIAL MOTORCYCLE TRACK

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DATE	PRINTED NAME	SIGNATURE	PHONE NUMBER	EMAIL ADDRESS
3-12-16	Cory Pace	<i>Cory Pace</i>	336-5195	
3/12/2016	Clayton Sunderland	<i>Clayton Sunderland</i>	435-336-4337	sunderland@earthlink.net
3/12/16	Breanne Clark	<i>Breanne Clark</i>	435-336-7715	riding@worldinyourhands.com
3/12/16	Lynn Anderson	<i>Lynn Anderson</i>	435-336-0173	jander@earthlink.net
3/12/16	Laura Olsen	<i>Laura Olsen</i>	435-336-4332	
3/12/16	Tom Anderson	<i>Lynn Anderson</i>	435-336-0173	
3/12/16	Ausum Gaudell	<i>Ausum Gaudell</i>	435-336-2720	
3/12/16	Thomas K. Houser	<i>Thomas K. Houser</i>	201-5999581	Tom.Houser@verizon.com
3/12/16	Wright Overland	<i>Wright Overland</i>	801-229-5252	wrightoverland@earthlink.net
3/12/16	Stephan Pace	<i>Stephan Pace</i>	801-703-3258	Stephan@StephanPace.com
5/12/16	Mike Bohage	<i>Mike Bohage</i>	435-336-3400	

**PETITION TO REQUIRE PUBLIC HEARING ON COMMERCIAL MOTORCYCLE TRACK**

The Undersigned request that Summit County conduct a public hearing to allow public input regarding any governmental approval related to the development of a commercial sized motocross track and event center at 1800 S West Hoytsville Road, Wanship, Utah (parcel serial number: SRDG-1-AM).

DATE	PRINTED NAME	SIGNATURE	PHONE NUMBER	EMAIL ADDRESS
3/12/16	Scott Jamney			
3/12/16	Tyler Owsed		435-640-1078	
3/12/16	Alexis S. Clark		435-334-5462	
3/12/16	MELBA ANN PERKINS		801-726-7707	2meperkins@gmail.com
3/12/16	Todd Owsed		435-640-9510	
3/12/16	NEIL CARTER		801-466-4424	
3/12/16	Donna Pester			
3/12/16	JEFF McCORMICK		435-640-8018	Imagetic@earthlink.net
3/12/16	Miriam Coover		435 901-1299	
3-12-16	Stacie Davis		801-661-0926	
3.12.16	Christina Franchise		716 499 9435	christfranchise@yahoo.com
3-16-16	Mark Whisher		435 640 4565	mark.whisher@5arr.com

March 9, 2016

PETITION TO REQUIRE PUBLIC HEARING ON COMMERCIAL MOTORCYCLE TRACK

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DATE	PRINTED NAME	SIGNATURE	PHONE NUMBER	EMAIL ADDRESS
3-12-16	Roger Wilson	<i>Roger Wilson</i>	435-336-2149	rogerbwilson@gmail.com
	Vince [unclear]			
3/12/16	Gary L Siddaway	<i>Gary Siddaway</i>	385-244-9045	
3/12/16	Ashlie Richins	<i>Ashlie Richins</i>	435-640-3602	awrichins@juno.com
3/12/16	Laura [unclear]	<i>Laura [unclear]</i>	435-640-0605	
3-12-16	Margaret Larson	<i>Margaret Larson</i>	435-536-4449	DELARSEN5@MSN.COM
12 Mar 2016	Margaret Larson	<i>Margaret Larson</i>	801-529-8083	margaret.l.l@juno.com
3-12-2016	Wade Wilson	<i>Wade Wilson</i>	435-659-1861	
3-12-2016	Kate Pace	<i>Kate Pace</i>	435-336-2560	kateandgale@gmail.com
3/12/2016	Kathleen Pace	<i>Kathleen Pace</i>	435-336-0776	" "
3/10/2016	Travis [unclear]	<i>Travis [unclear]</i>	801-628-2016	Travis@travis.com

PETITION TO REQUIRE PUBLIC HEARING ON COMMERCIAL MOTOR VEHICLE TRACK

The Undersigned request that Summit County conduct a public hearing to allow public input regarding any governmental approval related to the development of a commercial sized motocross track and event center at 1800 S West Hoytsville Road, Wanship, Utah (parcel serial number: SRDG-1-AM).

DATE	PRINTED NAME	SIGNATURE	PHONE NUMBER	EMAIL ADDRESS
3-7-16	Wm Dick Sporer	<i>Wm Dick Sporer</i>	435-649-1997	dsporer@allwest.net
3-7-16	CHAYE STONCE	<i>Chaye Stonce</i>	649-1600	jeston@allwest.net
3-8-16	Jason Hoyt	<i>Jason Hoyt</i>	781-683-7276	jhoyt@allwest.net
3-13-16	AL DAVIS	<i>Al Davis</i>	801-244-1608	AUD@CS.UTAH.EDU
3-13-16	Julianne D'Amore	<i>Julianne D'Amore</i>	435-901-2987	jda@allwest.net
MARCH	Neil Bessmiller	<i>Neil Bessmiller</i>	435-649-7515	BDRANCH@ALLWEST.NET
3-15-16	Connie Russmiller	<i>Connie Russmiller</i>	649-7500	Bdranch@allwest.net
3-15-16	Alvin Guerin	<i>Alvin Guerin</i>	801-467-5297	XCSK@10722@allwest.net
"	DAN HALL	<i>Dan Hall</i>	801-251-6174	DHALL@ALLWEST.NET



PETITION TO REQUIRE PUBLIC HEARING ON COMMERCIAL MOTORCYCLE TRACK

The Undersigned request that Summit County conduct a public hearing to allow public input regarding any governmental approval related to the development of a commercial sized motocross track and event center at 1800 S West Hoytsville Road, Wanship, Utah (parcel serial number: SRDG-1-AM).

DATE	PRINTED NAME	SIGNATURE	PHONE NUMBER	EMAIL ADDRESS
3/12/16	Delores Overd	Delores Overd	435-336-5820	Overdhd@aol.com
3-15-16	Perry Pace	Perry Pace	435-336-2516	
3-15-16	Keshie Pace	Keshie Pace	435-336-2516	
3-15-16	Brent Geary	Brent Geary	435-336-5284	StoneFox12 Excite.com
3-15-16	April Pace Overd	April P Overd	435-640-5442	
3-15-16	HAROLD OVERD Harold Overd	Harold Overd	435-893-1317	

# EXHIBIT I

(/)


 CAPPELLA UNIVERSITY OUR COURSES ARE DELIVERED BY WORLD-CLASS FACULTY  
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[POPULAR \(/popular\)](#)
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[HOT](#)
[WEBSTAPICK \(/webstapick\)](#)
[BOARD \(/board\)](#)

[TOOLS \(http://widgets.websta.me\)](http://widgets.websta.me)

[Username or Tag](#)

**ANNOUNCEMENT:** Our widgets are getting an upgrade. New & improved WEBSTA Widgets for Instagram coming soon! [Sign Up \(http://widgets.websta.me\)](http://widgets.websta.me) for early access & more!

[Websta \(/\)](#) > Posts of [@flyingironhorseranch \(/n/flyingironhorseranch/\)](#) > [@flyingironhorseranch's post \(/p/1181584378953117718\\_213277475\)](#)


[flyingironhorseranch \(/n/flyingironhorseranch/\)](#)  
 Owner: Flying Iron Horse Ranch Normal  
 Park City, Utah (/location/214422668)



[https://scontent.cdninstagram.com/t51.2885-15/s640x640/sh0.08/e35/12547203\\_158957714483827\\_653964686\\_n.jpg?ig\\_cache\\_key=MTE4MTU4NDM3ODk1MzExNzcxOA%3D%3D.2](https://scontent.cdninstagram.com/t51.2885-15/s640x640/sh0.08/e35/12547203_158957714483827_653964686_n.jpg?ig_cache_key=MTE4MTU4NDM3ODk1MzExNzcxOA%3D%3D.2)

172

[#trackdesigntuesday \(/tag/trackdesigntuesday\)](#)
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[#vurbmoto \(/tag/vurbmoto\)](#)
[#promotocross \(/tag/promotocross\)](#)
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[#flyingironhorseranch \(/tag/flyingironhorseranch\)](#)  
[#lifeontwoweels \(/tag/lifeontwoweels\)](#)
[#burnthebreeze \(/tag/burnthebreeze\)](#)  
[#ride365 \(/tag/ride365\)](#)
[#heavenonearth \(/tag/heavenonearth\)](#)  
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[@bk887 \(/n/bk887\)](#)
[@rob.hart.5 \(/n/rob.hart.5\)](#)  
[@tallonveater763 \(/n/tallonveater763\)](#)

[http://websta.me/p/1181584378953117718\\_213277475](http://websta.me/p/1181584378953117718_213277475)

[flyingironhorseranch \(/n/flyingironhorseranch\)](#)
[#trackdesigntuesday \(/tag/trackdesigntuesday\)](#) – As [@luczak101 \(/n/luczak101\)](#) explained earlier today, here is another spy photo of the new prototype technology we are utilizing to turn the [#flyingironhorseranch \(/tag/flyingironhorseranch\)](#) into the ultimate [#heavenonearth \(/tag/heavenonearth\)](#). Late last year we started working with [@allenfausett \(/n/allenfausett\)](#) at [@wheelermachinery \(/n/wheelermachinery\)](#) and ZipZepp Airships to utilize Trimble satellite triangulation with drone capabilities to develop a platform for the ultimate track design and virtual track walks. This is just the beginning phase of a much grander vision. Thanks to all those who have helped out so far. [#promotocross \(/tag/promotocross\)](#) [#mx \(/tag/mx\)](#) [#mxsports \(/tag/mxsports\)](#) [#racerx \(/tag/racerx\)](#) [#readmeta \(/tag/readmeta\)](#) [#vurbmoto \(/tag/vurbmoto\)](#) [#riderad \(/tag/riderad\)](#) [#burnthebreeze \(/tag/burnthebreeze\)](#) [#trimble \(/tag/trimble\)](#) [#catmachines \(/tag/catmachines\)](#) [#lucasoil \(/tag/lucasoil\)](#) [#icat \(/tag/icat\)](#) [#ride365 \(/tag/ride365\)](#) [#lifeontwoweels \(/tag/lifeontwoweels\)](#) [1mon](#)  
 10 more comments


[wheelermachinery \(/n/wheelermachinery\)](#)
[@flyingironhorseranch \(/n/flyingironhorseranch\)](#) can we repost this with credit? We are thrilled to be involved in the creation of heaven on earth 🙌 [1mon](#)


[flyingironhorseranch \(/n/flyingironhorseranch\)](#) Sure you can repost, appreciate the technology and your support [@wheelermachinery \(/n/wheelermachinery\)](#) credit to [@flyingironhorseranch \(/n/flyingironhorseranch\)](#) [@luczak101 \(/n/luczak101\)](#) [1mon](#)


[nate.miceli \(/n/nate.miceli\)](#)
[@k8spade4 \(/n/k8spade4\)](#) [1w](#)


[skypixelmedia \(/n/skypixelmedia\)](#) Super dope! Great tech to move into [1d](#)

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# Possible New Track for 2016 Utah National ?? Flying Iron Horse Ranch

By Dan Lamb  
September 7, 2015

BEST Private MX Track Wanship Utah Motocross 8/8/2015



[video\_bar]

Check out a helmet cam video from the newest layout from the private Flying Iron Horse Ranch motocross track. Up until now the Flying Iron Horse Ranch in Wanship, Utah has been a private track, but with the closing of Miller Motorsports Park, we're hearing MXSports is considering this beautiful Utah countryside track for a future slot in the Lucas Oil Pro Motocross Championship.

The track is a far cry from the manmade facility at Miller Motorsports Park and was even featured in a segment of Wes Williams motocross film "War Machine". Nothing other than subtle

<http://www.motoxaddicts.com/2015/09/07/possible-new-track-for-2016-utah-national-flying-iron-horse-ranch/>

MotoXAddicts

## Possible New Track for 2016 Utah National ?? Flying Iron Horse Ranch

By Dan Lamb  
September 7, 2015



[video\_bar]

Check out a helmet cam video from the newest layout from the private Flying Iron Horse Ranch motocross track. Up until now the Flying Iron Horse Ranch in Wanship, Utah has been a private track, but with the closing of Miller Motorsports Park, we're hearing MXSports is considering this beautiful Utah countryside track for a future slot in the Lucas Oil Pro Motocross Championship.

The track is a far cry from the manmade facility at Miller Motorsports Park and was even featured in a segment of Wes Williams motocross film "War Machine". Nothing other than subtle hints on new facilities are out there, but Racer X Online sent out an Instagram pic from the facility a few days ago and heated up the rumor mill even more.

hints on new facilities are out there, but **Racer X Online** sent out an **Instagram** pic from the facility a few days ago and heated up the rumor mill even more.

0 Comments

Sort by Oldest

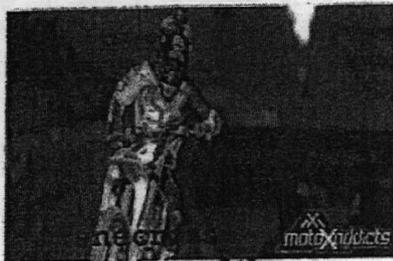


Add a comment...

Facebook Comments Plugin



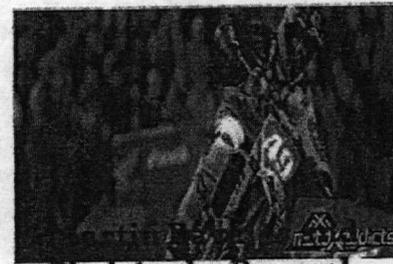
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27w

raceroxonline Meanwhile, out in Utah... #DreamOn #motocross #moto #mx #dirtbikes @promotocross



# EXHIBIT I

# Motocross News

## Watch Mountain bike vs Motocross featuring Brett Cue and Gavin Godfrey



Episode four of Michelin's We are all racers: Mountain Bike vs Motocross features moto fan favourite, Brett Cue as he tips around Flying Iron Horse Ranch in Utah with top mountain biker Gavin Godfrey. You can check it out below...

# Flying Iron Horse Ranch - YouTube

Flying Iron Horse Ranch

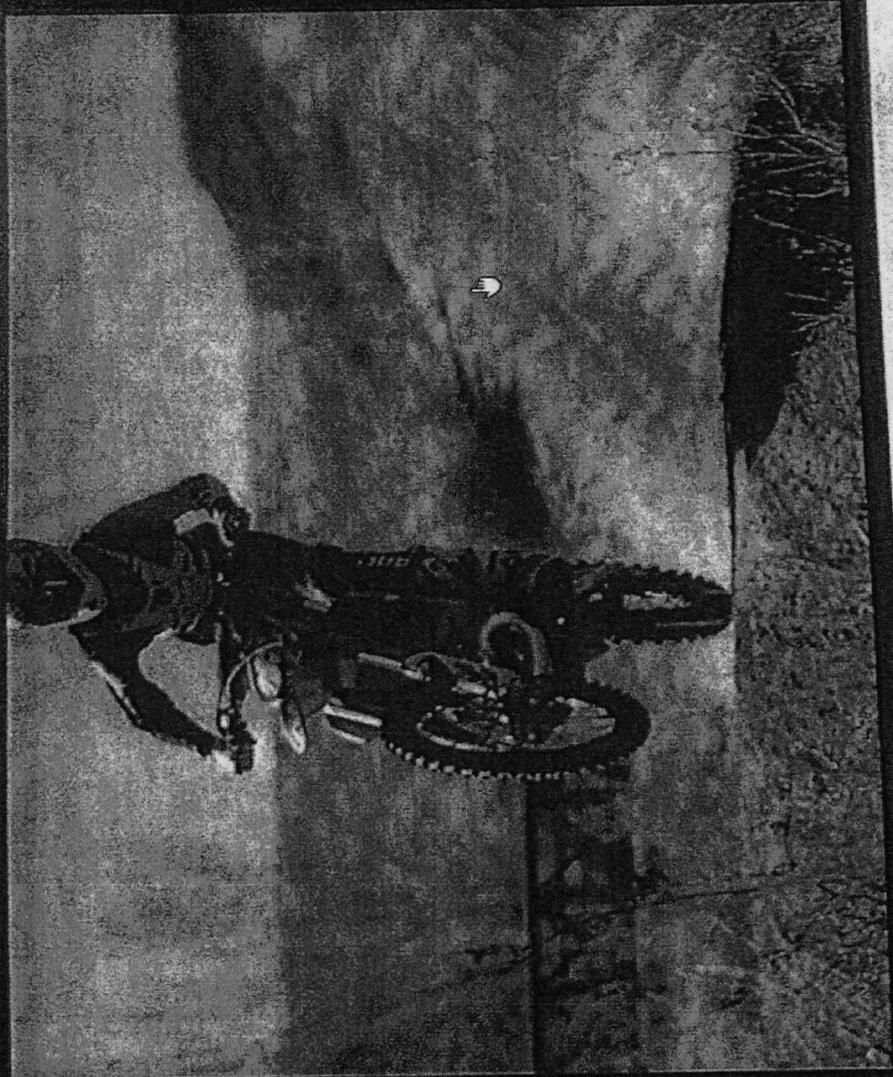
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**flyingironhorseranch**

Owner: Flying Iron Horse Ranch

Park City, Utah



11:51 AM '57

568 14

**flyingironhorseranch** We had some guest appearances  
#flyingironhorseandthisweekend Ashley Finley and  
upper track PC @hinderocke snagging some footage of us  
Can't wait to have you guys back up here! #heavenly  
#lifeonthewheels #aromocross #mx #utahmx #flyingiron  
@foxracing @hildyvat @racerxonline @meta @vinn  
10 more comments

**maine\_guvenet @gaberto\_peretz\_**

**thesallone @\_sallone\_ @vish\_**

**all\_drews @all\_drews** I know right! Even the track did!

**opak\_asolin @opa\_kasolin**

LOG IN TO WRITE COMMENT



flyingironhorse ranch

Owner: Flying Iron Horse Ran...  
Park City, Utah



212  
@brian\_1019 @leigha1991  
@thompson575 @studgefest198

flyingironhorse ranch Monday morninges - Landen Powell sporting the...  
the Flying Iron Horse Ranch can't wait for the 2015 1/2 to show up

luzrak101 @powellhx854

powellhx854 I can't wait for that show to meet

elnaghvasi @all\_g\_hyvasi\_zmon

brad\_matson @flyingironhorse ranch me and my fam were filming and  
for spring break and going to Zion but I wanted to hit up some tracks can't

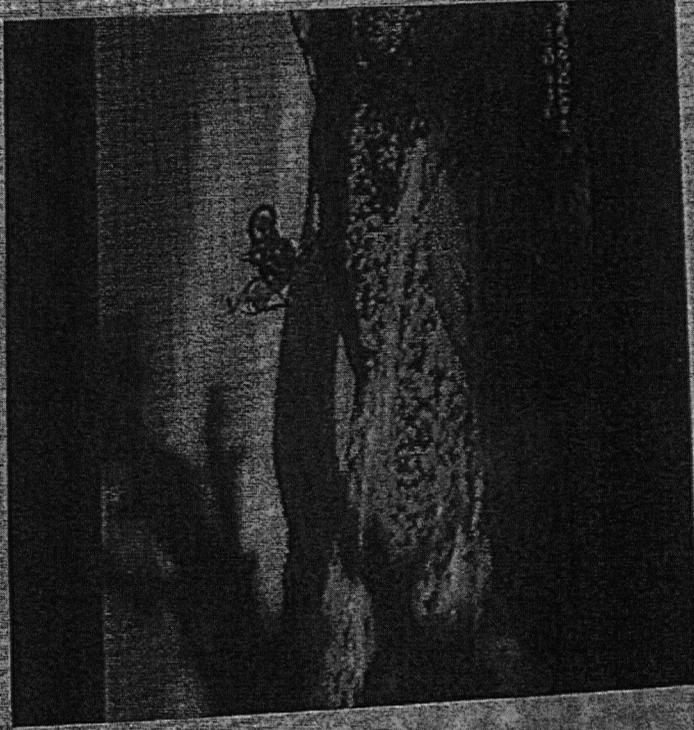
LOG IN to write comment



# Flying Iron Horse Ranch

Owner: Flying Iron Horse Ranch - Gauleton  
Park City, Utah

1 mo



245 7



[flyingironhorseranch](#) [Babies styling for #whitewave](#)  
[@suzie204](#) clicks off an awesome pic, always great  
[flyingironhorseranch](#) [not](#)

3 more comments



[MarkKer](#) Can't come? I can



[militant\\_0ne](#) @way2afdsi make mom...



[behind\\_bars\\_customs](#) @flyingironhorseranch your  
[@calisthenbull](#) this is 25 miles north of Wee Wee. Or



[calisthenbull](#) @behind\_bars\_customs we need to

LOG IN to write comment.



# EXHIBIT J



Patrick Putt, Director  
Community Development Department  
P.O. Box 128  
Coalville, UT 84017  
(435) 336-3158  
pputt@summitcounty.org

VIA CERTIFIED LETTER #7015 0640 0007 9685 0936

March 23, 2016

Mr. Steve Luczak  
Kodiak America, LLC  
2185 East 3380 South  
Salt Lake City, Utah 84109

RE: Sunrise Ridge Subdivision

Dear Mr. Luczak:

Summit County records identify you as the owner of property within the Sunrise Ridge Subdivision (First Amended). County records also indicate that you were issued a Grading Permit from the County Engineer's Office on November 18, 2014 for bike trails, new pasture space, landscaping, and utilities (attached Exhibit 1). This permit expired on May 17, 2015.

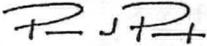
It is my understanding that you have constructed a motocross facility within the subdivision area and adjacent lands (attached Exhibit 2). This letter is to formally notify you that such use is prohibited pursuant to the Sunrise Subdivision First Amended Plat (recorded November 2, 2012), Plat Note #8 (attached Exhibit 3). Plat Note #8 states that:

**"The agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for development of residential lots numbered 1-10 was allowed in exchange for the preservation of the active and productive lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property."**

I hereby request that you cease and desist all further use and operation of these facilities immediately and restore/revegetate all associated areas of disturbance.

Please contact the County Engineer's Office at (435) 336-3250 for all necessary permit assistance. Failure to comply with this request may result in additional enforcement or legal action. I may be reached at (435) 336-3158 if you have any questions. I thank you in advance for your cooperation in this matter.

Sincerely,



Patrick J. Putt  
Community Development Director

cc: Robert Hilder, County Attorney  
Helen Strahan, Deputy County Attorney  
Tom Fisher, County Manager  
Gary Horton, County Engineer  
Peter Barnes, Planning and Zoning Administrator



Summit County Engineering Division  
 Grading Permit Application  
 60 North Main - P.O. Box 128, Coalville, UT 84017  
 Coalville (435) 336-3250 - Kamas (435) 783-4351 x 3250 - Park City (435) 615-3250  
 Fax (435) 336-3043 - www.summitcounty.org/engineering

Engineering Permit # 14-67-31 Plan Check # \_\_\_\_\_ N.O.I. # \_\_\_\_\_

Applicant / Owner	<u>Kodak America</u>
Phone #	<u>801 971 4066</u>
Fax #	<u>801 - 466 0637</u>
email	<u>Kodak.America@gmail.com</u>
Mailing Address	<u>2185 E 3580 S</u>
City	<u>SALT LAKE</u> Zip <u>84109</u>

Contractor	<u>Kodak America</u>
Phone #	<u>801 971 - 4</u>
Fax #	
email	
Mailing Address	
City	

Project Address LOT 391 Shadow Hill RD  
1800 S West Haysville

Parcel # SR RD 6-1-A11

- \* The applicant shall be the party responsible for the work and to whom all communications are to be directed.
- \* Grading permits are valid for a period of 180 days from the date received.
- \* Excavation, Grading and placement of fill ("Grading") (Refer to Ordinance 315-C for Requirements and Specifications)
- \* All work under this permit requires a 48 hour notice prior to work.
- \* Grading permits are not valid for work in the County right-of-way.
- \* All restoration and a final inspection must be requested prior to expiration of permit, unless extended in writing by the Summit County Engineer.

**GRADING PERMIT FEES**

- \$40 per Regular Grading Application \$ \_\_\_\_\_
- \*Regular Grading (less than 5000 Cu. Yd.)
- \$110 per Engineered Grading Application \$ 110
- \*Engineered Grading (more than 5000 Cu. Yd.)

← Permit Fee \$ 185  
 \*SWP3/ECP & Grading\*

Completion Bond \$ \_\_\_\_\_  
 ECP & SWP3 Bond \$ EFA

Weed Bond \$ \_\_\_\_\_  
 Total Due \$ \_\_\_\_\_

Amt Paid \$ 185

Balance \$ \_\_\_\_\_

SWP3 & ECP FEE (Area to be disturbed)  
 \$25 Sites of 1 Acre or less \$ 25  
 \$10 per Additional Acre \$ 50

*via acres*

**BOND REQUIREMENTS**

Completion Bond (120% of Estimated Cost) \$ \_\_\_\_\_

SWP3 & ECP Bond (120% of Estimated Cost) \$ \_\_\_\_\_

Sq. Ft. Disturbed \_\_\_\_\_  
 Re-veg/stabilization \$.10 sq ft= \$ \_\_\_\_\_  
 Silt Fence \$1.50 x \_\_\_\_\_ ft= \$ \_\_\_\_\_

Flood Zone: A  Shaded X

\*\*Notations and/or conditions of Approval:

By applying for this permit I acknowledge that I have confirmed that I will be complying with all federal, state and local laws concerning this property and that any permit issued pursuant to my application does not grant to me the right to develop my property under any existing land use and zoning laws, nor does it supersede any federal, state or local law which prevent the grading activity for which I am applying, in the event a permit is issued erroneously. This permit is not a grant of easement or other similar interest. Applicant shall acquire easements from affected fee owners as required.

Applicant / Owner Signature: [Signature] Date \_\_\_\_\_

Engineering Approved By: [Signature] Date 11-18-14

Planning Approved By: See email Date 11-11-14

Weed Dept Approved By: [Signature] Date 11-10-14

Bond Money Posted	Date Released
Completion <u>EFA</u>	_____
ECP/SWP3 <u>EFA</u>	_____
Weeds _____	_____

Exhibit 1

SUMMIT COUNTY COMMUNITY DEVELOPMENT  
DRIVEWAY GRADING PERMIT FORM

(for applicants requesting a grading permit for a driveway who do not have an approved permit prior through the Building Division)

Name of Applicant: Kodiak America

Mailing Address: 2185 E 3380 S

Phone Number: 801 971 4066

Project Address/Location: 1800 S West Hoytsville rd

Parcel Serial #: SR RDG-1-A17

Project Description: Bike Trails & new Pasture  
Space & Landscaping  
New Utilities to be Excavated Through Property

Reason For Request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I SUBMIT THAT I FULLY UNDERSTAND THAT APPROVAL FROM THE COMMUNITY DEVELOPMENT DEPARTMENT FOR A GRADING PERMIT IS NOT APPROVAL OF A BUILDING SITE LOCATION. I FURTHER UNDERSTAND THAT, UPON SUBMITTAL OF BUILDING PLANS TO THE BUILDING DIVISION, AN ALTERNATE ACCESS TO THE BUILDING SITE MAY HAVE TO BE CONSTRUCTED. FURTHERMORE, I UNDERSTAND THAT NATURAL GRADE (i.e. before any grading is done) IS USED TO CALCULATE BUILDING HEIGHT.

Dated this 8 of Sept 20 14

Parcel Owner(s) signature: [Signature]

Please Print Name: Steve Luczak

**SUMMIT  
COUNTY  
GRADING  
PERMIT**



**APPLICANT: Kodiak America**

**ADDRESS: 391 Shadow Hill Rd**

**PERMIT NO. 14- G- 31**

**DATE ISSUED: Nov. 18, 2014**

**EXPIRATION DATE: May. 17, 2015**

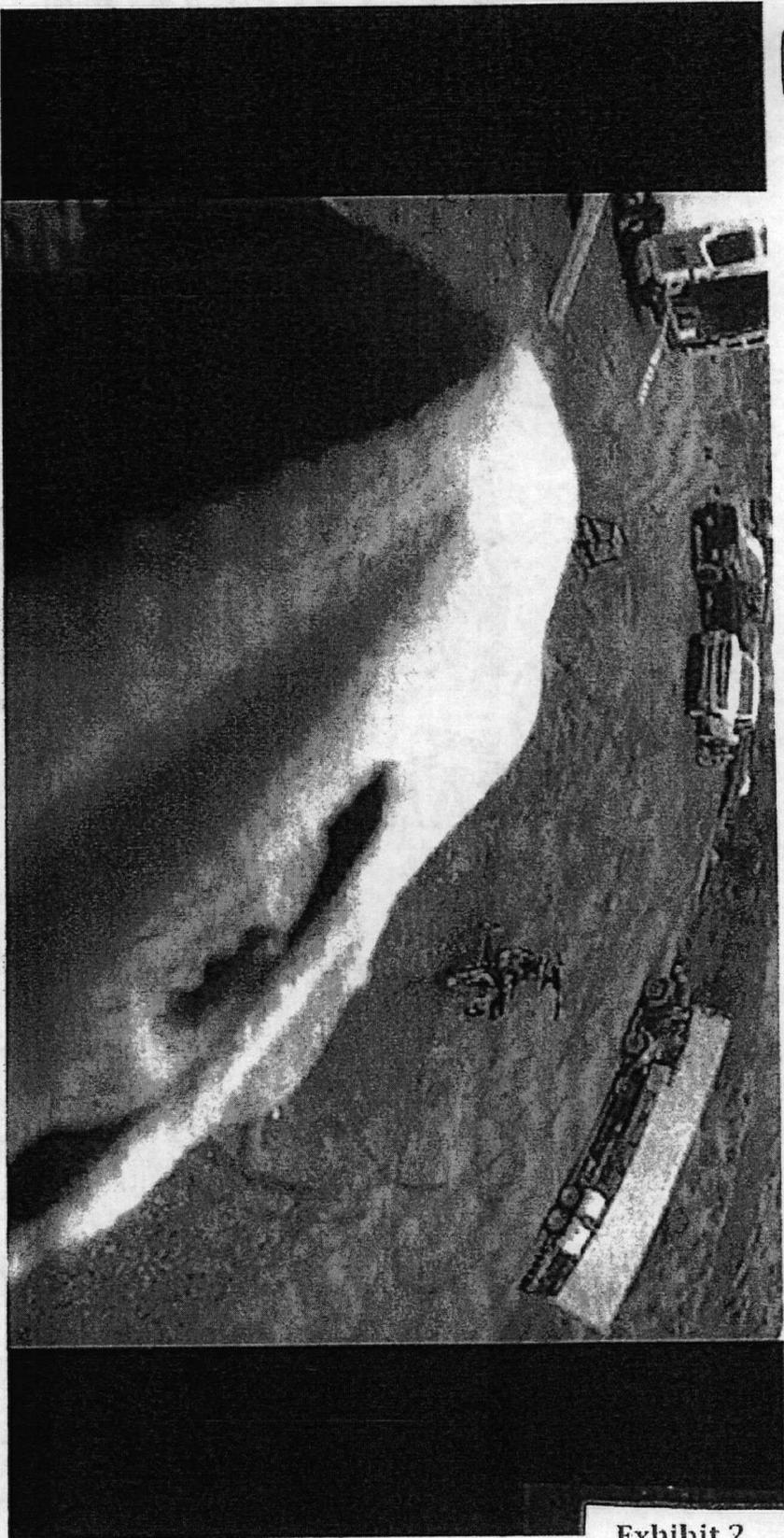


Exhibit 2

# BEST Private MX Track Wanship Utah Motocross 8/8/2015

Ben Trujillo



Subscribe

208

More actions

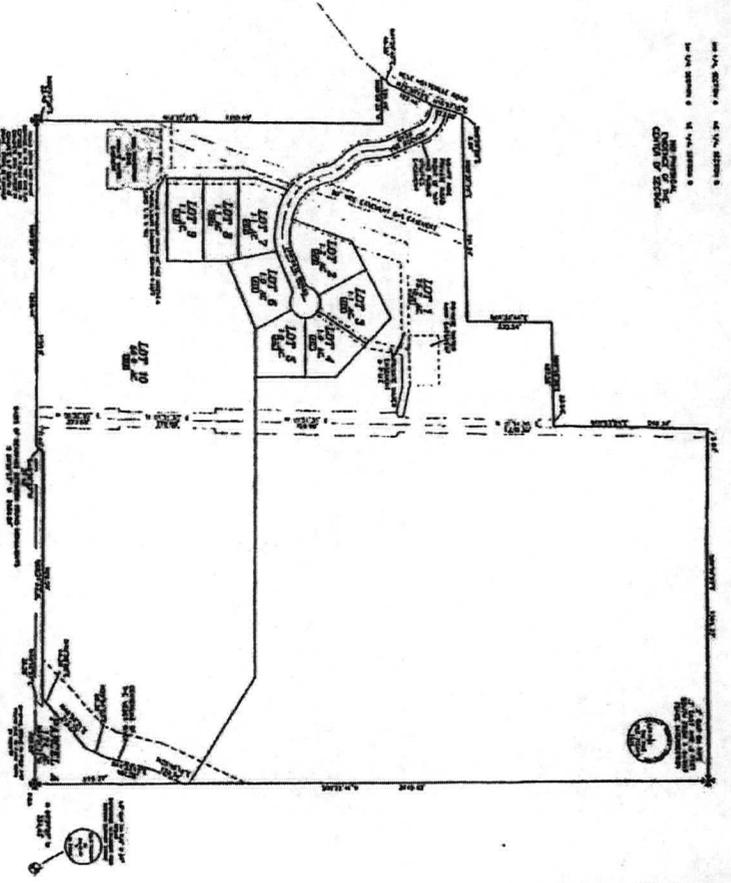
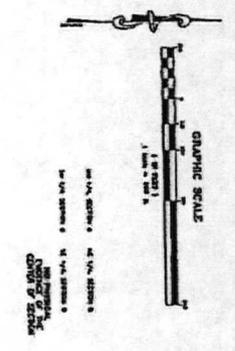
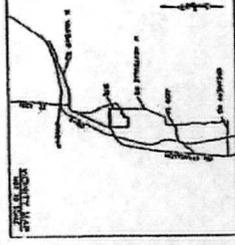
Add to Share More

30,835

256 2

Published on Aug 8, 2015  
 Riding a few laps around flying iron horse ranch with the boys. Best private motocross track. Had to stop for a moment to watch the Bike race Tour of Utah pass by.  
 Click on link below for a more recent video from 11/14/15.

**SUNRISE RIDGE SUBDIVISION  
FIRST AMENDED  
A PORTION OF THE SOUTHEAST QUARTER OF SECTION 8,  
TOWNSHIP 1 NORTH, RANGE 5 EAST, S.14 R.4, W.4SH.11,  
SOUTH COUNTY, UTAH  
SHEET 1 OF 2**



**DISTRICT:**

1. The purpose of this plan is to provide for the subdivision of the land shown on the attached plat into lots, blocks, and other units of land.
2. The subdivision is being made for the purpose of subdividing the land shown on the attached plat into lots, blocks, and other units of land.
3. The subdivision is being made for the purpose of subdividing the land shown on the attached plat into lots, blocks, and other units of land.
4. The subdivision is being made for the purpose of subdividing the land shown on the attached plat into lots, blocks, and other units of land.
5. The subdivision is being made for the purpose of subdividing the land shown on the attached plat into lots, blocks, and other units of land.
6. The subdivision is being made for the purpose of subdividing the land shown on the attached plat into lots, blocks, and other units of land.
7. The subdivision is being made for the purpose of subdividing the land shown on the attached plat into lots, blocks, and other units of land.
8. The subdivision is being made for the purpose of subdividing the land shown on the attached plat into lots, blocks, and other units of land.
9. The subdivision is being made for the purpose of subdividing the land shown on the attached plat into lots, blocks, and other units of land.
10. The subdivision is being made for the purpose of subdividing the land shown on the attached plat into lots, blocks, and other units of land.

**AREA: TABULANON**  
 Total Acres: 134.44  
 Surveyed by: [Name]  
 Date: [Date]

**EXEMPT LEGEND**

- Easement
- Right-of-Way
- Utility Easement
- Other Easement

**PUBLIC CITY**  
 Surveying  
 FEBRUARY 2012

**PUBLIC WORKS DIRECTOR**  
 [Signature]

**COUNTY ASSESSOR**  
 [Signature]

**COUNTY PLANNING COMMISSION**  
 [Signature]

**TOWN COUNTY ENGINEER**  
 [Signature]

**APPROVAL AS TO FORM**  
 [Signature]

**APPROVAL AND ACCEPTANCE**  
 [Signature]

**RECORDED**  
 [Signature]

**LEGAL NOTICE**  
 Notice is hereby given that the following is a true and correct copy of the original of the above described plat as the same appears on the records of the County Clerk of the County of Utah, State of Utah, and is subject to the provisions of the laws of the State of Utah relating to the recording of such plats.

**WITNESSETH**  
 I, the County Clerk of the County of Utah, State of Utah, do hereby certify that the above described plat is a true and correct copy of the original of the above described plat as the same appears on the records of the County Clerk of the County of Utah, State of Utah, and is subject to the provisions of the laws of the State of Utah relating to the recording of such plats.

**WITNESSETH**  
 I, the County Clerk of the County of Utah, State of Utah, do hereby certify that the above described plat is a true and correct copy of the original of the above described plat as the same appears on the records of the County Clerk of the County of Utah, State of Utah, and is subject to the provisions of the laws of the State of Utah relating to the recording of such plats.

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 I, the County Clerk of the County of Utah, State of Utah, do hereby certify that the above described plat is a true and correct copy of the original of the above described plat as the same appears on the records of the County Clerk of the County of Utah, State of Utah, and is subject to the provisions of the laws of the State of Utah relating to the recording of such plats.

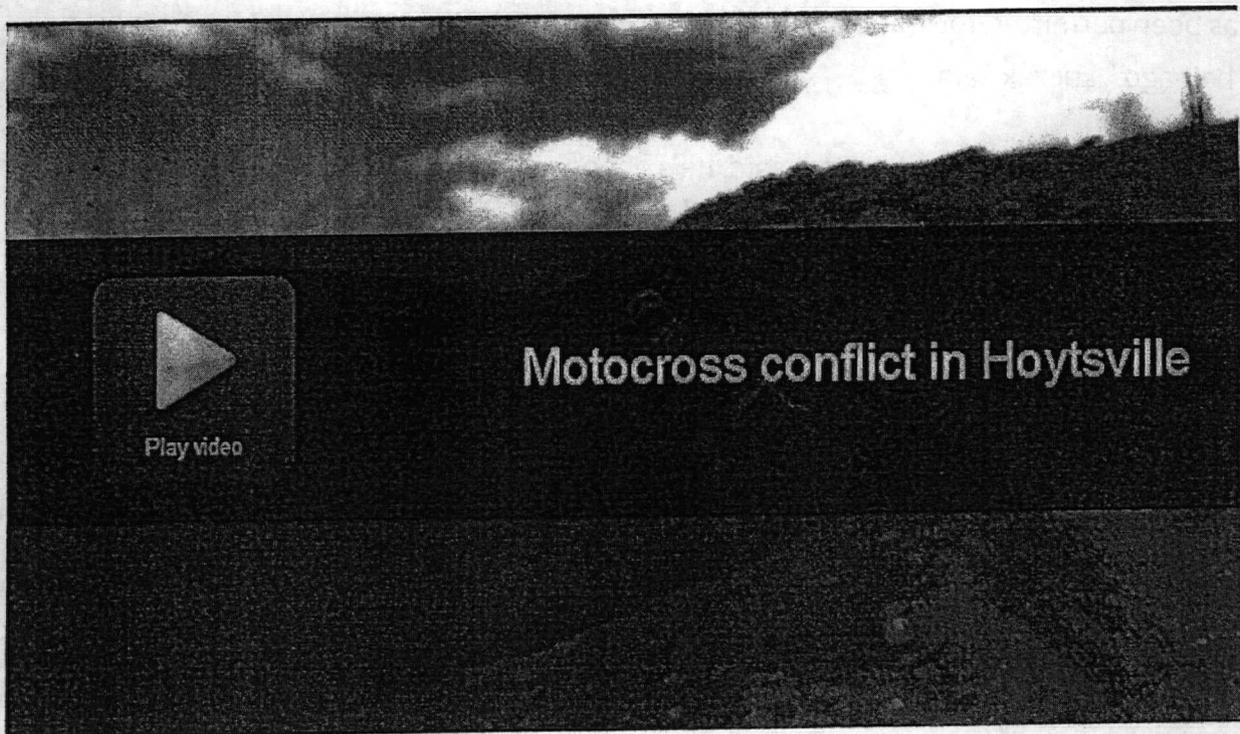
**WITNESSETH**  
 I, the County Clerk of the County of Utah, State of Utah, do hereby certify that the above described plat is a true and correct copy of the original of the above described plat as the same appears on the records of the County Clerk of the County of Utah, State of Utah, and is subject to the provisions of the laws of the State of Utah relating to the recording of such plats.

**WITNESSETH**  
 I, the County Clerk of the County of Utah, State of Utah, do hereby certify that the above described plat is a true and correct copy of the original of the above described plat as the same appears on the records of the County Clerk of the County of Utah, State of Utah, and is subject to the provisions of the laws of the State of Utah relating to the recording of such plats.

# EXHIBIT K

# Expansion of motocross track in Summit County town stirs controversy

POSTED 10:01 PM, APRIL 4, 2016, BY DORA SCHEIDELL



SUMMIT COUNTY, Utah -- Michael Legge moved to Hoytsville 15 years ago with his wife to retire and raise their horses.

"We want a community where everything is compatible use," Legge said.

Knowing the area was zoned for agriculture, he was surprised when his neighbors across the way starting building a motocross track.

[Follow](#)

"Obviously a motocross track and that type of activity is not agriculture," Legge said.

So when his neighbor came by with a petition, asking the county to step in, he signed. With about 80 signatures, the petition has influenced the county to order property owner Steve Luczak to stop building the upper portion of his track.

"We've done everything by the letter of the law," Luczak said.

Luczak said the county already signed off on permits for everything he's doing.

"They're telling us what we can do with our own private property even though this has been permitted for this use and they're reinterpreting what they did a year and a half ago," Luczak said.

As far as agriculture goes, Luczak said, he's enhancing the landscape on his property.

"We're adding more pasture space, we're adding ponds for the wildlife as well as our animals, which will be up here eventually," Luczak said.

His neighbors have a different interpretation.

"Were looking to the county to simply enforce zoning laws. It's very simple," Legge said.

Luczak isn't giving up his passion without a fight.

"We'll be riding our motorcycles tomorrow up here. We'll use our land as we see fit," Luczak said.

Right now, Luczak is free to use his motocross track, which has already been built. It's the expansion on the upper part of his property that is being questioned.

It lies in the hands of the Summit County council. Luckzak said he'll be showing up at future meeting with an army of supporters, but it's likely his neighbors will show up as well.

Trump Campaign is Scraping Together a List of Potential Vice Presidential Candidates

Donald Trump: I would be interested in Kasich as VP 01:27 (CNN) Donald Trump's campaign is scrambling to ramp up its planning for the general ...

SPONSORED CONTENT



Affordable rent difficult as rates rise and lack of salary increases



Hundreds show support to keep Salt Lake County equestrian park open



Follow

# EXHIBIT L



Patrick Putt, Director  
Community Development Department  
P.O. Box 128  
Coalville, UT 84017  
(435) 336-3158  
pputt@summitcounty.org

Delivered By Hand

April 7, 2016

Mr. Steve Luczak  
Kodiak America, LLC  
2185 East 3380 South  
Salt Lake City, Utah 84109

RE: Final Land Use Determination--Sunrise Ridge Subdivision

Dear Mr. Luczak:

This letter serves as my final land use determination with respect to uses within the Sunrise Ridge Subdivision in accordance with Summit County Code (the "Code") §§11-7-11 and 11-7-13(B).

Summit County (the "County") records identify you as the owner of property within the Sunrise Ridge Subdivision (First Amended). County records also indicate that you were issued a Grading Permit from the County Engineer's Office on November 18, 2014 for bike trails, new pasture space, and landscaping (*attached Exhibit 1*). This permit expired on May 17, 2015. Further, you were issued a Stop Work Order by the County Engineer on March 31, 2016 for excavating without a permit and in violation of the previously referenced Grading Permit. Grading Permits regulate the excavation of soils, but do not constitute land use permits or approvals under Title 11 of the Code, nor can they be utilized to amend a subdivision plat pursuant to UCA §§17-27a-608 and 609. Hence they cannot be relied upon to change a "use" of property.

I met with you on April 4, 2016 at which time you confirmed to me that you have constructed a motocross track within Lots 1 and 10 of the Sunrise Ridge Subdivision. This letter serves as notice and a final land use determination that such motocross track and use is prohibited and constitutes a violation of the Sunrise Ridge Subdivision First Amended Plat (*recorded November 2, 2012*), Plat Note No. 8 and §11-4-9 of the Code; namely the provisions governing Cluster Bonus/Agricultural Preservation Subdivisions. Plat Note #8 memorializes §11-4-9.C-4 of the Code and states that:

***"The agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for development of residential lots numbered 1-10 was allowed in exchange for the preservation of the active and productive lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property." (emphasis added)***

As I explained to you in our April 4<sup>th</sup> meeting, the Code defines "Agriculture" as:

*The tilling of soil, raising of crops, forage, grazing and animals/fish for commercial agricultural purposes, and not including logging, animal hospitals, recreational activity not normally associated with a farm or ranch, or similar activities..." (Title 11, Appendix A of the Code)*

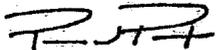
In my role as the land use authority, as further defined in UCA §17-27a-103(28) and set forth in §§11-7-11 and 11-7-13(B) of the Code, I have determined that a motocross track and its uses do not meet this definition.

You are hereby **ORDERED** to **CEASE** and **DESIST** all further use and operation of this motocross track immediately and restore/revegetate all associated areas of disturbance on the Sunrise Ridge Subdivision lots. Please contact the County Engineer's Office at (435) 336-3250 for all necessary revegetation requirements. Failure to comply with this Order may result in additional enforcement or legal action, including but not limited to revocation of the Sunrise Ridge Subdivision plat pursuant to §§11-6-11 and 11-6-12 of the Code, as well as, the revocation of all Certificates of Occupancy on lots within said subdivision.

You may appeal my final land use determination to the County Council in writing pursuant to §11-7-16 of the Code within ten (10) calendar days from the date of this letter.

I may be reached at (435) 336-3158 if you have any questions. I thank you in advance for your cooperation in this matter.

Sincerely,



Patrick J. Putt  
Community Development Director

cc: Robert Hilder, County Attorney  
Helen Strachan, Deputy County Attorney  
Tom Fisher, County Manager  
Gary Horton, County Engineer  
Peter Barnes, Planning and Zoning Administrator

# EXHIBIT M

County Engineer

Gary Horton, SE

May 3, 2016

Kodiak America  
Mr. Steve Luczak  
391 Shadow Hill Rd  
Coalville, UT 84017



Dear Mr. Luczak,

This letter is to inform you of our concerns with the lack of progress to re-vegetate the site containing the grading work on Lot 10 of the Sunrise Ridge Subdivision. You were issued a stop work order on March 31, 2016. On April 8<sup>th</sup>, 2016 the stop work order was lifted for specific items of work that were discussed on the phone and followed up with an email stating "you are authorized to begin the re-vegetation of the pasture areas only and install any necessary erosion control along the river." The plan referenced is the plan you provided to Summit County and a copy is included in this letter. This provided authorization to commence placing top soil and seeding only on those areas on your site plan labeled as "pasture" and as marked on the plan with XYZ and attached. No top soil should be spread to areas in the Sunrise Ridge Subdivision other than Lot 10.

In the same phone conversation you estimated there was roughly 30,000 cubic yards of top soil material needed to re-vegetate the entire site including all areas that have been graded. The stock pile of top soil material has grown to an amount that exceeds the required material to cover the entire site. No new material may be imported to the site and the spreading of top soil in the "pasture" areas must commence immediately.

The only other item of work allowed on the site is the maintenance of straw waddle and silt fence that is on the site to prevent storm water runoff.

With the concern that you will not follow these stipulations it is required for you to provide a daily construction schedule of the areas where the top soil will be spread and seeding be applied. Summit County will be measuring the existing stock pile to confirm that as spreading takes place no new material will be added. If you are unable to work on any given day due to weather you must notify the engineering department before 9:00 am that day.

We look forward to wrapping up this re-vegetation and seeding in a timely matter.

Thank you,

Gary Horton, SE

Enclosures: "Site Plan 4-19-16"

CC: Pat Putt, Mike Kendall, and Kyle Monez (Summit County) - via email

File: (S:\Projects - Commercial Development\Motorcross track - Wanship\Clarification of Approved Work\_2016-05-03.docx)

P.O. Box 128 · Coalville, UT 84017  
Coalville: (435) 336-3250 · Kamas: (435) 783-4351 ext. 3250 · Park City (435) 615-3250  
Fax: (435) 336-3043 · Park City Fax (435) 615-3043

# EXHIBIT N

# Appeal filed for motocross track

*Matter will go before the County Council in June*

**ANGELIQUE McNAUGHTON**  
*The Park Record*

For the last several weeks, Manship residents haven't likely heard the howl of motocross bikes reverberating from a nearby track.

Summit County Community Development Director Pat Putt issued a cease-and-desist order on March 23 prohibiting riding and since then the property owner, Steve Luczak, has refrained from using his track, which is located near 1800 S. Hoytsville Road. It is part of the Sunrise Ridge subdivision, which occupies nearly 150 acres, and has been there since 2014.

Luczak recently filed an appeal with the Summit County Building Department to refute Putt's claim that he cannot operate the track on his property because it violates the approved uses for that subdivision. The appeal is scheduled to go before the Summit County Council on June

"We're just not using the track right now out of kindness," Luczak said. "But if the hearing doesn't go well, we will start riding right away."

Several weeks ago, the council began receiving complaints from neighboring property owners about the motocross activity. That, coupled with the expiration of Luczak's grading permit, led to the cease-and-desist order.



PARK RECORD FILE PHOTO

Steve Luczak, Hoytsville property owner, appears before the Summit County Council in March. Luczak's private motocross track on his property has sparked complaints from neighbors and the county.

Luczak has claimed the grading permit issued on Nov. 18, 2014 allowed a motocross track to be built for private use. It expired on May 17, 2015.

"They don't have the authority," Luczak said. "There is nothing in their ordinance that says we have done anything wrong. We went through all the correct procedures that they made us run through in the permitting process and they fully knew that it was a track that we got a permit for."

"If they indeed make us shut it down, it goes against the Fifth Amendment," he added.

The grading permit issued for Luczak's property was continuously renewed over the last several years, with the assistance of staff in the engineering department, he said.

"They have no right to do that. They are saying you are not supposed to be able to file for an extension and I said that is BS because we have filed since 2009 all the way through 2015 on the lower track."

Luczak said a former employee with the engineering de-

partment developed the habit of reaching out to him whenever the permit was set to expire.

“

*This is about property rights. We'll take it all the way to the state level if we have to. The track is not going away so I will fight it as high up as I have to,*"

Steve Luczak  
*Hoytsville property owner*

"Every city I have worked with will call and say 'you need to renew or finish up' because they only give you 180 days and you can't do this project in 180 days," he said.

Last month, nearly 50 people from the motocross community attended a County Council meet-

ing to support the motocross operations. At the time, council members refrained from commenting on the issue because of the likelihood of an appeal.

Luczak said he likely won't be able to provide input during the appeal hearing, adding that "there isn't a whole lot that I can do to prepare." He said he adamantly believes he is operating within the county's guidelines. If the decision is not reversed, Luczak plans to appeal the decision to take the matter to court.

While most activity on the property has been suspended, Luczak said he is still working on an equestrian and mountain bike area. He is also planning to start seeding the larger pasture areas next week.

"If they shut me down from riding my motorcycles on there that means every farmer and rancher will be illegally riding their motorcycles and four-wheelers on their property," Luczak said.

Since he filed the appeal, Luczak said he has been inundated with calls from ranchers and farmers who are concerned about how a decision on the motocross track will impact their operations.

"They are just as upset about the county's action as we are," Luczak said. "The thing is most of the County Council is from Park City. It's two different worlds, Park City and the East Side. On the East Side they recreate all over their properties, but they get these people that move in that try to change the rural way of life and that is basically being able to do whatever you want to do on your property."

"This is about property rights. We'll take it all the way to the state level if we have to," he said. "The track is not going away so I will fight it as high up as I have to."



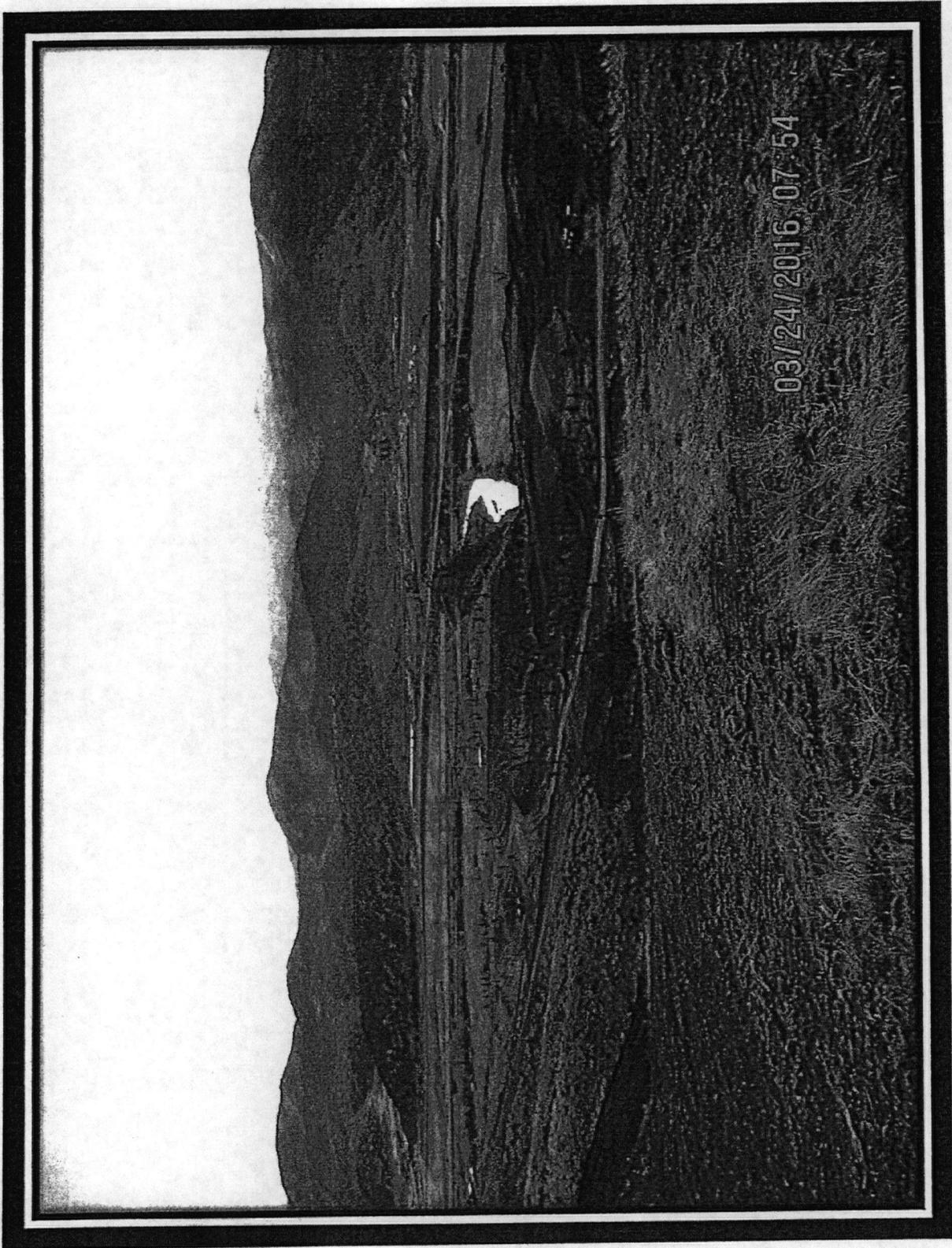
East West Health

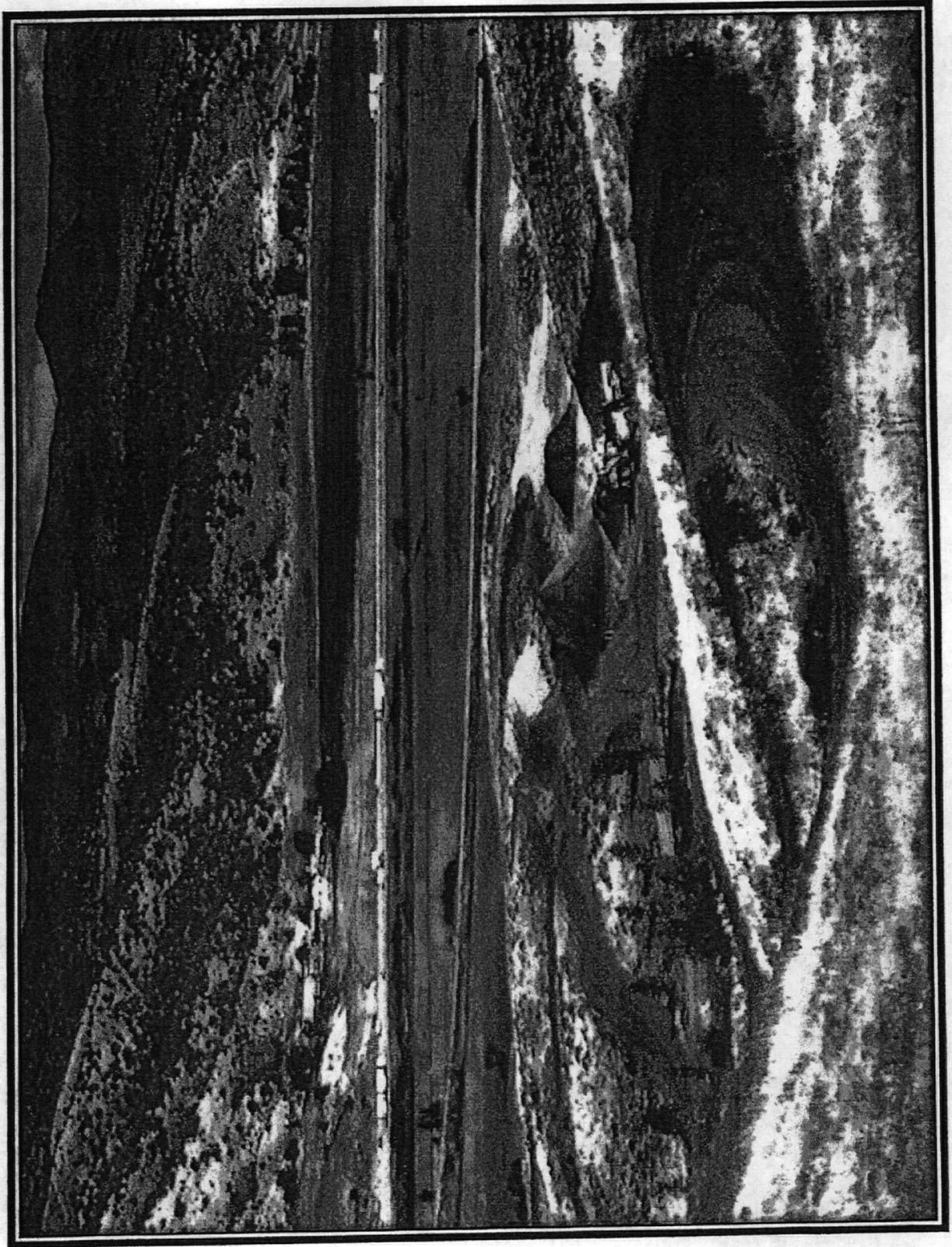
**CELEBRATE MOTHER'S DAY**

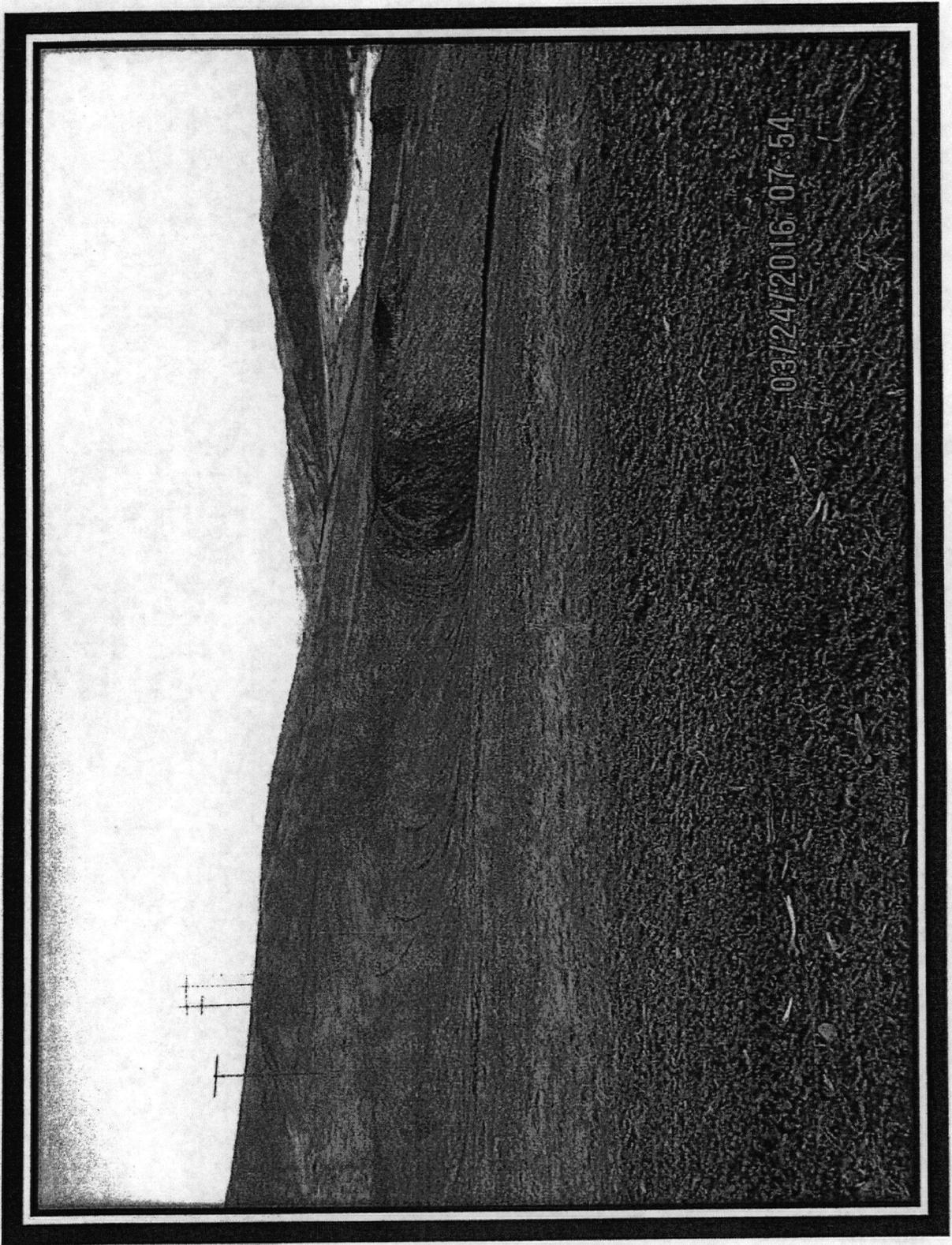
With these amazing specials\*

20 Pack Reformer Classes \$320 | 5 Pack MoAbs Classes \$40

# EXHIBIT O

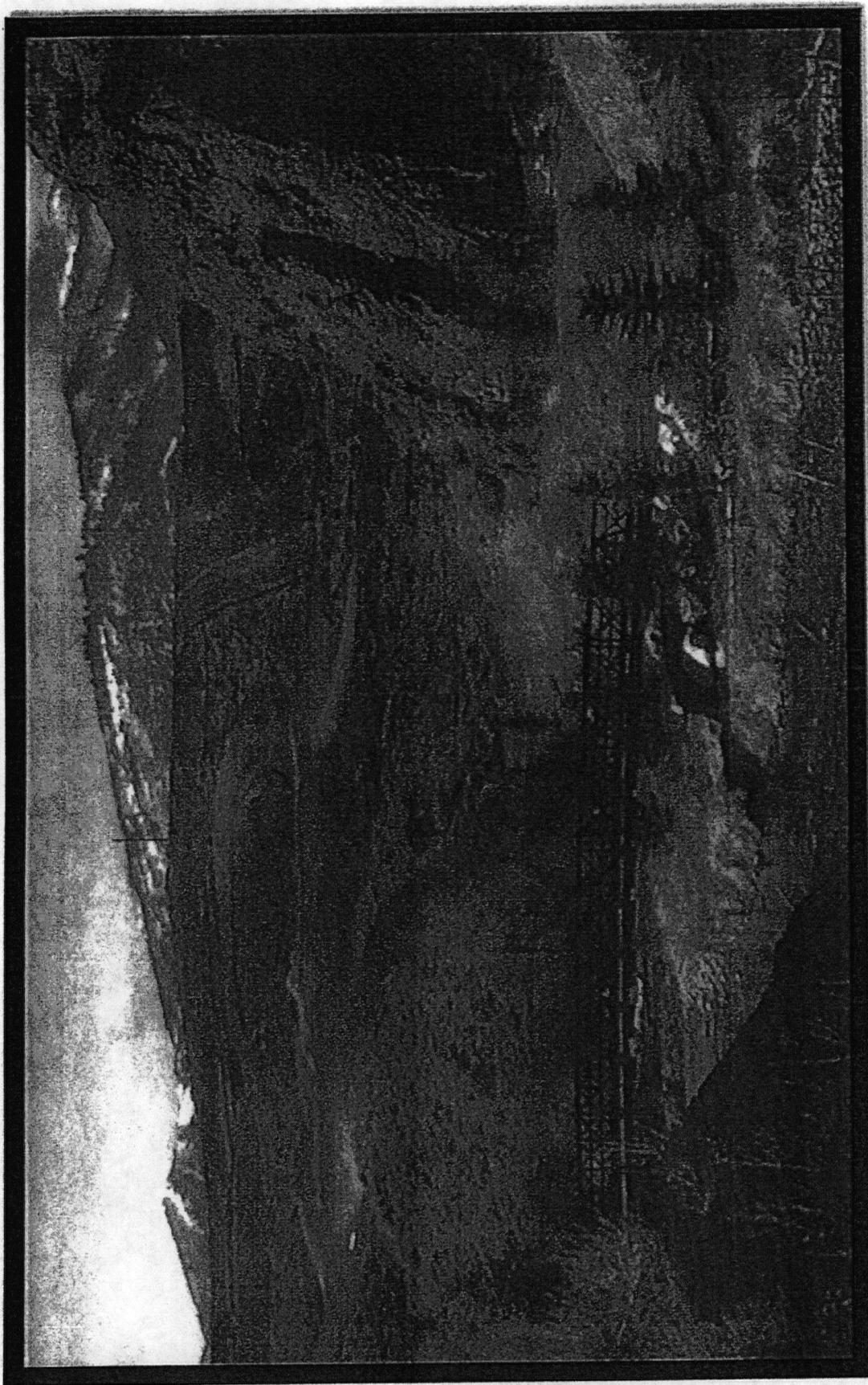


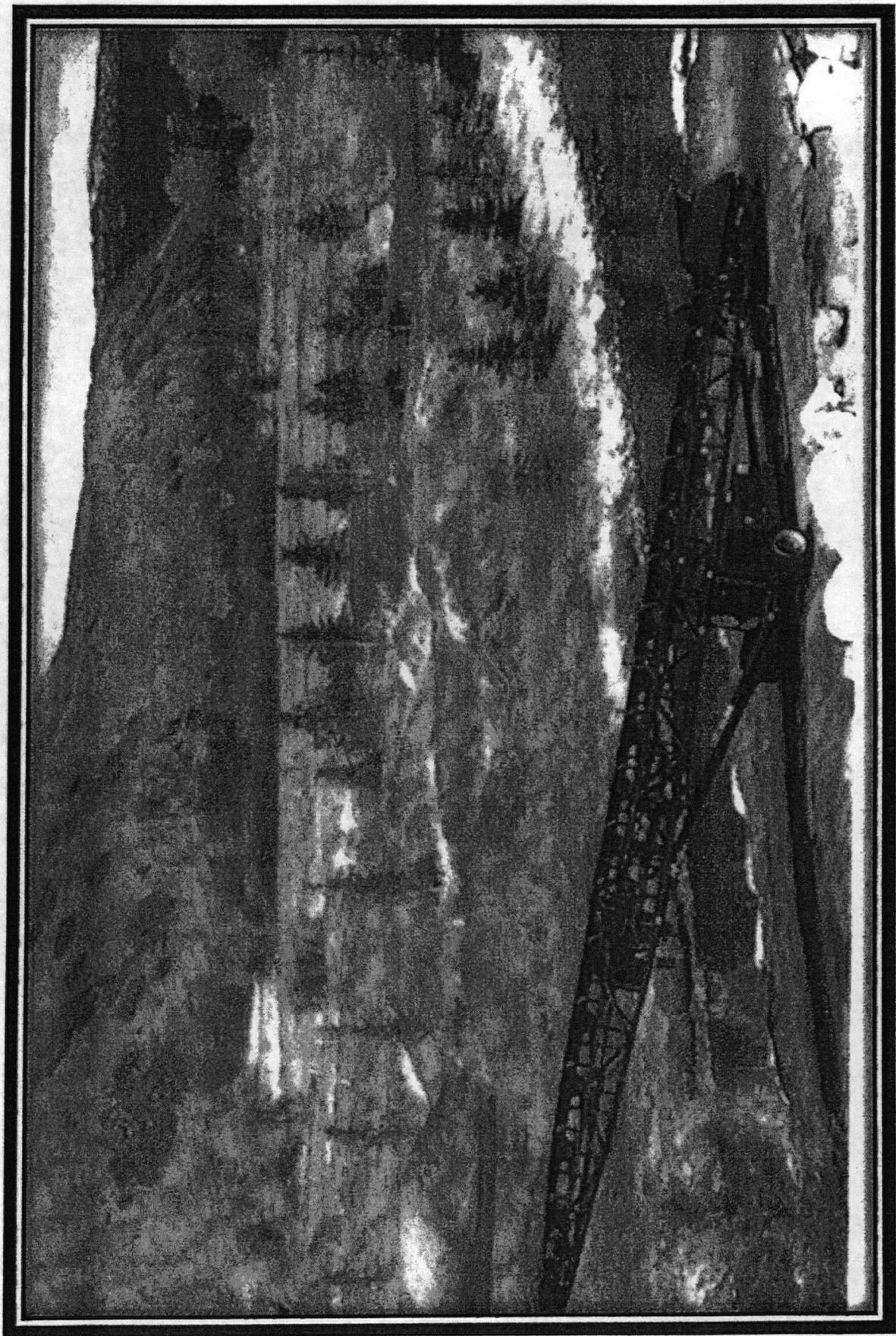




EXHIBIT

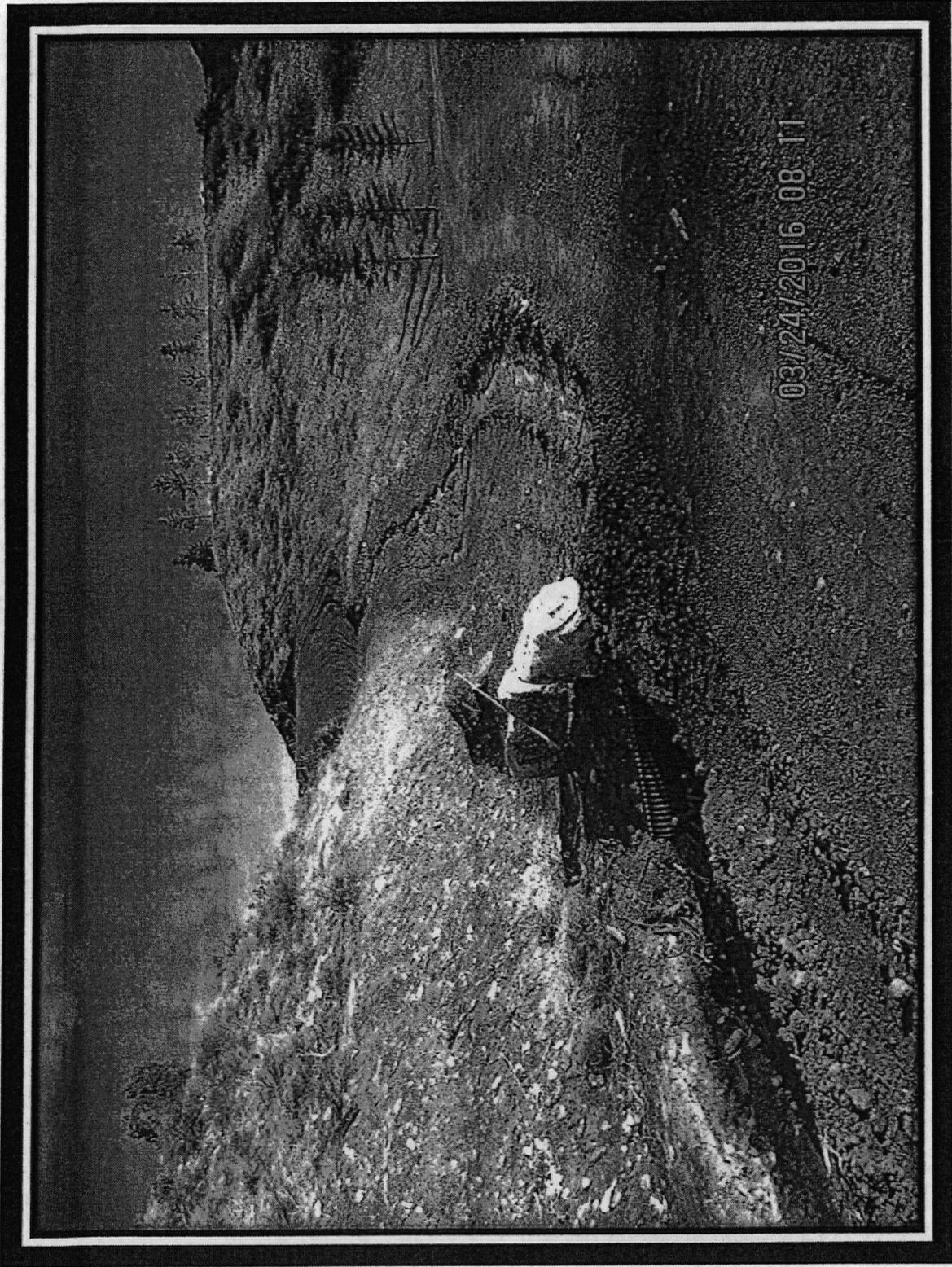


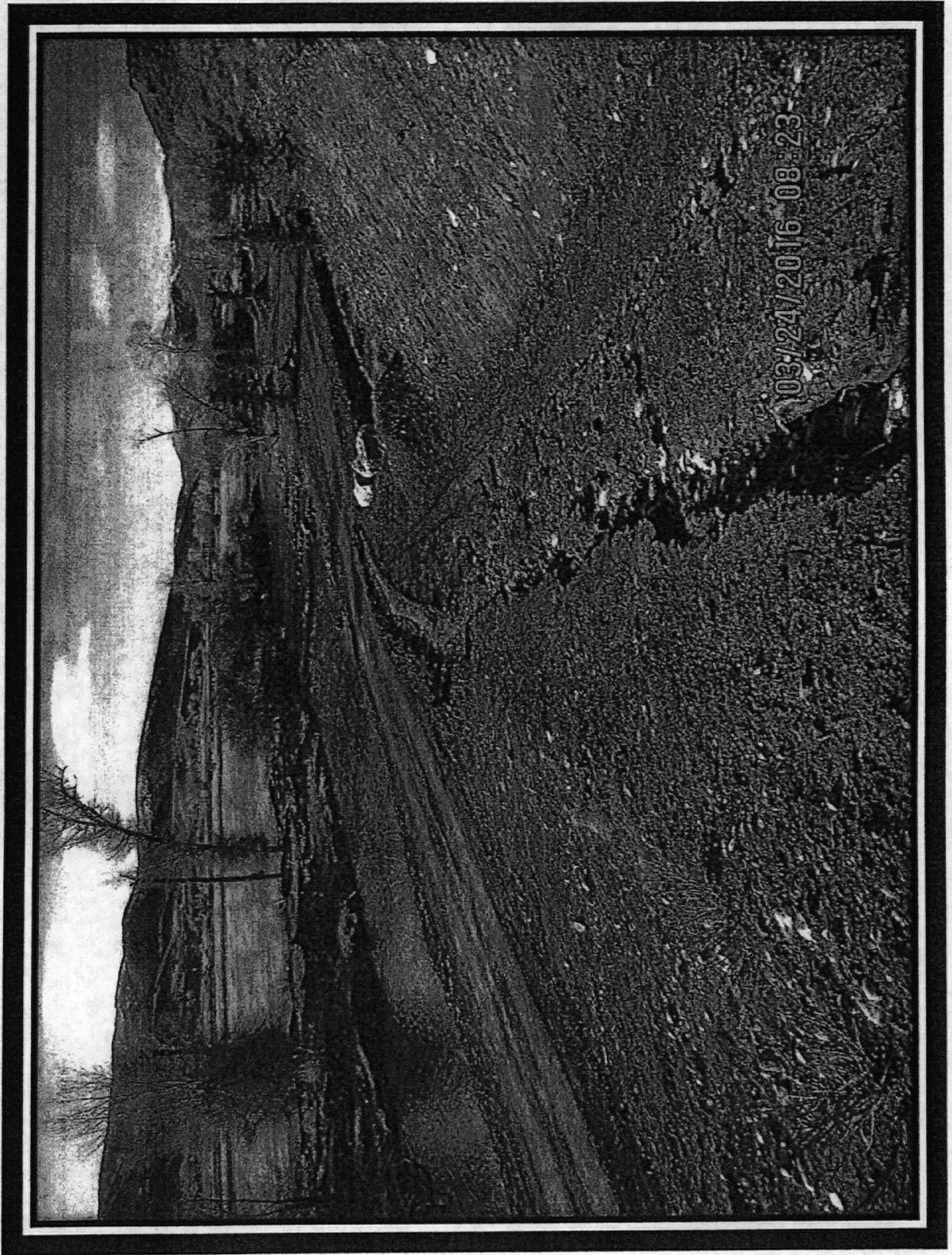


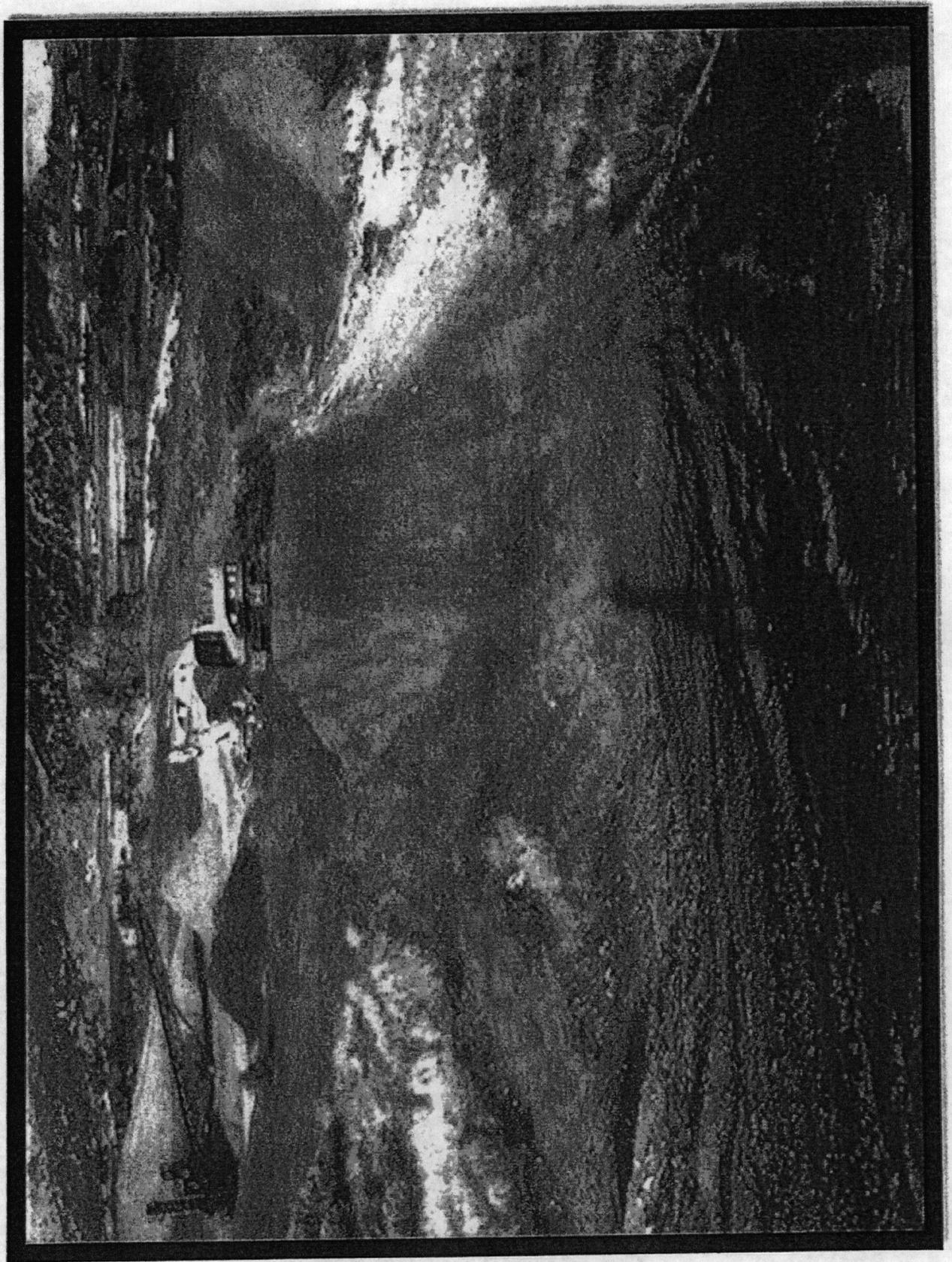










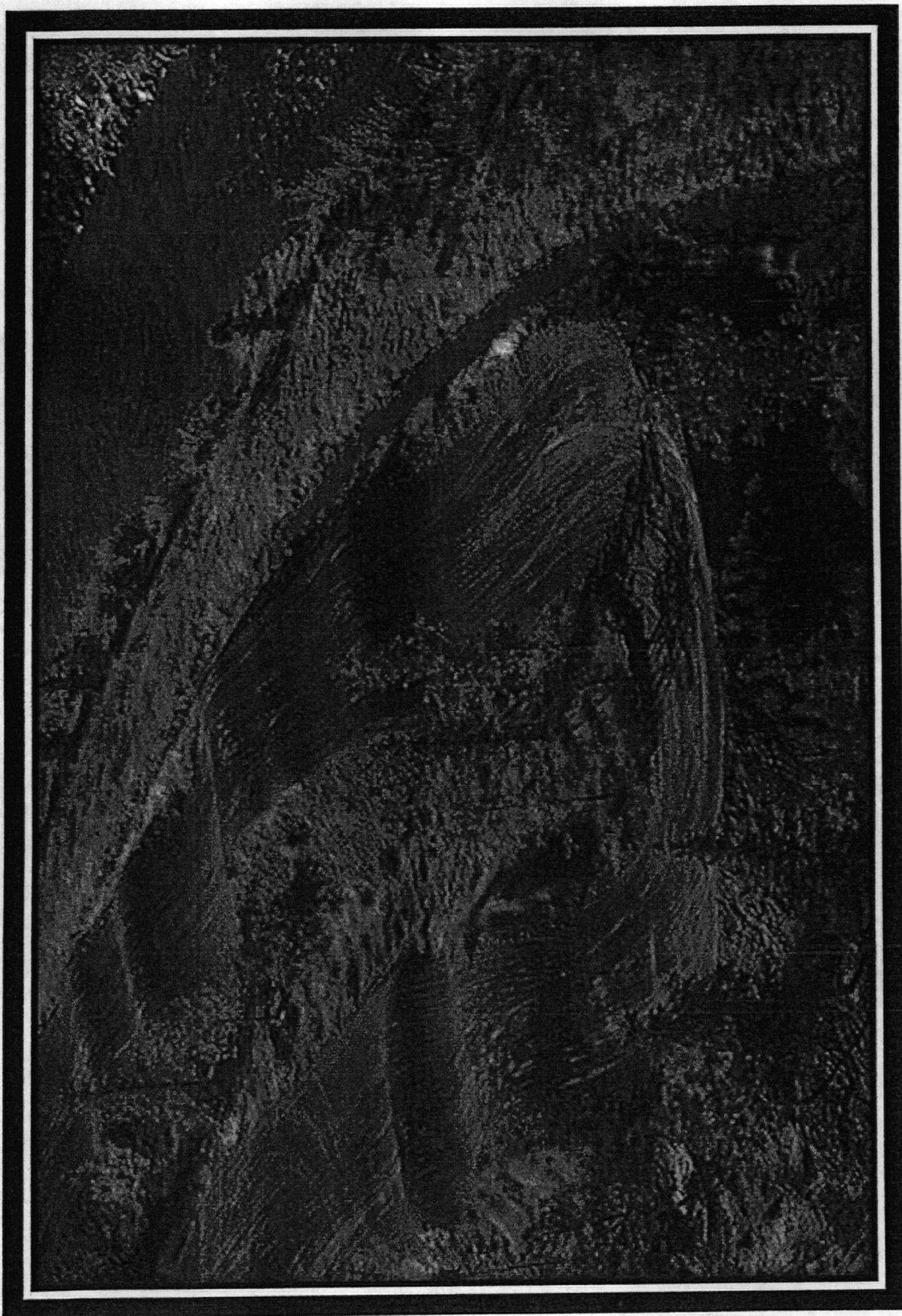














# KODIAK AMERICA

Administrative Zoning Appeal

11-4-8

11-4-9

a. Upon approval of the county attorney and once all required signatures are obtained, the detailed final plat shall be recorded in the records of the county recorder. (Ord. 768, 3-14-2012)

**11-4-9: CLUSTER BONUS/AGRICULTURAL PRESERVATION SUB-DIVISION REVIEW:**

- A. Purpose: The purpose of this section is to give property owners an option for development that will reduce county infrastructure and service costs, minimize the visual impact of development to the community, reduce access points on county roads, and preserve agriculture lands and open space. In exchange, a property owner can receive an increase in the number of lots otherwise allowed. The density bonus is intended as an incentive to a property owner in exchange for the above public benefits. This option is intended to promote a pattern of development that is most likely to be consistent with the underlying community values and to encourage the preservation of agricultural lands.
- B. Applicability: The cluster bonus/agricultural preservation subdivision review process can be utilized to create up to two (2) times the number of lots that would otherwise be allowed based upon the base density of the parcel if at least eighty percent (80%) of the entire parcel under consideration is designated as protected for agricultural use, or three (3) times the number of lots that would otherwise be allowed based upon the density of the parcel if at least ninety percent (90%) of the entire parcel under consideration is designated as protected for agricultural use. Only density derived from the AP zone will be allowed to qualify for the bonus provisions of this section. If a parcel contains property in the HC zone, the density derived from that area will not qualify for the bonus but can be added to the subdivision. The specific number of lots shall be based on parcel/lot size. To qualify for a cluster subdivision, the parcel shall have a record that is not within an existing subdivision that has been created by this process, if further subdivision.
- C. Criteria For Approval: Before an agricultural preservation incentive subdivision can be approved, it must conform to the following criteria:
1. Only property in the AP zone is eligible for the bonus provisions of this section, but the density bonus may be applied to other zones.

Summit County



## AGRICULTURAL PRESERVATION

- Allows a tripling of density in exchange for the preservation of agriculture lands and open space.
- The density bonus is intended as an incentive to a property owner.
- Only property within the AP zone is eligible.

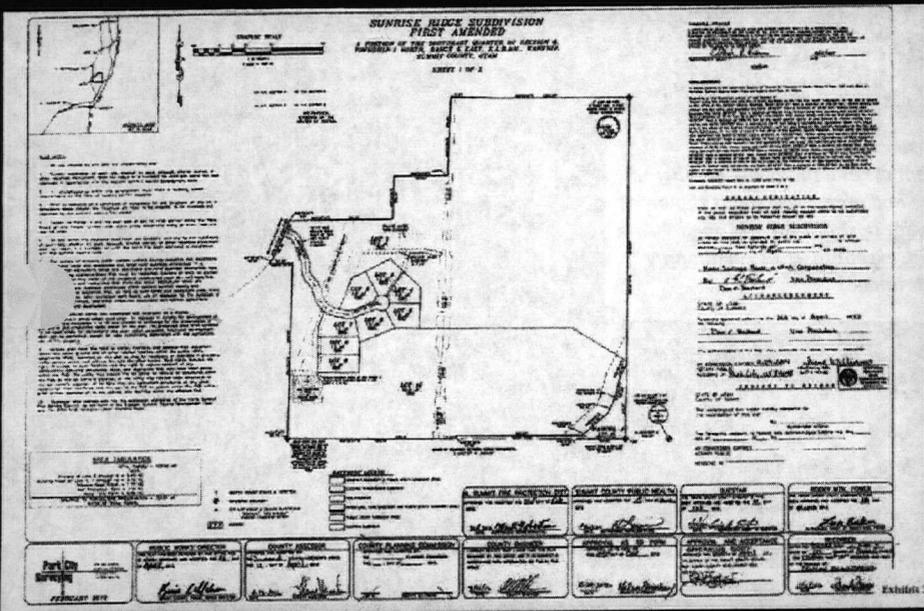
4. At a minimum, there shall be a note placed on the plat and a deed restriction applied to each parcel involved in the subdivision regarding the area to be preserved for agricultural purposes, which shall include the following language:

*This agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for the development of residential lots numbered to was allowed in exchange for the preservation of the active and productive agricultural lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property.*

The preferable method of preserving land for agricultural use is to place a conservation easement on the property. The agricultural preservation area may be shown as one large agricultural parcel, or may be split into the subdivision lots so long as there are adequate restrictions on the agricultural preservation area for it to continue to function as a contiguous agricultural use.

## AGRICULTURAL PRESERVATION

- As a condition of approval, a mandatory plat note, which preserves the land for agricultural use, is required.
- While a conservation easement is preferable, the agricultural lands may be placed into subdivision lots “so long as there are adequate restrictions on the agricultural preservation area for it to continue to function as contiguous agricultural use.”



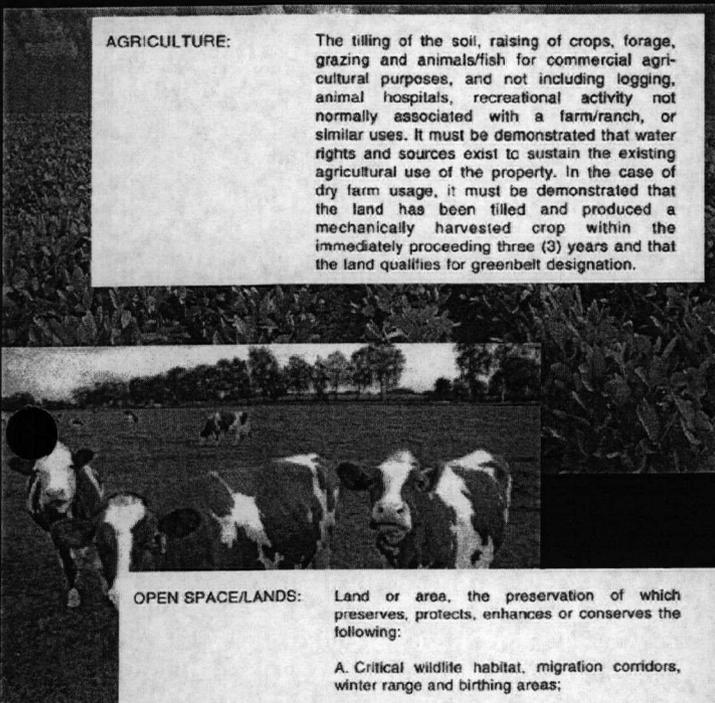
## SUNRISE RIDGE SUBDIVISION

- Sunrise Ridge Subdivision, 10 lot Agricultural Cluster Bonus subdivision in Wanship, Utah (May 2007)
- Sunrise Ridge Subdivision First Amended (November 2012)
- Kodiak America, LLC acquires Sunrise Ridge Subdivision on June 25, 2014

## SUNRISE RIDGE SUBDIVISION

*"The agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for development of residential lots numbered 1-10 was allowed in exchange for the preservation of the active and productive lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property." (emphasis added)*

- Plat Note #8 restricts the use on Lots 1 and 10 (the preserved areas) to "agricultural and open space purposes."
- Only "uses customarily associated with the agricultural use of the property" is permitted.



**AGRICULTURE:**

The tilling of the soil, raising of crops, forage, grazing and animals/fish for commercial agricultural purposes, and not including logging, animal hospitals, recreational activity not normally associated with a farm/ranch, or similar uses. It must be demonstrated that water rights and sources exist to sustain the existing agricultural use of the property. In the case of dry farm usage, it must be demonstrated that the land has been tilled and produced a mechanically harvested crop within the immediately preceding three (3) years and that the land qualifies for greenbelt designation.

**OPEN SPACE/LANDS:**

Land or area, the preservation of which preserves, protects, enhances or conserves the following:

- A. Critical wildlife habitat, migration corridors, winter range and birthing areas;
- B. Scenic resource features, prominent hillsides, ridgelines and viewshed corridors;
- C. Stream corridors and other significant water bodies, wetlands, floodplains and meadows;
- D. Open space buffers adjacent to developed areas, parks, forests or agricultural lands.

## BOTH "AGRICULTURE" AND "OPEN SPACE" ARE DEFINED TERMS IN TITLE 11 OF THE SUMMIT COUNTY CODE

- "Agriculture" is the "tilling of the soil, raising of crops, forage, grazing . . . for commercial agricultural purposes"
- "Agriculture" is not "recreational activity not normally associated with a farm/ranch"
- "Open Space" preserves, protects, enhances or conserves a wide range of critical wildlife, scenic resources and water corridors

*This opinion is subject to revision before final  
publication in the Pacific Reporter*

2014 UT 39

IN THE  
SUPREME COURT OF THE STATE OF UTAH

ANDREW LEBEAU,  
*Petitioner,*

v

STATE OF UTAH  
*Respondent.*

No. 20120829  
Filed September 19, 2014

On Certiorari to the Utah Court of Appeals

Third District, West Jordan  
The Honorable Terry L. Christiansen  
No. 091400631

Attorneys:

Joan C. Watt, Brittany D. Enriss, Salt Lake City, for petitioner  
Sean D. Reyes, Att'y Gen., Jeanne B. Inouye, Asst. Att'y Gen.,  
Salt Lake City, for respondent

JUSTICE PARRISH authored the opinion of the Court, in which  
CHIEF JUSTICE DURBANT, ASSOCIATE CHIEF JUSTICE NEHRING,  
and JUSTICE DURHAM joined.

JUSTICE LEE filed a dissenting opinion.

JUSTICE PARRISH, opinion of the court:

INTRODUCTION

¶ 1 On certiorari, petitioner Andrew LeBeau asks us to consider whether the court of appeals erred in affirming the district court's imposition of a sentence of life without the possibility of parole following Mr. LeBeau's conviction for aggravated kidnapping pursuant to Utah Code section 76-5-302. Mr. LeBeau's conviction stems from a domestic dispute triggered by Mr. LeBeau's suspicion that his then-girlfriend, Stephanie, was engaged in an affair with another man. At trial, Mr. LeBeau was convicted of aggravated

*LeBeau v. State*, 2014 UT 39,  
¶20, 337 P.3d 254, 260 (Utah  
2014)

*Rules of Construction*

- Best evidence is the “plain language”
- Interpret terms according to their “ordinary and accepted meaning”
- Interpret terms to give meaning to all parts and avoid rendering portions superfluous
- Read provisions “as a whole, and interpret its provisions in harmony” with other related provisions

It's about ensuring that  
the “intent” is followed

Effective 5/13/2014

17-27a-608. Vacating or amending a subdivision plat.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to have some or all of the

(b) If a petition is filed by mail, email, or record of the plat with the land use authority

(c) If a petition is filed 45 days after the

(i) any owner was mailed notified

(ii) a public hearing revised plat

11-4-18: AMENDMENTS TO RECORDED SUBDIVISION PLATS:

A. Purpose: The purpose of the plat amendment process is to provide a procedure for amending a recorded subdivision plat. Upon compliance with the provisions of this section and other applicable

2. Plat amendments that result in building pad adjustments, subdivision title changes, plat note revisions, altering of utility easements, and all other amendments that do not affect a public or private road, lot line adjustments, or the combination of lots:

B.

a. Land Use Authority: The planning commission shall be the land use authority for all of the above mentioned plat amendments.

b. Public Hearing: The planning commission shall hold a public hearing prior to its decision, and shall approve, approve with conditions, or deny the plat amendment.

C.

~~Plat amendments that result in the combination of lots and adjusting and/or altering lot lines within a platted subdivision:~~

Effective 5/13/2014

17-27a-609. Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

(1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:

(a) there is good cause for the vacation or amendment; and

(b) no public street, right-of-way, or easement has been vacated or amended.

Subdivision plats may only be amended in accordance with state law, as implemented through the County Code.

A plat note may only be amended by the Eastern Summit County Planning Commission after holding a public hearing. Summit County Code §11-4-18(C)(2)

560 P.2d 1123  
Supreme Court of Utah.

Merlin DANSIE, Plaintiff and Respondent,  
v.  
MURRAY CITY, a Municipal Corporation of the  
State of Utah, Defendant and Appellant.

No. 14592.  
|  
Feb. 16, 1977.

The Third District Court, Salt Lake County, Marcellus K. Snow, J., entered order granting petition for variance from city ordinance restricting height of accessory building and commanding city to permit petitioner to complete construction of unauthorized project, and city appealed. The Supreme Court, Henriod, C.J., held that city was not bound by the representations of city employee who, having no authority whatsoever to do so, led petitioner to believe that he could erect structure that was departure from provisions of city ordinance; and that where petitioner had secured license by submitting floor plan with lateral dimensions shown but with complete failure to include plans as to height of structure, which proved to be three feet higher than that permitted under city ordinance, petitioner would be ordered to comply with city ordinance by eliminating any structure already completed that did not comply with provisions of city ordinance.

Reversed and remanded with instructions.

Wilkins, J., concurred in the result.

Maughan, J., filed a dissenting opinion.

West Headnotes (2)

**¶1 Estoppel**  
—Acts of Officers or Boards

Despite fact that city employee led petitioner to believe that petitioner could erect structure that was departure from city ordinance limiting height of buildings, where city employee had no authority to lead petitioner to believe that he could erect structure that was departure from

provisions of city ordinance, city was not bound by representations of city employee and was not estopped from enforcing ordinance.

Cases that cite this headnote

**¶2 Municipal Corporations**  
—Matters Subject to Regulation

Despite fact that city employee, without any authority to do so, led petitioner to believe that he could erect structure that was departure from provisions of city ordinance limiting height of buildings, where petitioner secured license to construct building by submitting floor plan with lateral dimensions but with complete failure to include plans as to height of structure, which proved, after building was started and partially finished, to be three feet higher than that permitted under city ordinance, petitioner would be required to comply with provisions of city ordinance by eliminating any structure already completed that did not comply with provisions of city ordinance.

Cases that cite this headnote

Attorneys and Law Firms

\*1123 Merrill G. Hussen, Murray City Atty., Murray, for defendant and appellant.

George H. Searle, Salt Lake City, for plaintiff and respondent.

Opinions

\*1124 HENRIOD, Chief Justice:

Appeal from an order granting petitioner a variance from a city ordinance restricting the building of an accessory building with respect to height thereof and commanding the city to permit petitioner to complete construction of the unauthorized project. Reversed and remanded with instructions that the judgment be vacated, and that an

## Dansie v. Murray City, 560 P.2d 1123 (Utah 1977)

“[C]ity was not bound by the representations of city employee who, having no authority whatsoever to do so, led petitioner to believe that he could erect structure that was departure from provisions of city ordinance.”

- Grading Permits are not development permits administered by the Department of Community Development pursuant to County Code Title 11, Chapter 4. Rather, Grading Permits are administered by the County Engineer under Title 7, Chapter 2.
- Grading Permits do not convey land use approvals or development rights. Consequently, “constitutional takings” jurisprudence is inapplicable. (*Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388, 390 (Utah 1980); *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992))
- Grading Permits cannot be used to amend subdivision plats. (UCA §§ 17-27a-608; 17-27a-609)
- The purpose of a grading permit is to ensure that erosion control measures are in place when land is disturbed. (Summit County Code § 7-2-1)
- Grading Permits are valid for 180 days. By their very natures, they are temporary.

7-2-1	7-2-1
CHAPTER 2	
EXCAVATION, GRADING AND FILLING ON PRIVATE PROPERTY	
SECTION:	
7-2- 1:	Permit Required
7-2- 2:	Emergency Conditions
7-2- 3:	Applications
7-2- 4:	Permits
7-2- 5:	Exemptions
7-2- 6:	Fees
7-2- 7:	Completion Bond
7-2- 8:	Supervision And Inspection
7-2- 9:	Appeals
7-2-10:	Failure To Comply
7-2-11:	Penalty
7-2-12:	Specific Requirements
7-2-1 PERMIT REQUIRED:	
A.	It shall be unlawful for any person, firm, public utility or corporation to place, make, enlarge or change any excavation, regrade existing contours or place fill on private property without complying with the provisions of this chapter and obtaining a permit as provided for herein.
B.	It shall be unlawful, and punishable as provided for herein, to make any excavation or to place any fill on private property not described in the approved permit application or which exceeds in size the dimensions or which does not conform to the conditions described in said application.
C.	Whenever the county engineer determines that any existing excavation, embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person
Summit County	
July 2008	



Summit County Engineering Division  
 Grading Permit Application  
 40 North Main - P.O. Box 128, Coalville, UT 84013  
 Coalville (435) 336-0250 - Kanab (435) 783-4351 - Tropic - Panguitch (435) 615-3250  
 Fax (435) 336-3043 - www.summitcountyengineering.org

Engineering Permit # 14-G-31 Plan Check # \_\_\_\_\_ N.O.L.# \_\_\_\_\_

Applicant / Owner <u>Kodak America</u>	Customer <u>Kodak America</u>
Phone # _____	Phone # _____
Fax # _____	Fax # _____
Email _____	Email _____
Mailing Address _____	Mailing Address _____
City _____	City _____
Zip _____	Zip _____

Project Address: 397 Shadow Fork Rd  
7800 S West Laytonville  
 Parcel # SRRDG-1-AM

\* The applicant shall be the party responsible for the work and to whom all communications are to be directed.  
 \* Grading permits are valid for a period of 180 days from the date received.  
 \* Excavation, Grading and placement of fill ("Grading") (Refer to Ordinance 319-C for Requirements and Specifications)  
 \* All work under this permit requires a 48 hour notice prior to work.  
 \* Grading permits are not valid for work in the County right-of-way.  
 \* All reclamation and a final inspection must be requested prior to expiration of permit, unless intended in writing by the Summit County Engineer.

GRADING PERMIT FEES  
 \$40 per Regular Grading Application  
 \$110 per Engineered Grading Application  
 \$110 per Engineer Grading Application  
 \$110 per Engineer Grading (more than 2000 Cu. Yd.)

Permit Fee \$ 185  
 \*SWP3/ECP Grading  
 Completion Bond \$ EPA  
 ECP & SWP3 Bond \$ EPA  
 Weed Bond \$ \_\_\_\_\_

SWP3 & ECP FEE (Area to be disturbed)  
 \$25 Size of 1 Acre or less  
 \$40 per Additional Acre

Total Due \$ \_\_\_\_\_  
 Amt Paid \$ 185  
 Balance \$ \_\_\_\_\_

BOND REQUIREMENTS  
 Completion Bond (100% of Estimated Cost) \$ \_\_\_\_\_  
 SWP3 & ECP Bond (120% of Estimated Cost) \$ \_\_\_\_\_  
 Sq. Ft. Disturbed \_\_\_\_\_  
 Re-vegetation/Restoration \$1.00 sq ft \_\_\_\_\_  
 Min. Pines \$1.50 x \_\_\_\_\_

Plant Zone: A  Shaded X

\*\*Notations and/or conditions of Approval:

By applying for this permit I acknowledge that I have confirmed that I will be complying with all federal, state and local laws concerning this property and that any person having permission to my application does not grant or use the right to apply my and/or my contractor's existing land use and zoning laws, nor does it supersede any federal, state or local law which prohibits the grading activity for which I am applying, in the event of a conflict in laws. This permit is not a grant of easement or other similar benefit. Applicant agrees to assume responsibility for all fees assessed for services as required.

Applicant / Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Engineering Approved By: SA Date: 11-18-14  
 Planning Approved By: SAD\_email Date: 11-11-14  
 Weed Dept Approved By: [Signature] Date: 11-18-14

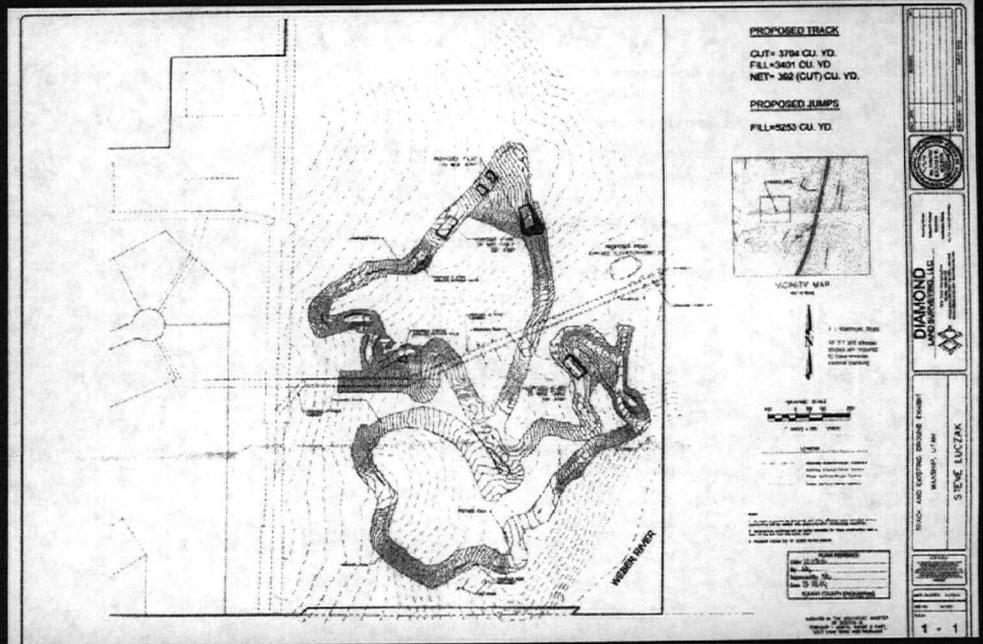
Bond Money Posted	Date Released
Completion: <u>EPA</u>	_____
ECP/SWP3	_____
Weeds	_____

# GRADING PERMIT 14-G-31

- On November 18, 2014, a Grading Permit was issued on Lot 1 in the Sunrise Ridge Subdivision. The Grading Permit was for "Bike Trails & New Pasture Space & Landscaping."
- This is distinct from the Grading Permit 09-G-13 which was issued on Parcel NS-131-B on August 17, 2009 and subsequently renewed in 2010, 2011, 2012 and 2014.
- Grading Permit 14-G-31 was limited to 6.2 acres.
- The Department of Community Development acknowledged that they were aware of the grading permit application, but expressly stated that their acknowledgement "does not constitute approval of the grading permit by the Community Development Department." (Email from Jennifer Strader to Heather Judd, dated November 11, 2014)
- Grading Permit 14-G-31 expired on May 17, 2015.

The site plan which accompanied Grading Permit 14-G-31 limits cuts to 3,794 Cubic Yards (CY) & fills to 8,654 CY.

Total net disturbance of 4,860 CY (minimal amount of grading)



SUMMIT COUNTY  
DEPARTMENT OF PUBLIC WORKS  
DIVISION OF ENGINEERING

## STOP WORK NOTICE

If you have a permit, please post it on the property and notify the Engineering Department at once.

THIS ACTIVITY IS IN VIOLATION OF:

- Excavation in County Right-of-Way without a Permit, Ordinance No. 181-D
- Driveway Encroachment without a Permit, Ordinance No. 181-D
- Structure Encroachment without a Permit, Ordinance No. 181-D
- Blockage of County Right-of-Way, Ordinance No. 181-D
- On Street Parking (November 1<sup>st</sup> to April 1<sup>st</sup>), Ordinance (Snow Removal)
- Depositing Snow on County Road from Private Property, Ordinance (Snow Removal)
- Excavating, Grading or Placement of Fill outside County Right-of-Way, Ordinance No. 315
- Construction activity prior to Final Site Plan or Subdivision Approval, (Snyderville Basin Development Code) (Eastern Summit County Development Code)
- Other: Ordinance No. 281 Stormwater pollution prevention

Description of Violation: Permit issued, work outside permitted area

Location of Violation: East St

Issued by: Kyle Monez Date: 12/16/15 Time: 11:27

YOU ARE HEREBY NOTIFIED THAT YOU MUST STOP ALL WORK. ONLY WORK OR CONSTRUCTION WITH PERMITS AND UNDER PROTECTION AS REQUIRED TO PROTECT AND SAFEGUARD LIFE AND PROPERTY WILL REMAIN IN EFFECT UNTIL ALL VIOLATIONS HAVE BEEN CORRECTED.

**Kyle Monez**  
Public Works Division

THE SUMMIT COUNTY ENGINEERING DIVISION  
COALVILLE KAMAS  
435-336-3250 435-781-4351 Ext 3250

Summit County  
435-336-3250  
www.summitcountymo.gov

➤ On December 16, 2015, the County Engineer issued a **Stop Work Order** on grading activities occurring on Lots 1 and 10 of the Sunrise Ridge Subdivision.

➤ The grading activities were:

➤ Inconsistent with the original Grading Permit 14-G-31 (disturbance was to be limited to a net of 4,860 CY, but actual disturbance is up to 250,000 CY\*).

➤ Occurred outside of the area covered by Grading Permit 14-G-31 (Lot 10; total area in excess of 50 acres).

➤ Occurred after the expiration of Grading Permit 14-G-31.

\* Based upon representations made by Steve Luczak to Peter Barnes, Planning Director, and Mike Kendell and Kyle Monez, County Engineering



Kodiak America provided these updated site plans to the County Engineer in February 2016 showing an extensive motocross track design on Lots 1 and 10 (in excess of 50 acres)

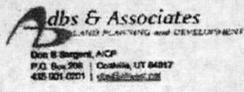
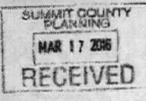




## MOTOCROSS

A closed course motorcycle race over natural or simulated rough terrain (as with steep inclines, hairpin turns, and mud)

- Merriam-Webster Dictionary



March 16, 2016

Summit County Planning Department  
60 North Main Street / P.O. Box 138  
Coville, UT 84017

Hand Delivered 03/17/16

RE: Wanship Moto-cross Race Track Development

Dear Planning Staff,

I represent land owners adjacent to the moto-cross race track located in the Wanship area on Parcels SRRDG-1-AM, SRRDG-10-AM and NS-131-8. My clients are very concerned with the on-going activity that has occurred on the property over the past several years. It appears the race track property owner has been allowed to conduct a commercial steel development operation on the property comprised of grading, excavating, staging materials, filling, cutting, material screening, vegetation removal, equipment storage and other associated activities.

My clients, as well as other residents in the area have and are experiencing adverse impacts from this project. The impacts include: noise, dust, erosion, off-site drainage, unsightly spoil piles and hillside scarification, noise, breeding disturbances, irrigation system alteration, wildlife habitat displacement and incompatibility with surrounding uses. From review of the information on file with the county, until just recently by the county engineering staff, it appears little if any monitoring or regulation has occurred on this property for compliance with development code and engineering standards.

**Background**

The only official approved document on file for the project appears to be the attached Grading Permit 14-6-31 (Exhibit A) which was issued by the engineering department on November 18, 2014 for grading, landscaping and utility installation on Parcel SRRDG-1-AM, represented as 6.2 acres. The specific project description included bike trails, new pasture area, landscaping and utility installation through the property. The attached drawing (Exhibit B) appears to have been associated with the grading permit. The permit expired on May 17, 2015.

It is important to note that although the application form indicates that the planning department had approved the permit, there is no planning staff signature, only a reference to an email. From recently discussing the project with Jennifer Strader at the Planning Department, the project has not been approved by the community development department. The attached November 11, 2014 email (Exhibit C) in the file from Jennifer Strader to Heather Judd, indicates the grading permit was never approved by the community development department.

Ongoing grading and other activity has been occurring on the property after the expiration date of the grading permit up until last winter when my clients again brought attention of the development activity

On March 16, 2016, the neighboring property owners complained that Kodiak America was using the Sunrise Ridge Subdivision as a commercial motocross track

PETITION TO REQUIRE PUBLIC HEARING ON COMMERCIAL MOTORCYCLE TRACK

The undersigned request that Summit County conduct a public hearing to allow public input regarding any governmental approval related to the development of a commercial steel motorcycle track and event center at 1000's West Maple Hill Road, Wanship, Utah (parcel serial number 9006-5486).

DATE	PRINTED NAME	SIGNATURE	PHONE NUMBER	EMAIL ADDRESS
3/17/16	Laura A. Simpson	<i>[Signature]</i>	801-281-2277	
3/18/16	Doreen A. Simpson	<i>[Signature]</i>	435-136-2889	laura@simpson.com
3/19/16	TAMIN B. SUTHER	<i>[Signature]</i>	801-421-7920	Tamin@tamin.com
3/19/16	CURTIS J. JONES	<i>[Signature]</i>	801-716-6718	Curtis@tjones.com
3/19/16	Robert P. Wally	<i>[Signature]</i>	725-649-6376	wallybob@ic.com
3/19/16	Laura J. Wally	<i>[Signature]</i>	435-940-1050	wallylaura@ic.com
3/19/16	Kevin P. Ponsosa	<i>[Signature]</i>	716-767-2211	kevin@kpon.com
3/19/16	TERRY FOSTER	<i>[Signature]</i>	801-581-5018	Terry.Foster@ic.com
3/19/16	Robert G. Crockett	<i>[Signature]</i>	435-666-6042	robert@rbcro.com
3/18/16	JAY CALDWELL	<i>[Signature]</i>	435-336-2303	Jay@calwell.com
3/18/16	John Anderson	<i>[Signature]</i>	801-256-2594	john@anderson.com

March 16, 2016

EXHIBIT H

## Possible New Track for 2016 Utah National ?? Flying Iron Horse Ranch

By Dan Lamb  
September 7, 2015

BEST Private MX Track Wanship Utah Motocross 8/8/2015



[video\_bar]

Check out a helmet cam video from the newest layout from the private Flying Iron Horse Ranch motocross track. Up until now the Flying Iron Horse Ranch in Wanship, Utah has been a private track, but with the closing of Miller Motorsports Park, we're hearing MXSports is considering this beautiful Utah countryside track for a future slot in the Lucas Oil Pro Motocross Championship.

The track is a far cry from the manmade facility at Miller Motorsports Park and was even featured in a segment of Wes Williams motocross film "War Machine". Nothing other than subtle

## ABS & ASSOCIATES COMPLIANT

Various sources demonstrate that Kodiak America is marketing the motocross track for commercial ventures:

"... but with the closing of Miller Motorsports Park, we're hearing MXSports is considering this beautiful Utah countryside track for a future slot in the Lucas Oil Pro Motocross Championship."

In fact, according to multiple sources, a large scale motocross race with spectators was held on May 7<sup>th</sup>

*Flying Iron  
Horse Ranch  
Motocross  
Track*

*W  
Utah*



03/24/2016 07:54

*Flying Iron Horse  
Ranch Motocross  
Track*

*Wanship, Utah*





*Flying Iron Horse Ranch  
Motocross Track*

*Wanship, Utah*

03/24/2016 07:54



*Flying Iron Horse Ranch  
Motocross Track*

*Wanship, Utah*



*Flying Iron  
Horse Ranch  
Northcross  
Truck*

*Wanship,  
Utah*



03/24/2016 07:54



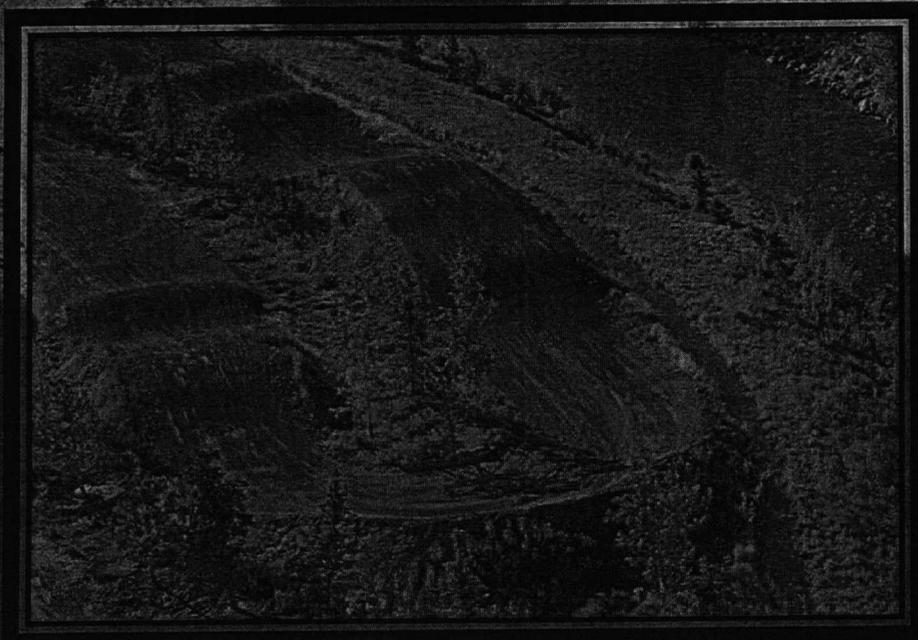
*Flying Iron Horse Ranch Motocross Track*



*Flying Iron Horse  
Ranch Motocross  
Track*



*Flying Iron Horse Ranch  
Motocross Track*



*Flying Iron Horse  
Ranch Motocross  
Track*

*Wanship, Utah*

## Motocross News



dirtzone  
Login | Register

### Watch Mountain bike vs Motocross featuring Brett Cuo and Gavin Godfrey



Episode four of Michelin's We are all racers: Mountain Bike vs Motocross features moto fan favourite, Brett Cuo as he rips around Flying Iron Horse Ranch in Utah with top mountain biker Gavin Godfrey. You can check it out below...

Commercial  
Advertising



### Flying Iron Horse Ranch - YouTube

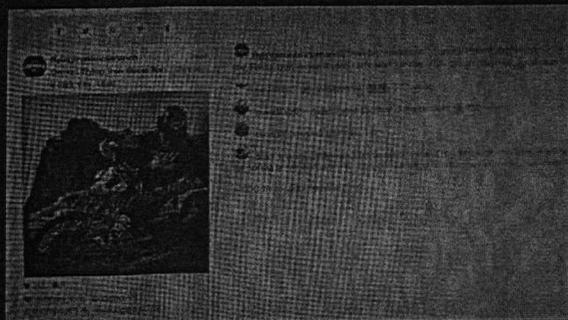
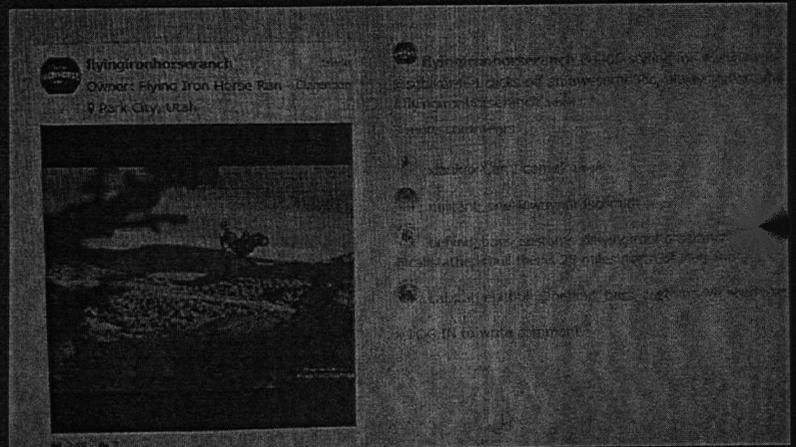
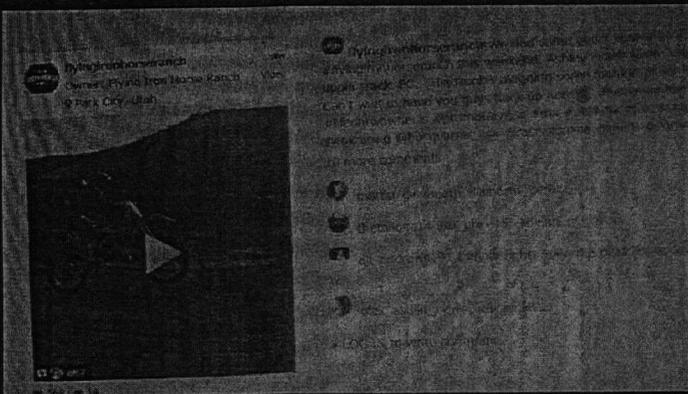
www.youtube.com/watch?v=...

[Watch page](#) [View stage](#)

#### Related images



## Flying Iron Horse Ranch Motocross Track Users





Patrick Pitt, Director  
Community Development Department  
P.O. Box 128  
Cedarville, UT 84207  
(435) 396-3155  
ppitt@summitcounty.org

VIA CERTIFIED LETTER #7015 0640 0007 9585 0936

March 23, 2016

Mr. Steve Luczak  
Kodiak America, LLC  
2185 East 3380 South  
Salt Lake City, Utah 84109

RE: Sunrise Ridge Subdivision

Dear Mr. Luczak:

Summit County records identify you as the owner of property within the Sunrise Ridge Subdivision (First Amended). County records also indicate that you were issued a Grading Permit from the County Engineer's Office on November 18, 2014 for bike trails, new pasture space, landscaping, and utilities (attached Exhibit 1). This permit expired on May 17, 2015.

It is my understanding that you have constructed a motocross facility within the subdivision area and adjacent lands (attached Exhibit 2). This letter is to formally notify you that such use is prohibited pursuant to the Sunrise Subdivision First Amended Plat (recorded November 2, 2012), Plat Note #8 (attached Exhibit 3). Plat Note #8 states that:

*"The agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for development of residential lots numbered 1-10 was allowed in exchange for the preservation of the active and productive lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property."*

I hereby request that you cease and desist all further use and operation of these facilities immediately and restore/revegetate all associated areas of disturbance.

## Cease & Desist Letter (March 23, 2016)

- Patrick Pitt, Director of Community Development, issued a Cease & Desist Letter to Kodiak America – motocross use is prohibited
- Kodiak America indicated on a Fox 13 News Report that it had no intention of ceasing motocross activities



Patrick Putt, Director  
Community Development Department  
P.O. Box 120  
Covada, UT 84602  
(435) 336-3238  
ppatt@summitcounty.org

Delivered By Hand

April 7, 2016

Mr. Steve Luczak  
Kodiak America, LLC  
2385 East 3380 South  
Salt Lake City, Utah 84109

RE: Final Land Use Determination—Sunrise Ridge Subdivision

Dear Mr. Luczak:

This letter serves as my final land use determination with respect to uses within the Sunrise Ridge Subdivision in accordance with Summit County Code (the "Code") §§11-7-11 and 11-7-13(B).

Summit County (the "County") records identify you as the owner of property within the Sunrise Ridge Subdivision (First Amended). County records also indicate that you were issued a Grading Permit from the County Engineer's Office on November 18, 2014 for bike trails, new pasture space, and landscaping (attached Exhibit 2). This permit expired on May 17, 2015. Further, you were issued a Stop Work Order by the County Engineer on March 31, 2016 for excavating without a permit and in violation of the previously referenced Grading Permit. Grading Permits regulate the excavation of soils, but do not constitute land use permits or approvals under Title 11 of the Code, nor can they be utilized to amend a subdivision plat pursuant to UCA §§17-27a-608 and 609. Hence they cannot be relied upon to change a "use" of property.

I met with you on April 4, 2016 at which time you confirmed to me that you have constructed a motocross track within Lots 1 and 10 of the Sunrise Ridge Subdivision. This letter serves as notice and a final land use determination that such motocross track and use is prohibited and constitutes a violation of the Sunrise Ridge Subdivision First Amended Plat (recorded November 2, 2012), Plat Note No. 8 and §11-4-9 of the Code; namely the provisions governing Cluster Bonus/Agricultural Preservation Subdivisions. Plat Note #8 memorializes §11-4-9.C-4 of the Code and states that:

*"The agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for development of residential lots numbered 1-10 was allowed in exchange for the preservation of the active and productive lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property." (emphasis added)*

## Use Determination Letter (April 7, 2016)

- Patrick Putt issued a Use Determination Letter on April 7, 2016 (Summit County Code §§ 11-7-11 and 11-7-13(B))
- Putt determined that a Motocross use is prohibited and constitutes a violation of Plat Note 8 of the Sunrise Ridge Subdivision (Summit County Code § 11-4-9)
- Motocross Track and Motocross use are not agricultural uses, nor are they customarily associated with an agricultural use of the property



Mr. Luczak of Kodiak America has stated with regard to its appeal hearing that "We're just not using the track right now out of kindness, [but] if the hearing doesn't go well, we will start riding right away." Park Record, April 30-May 3 edition.

## APPEAL

- Kodiak America filed an appeal of the Use Determination
- Council is the appeal authority (Summit County Code §11-7-16)
- Kodiak America has the burden of proof to show that the Use Determination was in *error* (UCA §17-27a-705)
- Matter is reviewed *de novo* (UCA §17-27a-707(2))
- Council determines the *correctness* of the Use Determination in its interpretation and application of the Summit County Code (UCA §17-27a-707(3))

615 P.2d 1265  
Supreme Court of Utah.

UTAH COUNTY, a body politic, Plaintiff and  
Respondent,

v.  
Kenneth J. YOUNG and Melva E. Young, his wife,  
Defendants and Appellants.

No. 16480.

Aug. 4, 1980.

Property owners appealed from decree entered by the Fourth District Court, Utah County, George F. Ballif, J., permanently enjoining use of their premises as commercial facility. The Supreme Court, Maughan, J., held that county was not estopped from enjoining property owners' use of their premises, which were zoned "agricultural," to conduct commercial auctions where property owner knew at time he procured building permit for barn in which he planned to hold auctions that he eventually would have to secure zoning change in order to legally use barn for auctions, and thus property owners were not entitled to equitable relief from enforcement of zoning laws.

Affirmed.

West Headnotes (2)

ii **Zoning and Planning**  
v—Estoppel or inducement

To invoke doctrine of equitable estoppel in zoning case, county must have committed act or omission upon which developer could rely in good faith in making substantial changes in position or incurring extensive expenses, and action upon which developer claims reliance must be of clear, definite and affirmative nature; if claim is based on omission of local zoning authority, such omission requires negligent or culpable omission where party failing to act was under duty to do so, and silence or inaction will not operate to work estoppel; landowner has duty to inquire and confer with local zoning authority regarding uses of property that are

permitted.

7 Cases that cite this headnote

iii **Zoning and Planning**  
v—Estoppel or inducement

County was not estopped from enjoining property owners' use of their premises, which were zoned "agricultural," to conduct commercial auctions where property owner knew at time he procured building permit for barn in which he planned to hold auctions that he eventually would have to secure zoning change in order to legally use barn for auctions, and thus property owners were not entitled to equitable relief from enforcement of zoning laws.

6 Cases that cite this headnote

Attorneys and Law Firms

\*1268 Kent B. Scott, John Preston Croer, and Brent Ward of Senior & Senior, Salt Lake City, for defendants and appellants.

Neill T. Wootton, Utah County Atty., Gay Birmingham, Deputy County Atty., Provo, for plaintiff and respondent.

Opinion

MAUGHAN, Justice:

Defendants appeal from a decree of the district court permanently enjoining the use of their premises in Benjamin, Utah, as a commercial facility including but not limited to its use for a commercial auction. The decree of the trial court is affirmed. No costs awarded.

Defendants' property is zoned for agricultural use only. Defendants erected a structure which resembled a barn but was equipped on the inside with an auction block, bleachers, and other equipment appropriate for the conduct of commercial auctions. Defendants named their

## Utah County v. Young 615 P.2d 1265 (Utah 1980)

### Zoning Estoppel

- Property zoned for agricultural use.
- Young obtained a building permit for a barn, which the building inspector knew was to be utilized for a commercial use inconsistent with the zoning.
- As a matter of law, "estoppel may not be used as defense by one who has acted fraudulently, or in bad faith, or with knowledge." He who comes seeking equity must come with clean hands.



## Kodiak America is not entitled to Zoning Estoppel

- Actual knowledge that motocross use is not agriculture or customarily associated with agriculture in violation of Plat Note 8.
- A Grading Permit cannot, as a matter of law, amend a subdivision plat. No good faith reliance on a Grading Permit changing the use.
- Bad Faith demonstrated by the issuance of the Stop Work Order:
  - Inconsistency with the original Grading Permit 14-G-31 (disturbance was to be limited to 12,000 CY, but actual disturbance is up to 250,000 CY).
  - Excavation occurring outside of the area covered by original Grading Permit 14-G-31 (Lot 10; in excess of 50 acres).
  - Excavation occurring after the expiration of Grading Permit 14-G-31.
- Bad Faith demonstrated by statements of Mr. Luczak and continuation of motocross after the cease and desist letter was served.

Mr. Thomas explained the Sunrise Ridge Subdivision, which is at issue, is a 10-lot agricultural cluster bonus subdivision, so it was a subdivision and received density bonus under this specific provision in the Eastern Summit County Development Code. That subdivision plat was an amendment in 2012 and Kodiak America acquired it in June of 2014. The property was first subdivided in 2007. The Sunrise Subdivision Plat, Plat Note 8, is the specific required plat note for these agricultural density bonus subdivisions. It is meant to preserve areas as agricultural and open space purposes and only uses customarily associated with agricultural use of the properties permitted. Both agricultural, as well as open space, are defined terms in the code. Agriculture is: Specifically the tilling of soil, raising of crops, foraging, and grazing. It is not recreational activity not normally associated with a farm or ranch.

The rules of construction are basically that the best evidence of what something means is the plain language. Mr. Thomas stated the Council needs to interpret terms according to their ordinary and accepted meanings and they need to interpret terms so that all parts are given meaning and effect, avoid rendering portions superfluous and read all the provisions and the code provisions as a whole. The whole idea is to ensure that the intent is followed, and the intent of these agricultural subdivisions is specifically to preserve the agricultural nature.

Subdivision plats may only be amended in accordance with state statute, and that state statute is implemented through the Eastern Summit County Development Code. Specifically under that code, a Plat Note may only be amended by the Eastern Summit County Planning Commission after they hold a public hearing. Mr. Thomas stated it is an important case to remember since Kodiak America has brought an issue of somehow the grading permit acted as a waiver. Waiver concerning land use in Utah is disfavored. Mr. Thomas stated the only ones who can change that plat note are the Eastern Summit County Planning Commission, not the County Engineer and not the Director of Community Development.

Mr. Thomas explained there is also an issue in this case of what a grading permit is and what it is not. He explained grading permits are not development permits. They are not administered by the Department of Community Development. They are administered under a separate code section by the County Engineer. That's important because land use law is fairly unique and the state statutes that govern it are very unique as well, and they're found in Title 17, Chapter 27(a) of the state code. Grading permits do not convey land use approvals or development rights. Grading permits cannot be used to amend subdivision plats. That's part of state statute. So the purpose of the grading permit is to ensure that erosion control measures are in place when land is disturbed. As a result of that, these permits are temporary in nature and are not meant to be permanent. You go in and disturb the land and you get the grading permit to make sure the erosion control measures are satisfied. The ability to change a use or in terms of granting density, those things can't be done by grading permits. The grading permit that's at issue here, 14-G-31, was issued in November 2014. It was issued only for Lot 1 of this ten-lot subdivision. It was for bike trails and new pasture land or new pasture space and landscaping.

Grading permit 14-G-31 was also limited to 6.2 acres. It also had a provision in it where it says "see email" in the actual permit where the Department of Community Development, although they acknowledged they were aware of the grading permit, they said, "This does not constitute approval of the grading permit by the Community Development Department." The one who approves the grading permit is the County Engineer. This grading permit expired in May of

2015. Mr. Thomas stated that the grading permit had a site plan that was attached to it. The site plan showed a total net disturbance of about 5,000 cubic yards that was to be a minor disturbance. In December of 2015, the County Engineer issued a "stop work" order. One reason that was issued was the grading permit had expired in May of 2015. The grading activities were also inconsistent with the permit because while that disturbance was supposed to be around 5,000 cubic yards, the actual disturbance was around a quarter of a million cubic yards. This also occurred outside the 6.2 acres. It included all of Lot 10, which is not part of the grading permit, in excess of 50 acres. Kodiak America did provide the County Engineer in February of this year some updated site plans, which included a much more extensive nature than what was presented to the County Engineer back when that permit was first issued.

Mr. Thomas stated in March of this year the Community Development Department received a complaint from the neighboring property owners. Their complaint was that Sunrise Ridge Subdivision was being used as a commercial motocross track. According to multiple sources, there was a large-scale motocross race with spectators on this land on May 7th. On March 23rd this year, Community Development Director Patrick Putt issued a cease and desist letter stating that the motocross use was prohibited. In response Kodiak America appeared on Fox 13 News and said it had no intention of ceasing motocross activities. Then on April 7th, a use determination was made by Mr. Putt in accordance with the county code where he stated that the motocross use is prohibited and constitutes a violation of Plat Note A because the motocross track and motocross use are not agricultural uses nor are they customarily associated with the agricultural use of the property. Farmers and ranchers do not have a motocross track as part of their normal activities. Kodiak America filed an appeal. The Council is the appeal authority and Kodiak America has the burden of proof to show that this use determination by Mr. Putt was in error. Mr. Luczak on behalf of Kodiak America has stated with regard to this appeal hearing, "We're just not using the track right now out of kindness. But if the hearing doesn't go well, we'll start riding right away."

Mr. Thomas cited a case of Utah County versus Young, and explained the definition of zoning estoppel. He stated as a matter of law estoppel may not be used as defense by one who has acted fraudulently or in bad faith or with knowledge. "He who comes seeking equity must come with clean hands." Mr. Thomas stated that's the law and in this case Kodiak America is not entitled to zoning estoppel. They had actual knowledge of Plat Note 8. Plat Note 8, which has not been amended, and a motocross track are inconsistent with what ordinarily occurs on agricultural property and what agricultural use is. A grading permit as a matter of law cannot amend a subdivision plat. You cannot have good faith reliance on a grading permit to somehow change the use. Mr. Thomas stated bad faith was demonstrated through the issuance of the "stop work" order, in what the County Engineer was led to believe would be a minor disturbance of 5,000 net cubic yards is 250,000 cubic yards of disturbance. The County Engineer was misled. This was supposed to be 6.2 acres and it's over 50 acres. The excavation was occurring after the grading permit expiration. Mr. Thomas stated bad faith was also demonstrated by the statements of Mr. Luczak and his continuation of motocross after the cease and desist letter was served. Lawlessness is bad faith. There are multiple witnesses to an event on May 7th with spectators that were after the cease and desist order and after the use determination in April. He stated it is the county staff's contention that in this case the Council should uphold the use determination by Mr. Putt.

Stanford Bell, attorney for Steve Luczak, then presented their side of the case by stating this entire case is about what a piece of paper means. Does it mean what it says, that Kodiak America had a permit to grade property or does it mean something else? He asked if the county can come back at a later time and revoke a permit and tell them it's not in accordance with the county code and tell them that they have to tear down what they just constructed. Mr. Bell stated there are the two properties that are owned by Kodiak America, Parcel NS-131-B to the east, and to the west, Sunrise Ridge Subdivision. There is a supercross track on Parcel NS-131-B (which is not in question) and a motocross track on the Sunrise Ridge Subdivision.

In 2005 Kodiak America acquired Parcel NS-131-B. This parcel is zoned as agricultural protected 40, AP-40. In the Summit County Code, Section 11-3-2 states that AP zone district is established to preserve, promote, maintain, and enhance the use for commercial and agricultural purposes and protect and promote the open space values of Eastern Summit County. Mr. Bell stated that code states "agricultural purposes and open space values," which is very similar to the Sunrise Plat Note at issue in this case. Mr. Bell presented a timeline of a sequence of events which led to the approval of a grading permit for a supercross track for Parcel NS-131-B, approved by the County Engineer.

In 2014, about five years after the supercross track was installed, Kodiak purchased the Sunrise Ridge Subdivision. Mr. Bell explained that based on his prior experience with the county, Mr. Luczak knew that both properties were zoned as AP-40 and he knew that a Plat Note existed and both had to do with open space and agricultural. The grading permit had apparently given him the authority and approval to install a supercross track on the first property, so Mr. Luczak did the same thing regarding the Sunrise Plat Note and submitted a grading permit application along with topographic plans detailing the motocross track. Mr. Bell presented the Council with an exhibit book and stated that Tabs 16 through 25 constitutes all the communications back and forth between Kodiak with the county, and that it was very clear that Kodiak intended to install a motocross track. There was no question jumps were being installed and a track was being installed.



# Summit County Council Meeting

Sunrise Ridge Subdivision  
June 1, 2016

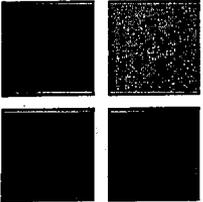


# Properties Owned by Kodiak

Sunrise Ridge Subdivision and Parcel NS-131-B

<http://maps.summitcounty.org/flexviewers/countymap/>



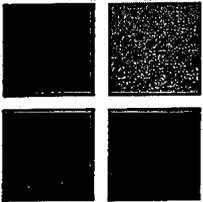


## Parcel NS-131-B

**2005:** Kodiak acquires Parcel NS-131-B

- Parcel NS-131-B is zoned as AP-40.
- **Summit County Code Section 11-3-2.** “The AP zone district is established [to]... preserve[], promote[], maintain[], and enhance[] the use of land for commercial agricultural purposes...and protect[] and promote[] the open space values of eastern Summit County.”





## Parcel NS-131-B Timeline

**2005:** Kodiak acquires Parcel NS-131-B

**2006:** Kodiak installs small motorcycle trail and some jumps

**March 2009:** Kodiak submits grading permit application to install supercross track, driveway and pasture

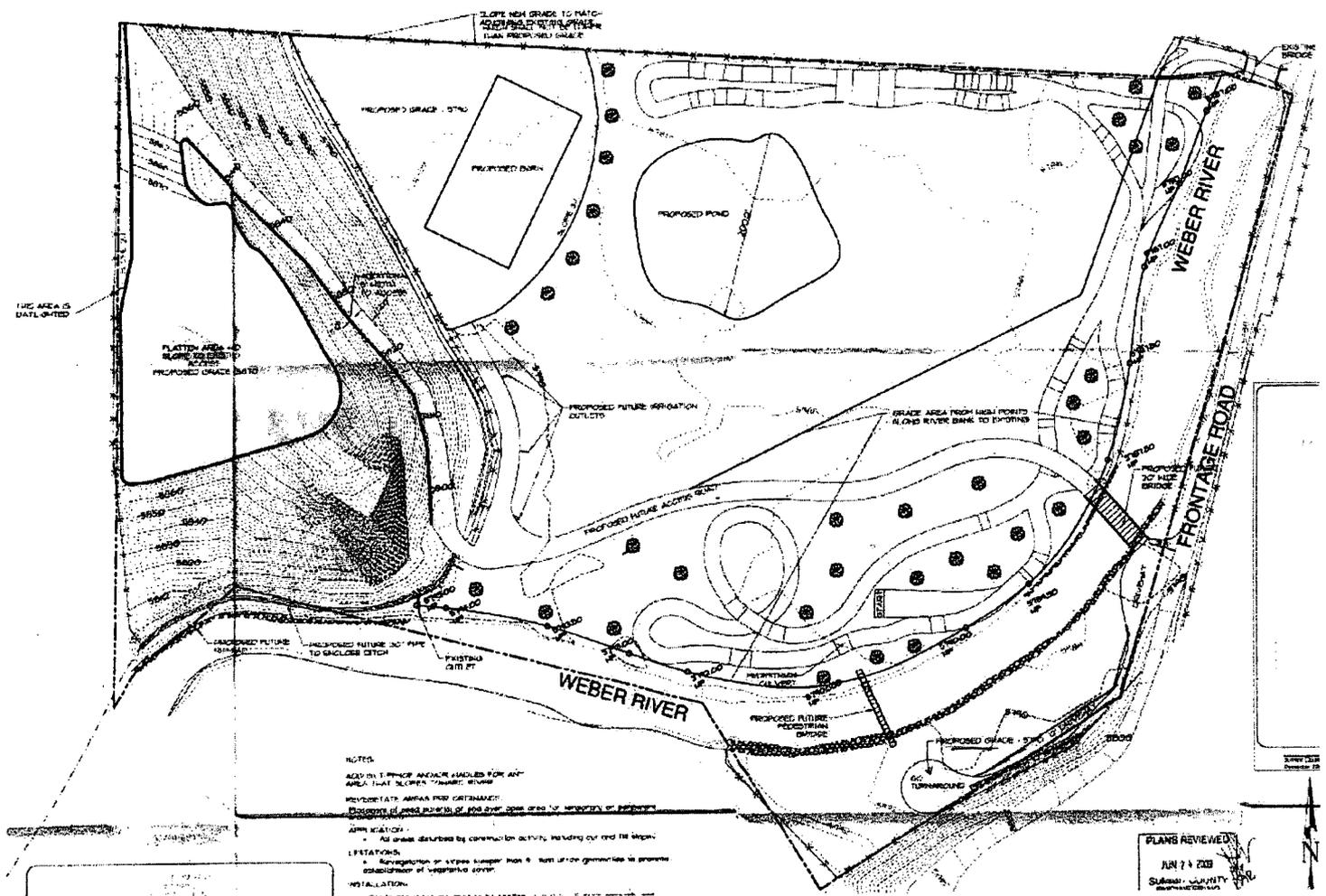
**April-May 2009:** Kodiak submits plans and soils report showing supercross track

**August 2009:** Permit issued. Approved by all departments. Planning states “this approval does not include the existing motocross track, which this Department understands is used solely for personal purposes. If, in the future, the motocross track is utilized as a commercial operation, you will be subject to the requirements contained in the Eastern Summit County Development Code.”

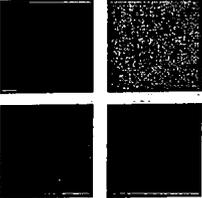
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# Supercross Track Survey



NOTES:  
 1. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.  
 2. ALL AREAS DISTURBED BY CONSTRUCTION ACTIVITY, INCLUDING CUT AND FILL SLOPES.  
 3. REVEGETATION OR STABILIZATION SHALL BE INSTALLED IMMEDIATELY UPON COMPLETION OF CONSTRUCTION OF VEGETATIVE COVER.  
 4. INSTALLATION OF ANY STRUCTURES SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC AND ALL APPLICABLE CODES.



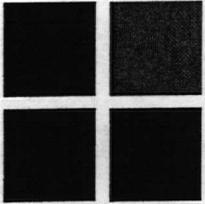
## Parcel NS-131-B Timeline

**2010-2014:** Permit extended seven times. Each time it is about to expire, Steve gets a call from the Engineering Dept. to extend.

- Each time it is approved, application approvals are less and less formal. Final application not signed by a single department, yet it is still issued.





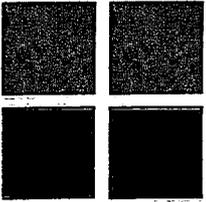


## Sunrise Ridge Subdivision

**June 2014:** Kodiak acquires Sunrise Ridge Subdivision

- Sunrise Ridge Subdivision is zoned as AP-40.
- **Plat Note #8:** “The preserved area shall continue to be used solely for agricultural and open space purposes.”
- **Summit County Code Section 11-3-2.** “The AP zone district is established [to]... preserve[], promote[], maintain[], and enhance[] the use of land for commercial agricultural purposes...and protect[] and promote[] the open space values of eastern Summit County.”





## Sunrise Ridge Timeline

**9/8/2014:** Kodiak submits Grading Permit Application for motocross track, pasture, and mountain bike trails.

- This is two weeks after last extension for supercross grading permit issued where no department signed application.

**11/5/2014:** Kodiak submits topographic plans detailing motocross track to Engineering Department.

**11/10/2014:** Engineering sends email to Peter Barnes, Planning and Zoning administrator, saying, "have you sent an email about the motorcycle jumps (phase II) and I somehow missed it?"

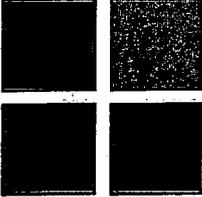
**11/18/2014:** Grading permit issued, appears to be approved by all departments.

- "Planning Approved By: See Email"...No email provided to Kodiak. Email sent by planning to engineering only.

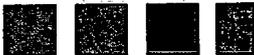
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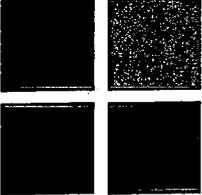






# Misconceptions

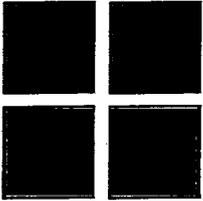
1. Kodiak moved 250,000 cubic yards for the motocross track.
    - TRUTH: Kodiak moved 250,000 cubic yards for ALL permitted activities on both Parcel NS-131-B and Sunrise Ridge.
  
  2. Kodiak uses/markets the motocross track commercially.
    - County cites various news sources
    - “. . . but with the closing of Miller Motorsports Park, we’re hearing MXSports is considering this beautiful Utah countryside track for a future slot in the Lucas Oil Pro Motocross Championship.”
    - TRUTH: MXSports approached County and Kodiak. Kodiak refused to allow the race.
- 
- 



## Zoning Estoppel

“[E]stoppel, waiver, or laches may constitute a defense to a suit for relief against alleged violations of zoning laws.” *Utah County v. Young*, 615 P.2d 1265 (Utah 1980).

1. Reliance;
  2. On an action by the County;
  3. That is clear, definite, and of an affirmative nature OR negligent omission to act when the county had a duty to do so;
  4. The landowner conferred with the County on permitted uses;
  5. The landowner makes a substantial change in position OR incurs extensive expenses; AND
  6. Landowner acted in good faith.
- 
- 

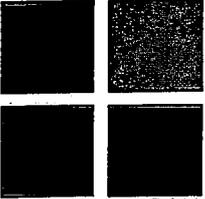


## What is Bad Faith?

“[E]stopper may not be used as defense by one who has acted fraudulently, or in bad faith, or with knowledge.” *Utah County v. Young*, 615 P.2d 1265, 1267 (Utah 1980).

- *Utah County v. Young*: Owner built barn for purpose of conducting commercial auction business. Didn't disclose purpose to city during permit process but knew it wasn't zoned for such an operation.
- *Kiker v. City of Riverdale*: Owner did not disclose proposed commercial use of permitted building and had knowledge of zoning restrictions that prevented commercial operation.
- *Maloof v. Gwinnett County*: Owner granted building permit for “storage building, workshop and barn combination.” Actually uses as commercial kennel even though they knew it violated zoning laws.

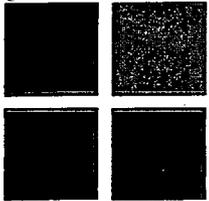




## What is Bad Faith?

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- 
- 



## When Excavation May be Ordered to be Removed

- Only two times Summit County can order grading to be removed:
  1. **Summit County Code Sec. 7-2-10:** “In the event of failure on the part of any person...to comply fully with the provisions of this chapter, law enforcement authorities of Summit County are authorized to.... [g]ive written notice to such person...to restore the property to its original condition.”
  2. **Summit County Code Sec. 7-2-1(C):** “Whenever the county engineer determines that any existing excavation, embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located...shall...repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter.”



Council Member Adair asked if there were plans submitted with that. Mr. Bell replied yes, there were plans submitted with a detailed topographic survey. He explained you can see the lines inside of the track, which are the elevation changes, and those were submitted to the Engineering Department. Mr. Bell stated on November 18, 2014 a grading permit is issued and appeared to be approved by all the departments. Tab 16 included a copy of the grading permit. Mr. Bell stated when Kodiak saw the permit issued and saw that Engineering had signed and Planning approved by "see email," especially with the past performance with the previous supercross track, to Kodiak America this looked like they had the approval of everybody to install a motocross track.

Council Member Carson stated on that permit it has 6.2 acres, and asked if that was the actual area that was affected. Steve Luczak, the owner of Kodiak, replied the 6.2 acres is what Heather Judd had listed on there she could figure out the bond for the seeding, so she only calculated the actual track acreage. Everything else around the track is pasture space. Mr. Luczak stated he was told he did not need the AG permit for the agricultural side and that's why it looks like it's 50 acres because she figured 6.2 for grass seeding and that's how they charged him the bond accordingly. The pond, the pasture, and the access roads was all done under the agricultural side, which in the grading permit says it's exempt for a permit. He stated the actual track, if you calculate some of the pasture space it crosses, is less than 9 percent of his entire property on Lot 1 and everything else is agricultural that they are doing up there.

Council Member Carson asked when the county calculates an area for a permit do they look at the total area that it encompasses or do they look at the specific area where dirt was moved. County Engineer Gary Horton replied that typically they just look at the area that's disturbed. They don't include the whole lot. Mr. Horton stated this is not a typical grading permit. Generally it's within a boundary and the whole area is being disturbed. He stated being the way that Heather calculated it and the way they currently calculate, they base it on the disturbed area. Mr. Luczak stated back then that's not what they did for the bonding on it. It was only the track so she calculated what the track was for that area and charged him accordingly for it. They had a \$10,000 bond originally for the lower piece and then they moved that to the upper track because it was still there and good. Mr. Luczak stated it was a good relationship between the Engineering Department and Kodiak. If Kodiak were asked something, they provided it and they always let them know up front what they were doing. The track map was laid out for the grading permit and they provided more surveying to put the jump sizes and quantity in there. The actual disturbance of the track is still approximately with what they estimated, which was about 12,000 yards, plus or minus. The quarter million yards is the entire agricultural side of both properties. Mr. Bell stated it's true that 250,000 yards of soil have been moved, however, that is not on the motocross track. The permit covered a lot more than just the motocross track. It also included a pasture land, a riding arena, and a few other items.

Chair Armstrong asked how much soil was moved in the Sunrise Subdivision. Mr. Bell stated the motocross track was authorized to be moved 12,000 cubic yards, and Tab 17 has the actual survey that was submitted.

Mr. Bell stated the other misconception is by some of the neighbors that Kodiak uses and markets the motocross track commercially. NBC and MX Sports approached Kodiak and the Park City Chamber of Commerce to determine if they could conduct a race on the Sunrise property. It was determined by the Planning Commission that a conditional use permit would be required to conduct that race and as part of that a public hearing would need to be held to determine what the potential impacts would be. At that point Mr. Luczak determined that wasn't a route he wanted to go down so no race was ever held. Mr. Bell stated three months ago Yamaha, the manufacturer of motorcycles, approached Mr. Luczak and wanted to shoot a commercial on his property. Mr. Luczak informed them they needed to get a filming permit from the county before he would authorize them to ride on the track. They went to the county and asked for a permit and they were denied so Mr. Luczak did not allow them to ride on the track. Mr. Bell explained while Kodiak has rides regularly and invites family and friends; it's never been used commercially and has never received any compensation for operating the track.

Mr. Bell stated Steve Luczak went to the Engineering Department, who can give grading permits to install driveways and motocross tracks to receive a grading permit. It was signed by the parties to Steve and to Kodiak and he relied on that in good faith believing that he had the authority to install a motocross track.

Chair Armstrong asked Mr. Bell if Mr. Luczak had conferred with him as counsel and stated he wanted to build a motocross track and that he had a grading permit if Mr. Bell would consider that to be enough to proceed with building the track. Mr. Bell replied he would because the county is the holder of the county code and the interpreter of it and if you have a permit from the county saying you can install a motocross track, he doesn't know why he would tell him he couldn't. Chair Armstrong asked if Mr. Bell had knowledge of the Plat Note if that would make him pause. Mr. Bell replied he would probably call to confirm but that would be about as much as he would do.

Council Member McMullin stated the theory of the case here seems to be a pattern of practice of the manner in which the county behaved prior with Mr. Luczak when they gave him a permit for one motocross track that was sufficient and in the second instance the same type of permit was deemed insufficient. Council Member McMullin asked besides the pattern and practice of the history, what current representation Mr. Luczak relied upon with the second permit, the Sunrise Subdivision, which led him to believe it was all he needed to build out the motocross track. Mr. Bell replied that Mr. Luczak had been emailing and talking with Heather Judd from the County Engineering Department and she had come back a few times and said they need more detail on the motocross track and topographic survey to show elevation changes, and then they issued the permit which says he has the authority to do it pursuant to the survey he turned into the county.

Council Member McMullin asked what evidence Mr. Luczak had that the county understood he was building a second motocross track. Mr. Luczak replied that every time he went into the Engineering Department they talked about how big the jumps were and how high they were flying on it. Mr. Luczak stated he believed once he submitted the application everybody would look at it, and when Leslie and Heather would email him asking for more information on it Kodiak gave them everything they were asked to give.

Mr. Luczak stated they have not done anything on either track that's been commercial. He explained the motocross race that was mentioned earlier was a father-and-son outing on the property with about 20-30 fathers and sons, and a couple of the kids brought four-wheelers up there and they pitched their tents on the asphalt because it was raining a little bit.

Dave Thomas explained the property in question is not just like Parcel NS-131-B. The difference is the property owner in 2007 came in and got a specialized subdivision and with the specialized subdivision came a very specific Plat Note. Property owners are aware of what the Plat Note is. If the Plat Note didn't mean anything more than the definitional section of what AP zone is, they wouldn't have an agricultural bonus subdivision. It would mean nothing. It's very specific of what it is and it's defined. The agriculture is defined and that's what makes this so much different. Mr. Thomas stated when he talks about zoning estoppel and bad faith; this is a property owner who knew Plat Note 8.

Gary Horton pulled up two pictures for the Council and stated the first was a photo of the plan that was presented to the engineering department when the grading permit was provided, and the other was the plan that was provided after in February of this year, and in looking at the difference of that, it was definitely in excess of 12,000 yards.

Council Member Carson asked Mr. Horton if they're doing grading that's considered AG grading, do they still need to get a permit for it or are they able to do whatever they like. Mr. Horton replied there is an agricultural exemption for AG permits for grading. That would be considered for a fairly small grading effort and not to this degree or magnitude.

Vice Chair Robinson stated he's an agriculturalist and he's done a lot of grading and land leveling in order to improve productivity and when he reads the code he doesn't see that it's minor grading. He stated if you were wanting to adjust the slope or make modifications to land for agricultural purposes it could be deemed major. He asked Gary Horton if he had a response to that. Mr. Horton replied that he would have to go back and look at the code.

Vice Chair Robinson asked what the proper permit to apply for is if someone wants a private motorcycle track. Dave Thomas replied that for this subdivision someone would have to have a plat amendment and they would have to distinguish the Plat Note.

Community Development Director Patrick Putt explained how the development code and land-use table works. He stated the code identifies all the land-use zoning districts on the east side. It has a list of a series of land uses. Each one of those land uses are either identified as an allowed use, a conditional use, or a temporary use. The way the code is structured goes on to explain if a use is not listed on that table as a conditional, allowed, or temporary, it is prohibited. There is no specific list for a supercross or a motocross track. One can argue that the closest land use in this particular case is that of a seasonal recreation use (motorized). That also implies a commercial use. There is no specific land use enumerated for a private motocross use that has been administered in the code on the east and west side. By virtue of the fact that it's not identified, it would be prohibited.

Vice Chair Robinson stated they have an applicant that has presented in evidence that hasn't been controverted by the staff that as early of 2005 or 2006 or sometime many years ago on another parcel, grading permits for the express purpose of creating a track were not only granted but extended many times. Dave Thomas stated he thinks the dispute they have with that goes back to what a grading permit is. A grading permit is not a land use permit. Vice Chair Robinson asked if someone needs a land-use permit to ride a motorcycle on their land. Mr. Thomas replied a grading permit is something that they do for erosion control purposes and it does not grant use, density, or configuration.

Vice Chair Robinson asked if prior to this issue with Sunrise Ridge if the county had any concern. And if so, did it ever express it with the activities occurring on the out-of-subdivision track that was built beginning in the last ten years? At any time was there an issue with that? Patrick Putt responded that he does not have a personal recollection of a complaint on the lower portion of the property. There may have been, but he's just not aware personally of those being made.

Vice Chair Robinson asked Mr. Luczak with respect to the permit that was issued that expired in May of 2015, did he do any work on the track after that date, and why, if it expired in his previous course of conduct with the county, did he not get an extension. Mr. Luczak replied in the past every time that the permit was about to expire the county would give him a reminder call. He stated with the old engineering department he got into that habit and when he didn't get a call this time, it slipped his mind to file for the extension. He stated he didn't realize it had expired until December when they put the "stop work" order on there that his permit had lapsed. Vice Chair Robinson stated the permit has an expiration date on it and it's not the county's obligation to notify someone when it expires.

Vice Chair Robinson asked if the definition of agriculture that staff has cited is the same definition that the Council should apply to the agricultural preservation zone. Mr. Thomas replied that's the general definition.

Vice Chair Robinson asked if the creation of the grading that resulted in the track was any kind of development activity that's in contravention that required a permit under the 8 or the AP-40. Mr. Thomas replied it is technically development. Use density configuration is development.

Council Member McMullin stated back in 2009 a letter from the Community Development Department went out to Mr. Luczak regarding a grading permit application that had a sentence stating: "This approval does not include the existing motocross track." She stated Planning knew a track existed, and asked what permit was gotten from the county to get that track in the first place. She asked if a grading permit didn't allow for the track, then what did, and what kind of permit needed to be used if it was converted to commercial purposes in the future. She stated she wanted to know legally what kind of permit was required, if it's not the grading permit, to create the motocross track on NS-131-B. Patrick Putt stated motocross tracks, commercial or private, are not listed or identified on the land-use table. He stated it is his opinion that in order to have a private or commercial motocross track, one would have to amend the Eastern Summit County Development Code and land-use table to establish that use and have the appropriate process to do that. Mr. Putt stated he has not been able to find any permit or permit history or file that speaks to what happened in 2009. Attorney Robert Hilder stated it's his understanding

on the first lot in 2009 there was never a permit issued and it's not a complying use, but they're way past any time to enforce that, so it's a non-complying use.

Chair Armstrong stated the grant deed in this particular property talks about that it's subject to any restrictions that may be placed on the property. This is a very clear plat restriction. The plat restriction says the only thing you can do on that property in exchange for the density bonus is stuff that is customarily associated with agriculture. Chair Armstrong stated, "I don't think that a motocross track is customarily associated with agriculture." Chair Armstrong reviewed that Mr. Luczak previously stated that he builds high-end houses and has worked with many cities and counties, so when he bought this piece of property, as a developer of planning homes he probably read the plan and would understand these restrictions. Chair Armstrong stated the purpose of that AG bonus is to maintain the agricultural community without adding substantially to the infrastructure and he believes Mr. Luczak has done everything to the opposite of that and still gotten the density bonus.

Council Member McMullin stated what disturbs her about the whole situation is that she sees communication from different departments from 2009 to 2015 all of which expressly acknowledge there's motocross happening on one parcel and then the second parcel and nobody ever told Mr. Luczak that he did it wrong and that he should have gotten a different permit. She stated she doesn't know what permit he was supposed to get to cut those trails other than the grading permit, so she completely disagrees with Chair Armstrong's statements. She stated she believes Mr. Luczak relied upon the county and that permit when he kept doing that which he'd been doing for nine years and nobody ever told him to stop.

Council Member Adair asked: When did the Planning Commission know there was a track? He asked if they are not allowed at all from the county, when did the county know that the lower track was being built let alone when the upper track was being built and why didn't that raise a red flag and say it's allowed not? Council Member Carson stated she believed this was a property rights issue and because of that she goes back to the Land Use Code. She stated she has to respect those other residents that purchased property based on what uses were identified on that plat map. That gave them certainty when they purchased their property, she think it's clear, that the motocross track that Mr. Luczak has built lies outside of the typical agricultural use of a motorcycle. Mr. Luczak asked why the county didn't tell him that and Council Member Carson replied it's not the same as the other track and there is a difference and it's because of that Plat Note and the impact it has being on that hillside that was supposed to be preserved as open space.

**Council Member McMullin made a motion at 7:10pm to convene in closed session for deliberation. The motion was seconded by Council Member Carson and passed unanimously, 5 to 0.**

**Those in attendance were:**

**Chair Armstrong**  
**Vice Chair Robinson**  
**Member Carson**  
**Member McMullin**  
**Member Adair**

**Attorney Hilder**

**Council Member McMullin made a motion at 7:25pm to leave closed session and return to open session. Council Member Adair seconded and the motion passed, 5-0.**

Chair Armstrong asked Mr. Luczak if he ever had any permit issues in Wyoming where he had previously built motocross tracks. Mr. Luczak replied they didn't have to have a permit because it was their private property and they were allowed to grade without a permit.

Chair Armstrong asked Dave Thomas to give the definition of grading permit once more, and he complied. Chair Armstrong asked Dave Thomas for the current definition of development in Eastern Summit County, the planning code. Mr. Bell stated there is no definition of development in Eastern Summit County and that Title 10 is defined, but Title 11 is not.

Chair Armstrong asked Gary Horton when the Engineering Department gets an application for a grading permit what they are typically looking at. Mr. Horton explained when a grading permit is brought into their office they look at the amount of disturbance, level of disturbance; make sure it's within their property. Depending on the level of disturbance, they'll determine partially the amount of requirements from the applicant. Typically, if they have any question about land use applications, they will go down to the Planning Department, because it's not in their purview, just to make sure they're not approving something that is contrary to what should be used on that particular site. Every once in a while they may ask for additional information depending on what's supplied, but they typically do not pull up the plat and look at that. Chair Armstrong asked Mr. Horton when they are looking at an application if they are essentially looking for erosion. Mr. Horton replied yes. He stated they understand they have the ability to grade upon their property. One of the things that they don't guarantee is access to a home, or it doesn't guarantee future abilities or rights because it is grading and it needs to have stabilization for erosion control and in the end, it needs to be re-vegetated.

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Tuesday, April 26, 2016 10:47 AM  
**To:** Kent Jones  
**Subject:** FW: Keep Flying Horse Ranch Open!!!

-----Original Message-----

**From:** Troy Murphy [<mailto:troymrph15@gmail.com>]  
**Sent:** Tuesday, April 26, 2016 10:16 AM  
**To:** County Council  
**Subject:** Keep Flying Horse Ranch Open!!!

Hello!

My name is Troy Murphy, I'm an athlete on the U.S. Ski Team competing on the World Cup circuit. I moved to Utah from Maine four years ago, and have been amazed by how much this county has to offer. There are endless possibilities for different types of recreation, which allow residents to live a healthy, active lifestyle outside of their careers or studies.

Back in Maine, before skiing became my greatest passion, my dream was always to be a professional motocross racer. Both of my parents raced motocross, and their passion for the sport was very quickly instilled in me. My childhood days were consumed by the sport, I would watch motocross movies, build mini-tracks in the sand outside my house to play with my toy dirt bikes, travel long distances to watch professional races, and most importantly ride whenever possible. Our family was lucky enough to have friends with a track in their backyard, and once or twice a week a small community of riders would meet there in the evenings after work to get together and ride. I met some of my best friends through these weekly rides, and felt part of an amazing group of people who loved the sport as much as I did.

Unfortunately these gatherings would come to an end, as the land owner was forced to sell the land, and the track was closed. This made my professional motocross dreams much more unobtainable. The closest track was now an hour and a half away, they only held practice one day a week, and each rider had to pay an entry fee to ride there. This made getting to the track to ride a much more lengthy, and expensive process, which eventually my family could no longer keep up with.

Though I have never ridden the Flying Horse Ranch track, whenever I drive by on the highway my memories of all the good times I had when I was younger flood my mind. I look up on that hill and my itch to ride comes back in an instant, and makes me confident that one day I'll own another dirt bike, and will get to continue the passion I had when I was a child.

Until now it was very reassuring for me that there was a track so close to home, it made me feel that this was a community I could easily connect with and that had something to offer for everyone. If the track is closed, what will happen to the riders who have made motocross a huge piece of their life? What will happen to young kids who have dreams of one day racing professionally, but no longer have a track to practice on? Do we really want to cut off an outlet for folks to partake in a healthy, active, and passionate lifestyle in Summit County? Not every family is going to be invested in soccer, baseball, or skiing, and it is important that if motocross is what people are passionate about, that they have a place to do it!

Please set an example by showing that Summit County, UT is a forward thinking community who will protect its resident's interests and passions. Our passions are what make us all tick, and without an outlet in which to pursue them

our lives become much more dull and mundane. I know firsthand what closing a motocross track can do to do that community, please do not make the same mistake that was made back home in Maine!

Thank you for your time and consideration, and fight to keep Flying Horse Ranch OPEN!!!

Troy Murphy

Sent from my iPhone

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Tuesday, April 26, 2016 10:12 AM  
**To:** Kent Jones  
**Subject:** FW: Support for Luczak Family

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**From:** Greg Woolston [<mailto:greg.woolston@skullcandy.com>]  
**Sent:** Tuesday, April 26, 2016 10:11 AM  
**To:** County Council  
**Subject:** Support for Luczak Family

Dear Summit County Council,

I would like to voice my support for the Luczak family, and their efforts to build a motocross track on their property. Motocross is a very important sport in my life, and as an individual that works in Summit County it is incredible that the Luczak family has decided to bring this sport to their property in the county. Motocross is also a very important part of the action sports world that Skullcandy, the company I work for, supports. If young riders don't have a safe welcoming place to practice their sport than their lives will be negatively affected. Too many tracks are being shut down across this country for no good reason, and with Summit County being such an important place for sport in our state I think that the Luczak's are only benefitting the community. Please take this into consideration in your assessment of their property. Please don't kill their dream. I too hope to be able to build a track on my property one day, and Summit County is on my short list of places to do that. But, if the Luczak's aren't able to continue with their dreams I will most likely have to take my dreams elsewhere too.

Thank you for your consideration,  
Greg Woolston

## Kent Jones

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**m:** Annette Singleton  
**nt:** Monday, April 25, 2016 12:25 PM  
**To:** Kent Jones  
**Subject:** FW: Flying Iron Horse Ranch

**From:** Maddison Pastrana [<mailto:maddisonpastrana@gmail.com>]  
**Sent:** Monday, April 25, 2016 12:22 PM  
**To:** County Council  
**Subject:** Flying Iron Horse Ranch

When I found out that there was an appeal to deny permitted use for motorcycle rec at Flying Iron Horse Ranch I was very disappointed. Motocross and the many other activities held at this ranch has united all kinds of people. It has made people, especially teenagers, feel like they were a part of something and that is very important at that age.

I believe that when young men and older men create a bond through an activity like motocross younger men stay out of trouble. Younger men, teenagers, and basically everyone who ride motocross and other motor activities do it because it helps them in one way or another- stress, anxiety, depression, ect.

It helps my husband relieve stress and anxiety. When my husband wants to wind down from a crazy week from work he goes out and rides, either by himself or with his buddies. This is great for me and great for him. I would much rather him go out and ride than take a medication for stress and anxiety and possibly get side affects from the medication.

It helps younger men stay out of trouble and helps them feel like they are a part of something bigger than themselves. Extracurricular Activities are very important for teens, Studies show that students in extracurricular activities have higher academic scores. They learn to manage their time, relieve stress and learn to strive for excellence in more than one thing," says Kenny Smith, a school counselor in Thatcher, Arizona.

Flying Iron Horse Ranch provides racing, event promoting, community service for youth groups, female riders, disabled vets, pro racers, and other outdoor enthusiasts that like to participate in motocross, four wheeling, mountain biking, fly fishing, and hiking. I don't see how denying a permit for these wholesome activities on this property would make a positive impact on the community.

Please reconsider your appeal, as denying the community of these activities at Flying Iron Horse Ranch would make for great disappointment to many, many people, including myself, my husband, and other family members.

Thank you for your consideration,

Maddison Pastrana

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Monday, April 25, 2016 12:03 PM  
**To:** Kent Jones  
**Subject:** FW: Flying Iron Horse Ranch

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**From:** Stephanie Harsha [<mailto:harsha.35@hotmail.com>]  
**Sent:** Monday, April 25, 2016 11:41 AM  
**To:** County Council  
**Cc:** [Steve@KodiakAH.com](mailto:Steve@KodiakAH.com)  
**Subject:** Flying Iron Horse Ranch

Dear members of the Summit County Council,

I am writing to you in support of Flying Iron Horse Ranch, owned by Steve Luczak. My son is an amateur motocross rider and has dreamed of riding at the Flying Iron Horse Ranch for years. It is, by far, the most beautifully landscaped and well maintained track I've ever seen and it is stunning to look at. So much hard work, preparation and appropriate planning with local officials has gone into this property.

Motocross has inspired my son to be a better student and stay away from drugs and alcohol use. It has given him purpose, confidence and helped him accomplish goals he has set for himself. One of those goals was to ride at the Flying Iron Horse Ranch.

However, this property is not just known for motocross enthusiasts. I have seen and heard of many other forms of outdoor activities taking place on this property from fishing to hiking to biking. This is a well-rounded, successful development of property that falls exactly in line with the county's vision of "natural beauty, quality of life, economic diversity" AND MOST IMPORTANTLY "supporting a healthy, prosperous CULTURALLY DIVERSE citizenry." In your own words.

This track does not allow open riding, limiting the number of bikes on any given day and therefore limiting the noise. I can't even fathom a valid complaint on this issue. A diesel truck puts out more decibels than a dirtbike. Will the Council then ban all diesel trucks in the area?

As for an argument for wildlife and visual impact of the Ranch, anyone can see the beautiful landscaping that has been added to the property to mitigate any land scarring. I'm sure if you request it, Mr. Luczak would provide you with information on the additional costs he has paid in strictly beautifying the area. As for any argument against wildlife movements, I believe I-80 and transportation infrastructure has already impeded any major wildlife movements through the area. A few dirtbikes every other weekend is not going to have any more affect on the local wildlife--not anymore than the tractors, local traffic, the interstate and the local farming population already does. Will you then ban all vehicles/trucks/tractors /hikers to maintain "wildlife" in the area?

Most importantly, above all else I have mentioned, this is about personal property rights. Once you allow this kind of harassment, much more will follow. Will neighbors be allowed to reduce the amount of horses on someone's property because they dislike the smell? Will other residents be allowed to change the color of someone's home because they do not want to look at it? Be careful the precedent you set, and be wary of

trampling personal property rights. As far as I can see, Steve Luczak has taken every proper step to fall exactly in line with the vision established by the summit county themselves.

Please do not destroy my son's dream of seeing the Flying Iron Horse Ranch for himself. Thank you.

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Monday, April 11, 2016 9:49 AM  
**To:** Kent Jones  
**Subject:** FW: Luczak Motorsports Recreation Area Permit

**From:** Steven Davis [<mailto:stevenlawrencedavis@gmail.com>]  
**Sent:** Monday, April 11, 2016 9:43 AM  
**To:** County Council  
**Subject:** Luczak Motorsports Recreation Area Permit

To whom it may concern,

I'm writing this email to comment on the issue of permitting for the Luczak's Motorsports Recreation area in Summit county. If Mr. Luczak - a tax paying citizen - is prevented from using his land how he wants to, where does this over reach of the county council end? I know this is a complicated issue, but - morally and legally - the right thing to do is to issue this permit. I support the Luczak's. They are great people who work hard.

-Steven Davis, Sandy, UT

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Wednesday, April 13, 2016 8:28 AM  
**To:** Kent Jones  
**Subject:** FW: Flying iron horse ranch

-----Original Message-----

**From:** Austin Baker [<mailto:abaker0604@gmail.com>]  
**Sent:** Tuesday, April 12, 2016 8:03 PM  
**To:** County Council  
**Subject:** Flying iron horse ranch

Threatening to shut down the ranch saddens me. I myself have never personally been there, But growing up racing and riding dirt bikes. I have learned The bond it creates between you and fellow riders is inseparable, the friendships you make along the way and all the great family time you have of riding with your old man or siblings is some of the best times of your life. So let's not make these things past times or memories, but keep them real, present, something to look forward too. By shutting down the ranch it will become a memory that gets talked about around the campfire and nothing more. No new friends no family weekends that you will never forget. So please keep in mind all the lives that it will change for the worse by shutting down the ranch. Heck maybe even throw your leg over a motorcycle one of these days, you never know maybe you have that seed in you just waiting to be watered.

Sent from my iPad

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Wednesday, April 13, 2016 8:27 AM  
**To:** Kent Jones  
**Subject:** FW: Flying iron horse ranch

-----Original Message-----

**From:** joshua lea [<mailto:specialblendconstruction@hotmail.com>]  
**Sent:** Tuesday, April 12, 2016 6:48 PM  
**To:** County Council  
**Subject:** Flying iron horse ranch

To whom it may concern,

Places like the iron horse ranch are the football, baseball and soccer fields of the individuals who have chose to play a different sport in life. A sport that teaches hard work and dedication, determination, promotes being healthy and drug and alcohol free, fitness, and much like other sports, many tools and great values to be successful in life. And the biggest value to places like this is family togetherness. The sport of motocross is all about family. Moto families travel the country together, mothers, fathers, sons & daughters bonding and making memories while traveling to and spending countless days at places like flying iron horse ranch. Towns, county's, and states should support these facilities for all of these reasons. Please support the flying iron horse ranch. Thank you. Sincerely, A father, a son, a business owner, a motorcycle rider.

Sent from my iPhone

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Monday, April 25, 2016 8:34 AM  
**To:** Kent Jones  
**Subject:** FW: motocross track

**From:** Nathan terry [<mailto:screamineaglemx@yahoo.com>]  
**Sent:** Sunday, April 24, 2016 9:50 PM  
**To:** County Council  
**Subject:** motocross track

Hi,

My name is Nathan Terry this message is in regards to the motocross track debate you have going with Steve luzak.

My opinion may be a little bias and I certainly understand the issues of a motocross track.

But with that being said there are so many positives to having this track in your county. I own a track in fillmore and in one race weekend we brought in over 100,000 dollars for the community! ! And continue to bring revenue into the community, and Steves track is national caliber and could bring some amazing things to summit county. The best part is that after they come to the races they go home and the community returns to a nice peaceful place to be.

Sent from Yahoo Mail on Android

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Monday, April 25, 2016 8:37 AM  
**To:** Kent Jones  
**Subject:** FW: Motocross track

**From:** me 2 [<mailto:flyingjdell@gmail.com>]  
**Sent:** Sunday, April 24, 2016 10:20 PM  
**To:** County Council  
**Subject:** Motocross track

Everyone has their right to be happy. That is why America and Utah are so great. Unfortunately everyone's idea of happiness are different. Everyone's achievement of happiness is different. Lots of times individuals can not achieve their desired sense of happiness in a city due to laws, restrictions, and population, and issues caused by higher populations such as noise, pollution, crowds etc... Therefore individuals seek a location in a more rural setting. Summit county is a highly sought after location due to its proximity to the city but still provides a rural lifestyle. Individuals may choose a rural lifestyle for peace and quiet or they may choose it to recreate. It is all relative to the individual's desires. I do not think it is fair to shutdown an individual's ability/desire to recreate nor do I think it is fair to disable an individual's ability / desire to live in a quiet peaceful location. The inevitable is that growth will occur in Summit county. More traffic will occur, more homes built, more stores and commerce. It will happen. I personally know Steve Luzack. He has always had the dream to own a motocross track. If you haven't yet noticed, his land is not a garbage dump. Steve takes pride in the work he performs and never cuts corners. This is what has made him successful in career and business. Steve is respectable and very personable. Steve has planted many trees and has created a beautiful real estate. And his property will continue to become more beautiful with time. I would love for Steve to be my neighbor because I know he has a track record of making things correct and beautiful. There is no difference in a dirt bike rider on a track or 2 teenage boys racing down the road on their dirt bikes to go change water. If you want positive change you will allow Steve to continue constructing his life long dream. Steve's track is positive growth for Summit county. Thank you

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Monday, April 25, 2016 8:38 AM  
**To:** Kent Jones  
**Subject:** FW: Flying Iron Horse Ranch track - Support

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**From:** MICHAEL [<mailto:mandjknight@comcast.net>]  
**Sent:** Monday, April 25, 2016 8:29 AM  
**To:** County Council  
**Subject:** Flying Iron Horse Ranch track - Support

Summit County Council,

I am writing to express my support for the continued development and operation of Flying Iron Horse Ranch (motocross track built by Steve Luczak and family). I recognize that in a rural setting, some may see this as a conflict of interest. Nothing could be further from the truth and I think the evidence of Mr. Luczak's efforts are in the way he maintains his property and has undergone the development of his track to this point. This is not some "fly by night" operation with a tractor digging a few berms and jumps. His track is landscaped and maintained more professionally than 99% of tracks across the nation and world. He has invested thousands upon thousands of dollars (his own) and countless hours developing what is literally a world-class facility. His track is to the sport and community of motocross, what the Olympic ski jump park (just "up" the road in Park City) is to that sport.

As a council, I recognize it is very important to balance the needs and interests of the community while not stifling progress or opportunities for a community to showcase its resources. Don't make a mistake on this one and listen to the vocal minority. This is an opportunity to have a gem of a facility, showcased to the world, while still maintaining the proper balance you so desire in Summit County.

Thanks,  
Michael Knight  
Harrisville, Utah

**Kent Jones**

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**From:** Annette Singleton  
**Sent:** Thursday, April 14, 2016 8:40 AM  
**To:** Kent Jones  
**Subject:** FW: Flying Iron Horse Ranch

**From:** Jake Enyeart [<mailto:jenyeart@gmail.com>]  
**Sent:** Wednesday, April 13, 2016 6:45 PM  
**To:** County Council  
**Subject:** Flying Iron Horse Ranch

To whom it may concern:

Please don't take away the liberty and joy of so many outdoor enthusiasts in the Wanship area. Motorcycle riding is a passion shared by many, many good people. Some of the nicest and most passionate people I've ever met.

It would be a shame to see such a sanctuary no longer available for motorcycle use, and for it's owners not to be able to share its beauty with others.

Sincerely,

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## Kent Jones

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**From:** Annette Singleton  
**Sent:** Tuesday, April 12, 2016 10:21 AM  
**To:** Kent Jones  
**Subject:** FW: Flying Iron Horse Ranch

**From:** Janik Schröter [<mailto:janik.schroeter71@googlemail.com>]  
**Sent:** Tuesday, April 12, 2016 9:54 AM  
**To:** County Council  
**Subject:** Flying Iron Horse Ranch

Hello,

my name is Janik Schröter. I am writing to you because of the private property use laws for the community enjoyment of motor sports recreation at the Flying Iron Horse Ranch.

Dirt bikes and other vehicles mean the world to many people all over the globe. It's their home away from home, their passion, their escape from this crazy world. It's such a unique sport with a lot of potential and room to be creative. Tracks like the Flying Iron Horse Ranch is what dreams are made of- a wonderful scenery that we enjoy like just every person does, and wonderfully shaped track that is fun for novice and pro riders. It's a magical place where you can go to with your family, leave the stress behind and enjoy your time to be fresh for the next week.

I do hope that you understood what I am trying to say- you probably have a passion in your life too, and you wouldn't want to loose it. We're both away from the streets and don't want to hurt anyone. Every sport and hobby is beautiful, and I hope that you understand that racing families are just normal people too.

I am sorry for any kind of grammatical or spelling mistakes because I am from Germany. But nonetheless, this track is too beautiful too be closed and it means much more to our community than many would expect.

Thank you.

Yours Sincerely,  
Janik Schröter

**Kent Jones**

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**From:** Annette Singleton  
**Sent:** Monday, April 11, 2016 3:40 PM  
**To:** Kent Jones  
**Subject:** FW: Steve's land use

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**From:** [bandclarsen@comcast.net](mailto:bandclarsen@comcast.net) [<mailto:bandclarsen@comcast.net>]  
**Sent:** Monday, April 11, 2016 3:12 PM  
**To:** County Council  
**Subject:** Steve's land use

A private land owner should be able to use their own land. Just because somebody moves next door and does not like it, does not mean the original land use should change. Steve should be able to apply grandfather rights and continue to make improvements on his own land. I have raced against Steve and he is a great competitor. His passion for riding Motorcycles and running his businesses are very impressive. He is a very respectable person, on or off the track. The person who bought property next to Steve and a Motocross track should be ashamed of himself for complaining as a new neighbor. They should have bought property somewhere else. If I may suggest, he should purchase horse property in a different area or preferably out of the state of Utah.

Thank you,  
Kent Larsen  
(801) 300-1044

**Kent Jones**

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**From:** Annette Singleton  
**Sent:** Monday, April 11, 2016 8:54 AM  
**To:** Kent Jones  
**Subject:** FW: Motocross Track are you kidding?

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**From:** First NameRick Nichols [<mailto:superflyrace@yahoo.com>]  
**Sent:** Friday, April 08, 2016 9:10 PM  
**To:** County Council  
**Subject:** Motocross Track are you kidding?

I am totally against that Motocross track being built in Wanship and if Mr. Luzack is trying to convince the summit City counsel that he was building that track for private use he is totally misleading the counsel. He has had plans to slowly build a world class MX track (key work slowley) and hold huge professional level motocross races there. Here is article that is on the internet that he has been trying to network that track for national caliber Motocross races. He has even told some of his close friends of his plans. He has been networking that track to allot of race owners and MXSports. This came from motoaddicts.com..... Sincerely Rick Nichols Eagle Mountain, Utah

## **Possible New Track for 2016 Utah National ?? Flying Iron Horse Ranch**

Check out a helmet cam video from the newest layout from the private Flying Iron Horse Ranch motocross track. Up until now the Flying Iron Horse Ranch in Wanship, Utah has been a private track, but with the closing of Miller Motorsports Park, we're hearing MXSports is considering this beautiful Utah countryside track for a future slot in the Lucas Oil Pro Motocross Championship.

The track is a far cry from the manmade facility at Miller Motorsports Park and was even featured in a segment of Wes Williams motocross film "War Machine". Nothing other than subtle hints on new facilities area out there, but **Racer X Online sent out an Instagram pic** from the facility a few days ago and heated up the rumor mill even more.

**Kent Jones**

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**From:** Roger Armstrong  
**Sent:** Friday, April 08, 2016 5:38 PM  
**To:** Scott MC  
**Cc:** County Council; Robert Hilder; Dave Thomas; Tom Fisher; Pat Putt  
**Subject:** Re: Land use in Warship with motorcycles...

Scott:

Thank you for your correspondence. This matter is not currently before the Summit County Council and is being handled by the Community Development Director, Planning, Engineering and the County Attorneys office.

The Council received public input in Wednesday night and your email will be added to the public record. If this matter is ultimately appealed to the County Council, there will be a public hearing and we hope you will attend.

Best regards,

Roger Armstrong

On Apr 8, 2016, at 3:39 PM, Scott MC <[mcmeese@icloud.com](mailto:mcmeese@icloud.com)> wrote:

To council and members,

I am writing you an email because I feel Summit County could violate Steve Lucak's 5th amendment, in Warship Utah, by restricting private land use based on personal opinions and hearsay from one particular neighbor. I hope to receive an email back reassuring me, this is not the case. I am also a rural/agricultural land owner close to this property and I am worried the country could infringe over anyone else's land use if this is not resolved accurately. In talking with several of the neighbors in this area that love what is being done with the land, I am worried this recent reaction by Summit County reflects a view that Summit County is very supportive of home development, via easy permitting, possibly for the interest of higher property tax payments, but very vague and misdirected for supporting agricultural use of this property or other properties in this area. I hope that is not the case and would like to know the position of Summit County on this subject. I would hope that this property will become a positive ICON to the success that can be achieved by Summit County supporting this honest, hard working land owner and not turn into a violation of personal property when history (recorded minutes) shows only stellar communication between the owner and Summit County.

This particular property is absolutely stunning from the efforts and massive financial investment made by this property owner. This land has the nicest river-border in Warship or Coalville and it shows the commitment and dedication to the community that has benefits for everyone. Steve Luczak has gone out of his way to ALLOW fishing access and added solid wood fence-gates, grass lined edges of the river, weed

extraction, erosion control, planted pine trees for shade, iron bridges over the river, expanded safe parking areas... . Like the owner, the few motocross riders that are ever at this track are more than friendly to fisherman and local farming community which have partial access to this amazing piece of property. The few hours per week a few riders are there, does not compare that with more noisy agricultural machines in this community and I think most people would be horrified with how little traffic is actually on the track for the reaction that has now taken place. There are weeks at time that you will never see a bike there. Standing on the property you can't hardly hear the bikes over the freeway noise.

I have been on the property before any work was done in 2006 and recently (last week) and it is breath taking for what has been achieved. Like any amazing golf course, dirt is always exposed before agricultural growth can begin, but taking a few minutes to see that this project has been directed meticulously to the master plan, it should be clear it will be a large benefit to Wanship/Coalville. I have also seen the neighbors that seem most opposed to this agricultural activity. I have personally witnessed these neighbors while a few professional athletes and minors were riding on the track. At this particular incident, these neighbors could not hear the bikes and were completely unaware anyone was on the track. Yet, when they saw another truck with bikes drive along the lower paved road these neighbors ran into the house, and got cameras then encroached the property line to film and take pictures. I have felt very uncomfortable being filmed when I am not even riding. I hope this type of emotional response is just some people not liking change, and when they see the results they should be happy an agricultural property is next to them versus 145 kit-homes. However, it deeply concerns me that Summit County may have been influenced or misled by this type of emotion.

Your job is very hard, and directing laws that hopefully bring a community together is never an easy thing. I very much appreciate the time you took to hear my thoughts and look forward to a reply even if it is brief.

Regards,  
Scott McMillin /Land-Home owner in Summit County.

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Wednesday, April 06, 2016 8:56 AM  
**To:** Kent Jones  
**Subject:** FW: Steve Luczak- private property issue

Apparently a bunch of folks are coming to public input tonight.

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**From:** Kelly [<mailto:jkskeen@hotmail.com>]  
**Sent:** Wednesday, April 06, 2016 7:45 AM  
**To:** County Council  
**Subject:** Steve Luczak- private property issue

Dear Council, I am unable to attend tonight's council meeting but would like to submit my support for Steve Luczak and his motocross track on his own private property in Wanship.

I have known Steve for 30 years and know that he is an honorable man, a devoted husband and father and a hard working business owner. I not only support the use of private property, but in this case, the track itself. It will provide a safe environment where adults and teens can hone their racing skills as well as enjoy family time together. I have raised 3 children in this environment and I can attest it helps youth in many ways. My 3 kids all grew up riding and racing motocross. One is now a successful attorney, one is in medical school and one is a mechanical engineer. A lot of life's lessons are taught out of the classroom.

Thank you for your support in protecting Steve's property rights. Do not give in to the few naysayers whose only concern is their own intolerant view. Summit County is known for tolerance, so please exhibit that same tolerance in this decision.

Thank you,

J Kelly Skeen  
801-560-1114

Sent from Mail for Windows 10

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Monday, June 27, 2016 1:01 PM  
**To:** Kent Jones  
**Subject:** FW: Flying Iron Horse Ranch

-----Original Message-----

**From:** Corey Gmail [<mailto:coreypeterson59@gmail.com>]  
**Sent:** Monday, June 27, 2016 1:00 PM  
**To:** County Council  
**Subject:** Flying Iron Horse Ranch

To who it may concern,

It is my belief that when someone owns a piece of property, that any form of government should not interfere with the owners personal decision on what to use his or her land for, so long as it falls within legal realms and is not being used to commit crimes. I think the complaints to shut down Flying Iron Horse Ranch, is not only a threat by the local government to take away the rights of a land owner, but it is another crippling blow to the motor sports industry by shutting down a place designed to be a fun environment that allows motorsports enthusiast to connect and make memories. To often in the past decade, I have seen riding areas and tracks closed to riding because of whatever legal reasons, it is because of this that I am writing to ask you to allow the Flying Iron Horse Ranch to maintain its operation and stay open for years to come. As a dirt bike rider and someone who loves nature I think having places that allow people to ride and don't have to worry about the destruction of trails or other nature areas, it makes sense that a closed track on someone's proper would be a goal to maintain. As for noise, I feel that track operating hours are well within noise abatement hours and it provides no more noise than the highway that runs alongside the property. Please consider the position of everyone and not just a complaining homeowner. Your decision on the track can affect the lives of thousands and ripple down the motorsports industry as well as create a slippery slope for people to try to stop others for using their own land for their own desires.

Thank you,

Corey Peterson

**Kent Jones**

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**From:** Annette Singleton  
**Sent:** Wednesday, June 01, 2016 11:08 AM  
**To:** Kent Jones  
**Subject:** FW: Motocross Track in Wanship

**From:** Roger Wilson [<mailto:rogerbwilson1@gmail.com>]  
**Sent:** Wednesday, June 01, 2016 11:04 AM  
**To:** County Council  
**Cc:** Pat Putt  
**Subject:** Motocross Track in Wanship

Dear County Council Members;

I am writing at this time to encourage the County Council to to duly enforce the approved zoning regulations in the Sunrise Ridge Subdivision in Wanship, Utah. As you know, the landowner of the so called Iron Horse Motocross Ranch in Wanship has violated zoning regulations on lots 1 and 10 of this subdivision, and has installed a motocross track on lands that were zoned for agricultural use as part of the conditions of approval for the subdivision plat. A motocross track does not meet the county's definition of agricultural use and should be removed immediately. The landowner has gone well beyond the original grading permit he received from the county for development of a bike trail and pasture.

Although the landowner is claiming that the motocross track was developed for personal use, there are internet promotions for motocross training at the site, and even a suggestion that the 2016 Utah National Motocross event may occur at Iron Horse. I encourage you to take immediate action to see that this sort of activity does not occur in this residential/agricultural area. Motocross noise and commotion are not in harmony with the the nature of our small community lifestyle in Wanship and Hoytsville.

Thank you for consideration of my viewpoint.

--  
Roger Wilson  
1347 So. Hoytsville Rd.  
Coalville, Utah 84017  
[rogerbwilson1@gmail.com](mailto:rogerbwilson1@gmail.com)  
435-503-1086

## Kent Jones

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**From:** Annette Singleton  
**Sent:** Thursday, June 09, 2016 4:11 PM  
**To:** Kent Jones  
**Subject:** FW: Council decision regarding the Sunrise Ridge/Luczak/Kodiak motocross track

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**From:** Roger Armstrong  
**Sent:** Thursday, June 09, 2016 4:08 PM  
**To:** Robert Hilder; County Council; Dave Thomas  
**Subject:** Fw: Council decision regarding the Sunrise Ridge/Luczak/Kodiak motocross track

FYI and for the record.

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**From:** Danielle Montague-Judd <[dmontaguejudd@gmail.com](mailto:dmontaguejudd@gmail.com)>  
**Sent:** Thursday, June 9, 2016 4:03 PM  
**To:** Roger Armstrong  
**Subject:** Re: Council decision regarding the Sunrise Ridge/Luczak/Kodiak motocross track

Dear Council Member Armstrong,

Thank you for your concern and for working to mitigate the impacts of the Council's vote last week on the Luczak motocross track. It is very discouraging as an adjacent property owner to face the implications of the decision. I look forward to hearing about the options.

I wanted to mention that last Wednesday's meeting was the first time that I'd heard about Luczak's plan to install ponds on the property. You might already know this, but in case you haven't heard please be aware that adjacent property owners have had water wells fail or begin to run dry. Ponds are a bad idea for this area (also a bad idea from a mosquito control point-of-view).

Sincerely,  
Danielle Montague-Judd

On Fri, Jun 3, 2016 at 1:16 PM, Roger Armstrong <[rarmstrong@summitcounty.org](mailto:rarmstrong@summitcounty.org)> wrote:  
Danielle:

I am looking at any available options. Stay tuned.

Best,

Roger Armstrong

> On Jun 1, 2016, at 9:33 PM, Danielle Montague-Judd <[dmontaguejudd@gmail.com](mailto:dmontaguejudd@gmail.com)> wrote:

>

> Dear Council Members:

>

As a Summit County citizen and as a property owner adjacent to the Sunrise Ridge property, I wish to voice my opinion regarding your decision tonight on the interpretation of the plat note on the Sunrise Ridge property.

>

> I am deeply disappointed by the decision. It reflects a lack of concern for the community surrounding the Sunrise Ridge subdivision and for the Wanship area and the Weber River watershed. Furthermore, I am disappointed by the lack of opportunities for community input into the process from the very beginning. This is not about Mr. Luczak's right to ride motorcycles on his property. This is about Mr. Luczak's building of a commercial-scale facility on his property, in violation of a clearly stated land-use agreement and with no input from the public. All of the surrounding properties will be affected, whether it be from excessive use of water, noise, increased traffic, potential harm to the river and watershed, etc.

>

> During tonight's meeting, it seemed to me that the council got sidetracked into issues like who emailed who, development vs. excavation, and permitting processes, and that the council criticized the county process more than the fact that a motocross track violates the land-use agreement. I understand that the county permitting process has flaws but this is a deflection from the core issue. And I would guess that that's probably where Mr. Luczak wanted to focus the discussion, as a deflection away from the fact that he is basically getting away with building a commercially viable facility with only a grading permit.

>

> My takeaway from tonight's decision is that property owners can use loopholes and sloppy processes in the county planning and permitting process to their advantage. They can bend and interpret the rules as they see

And the county, via the council, will issue a small vocal remonstrance but take no meaningful action even when council members admit that the land use is not in accordance with either the spirit or the letter of the land use agreements. Now that Mr. Luczak has his motocross track, how can we as property owners protect ourselves from his future plans for the track? Based on Mr. Luczak's comments this evening, I suspect that if he can get the appropriate permits, Mr. Luczak will hold commercial activities on his track.

>

> In the discussion after the decision, you as a council mentioned that we could report any commercial scale activities. But what constitutes commercial-scale use? And who do we report such use to? How will that help us? Would there be a cease-and-desist order or . . . ?

>

> As a council you could have at least defined what "commercial use" is in your motion to uphold the appeal. You could have put very clear stipulations on what constitutes accepted uses and what consequences would follow violations of accepted uses. But it appears that we have more of the same thing that got us into this mess in the first place--vague phrases open to interpretation.

>

> I am counting on you to represent the varied interests in the county, including those who perhaps do not have the funds to hire an attorney to argue their case. I fear that our property values will decline as a result of this decision. I feel that you have unfairly burdened surrounding residents and landowners because of a technicality and because you did not follow through with more specific stipulations on acceptable use of the track even if you did grant the appeal.

>

Sincerely,

> Danielle Montague-Judd

> Wanship, UT

Vice Chair Robinson stated it seems to him that the county has a broken system in that the application was circulated by Planning and Planning said, "We don't approve," and yet the permit was still issued.

**MOTION:**

**VICE CHAIR ROBINSON:** Mr. Chair, I'd like to make a motion that we grant the appeal and overturn the decision by the Community Development Director on the grading permit that's engineering permit 14-G-31, concerning Parcel SRRG-1-AM -- if I can read the scribblings here correctly -- based upon the following findings of fact: That the applicant in good faith applied for a grading permit submitting a detailed plan of what he intended to do on the property, and that the permit was issued and it was issued by the Engineering Department in the same fashion as his previous course of conduct had been with the county on adjacent properties, albeit not under the subdivision plat, and that he relied on that grading permit to construct the track that has now been built there and that the county is estopped from, at this point, rescinding that permit. And, furthermore, that this motion be subject to such additional findings of fact and conclusion of law that our county attorney's office may add. I don't believe that this -- there may exist continued issues with respect to what constitutes private versus commercial use and I'm not opining in this motion on that.

**COUNCIL MEMBER CARSON:** What about going back -- so a grading permit was issued, but it was clearly -- the grading was outside of the plans and there was obviously more dirt. So going back -- having to re-vegetate the property according to the original permit.

**VICE CHAIR ROBINSON:** I'd be fine with adding the condition that the applicant comply with the terms of the permit. I think that it appears to me that the track is substantially -- the footprint of the track is substantially the same other than minor deviations. I haven't seen evidence to indicate that it deviates significantly from what was submitted in the grading application.

**COUNCIL MEMBER CARSON:** But more dirt was moved.

**VICE-CHAIR ROBINSON:** That gets to the question of parsing the excavation for the track versus other agricultural grading that has not been -- you know, which would not require a permit. The way I understand it, agricultural grading is exempt.

**COUNCIL MEMBER CARSON:** I understood that it would, though, based on the quantity.

**VICE CHAIR ROBINSON:** They did -- by choosing an engineered grading permit, in other words, in excess of 5,000 cubic yards -- which goes to infinity, I suppose -- I think that that -- had it been the opposite, which is the regular grading application of less than 5,000, and I think there's a different standard of review and it would have been more material to have an overage in the amount of material moved, than it would be in this

instance where they chose the engineered version.

COUNCIL MEMBER MCMULLIN: So, no, you're not going to accept that change to your motion?

VICE CHAIR ROBINSON: No, I'm not going to accept that change.

CHAIR ARMSTRONG: So I have a motion from Chris.

COUNCIL MEMBER MCMULLIN: Second.

CHAIR ARMSTRONG: I'm going to vote "no" on this. I don't think that you get estoppel here because estoppel does require clean hands and I don't think you have that. I think you're an experienced developer. I think you had an engagement in Wyoming, whether it was on a road or access or otherwise, so you've had experience with enforcement before. I think as a builder/developer you understand how to read a plat map. I think that the note is clear. And I think all of that for me and even the "see email" annotation on the permit, I believe, should have called your attention, and a reasonable person would have inquired, "What does that mean?" and you didn't do it. And so I think that you actually used the system here to your advantage and that's why I'll be voting no. Any discussion or comments before we vote?

VICE-CHAIR ROBINSON: I wanted to just say that I wish I weren't in a position of having to make this motion because I don't like the track and I think that it creates a host of problems, but I believe in the rule of law, and for that reason only I am in support of this motion and making it.

COUNCIL MEMBER MCMULLIN: I feel the same way.

CHAIR ARMSTRONG: All in favor?

(The motion passed, 3 to 2, with Vice Chair Robinson, Council Member McMullin, and Council Member Adair all in favor. Chair Armstrong and Council Member Carson were opposed.)

CHAIR ARMSTRONG: Congratulations.

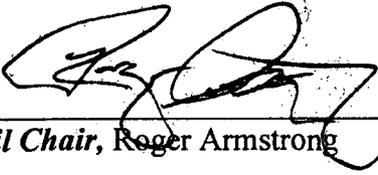
### PUBLIC INPUT

Chair Armstrong opened the public input.

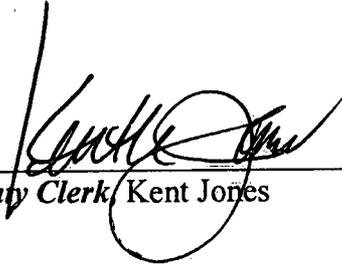
There was no public input.

Chair Armstrong closed the public input.

The County Council meeting adjourned at 7:50 p.m.



*Council Chair, Roger Armstrong*



*County Clerk, Kent Jones*

