



## SAN JUAN COUNTY ATTORNEY

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Dear Commissioners:

This letter is intended to assist in your decision regarding Phase 2 of the Sky Ranch Estates Subdivision.

The airstrip was first registered with the FAA as a private airstrip in the 1980s, and was known on FAA records as UT53. In 2000, Phase I of Sky Ranch Estates subdivision was approved by the County, which subdivision included the airstrip (UT53). In 2017 the airstrip was paved, widened, and lengthened to improve usability and safety (larger buffer zones). In 2018, Phase I Amended was approved by the County. This approval included the new and improved airstrip. No objections by adjoining landowners were made; and to date no accidents related to the airstrip have been reported, and no safety concerns have been raised by the public until the Phase 2 application came before the county.

Challenging the airstrip's safety at this point would be without a viable legal basis. How would the county argue after making these prior approvals that the airstrip is now to be deemed unsafe, especially without any accident reports or other reports of incidents related to safety?

It was under these circumstances that the application for Phase 2 was brought to County, beginning with the Planning and Zoning Commission in October of that year.

On February 11, 2021, the P&Z Commission unanimously recommended approval of Phase 2 to the County Commission. On February 16, 2021, the County Commission approved Phase 2. It is clear that the County Commission heard safety concerns and considered them. Below is a sampling of those who spoke at the meeting:

- Beverly O'Neil spoke about safety concerns.
- Mary McGann with Grand County Airport Board asked for delaying approval due to safety concerns.
- Kevin Walker spoke about safety and impact of the airstrip as to neighboring landowners.

- Karl Spielman spoke about lack of safety provisions for the airstrip.
- Nick Lee asked the decision for Sky Ranch be postponed due to impact on surrounding residential landowners.
- Monette Clark asked to delay approval until safety concerns could be resolved.

Helpful in understanding the mindset of the P&Z Commission and County Commission in approving Phase 2 are the words of Scott Burton (then P&Z Director) when presenting his recommendation to the County Commission on February 16, 2021:

Thanks, Mr. Maryboy and commissioners [inaudible] and Grayeyes. My purpose in being here is the County has received application for the sky ranch estates subdivision phase 2. That application was received the end of October 2020. Since that time, the county staff has reviewed the subdivision application [inaudible] and the plat. Um, several changes were made with the developer as we went back and forth with the subdivision application. For three months, it was, once we felt that it met the requirements of the current zoning that was in place, we recommended, we placed this on the agenda for the San Juan County Planning Commission, which they, um, considered at their February 11th meeting and approved this subdivision phase 2. There have been some questions with a couple of comments about lot sizes. The lot sizes, do meet the county requirement of 10,890 minimum square feet even with the even when you subtract the easements for the runway. There was also some things brought up about buffer zones at each end of the runway. None of those zones exist in our current zoning, um, so as staff as we reviewed this, we feel that it does meet the requirements of current zoning in place, so it is now on your agenda for your approval....”

And

Yea, so the airport, the airport had their FAA license was, has been in effect since 1985, so they’ve had their, they’ve operated the airport, the airport was in operation which, I think, predates most of the housing in that area. Um, so, that’s where ... We’re not necessarily going back to 1985 to consider the airport.

Safety concerns related to residential dwellings within Phase I or Phase 2 of the subdivision can be addressed at the time of permitting and construction. Various safety measures could be required by the county, all of which the applicant has agreed to do, including limiting the number of flights per day, pilot licensing requirements, plane inspections, installation of barriers, and the like.

In summary:

Phase 1 Amended of the Sky Ranch Estates Subdivision was approved by the County Commission in 2018 without objection. As such, the owner is vested in that approval, which included the modified airstrip. The modified airstrip is not going away, regardless of what happens with Phase 2.

The County is not aware of any reported accidents or incidents related to safety prior to its receipt of the application for Phase 2 of the Sky Ranch Estates Subdivision.

The Planning and Zoning Commission and County Commission did receive and hear numerous statements related to safety during the course of the Phase 2 application, but focused on the residential subdivision requirements of the application because the airstrip had been included in two prior approvals and the County felt there was no basis to now consider the airstrip unsafe, or to focus on the airstrip as a reason to deny the Phase 2 application.

The County feels it can address safety concerns related to residential housing by implementing the measures set forth above, all of which the applicant has agreed in writing to adhere to.

If the Commission agrees on these points, we can assist in providing written findings for the Court that incorporate that which is set forth above.

Sincerely,

/s/ Jens P Nielson

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Jens P Nielson  
Deputy County Attorney