

AIRPORTS & LAND USE

Medium airports (defined to the right) increase the size of the "No Development Zone" to 1,000 feet on either side of the runway, contribute to be used for airport specific development only.

The "Limited Development Zone" remains the width of the longest runway and 5,250 feet off the end of both sides of the runway. While LUPG recommends restricting residential development in this zone, other uses (including commercial, industrial, agricultural, etc.) are effective land uses that can maximize the transportation and shipping benefits attendant an airport.

The 10,000 foot "Controlled Development Zone" should have the same restrictions as the "Controlled Development Zone" for small airports.

"Approach Surfaces" are largely the same. However, their angle can change as new instrument approaches are used, changing from a 3:1 angle (30 feet forward for every 1 foot wider) to a 3:1.1 angle or even 3:1.2 angle depending on the instrument in use.

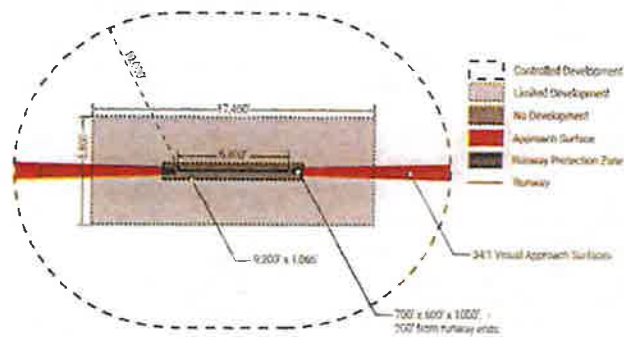
MEDIUM AIRPORTS DEFINED

- LUPG defines a medium airport as:
 - Runways between 5,000-7,000 feet
 - Between 10,000-50,000 operations annually
 - Non precision instrument approach
 - Airport Reference Code (ARC) 1B II
 - Between 25-100 full time jobs
 - Commercial jet aircraft operations

If leaders believe their airport will grow beyond the medium size, they may need to plan for an even larger airport. They should consider the potential timeline and discuss when this could occur and what steps they can take to protect that possibility for the airport.

Appendix B has specific recommendations for what communities compatible and incompatible land uses in each "Zone" and for the "Approach Surfaces". These recommendations are an important tool for leaders as they discuss what zoning and regulatory measures should be taken to protect residents and the airport.

MEDIUM AIRPORT TEMPLATE



APPENDIX K

Leaders should first consider the airport's current size. Followed by the intended runway size. Instrumentation and planned expansions in the next 15-25 years should be available in the airport master plan, while expansions in a longer time frame will require assessment from leaders. The estimated maximum airport size should be the guide on size and expansion. This ensures that when the airport does expand, it will not have significant negative impacts on residents.

When expansion is not likely for decades, but leadership wants to retain the possibility of expansion, certain uses can allow certain uses in the short term with assessment from instrumenters that the run will phase out over time. These phases plausible expansion and property owners rights.

OVERLAY ZONING

Traditional zones can be adapted for each of these different areas (no development, limited development, controlled development, approach surfaces); however, overlay zones can simplify land use regulations for land owners and residents. Overlay zones are sets of additional standards or requirements that are applied over the top of existing zoning (see Appendix C). Overlay zones allow leaders to maintain consistent zoning while ensuring requirements for specific areas are met before development can occur. Overlay zones are recommended in the case of airports for four primary reasons:

1. **Flexibility.** An overlay zone still allows the zoning underneath to change. It ensures that however the zoning changes, the overlay will still protect residents from potential negative impacts of the airport.

2. **Workload.** It reduces workload for those developing the zoning regulations. Rather than creating entirely new zones, overlay zones allow the appropriate requirements to be added onto the current zoning structure.

3. **Community Understanding.** While overlay zones could increase complexity initially, it is overall much simpler for land owners and residents. It helps leaders to understand that they are purchasing a commercial zone with additional requirements rather than understanding multiple (landowner) new zones.

4. **Political Feasibility.** Because overlay zones are only applied to specific areas and maintain the underlying zoning, they can be more politically feasible than multiple new zones.

As leaders work with community members, landowners, and the airport board, they should look for the options that best meet community desires and airport needs.

COMPATIBLE LAND USES

Allowable uses in these zones do not restrict on height restrictions, prevent future safety hazards, reduce frustrations between citizens and the airport, and maintain long-term airport stability. In contrast, allowing incompatible uses increases frustrations between residents and the airport. These tensions typically increase as incompatible uses become more common and airport traffic increases. Land use around airports, even with limited development, can be threatened by incompatible uses. If the airport expands operations, conflict with residents is a common result. See Appendix B for LUPG's list of compatible and non-compatible uses.

- New residents from around the country highlight frustrations between incompatible uses surrounding airports and airport management. Airspace buffers will protect both residents and commercial airport use, preventing those conflicts before they happen.

PLANNING FOR LAND USE



WHO MANAGES PLANNING?

An airport sponsor is the city, county, company, or individual responsible for the airport. The airport's master plan is completed by the airport sponsor and establishes the airport's functions for the next 20-25 years. However, land use surrounding the airport is up to the municipalities and counties that have jurisdiction over the airport's current and potential area of influence (see maps pages 6-7). As a result, land use planning around an airport regularly involves more than one community and/or the county.

For municipalities where the area of airport influence, or controlled development zone (see map on page 6-7), is wholly within a community's boundaries, the community or county planning commission makes recommendations to the legislative body who adopts, alters, or rejects the recommendations.

For airports with influence areas that cross jurisdictional boundaries, each community maintains zoning authority for the area within their boundaries. If communities determine to maintain zoning authority over their portion of the airport influence area, significant efforts to streamline and coordinate zoning regulations between entities is vital to avoid future conflicts.

The Utah State Legislature has provided another alternative for cross-jurisdictional airports in the *Airport Zoning Act*. This act provides leadership with the option to create a Joint Airport Zoning Board. The commission requires "two representatives appointed by each political subdivision participating in its creation," and provides the commission with authority to "adopt, administer, and enforce... airport zoning regulations for the airport based area."

There are benefits and drawbacks to joint boards. Relinquishing local control can help increase zoning consistency for all residents by streamlining regulation,

reducing political pressure on individual communities, and forcing communities to create mutually agreeable terms. In contrast, joint boards may delay rule creation, or frustrate the current planning commission and landowners who are unfamiliar with the concept of an airport zoning board.

Ultimately, it is up to the airport sponsor and counties with jurisdiction in the airport based area to determine when and how to handle regulations around an airport. Communities should not wait for conflicts to arise before trying to address land use in the area. Rather, they should proactively create a cooperative approach that increases clarity for landowners and public officials.

PLANNING QUESTIONS

The following questions should help entities plan for an airport's future:

Current Zoning: Do current zoning (or overlay zone) allow incompatible uses while prohibiting incompatible uses?

Are there more restrictive than necessary potentially and unnecessarily reducing land value?

Current Plans: Consider the airport master plan. Are there provisions to extend the runway? Increase and expand facilities?

How will these planned changes impact the use of areas that are additional land use regulations?

How does the airport fit into current quality of life and economic development in the community?

Future Possibilities: Consider the next 50, 75, and 100 years. What are the ambitions and possibilities for the community?

How does the airport fit into the economic ambitions and possibilities of the community in this time frame?

What potential services does the airport provide? What expanded services are feasible or hoped for?

How will decisions affect landowner rights over air navigation period?

LAND USE TOOLS

LLUC provides information on a variety of tools that airport sponsors, joint airport zoning boards, and affected communities can use to protect airports and residents from negative impacts. These tools are either *cooperative* (working with landowners to achieve mutually agreeable arrangements) or *unilateral* (government taking action with out consent from property owners).

COOPERATIVE

Joint/Single Jurisdiction: Airport sponsors that all own all land used for runway, terminal, hangar, etc. do not need and could supersede local. For this jurisdiction, each jurisdiction the land and all associated development action.

Notes: At times, purchasing land outside of these areas, they resolve them with conditions attached to the purchase leasehold.

Aviation Easements: Aviation easements are rights to the use of airspace above property. These are typically cost effective and protect the airport, pilots, and citizens from dangerous development.

Transfer or Purchase of Development Rights and Easement Transfers: Transferring development rights separates development rights from the physical property and allows that development to move to another location. It is useful for airport sponsors to protect the highest quality areas while maintaining property owners' rights to develop.

Real Estate Disclosure Instruments: Landowner disclosure instruments require sellers to notify potential buyers the daylight and night impacts are likely to occur. These are typically attached to the warranty deed. Communities considering this measure would should require disclosures for areas that are likely to have an impact for the future.

Developer Incentives and Agreements: Incentives and agreements with developers can be used to limit density in a specific section of proposed development by trading it for higher density development in a more suitable location.

UNILATERAL

Zoning: Creating an overlay zone that prohibits incompatible uses prevents airport from zoning residents and future residents from potential hazard and nuisance. Compatible and incompatible uses must be identified and defined in the community's land use code. The *Land Use Planning Guide for Utah Airports* provides recommended compatible uses for different zoning zones surrounding an airport (see appendix B).

Aviation Easements: Aviation easements allow users for a set period of time to help protect the airport long-term development. This generally excludes any sort of residential or high density uses. Easement users require cooperation from landowners to work.

Notes: Do not do residential use permits.

Ordinance and Easements: Ordinances are imposed from the local government and can be used to protect the airport. A developer may obtain a conditional use permit for a specific area and pay for the duration of the development in high density areas. Ordinances are the same as dedications, except that the land cannot be sold without the required land details as from the developer.

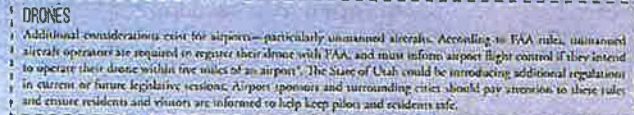
Eminent Domain: Eminent domain is the power to take private property for public use in exchange for "life compensation" to the owner's owners. Eminent domain can also be conducted on landowner's private development rights. In all eminent domain cases the government is required to (1) pay just compensation for the property and (2) demonstrate a need for the property for public use.

Additional governmental tools exist. The best way to address issues is using a mix of available options that match community circumstances and culture, while reviewing airport planning best practices, current conditions, future aspirations, and then developing a plan that best meets community needs.



APPENDIX K

April 17, 2018



Leaders working to protect their airports and residents should give special consideration to maximizing property use options for affected landowners. Application of a wide range of tools will help ensure landowners have input in their land's future and can optimize their land's use. Airports provide opportunities and challenges to landowners; leadership should actively help landowners recognize the opportunities while mitigating the impact. Communities should come together to determine the possibilities for their community and airport and take steps necessary to protect both into the future.

LANDOWNER IMPACTS & PROTECTING AIRPORTS

Significant portions of this document came from the *Compatible Land Use Planning Guide for Utah Airports* prepared by the Wasatch Front Regional Council and Utah Division of Aeronautics (part of the Utah Department of Transportation) in December 2000. UDOT and FAA both recommended this guide as a relevant, good thought process for airport land use. Many additional documents were reviewed for information on FAA requirements, best practices, and land-use challenges other communities have faced surrounding their airports. The remainder came from meetings and interviews with UDOT, FAA, and involved residents and leaders. The resources below can provide additional information for leaders.

- ### ADDITIONAL RESOURCES

COMPATIBLE LAND USE PLANNING FOR AIRPORTS

Introduction & Background

"The development of land uses that are not compatible with airports and aircraft noise is a growing concern across the country. In addition to aircraft noise, there are other issues, such as safety and other environmental impacts to land uses around airports which need to be considered when addressing the overall issue of land use compatibility. Although several federal programs include noise standards or guidelines as part of their funding-eligibility and performance criteria, the primary responsibility for integrating airport considerations into the local land use planning process rests with local governments. The objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible with airports (such as residential, schools, and churches) to locate away from airports and to encourage land uses that are more compatible (such as industrial and commercial uses) to locate around airports." - *Land Use Compatibility and Airports, A Guide for Effective Land Use Planning, FAA.*

Implementing compatible land use plans or ordinances for airports can be a daunting task. Discussions at the Spring, 2017 UAQA Conference indicated that many airport managers, Airport board members, and local leaders may not be aware of existing resources available to support their efforts in developing and educating local decision-makers on compatible land use planning for their airports. The following listing of resources and suggested action items were compiled to support your efforts to develop and implement compatible land use plans and zoning for your airports. - *Armstrong Consultants, Inc.*

Tools & Resources

- *FAA Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) Website (FAA Notice Criteria Tool and FAA Form 7460-1, Notice of Proposed Construction submitted site.)*
<https://www.faa.gov/procurement/external/portal.asp>
- *Compatible Land Use Planning Guide for Utah Airports, Wasatch Front Regional Council, 2000 (Background information and compatible land use templates for small, medium and large airports.)*
<https://www.utah.gov/airports/compatible-land-use-planning-guide>
- *FAA Compatible Land Use Planning Toolkit (Background information, guidance materials, example ordinances, communications tools and regulations)*
https://www.faa.gov/about/office_org/headquarters_offices/epa/noise_emissions/planning_toolkit/
- *Airports & Land Use, An Introduction for Local Leaders, Rural Planning Group, 2017 (A concise guidebook including compatible land use templates for small and medium-sized airports.)*
<http://www.ruralplanning.org/assets/airport-land-use-guide-web.pdf>

Suggested Action Items

- 1) Make associated permitting and approval agencies (i.e., building department, planning & zoning, etc.) aware of the OE/AAA website for review of proposed structures in the vicinity of the airport.
- 2) Research local plans and ordinances to determine if Part 77 or Compatible Land Use Plans have been adopted for your airport.
- 3) If so, review existing land use plans and ordinances to ensure they reflect current conditions and planned airport development; and that they provide adequate protection of your airport. Specifically review maps, diagrams and exhibits to ensure they are consistent with the most recent drawings from your Airport Layout Plan/Airport Master Plan and update/revise exhibits as necessary.
- 4) Utilize available resources, including but not limited to those listed above, to develop or update Compatible Land Use Overlay/Airport Influence Area Maps for your airport.
- 5) Work with local controlling jurisdictions, both full-time staff and governing boards, to adopt Compatible Land Use and Height Restriction Overlay Plans/Ordinances for your airport.

10/20/2017

APPENDIX L



PLANNING COMMISSION MEETING

Electronic Meeting
February 11, 2021 at 7:00 PM

AGENDA

This meeting will be held through Google Meet at the following link:
<https://meet.google.com/zbe-hwro-xbd>

You can also call in with this number and pin:
(US) +1 484-551-8759 PIN: 661 422 186#

GENERAL BUSINESS

Welcome / Roll Call

Approval of Minutes

1. Approval of Minutes for: January 14, 2021 PC Meeting ACTION

PUBLIC COMMENT - *Time reserved for public comment on items or issues not listed on the agenda.*

ADMINISTRATIVE ITEMS

2. Sky Ranch Estates Subdivision Phase II, Lucas Blake, Red Desert Land Surveying ACTION
3. Legacy Fields Subdivision Phase II, Lucas Blake, Red Desert Land Surveying ACTION

LEGISLATIVE ITEMS

4. Application for Spanish Valley Overnight Accommodations Overlay (Rezone), Josh Anderson ACTION
5. Revisions to the Spanish Valley Highway Commercial District (HC) Ordinance DISCUSSION
6. San Juan County Spanish Valley Short-Term Rental Ordinance DISCUSSION

BUILDING PERMIT(S) REVIEW

7. Presentation of building permit list DISCUSSION

ADJOURNMENT

****In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the San Juan County Clerk's Office: 117 South Main, Monticello or telephone 435-587-3223, giving reasonable notice****



STAFF REPORT

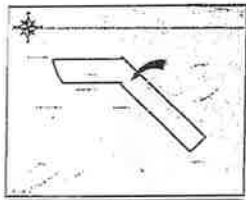
MEETING DATE: February 11, 2021

ITEM TITLE, PRESENTER: Sky Ranch Estates Subdivision Phase II, Lucas Blake, Red Desert Land Surveying ACTION

RECOMMENDATION:

SUMMARY

The Sky Ranch Estates Subdivision was approved in June, 2000 with 6 lots at the south end of the Sky Ranch airport, with 32 acres reserved for future development. Sky Ranch Estates Phase II proposes to add 75 addition lots.

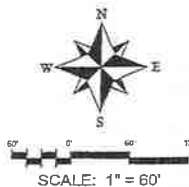


VICINITY MAP

NOT TO SCALE

FINAL PLAN OF
SKY RANCH ESTATES, PHASE II
AMENDING AND VACATING LOTS 1-26, SECOND STREET AND EASEMENTS OF
THE SURENO GRANDE SUBDIVISION

A SUBDIVISION OF LAND WITHIN
SECTION 36, TOWNSHIP 26 SOUTH, RANGE 22 EAST
SALT LAKE BASE AND MERIDIAN

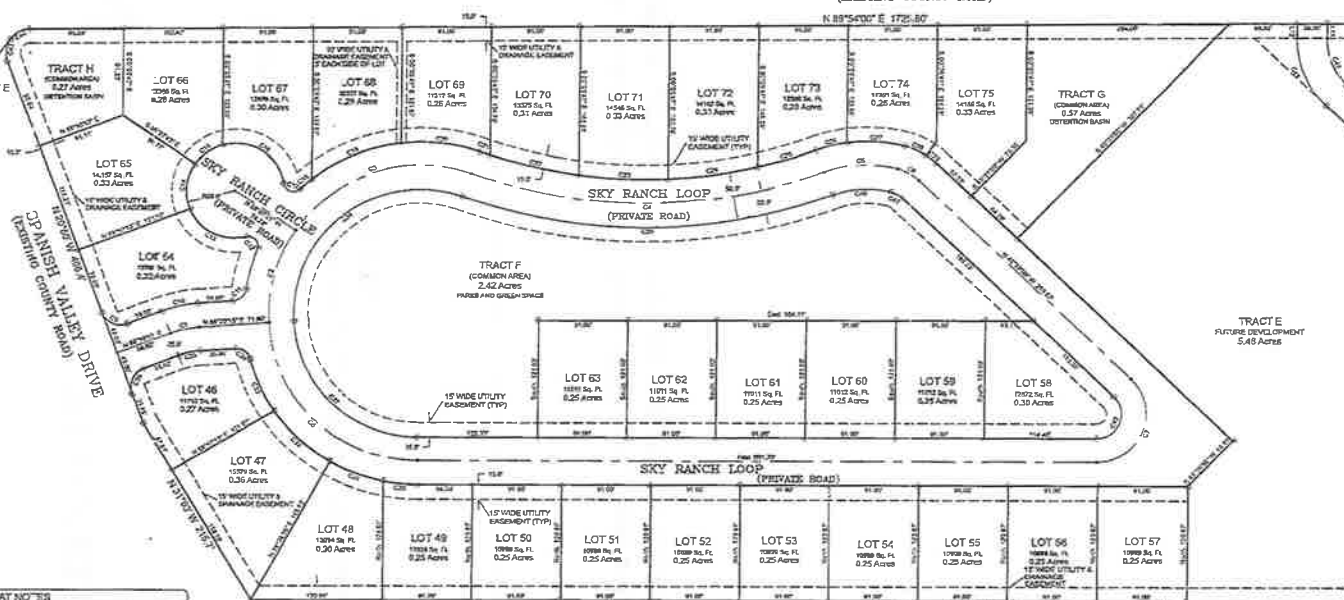


SCALE: 1" = 60'

WEST QUARTER CORNER
SECTION 36, T26S, R22E, SLIMM

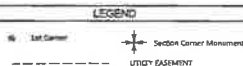
CENTER QUARTER CORNER
SECTION 36, T26S, R22E, SLIMM

EAST MOUNT PEAL STREET
(EXISTING COUNTY ROAD)



PLAN NOTES

1. ALL DEDICATED LOT LINES ARE SUBJECT TO A 15' WIDE UTILITY EASEMENT.
2. THE DEDICATED DEVELOPERS AND/OR THE SUBDIVISIONS OF THIS DEVELOPMENT KNOWN AS SKY RANCH PHASE II, THEIR RESPECTIVE SUCCESSORS, HEIRS, AND/OR ASSIGNS AGREE TO THE FOLLOWING TERMS: 3.A. THROUGH 3.E.
- 3.A. PROVIDES STREET AND UTILITY MAINTENANCE: THE OWNERS OF THIS DEVELOPMENT, THEIR SUCCESSORS AND ASSIGNS ON BEHALF OF THE HOMEOWNERS ASSOCIATION OR OTHER ENTITY CITED HEREIN SHALL BE RESPONSIBLE FOR THE MAINTENANCE AND REPAIR OF ANY AND ALL DEDICATED STREETS, SIDEWALKS, PARKING AREAS, EASEMENTS, COMMON SPACES AND DRAINAGE FACILITIES. IT IS MUTUALLY UNDERSTOOD THAT THE PRIVATE STREETS IN THIS DEVELOPMENT WILL NOT BE MAINTAINED BY THE COUNTY AND THAT THE COUNTY WILL NOT CONSIDER A PETITION TO ACCEPT SAID STREETS AS PUBLIC STREETS, UNLESS SAID STREETS MEET ALL COUNTY ROAD STANDARDS.
- 3.B. EMERGENCY ACCESS IS GRANTED HEREWITH OVER AND ACROSS ALL ROADS FOR EMERGENCY VEHICLES.
- 3.C. CERTAIN COVENANTS AND RESTRICTIONS ON PROPERTY IN THIS DEVELOPMENT ARE ON FILE IN THE OFFICE OF THE SAN JUAN COUNTY RECORDER. IT IS HEREBY ACKNOWLEDGED THAT THE COUNTY HAS NO RESPONSIBILITY FOR THE ENFORCEMENT OF THOSE COVENANTS AND RESTRICTIONS AND IS NOT BOUND BY SAID COVENANTS AND RESTRICTIONS, FURTHERMORE ANY OF THE SAID COVENANTS AND RESTRICTIONS THAT WOULD HAVE THE EFFECT OF CREATING A LOTS RESPECTIVE DEVELOPMENT STANDARD THAN THOSE INCLUDED ON THIS PLAN OR IN OTHER COUNTY LAND USE REGULATIONS IS NULL AND VOID.
- 3.D. 15' WIDE UTILITY AND DRAINAGE EASEMENTS ALONG NORTH AND WEST BOUNDARY OF SUBDIVISION.



000366

COUNTY SURVEYOR
APPROVAL IN ACCORDANCE WITH
INFORMATION AND RECORDS ON
FILE IN THIS OFFICE

COUNTY SURVEYOR DATE

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS _____ DAY OF _____ 2021.

ATTORNEY

COUNTY BOARD OF HEALTH
APPROVED THIS _____ DAY OF _____ 2021.

PLANNING COMMISSION CERTIFICATE
APPROVED THIS _____ DAY OF _____ 2021.
BY SAN JUAN COUNTY PLANNING COMMISSION

CHAIRMAN

COUNTY COMMISSION APPROVAL
PRESENTED TO THE
THIS _____ DAY OF _____ 2021.
SUBDIVISION WAS ACCEPTED AND APPROVED.

ATTEST

SURVEYOR'S CERTIFICATE

I, Laura Blake, do hereby certify that I am a Professional Land Surveyor, and that I hold License No. 7540554, as provided under the laws of the State of Utah. I further certify that by authority of the owners, I have made a survey of the land of said owner on this plan and described same, and have subdivided said land into lots and blocks, together with easements, hereunto to be known as
SKY RANCH ESTATES, PHASE II
and that the same have been accurately surveyed and mapped on the ground as shown on this plan.

License No. 7540554

BOUNDARY DESCRIPTION

Beginning at the Center Quarter corner of Section 36, Township 26 South, Range 22 East, Salt Lake Base and Meridian, and proceeding thence South 60°39'00" East 1041.53 feet to the most northerly corner of Lot 2, Sky Ranch Estates Amended; thence with said Lot 2 South 43°21'00" West 254.70 feet thence North 40°35'00" West 354.25 feet thence South 43°21'00" West 253.70 feet to the most westerly corner of Lot 6, Sky Ranch Estates Amended; thence North 40°39'00" West 2203.32 feet thence North 60°30'00" East 49.00 feet to the southeast corner of Sureno Grande Subdivision; thence with said subdivision West 1452.30 feet, thence North 31°58' West 215.7 feet to the easterly right-of-way of Spanish Valley Drive; thence with said right-of-way North 27°50' West 405.4 feet thence with a curve having a radius of 52.00 feet, to the right with an arc length of 48.62 feet, to the easterly bearing of North 34°27'20" East 41.31 feet to the south right-of-way of East Mount Peal Street; thence with said right-of-way North 89°54'00" East 1725.50 feet to the point of beginning, having an area of 53.74 acres.

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT I, THE UNDERSIGNED OWNER OF THE ABOVE DESCRIBED TRACT OF LAND, HAVING CAUSED SAME TO BE SUBDIVIDED INTO LOTS AND STREETS HEREAFTER TO BE KNOWN AS THE
SKY RANCH ESTATES, PHASE II
DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAN AS INTENDED FOR PUBLIC USE.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS _____ DAY OF MAY A.D. 20____.

MOAB DEVELOPMENT TRUST
BY BUSINESS RESOLUTIONS, LLC TRUSTEE

MICHAEL H. SYMMAN MANAGING MEMBER

ACKNOWLEDGMENT

STATE OF _____ } S.S.
COUNTY OF _____ }

ON THE _____ DAY OF _____ 20____, PERSONALLY APPEARED BEFORE ME,
MICHAEL H. SYMMAN MANAGING MEMBER, MOAB DEVELOPMENT TRUST BY BUSINESS RESOLUTIONS, LLC TRUSTEE WHOM I DO ACKNOWLEDGE TO ME THAT THEY SIGNED THE FOREGOING OWNERS DEDICATION FREELY AND VOLUNTARILY AND FOR THE USES AND PURPOSES STATED THEREIN.

NOTARY PUBLIC
NOTARY PUBLIC FULL NAME:
COMMISSION NUMBER:
MY COMMISSION EXPIRES:

SURVEY NARRATIVE

The property hereinafter surveyed was the land of said owner. The basis of bearing to N 89°54'00" E between the West Quarter corner and the Center Quarter corner of Section 36, Township 26 South, Range 22 East, Salt Lake Base and Meridian.
Lots of Sureno Grande Subdivision to be amended, private roads and utility easements to be vacated. Bearings used are from record of Corralville Park and not Sureno Grande. This latter contains record of surrounding subdivisions.
5/8" = 1" scale with survey tape to be placed at all lot corners or rights of way. OS-85 pins to be placed in the back of the cuts where applicable. In case of tieback used as first corner.



10 South 200 East
Moab, UT 84053
754-250-1717

Project 183-20
Date 2/9/21
Sheet 1 of 3

A SUBDIVISION LOCATED WITHIN
SECTION 36, TOWNSHIP 26 SOUTH, RANGE 22 EAST
SALT LAKE BASE AND MERIDIAN

COUNTY RECORDER NO.
STATE OF UTAH, SAN JUAN COUNTY, RECORDED AT THE REQUEST OF
DATE _____ BOOK _____ PAGE _____ FEE _____

000367



30 South 100 East
Moab UT 84053
(435) 754-1171

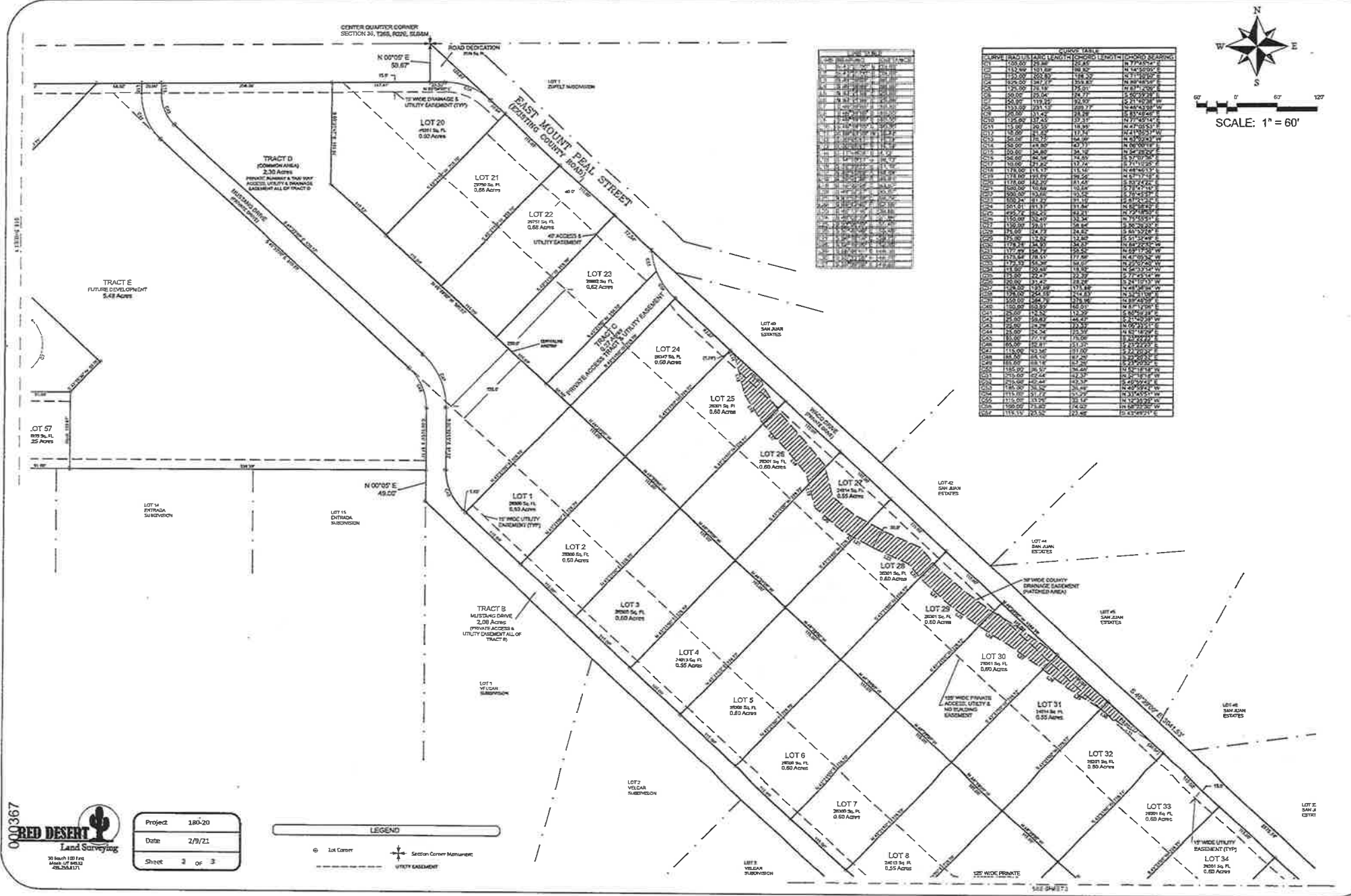
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|---------|--------|
| Project | 180-20 |
| Date | 2/9/21 |
| Sheet | 2 of 3 |

LEGEND

⊙ Lot Corner

⊕ Section Corner Monument

--- UTILITY EASEMENT

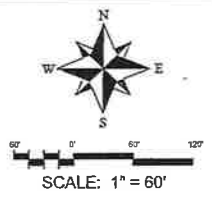


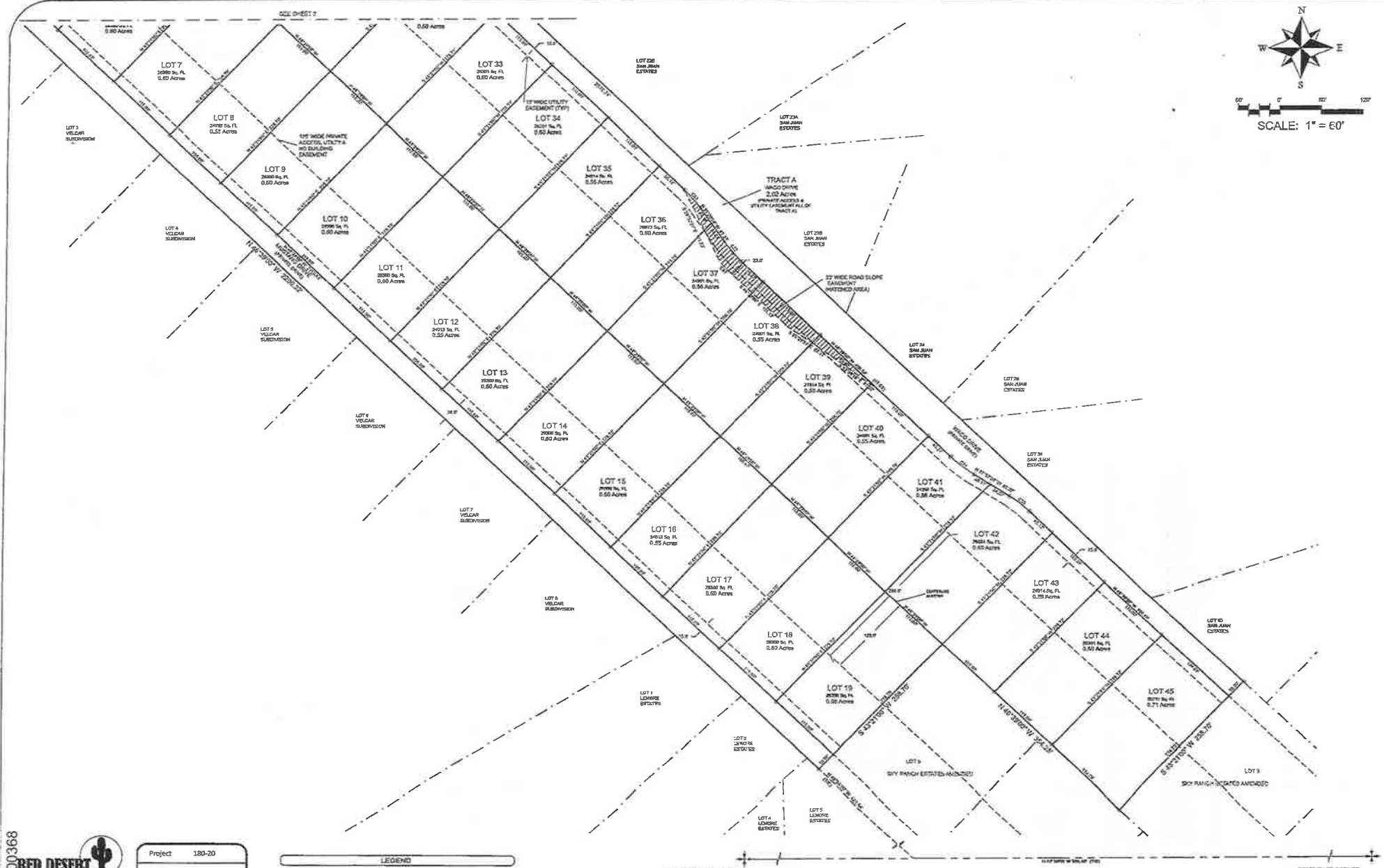
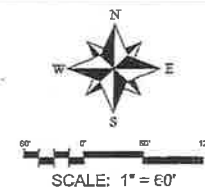
QUICK TABLE

| Curve | Radius | Length | Chord | Area |
|-------|---------|---------|---------|---------|
| 1 | 100.00 | 1.5708 | 100.00 | 157.08 |
| 2 | 200.00 | 3.1416 | 200.00 | 314.16 |
| 3 | 300.00 | 4.7124 | 300.00 | 471.24 |
| 4 | 400.00 | 6.2832 | 400.00 | 628.32 |
| 5 | 500.00 | 7.8540 | 500.00 | 785.40 |
| 6 | 600.00 | 9.4248 | 600.00 | 942.48 |
| 7 | 700.00 | 10.9956 | 700.00 | 1099.56 |
| 8 | 800.00 | 12.5664 | 800.00 | 1256.64 |
| 9 | 900.00 | 14.1372 | 900.00 | 1413.72 |
| 10 | 1000.00 | 15.7080 | 1000.00 | 1570.80 |

QUICK TABLE

| Curve | Radius | Length | Chord | Area |
|-------|---------|---------|---------|---------|
| 11 | 1100.00 | 17.2788 | 1100.00 | 1727.88 |
| 12 | 1200.00 | 18.8496 | 1200.00 | 1884.96 |
| 13 | 1300.00 | 20.4204 | 1300.00 | 2042.04 |
| 14 | 1400.00 | 21.9912 | 1400.00 | 2199.12 |
| 15 | 1500.00 | 23.5620 | 1500.00 | 2356.20 |
| 16 | 1600.00 | 25.1328 | 1600.00 | 2513.28 |
| 17 | 1700.00 | 26.7036 | 1700.00 | 2670.36 |
| 18 | 1800.00 | 28.2744 | 1800.00 | 2827.44 |
| 19 | 1900.00 | 29.8452 | 1900.00 | 2984.52 |
| 20 | 2000.00 | 31.4160 | 2000.00 | 3141.60 |





000368
RED DESERT
 Land Surveying
 95 South 100 East
 Mesa, UT 84057
 435.259.671

SOUTH QUARTER CORNER
 SECTION 36, T25S, R22E, S13M

SOUTHEAST CORNER
 SECTION 36, T25S, R22E, S13M

BEFORE THE SAN JUAN COUNTY (UTAH) ADMINISTRATIVE LAW JUDGE

Karl Spielman, Tim O'Niell,
Beverly O'Niell,
Petitioners,

v.

San Juan County, Utah,
Respondents.

Mike Bynum,
Owner

*
* Unofficial Transcript of
* Relevant Portions of Meeting
* of Planning & Zoning Commission
* on February 11, 2021
*
*
*
*
*
*
*

Begin - 9:50

(Timestamps based on recording available at <https://www.utah.gov/pmn/index.html>)

| Time | Participant | |
|------|-------------|--|
| | Schafer | Yeah, on the line items, I'll be asking for public comment. |
| | Dalley | Okay, super. Thanks. |
| 9:50 | Schafer | Any other public comment? |
| | | Okay. Seeing none, let's move on to administrative items. Um, first thing is Sky Ranch Estates Subdivision Phase II. Is... |
| | Burton | Lucas [Blake] is on. |
| | Schafer | Hey, Lucas. |
| | Blake | Hey. Yeah, so you have the plats in Sky Ranch Phase II. It's a continuation of lots through that airstrip. I'm hoping you can hear me. Um, it's 0.55 acre lots and then 0.6 acre lots along the airstrip and then you have a portion that goes up to Spanish Valley Drive which, it's kind of off the airstrip, those are as small as 3/4 acre lots. There's 75 lots in total where the Phase II of Sky Ranch, and um, part of this we're vacating the final Gradis subdivision which is already an approved subdivision. That's in the lots that's next to Spanish Valley Drive and Mt Peale not built yet. That was originally approved for 20 one-acre lots and right now, we're kinda putting 30 quarter-acre lots or bigger in that same area. We've added 10 lots there. And, I think we have, it looks like we have most of the team here. We've got the developers online if you have questions and Red Desert Land Engineering who did the engineering plans for it are also in the chat. So, they can answer questions on that, too. |
| | Schafer | Okay. |
| | Schafer | Well, like I was saying, that the drain study was just way over the top in my opinion. |
| | | Well, we've got, I think, the white utility drainage easement. They've got a quarter acre for a detention basin. |

| Time | Participant | |
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| | | On that front portion by Spanish Valley. |
| | Blake | Yeah, there's two detention basin tracks kind of in that northwest corner, the very far northwest corner of tract H, which is a small tract for detention. And, there's also a large tract, U, which is kind of a north end of the airstrip that's for a detention basin. And then tract F in the middle, kind of an open space, that will be for future parks and things like that. |
| 12:28 | | (background talking) |
| 12:40 | Blake | And, we then we have tract E on there that's kind of for possibly future phase III. |
| | Schafer | Staff, I'm sure, you guys have spent a lot of time on this. |
| 13:11 | Burton | Yeah, we have. We've looked over it and they've made a few changes to get to this point. We did have some question about those, you know, lots 25 through 31 that are kind of include that drainage easement, and how, you know, buildable, you know the buildability on those lots was a question, and they, you know, they do have it clear in there, that that's an easement and that they can't affect that drainage so... those would be limited that way. But... but that will be limited on a, you know, a lot basis. Each lot, so depending on what they might do with those. |
| | | Right. |
| | Shrenk | What are we doing at the places where Waco Drive crosses that? I could look at the drainage studies... |
| | | They have to get with TJ on that for the culvert size. That's why there should be a little thing right here for road department to sign off. |
| 14:20 | Burton | And that's something I had that ready to go on for today, but Schafer and I talked and we kind of figured we'd - with what we had, we would move forward on the 10:00 meeting. |
| | | (Laughing and talking) |
| 14:43 | | So was the County going - their label is private drives. |
| | | Well, the county's not planning on taking _____ |
| | | Sounds like it's an HOA that will be maintaining their own roads. |
| | | And, does that runway easement run all the way through? |
| | | Yea, looks like it. |
| | | But, I don't see it on this one. |
| | | Yeah, I don't see it. |
| | | It's one sided. |
| | | Which one? |
| | | Am I looking at this solid line with just the one above it? |
| | | Yeah. Where it says center line. Oh, there it is. The dotted lines. |
| | | ____ private. |
| 15:25 | | _____ |
| | | They're all over out in the upper end of the valley, and then after they sell all the lots, then all of the residents gets the county to pay for the maintenance... |
| | | Right, well they can't now. |
| | | So, we need to make sure that that don't happen in the future. |

| Time | Participant | |
|-------|-------------|---|
| | | With the road department now, they will not, they will not dedicate a road until it is brought up to county standards. I know, I've thought a lot on it. |
| 15:55 | | |
| | | Um-hum |
| | | It costs the homeowners the money to bring it up to standard now. . . |
| | | Yeah. Good. |
| | | . . .versus the developers back then, so. |
| 16:08 | | What the hell would we do without fingers? |
| | | Or the opposable thumb. But, yeah. That's a deep ____. |
| | | Do that a lot, too. |
| | | Yeah. |
| | | Where's the easement? |
| 16:45 | | It's 125 feet from that line. |
| | | Yeah. |
| | | Okay. I see it now, I see it now. |
| | | But, the question is is so, if this dark line right here. . . |
| | | That's the utility easement. |
| | | Okay, so it's from. . . |
| | | It's not all the way back. |
| | | It's from here to here, right? |
| | | Where's the runway? |
| | | No. |
| | | Oh, my. . . |
| | | The small line is . . . |
| | | Yeah, but mine didn't print off this dotted line. |
| | | It's not on here. |
| | | You might have printed on the first version. |
| | | Oh. |
| 17:15 | | The second version did have a ____ |
| | | (Talking over each other) |
| | | The first would be like this, right here. |
| | | Should be. |
| 17:20 | | (Talking over each other) |
| | Shrenk | Is the runway in the middle? |
| | | Yes. |
| | | Yeah, so if. . . |
| 17:30 | | ???? |
| | | No, not on that one. |
| | | No, not on that one. No. |
| | | It will be on the next page. |
| | Shrenk | Okay. |
| | | So, see this dotted line right here? This is, this is the easement. It's 125 foot. It comes from here to here. Mine didn't print out right here. So, it's like this. So, this is your building. |

| Time | Participant | |
|-------|-------------|--|
| | | ___ runway right here. |
| | Shrenk | This is where there is no. . . these two on each side of these lines. Okay. |
| 17:58 | | (background talking) |
| | | I gotcha. It's all in the center. |
| | | So, all the lots go to the middle of the runway? |
| | Shrenk | Uh-huh. |
| | | They have this easement that starts the runway, you know, the runway takes up all that so they can't build. . .they can build over here on this side. |
| | Shrenk | Right, right. Yeah. Okay, that makes sense. |
| 18:30 | | So, I'll have two, almost three lots in the back of mine. |
| | | Yeah, you're right adjacent to those. |
| | | That's my lot right there. Lot 7. But there will be a road between me and these. |
| 18:50 | Schafer | Okay, for the time being, I'm going to open it up to public comment and then we'll close that and come back to the planning commission's discussions. So, does anybody have any public comment on Sky Ranch Estates subdivision? |
| 19:11 | Dailey | I have a comment. |
| | Schafer | Okay. |
| 19:17 | Dailey | This is Carolyn Dailey from Spanish Valley. I'd like to know what their source of water is for this. Are they going to be hooked to city water or are they having private wells, and also, um, what the road access is to these lots to – they're supposed to come off of a road access. And, I also would like to say that I feel like the whole subdivision should not be approved at once because it's too many lots to be approved when the situation of water is going to be very uncertain in the future as to the availability and that to go ahead and apply, ah, approve 75 new lots is a big deal. You could ask them to resubmit just maybe half that amount or smaller would be my suggestion so that you can monitor the availability of the water for these lots before approving them. Thank you. |
| 20:22 | | And do they have access to the county? |
| | | Yeah, so we have. . . |
| | | This is Spanish Valley Drive here. |
| | | Coming off of Mt. Peale. |
| | | And, then they've got one off Mt. Peale, all right here. |
| | | Okay. |
| | | And Waco comes off of . . . |
| | | So, it will be off of. . . |
| 20:37 | | So both Mustang and Waco come off of Mt. Peale. |
| | | County ___ water. |
| | | Carolyn, to answer your question, it is coming off of the county's infrastructure, the water and sewer. |
| | | Yes. |
| | | Okay, any other public comment? |

| Time | Participant | |
|-------|-------------|--|
| 20:54 | Austin | I have one. This is Ann Austin. |
| | | Oh, I couldn't tell. |
| | Austin | Hi. Um, we live right next to this future development, and we are completely aware that something was coming, and that's fine. And, it's great. I guess, I would like to know if this development is slated for being overnight, short-term rentals. And, if by approving this at this time before there's a short-term rental ordinance, would somehow grandfather these 75 lots in. Just wanting to see what people are thinking about that issue when it comes to neighborhoods and existing residences. Oh, and by the way, just real quick, Scott Burton, thank you so much for the new mike. |
| | Burton | You bet. |
| 21:56 | Schafer | Ann, this is just my opinion. You know, I think we'll have a short-term rental in before any, ordinance in, before any of this development gets going. I think it would be the worst of ideas of having overnight rentals on an airport. I think that would just be ludicrous. |
| 22:24 | | Safety. |
| | Schafer | Yeah. So, that's how I'm addressing it. You know, we'll make it our goal to have our short-term ordinance in place before this development takes off. Any other public comment? |
| 22:44 | Clark | Yeah, this is Monette Clark. I do have a question about this. I live across the street from Ann so I basically kind of kiddy-corner to where the development ends. And, um, I know that the phase one, I guess, of Sky Ranch is already built, and the homes have hangars for airplanes. But, I'm wondering if these 78 new lots. Will these be homes with hangars for airplanes because, well, I would like to know how many airplanes or to expect that from Sky Ranch development project. How many planes will be using the airport if the full concept is sold and so forth? |
| | ? | I think that's a question for the owners. |
| | Schafer | Lucas . . . |
| 23:49 | Blake | This is Lucas. I don't know if, um, the developers want to chime in, but our understanding is the lots along the airstrip are, would be big enough to have hangar buildings and then the lots on the northwest would be single family homes without hangars. Tracts, tract U that's a possible future phase three would be additional hangars, but that one we'd have to do as a planning & development because the hangars would be a little bit smaller than quarter-acre lots so we'd have to go through a little bit of a different process for that one. |
| | | Yeah, let's see. |
| | Clark | When do you expect . . . |
| | Blake | I'm not sure how many hangars or planes will be on there at once though. |
| | Clark | Well, is there a maximum for that size of airport? |
| | | I don't know. . . |
| 24:44 | | (inaudible) |
| 24:49 | Clark | Well, I think that the county commission should keep this in mind and should have a discussion with the developer, a serious discussion about |

| Time | Participant | |
|-------|-------------|---|
| | | the future around the airport because, well, there's a lot of public safety issues about air traffic and possibly crashing into homes and also the school bus that goes by, up and down Mt Peale Drive 2 times per day which is right at the end of the airport. I mean, this isn't new. We know that the airport is controversial anyway, but I do think that the commission should really find out exactly if built out fully according to concept, how many planes would be using that airstrip and you should, as a commission, take your jobs very seriously in terms of public safety and welfare. So that's basically my concern about that. So, is phase one totally built out or are there more lots in phase one that still need to be built? |
| 26:03 | | There are six lots, and I believe there's only one building out there so far. |
| | Clark | Oh, really? Okay. So there would be – they're duplexes, right? |
| 26:21 | Shrenk | (I didn't start the timer on her) |
| | | I think the one that's out there is an owner, so, where one of the owner's lives. |
| 26:28 | Clark | Um, it looks like a duplex with two hangars. Um, so I think that that's a major concern is not only the water, but the hangars and how many airplanes would be, are planned to be using that space and the commission should keep an eye on this. |
| | | RINGER |
| 26:48 | Schafer | Any other public comment? |
| | Smith | Ah, Schafer, this is Colby Smith, and I just had a quick question. |
| | Schafer | Sure. |
| | Smith | Maybe, maybe Lucas knows the answer to this. Like when it says that these lots are like six-tenths of an acre or 0.55 acres. Does that acreage include the easement for the runway, or is it exclusive of the easement for the runway? |
| | Blake | It does include it. |
| | Smith | And, if there's an easement for the runway, I guess my question is does that land area count towards the quarter-acre minimum requirement? |
| 27:28 | | Um-hum. |
| | | For density in the county. That's just my question. I don't know the answer to that. That's just a question I pose. |
| | Blake | Yeah, the acreage for each of those lots along the airstrip does include the center. When you do lots, if they're just easements, you still include the acreage in the lots. Plus the airstrip has an easement of no buildable area. And, then the roadways that are on the – surrounding the outside edge of the subdivision, those roadways are not included in the lots, but the airstrip easement is. |
| | Smith | And, so is the buildable area a quarter acre or is it less than that, typically? It kinda looks less to me. |
| 28:22 | Blake | Yeah, it could be less on the 0.55. I'm not exactly sure what the exact figures is of that. |
| | | |

| Time | Participant | |
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| | Smith | Okay. I just invite the commission to think about that and make sure that, you know, the minimum lot size requirement is met even though there's this kind of big easement going down the middle. |
| | Schafer | Okay. |
| 28:43 | | Any other comment? |
| | Shrenk | I have a question for Lucas. Um, is this a private airstrip for only the people living in this subdivision, or will other planes be allowed to land and take off or hang their plane? |
| | Blake | It is on private property. |
| | | It is private. Okay. That answers my questions. |
| 29:08 | | The law is that you can ___ other airplanes . . . |
| | | Right, if they need to land. |
| | | If they fly over and _____ |
| | | They can. |
| | | They just can't stay long term. |
| | | Right. |
| 29:22 | Schafer | Okay. Any other comments? Okay, we'll bring it back to the planning commission to finish out discussion. John? |
| 29:40 | | |
| | Johnston | My main concern and question is now quarter acre lots are not large enough for a home and a hangar, I'm sure. And then on planes that fly in that's going to park, that owns the houses in the back row, if they're pilots, private pilots that own their planes, how do you have enough parking along those runway where there is hangars to put up with other airplanes that belongs to other people that owns the lots behind them? Where do you tie down extra airplanes without blocking – I mean, I don't see any big wide taxi areas or any tie-down areas that's dedicated for that other than the lots that are set back that can have their own hangars. |
| | | But my. . . |
| | | That would be my main concern. |
| | Wilson | My thoughts on that is that's kind of out of our jurisdiction. |
| | | Well, it is. |
| | | That falls under. . . |
| | | FAA. |
| | | . . . yeah, and they won't even take claims to it because it's a private strip. |
| | | .. |
| | | And it doesn't meet. . . |
| | | It doesn't meet the requirements of where they have the say in it. |
| | | Okay, so then that would be moreso for the FAA or somebody else to deal with it. |
| 31:06 | | Yeah. I think the way I look at this is we're to look at this point now, we look at our drainage and make sure that we're not flooding the neighbors. We are, their lot sizes are meeting the criteria of the ordinances that we have in place in there. And, I don't know under, how we could turn it down if it's meeting all our requirements. Because, we've got to – in my mind, I think we've got to take that airstrip out of |

| Time | Participant | |
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| | | our eyes. Cuz, we can't, I mean, how do we hold jurisdiction over an airstrip. |
| | | Oh, I don't know. |
| | | I think that's why it's so important. . . |
| 31:54 | | . . .law that they. . . |
| | | We're looking at a subdivision. |
| | | Right, that's the way I see it because I don't know. . . |
| | | I was just asking. . . |
| | | None of us have the authority nor do we have the knowledge. . . |
| | | Or even need to have the authority. |
| | | Right. |
| | | I mean, we'd be better off if we don't have that authority. |
| | | Right. Right. |
| | | Okay. That's all I needed to know. |
| 32:23 | | And then, when it comes to, I think it was Carolyn that brought up the water, that is in the special service district's hands. |
| | | Well, if there isn't enough water for all these subdivisions, that's everybody's problem. |
| | | But, there's a cap. . . |
| | | Because, you can't turn subdivisions down thinking someday there might not be enough water. . . |
| | | Exactly. |
| | | . . . in the aquafer. I mean, and that isn't within our power either. |
| | | That's right. And so, we, you know, we start, the service district will start weighing new options when we get to our cap, and, you know, it's still on the first-come first-served basis so if we start depleting the aquafer, we're the first to go. The city of Moab has first, then GWSSA, and then Spanish Valley special service district. At that point then we start figuring out what we're going to do. If we're going to start piping it from the Colorado. . . |
| | | Draw some water out of the Colorado or _____ |
| | | Cuz, we get. . . |
| | | A cistern in ____. |
| | | A long way down the road. |
| 33:30 | | And there is another well up there by Bridgertown. So. . .I mean, and that's, and I think that goes to the service district when we start talking about water. |
| | | Well, that's kind of up to God and the amount of rainfall we get on them mountains. |
| | | Yup. That's right. I agree with. . . |
| 33:55 | Dailey | Can I make another comment, Schafer? |
| | | Who's ringing in? |
| | | Carolyn. |

| Time | Participant | |
|-------|-------------|---|
| | Dailey | It's Carolyn Dailey. I just wanted to comment that if this water is – water for these lots is decided by the Spanish Valley special service district, I think it's a real potential conflict of interest that Mike Bynum sits on that board that makes those decisions, and he is the owner of this Sky Ranch properties, as far as I understand it. |
| | Schafer | As long as he declares his conflict, that's all that he has to do. He's one vote. |
| | Burton | And, under State statute, you cannot deny people water. You are to manage it, you are not to. . . |
| 34:45 | | To say who gets it. |
| | | Yeah, so it, what it is you know, we have an allotted amount of water that we have through the State of Utah, and it's kind of the same thing. It's first-come first-served. As people come in and they're paying their impacts, we cannot by law turn them down for culinary water if it's within so close to them. But, when we get to our cap then yeah, we have to turn them down until we figure out another source. |
| | | Right. |
| 35:16 | Dailey | So, I guess I'm confused. Just approving the subdivision does not approve the water for the individual homes then. Is that correct? |
| | | No, it does not. Nope. |
| | Dailey | They have to apply for that individually, first-come, first-first served. |
| | | So what they'll do is when they go in and start their development, if this is approved today, when they start their development, they'll have an engineered set of plans for all their water and sewer that will go before the Spanish Valley special service district board. Once it's approved there, then it has to go through a plan review through a second engineering firm, and so on and so forth. It's the same process we've done with the other ones that have come along. |
| 36:00 | Dailey | So, is it the individual home owners that apply for the water or the whole subdivision? |
| | | Subdivision. |
| | Burton | So, yeah, so the subdivision has to come in and then each individual owner as they buy the lot will have to come in and pay an impact fee and set up their billing. |
| | Dailey | So, I guess what I'm trying to get at is does approving it all these 75 lots now, approve them to get water? |
| | | It does not approve them to get water here in the planning and zoning. That is before the special service district board. |
| | | It comes as a will serve for the special service. |
| | Wilson | Will serve. And, as people, and so they can go in there and do the infrastructure. They can put the water and sewer in, but let's just say that only 50% of those lots are sold in the next five years. Just saying. You're only going to have 50% of them coming in to get impact fees paid for. And so, you're only utilizing 50% of it at that point. And, as the State, as the State water rights reads, is as culinary system you cannot deny |

| Time | Participant | |
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| | | water to people as they come in if it's available under the shares that we have. |
| 37:28 | | That all depends on how many shares the special service district has. Those are allocated by the State. |
| | | Yes, that's right. |
| | | Okay. |
| 37:42 | Dailey | Well, I guess I'm still a little confused about it. What would be the difference then, if you only approved half the number of lots? |
| | Schafer | I think it's pretty clear. I don't think Lloyd could explain it any better. |
| | Dailey | Okay. |
| 38:00 | Schafer | Okay, planning commission. |
| | | What's the staff's recommendation on all this? |
| | | What's that? |
| | | What's the staff's recommendation on this? |
| | | That you consider it. |
| | | No, that's wlschy-washy. |
| | | Exactly. |
| | Schafer | Have they met the questions and concerns that staff has presented to them? Yes. |
| | Burton | Yes, yeah. They have complied with the things we've asked. They made changes that each department as they reviewed it had. |
| | Shrenk | Everybody's approved it. |
| | Burton | That's why it's here before you. We usually don't bring it until it's we've signed off on it and the bill is ready for the commission to consider. |
| | | And, it is an action item that we're supposed to vote on tonight? |
| | | Yup. |
| 39:17 | | The best part about this is the drainage. I mean, it's done. |
| | | Did you look at that drainage study? |
| | | I didn't look at the study. I'm just looking at the retention ponds, the drainage easements, in between lot 68 and 69, which, I'm sure, is the low point of Sky Ranch Loop. |
| | | Does it show the pond's outflow? |
| | | What's that? |
| | | Does it show the pond's outfall? |
| | | No. |
| | | Detention pond's outfall? |
| | | No. |
| | | So, it's right by the old Pack Creek or the old main draws. It ought to be easy, be easy enough to drain them. |
| | | Yeah, on the upper part one. |
| | | Yeah, |
| | | And then down here, this is Fred Darcey's old piece. Remember he did that ____ section? |
| 40:13 | | Yeah, I actually thought about subdividing that . . . |

| Time | Participant | |
|-------|-------------|--|
| | | And, that's down towards the mailboxes on Mt Peale . . . and they've got a quarter acre designated for their detention. |
| | | No, actually, it would be. . . |
| | | So where does. . . |
| | | And, also one over here. . . |
| | | There's one here. . . |
| | | They've got another almost sixth of an acre. |
| | | So, SET Engineering is on. That's probably something that Jeff could answer. Jeff, do you know what the outfalls for those retention ponds where that is supposed to go? |
| 40:46 | Pillus | Yeah, we have Andrew Rapiejko from my office on the line. And, ah, I believe that's explained in the drainage report. But, go ahead, Andrew. Andrew, are you there? |
| | | I don't think he's there. |
| | | And see, I didn't look at the drainage report. |
| | Pillus | He was on a moment ago. I think we might have just lost him, unfortunately. But the outflow structure should be explained in the drainage report. That's where we get into the details of, hey, we're allowed to release X amount and the pond fills up so much so, you know, different orifice sizes and, I can't recall off the top of my head, and I don't have the drainage report in front of me. But, those orifice, the holes in the outlet structure, are sized appropriately to discharge equivalent or less than historic drainages. It's been thoroughly designed that way. |
| | | Right. |
| | | Okay. |
| | | Did TJ look at this at all? I know he's not supposed to, but. . . |
| | | Yeah. He's looked at every one of these that I get. I send right to him. He's included in my, so yeah, he's reviewed all of these. |
| | | Okay. |
| | | I didn't get any comments back from him. |
| | | Any further discussion? Hearing none, I would entertain a motion. |
| | Wilson | I will make a motion to approve phase II of Sky Ranch Estates subdivision. |
| | Schafer | Okay. I've got a motion to approve Sky Ranch Estates Subdivision Phase II. |
| | Johnston | Okay. I'll second that motion. |
| | Schafer | Okay. I have a second. Any further discussion? Okay, all those in favor to approve Sky Ranch Estates Subdivision Phase II, say "I." |
| | | I's |
| | | Motion carries. |
| | | Thank you very much everyone. |
| 43:15 | | Thank you. |

Schafer: Trent Schafer, Chairman of P&Z Commission

Burton: Scott Burton, Subdivision Administrator

Wilson: Lloyd Wilson, P&Z Commissioner

Johnston: William Johnston, P&Z Commissioner

Shrenk: Leah Shrenk, P&Z Commissioner

Blake: Lucas Blake

Dailey: Carolyn Dailey, community member

Austin: Ann Austin, community member

Pillus: Jeff Pillus



PLANNING COMMISSION MEETING

Electronic Meeting
February 11, 2021 at 7:00 PM

MINUTES

GENERAL BUSINESS

Welcome / Roll Call

Commissioner Schafer called the PC meeting to order at 7:03 pm.

PRESENT

Chairman Trent Schafer
Commissioner Lloyd Wilson
Commissioner Cole Cloward
Commissioner William Johnston
Commissioner Melvin Nelson
Commissioner Cody Nielson
Commissioner Leah Shrenk

Approval of Minutes

1. Approval of Minutes for: January 14, 2021 PC Meeting ACTION

Slight correction made correcting a typo on page 2 of the January 14 minutes.

Motion to approve the minutes as revised was made by Commissioner Wilson, Seconded by Commissioner Nelson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson, Commissioner Shrenk

PUBLIC COMMENT - *Time reserved for public comment on items or issues not listed on the agenda.*

Dave Focardi made comment about keeping planning commission oversight in the highway commercial ordinance and the short term rental ordinance in favor of owner occupied short term rentals.

Lynda Smirz made comment about the need for enforcement of the zoning ordinance specifically at the location of Area BFE. She expressed her opinion that they need a conditional use permit for their events. She requested information about the road maintenance costs for these events.

ADMINISTRATIVE ITEMS

2. Sky Ranch Estates Subdivision Phase II, Lucas Blake, Red Desert Land Surveying ACTION

Lucas Blake with Red Desert Land Surveying presented this subdivision, describing the additional lots along the existing airstrip. Commissioners Schafer and Wilson expressed appreciation for the drainage study and retention basin infrastructure provided. Lucas Blake identified Tract E for future development as phase 3. Drainage easements on lots 25-31 will need to be maintained.

Public comment and discussion on the proposed subdivision was made by the following individuals:

Carolyn Dailey asked about the water source and road access. She also expressed that this is too many lots to approve. The commissioners addressed the concerns about water. This subdivision does have access to water from the San Juan Spanish Valley Special Service District.

Ann Austin asked whether these lots were planned to be used as nightly rentals. Commissioner Schafer expressed confidence that the short-term rental ordinance would be in effect before this development gets going, and expressed his opinion that the airport is not the place for nightly rentals.

Monet Clark asked how many homes would have hangers and how many planes would be using the airport when the development is built out. Lucas Blake with Red Desert Land Surveying said that the lots along the airstrip would be big enough for hangar buildings, and the lots to the Northwest would be single family homes without hangars. Tract E is planned for future hangar buildings. It is unknown at this time how many hangars will be built or the potential number of planes.

Colby Smith about lot sizes and whether the sizes included the runway easement, and whether the remaining lot meets the quarter acre size. Lucas Blake addressed the question that the lots do include the airstrip easement, but not the access roadways on the outside of the lots.

Commissioner Shrenk asked about the status of the airport, whether it is private or public. The airport is a private airport.

Commissioner Johnston expressed concern about the lot sizes not being big enough for a home and a hangar, and where do you tie down extra airplanes without blocking the runway.

Commissioner Wilson said this is out our jurisdiction and that the FAA is who would have requirements about that. He further expressed his opinion that the PC should be looking at drainage, lot sizes and making sure that it meets our requirements, and that "we can't turn it down if it meets all our requirements." He continued saying that "we need to take the airport out of our eyes, because how do we hold jurisdiction over an airstrip." The water was also brought up that the approval for water is in the hands of the special service district. They approve the water connections

Carolyn Dailey expressed a concern about a possible conflict of interest that the owner of the Sky Ranch Estates Subdivision, Mike Bynum sits on the San Juan Spanish Valley Special Service District Board. Commissioner Schafer responded that "as long as he declares his conflict, that is all he has to do." Commissioner Wilson also responded that under state statute you cannot deny water when people apply if it is available under the shares of water the special service district has been allocated by the state. Commissioner Wilson clarified the process that approving the subdivision does not approve the water, the developer will need to apply for the water connections with the San Juan Spanish Valley Special Service District.

Commissioner Nelson asked what the staff recommendation is, which is that the developer has met the requirements of our ordinances, and have complied with our review comments and it is ready for the planning commission to consider and approve.

Commissioners also discussed the drainage report and asked for some clarification from Jeff with Set engineering who was on the line. Jeff assured the PC that outfall structures have been designed to accommodate the equivalent of historic drainages.

Motion to approve the subdivision was made by Commissioner Wilson, Seconded by Commissioner Johnston.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson, Commissioner Shrenk

3. Legacy Fields Subdivision Phase II, Lucas Blake, Red Desert Land Surveying ACTION

Lucas Blake with Red Desert Land Surveying presented phase 2 of the Legacy Fields Subdivision. The subdivision follows the preliminary plat that was submitted with phase one. Commissioner Wilson explained that Bobbie Lane has been completely built to B road standards. Commissioner Shrenk expressed that she "has a problem with putting 100 wells and 100 septic systems that close together." After some discussion about individual lots and an existing shared well serving lots 117, 116, 115, and 114. Commissioner Shrenk also pointed out that if they want a well, each individual lot can drill a well with a secured water right which is issued by the state of Utah.

Commissioner Schafer asked for public comment, no comment was made.

Commissioner Wilson declared a conflict of interest that he has been hired as the contractor to build the roads and infrastructure for the Legacy Fields Subdivision.

Motion to approve the subdivision was made by Commissioner Cloward, Seconded by Commissioner Nelson.

Voting Yea: Chairman Schafer, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson

Voting Nay: Commissioner Shrenk

Voting Abstaining: Commissioner Wilson

LEGISLATIVE ITEMS

4. Application for Spanish Valley Overnight Accommodations Overlay (Rezone), Josh Anderson ACTION

Josh Anderson with the Domes at Moab presented his request for the overnight accommodation overlay for a property along US HWY 191 to build a glamping campground with geodetic dome structures. The PC had some discussion about the process, it was also discussed that the domes will be a earth tone color.

Some questions were raised about what is being approved, but step two of the approval process will control the specifics of what is allowed with the overlay.

It was also expressed that along the highway is where the overnight accommodations should be located. Water and sewer are not available currently at this location.

Motion to recommend to the San Juan County Board of Commissioners was made by Commissioner Johnston, Seconded by Commissioner Wilson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson, Commissioner Shrenk

5. Revisions to the Spanish Valley Highway Commercial District (HC) Ordinance DISCUSSION

The PC discussed the desire to get the highway commercial ordinance revisions completed this year. They discussed the conditional use requirement for hotels and motels of at least 40,000 square feet. The PC members expressed a desire to allow nightly rentals in the commercial zones, and not in the residential zones. Public comment was made by Colby Smith expressing concern about commercial condos, explaining that commercial condos are a way for the developers to get around regulations. Alex Goble from the San Juan County Attorneys office expressed the need for definitions in the zoning ordinances. The PC members also discussed owner occupied bed and breakfast's, and After some discussion about the need for definitions and the form the ordinance should take, they decided to require all hotels and motels and commercial condos to be a conditional use. Commission Chair asked the PC members to mark up the ordinance, and send it in for review for the next meeting. Lloyd Wilson extended an invitation for a meeting at 64 Tangren Lane on February 24 at 6:00 pm in Spanish Valley to discuss the highway commercial ordinance.

Near the end of the discussion public comment was made by Jeff Mattson expressing opposition against revising the ordinance to allow more than one truck stop in the highway commercial district.

6. San Juan County Spanish Valley Short-Term Rental Ordinance DISCUSSION

As part of the discussion on Item # 5, PC Commission Chair Trent Schafer asked the PC members to mark up the short-term rental ordinance with their revisions and send them in to be compiled into a redline version.

BUILDING PERMIT(S) REVIEW

7. Presentation of building permit list DISCUSSION

PC commissioners reviewed the building permit list, and expressed some concern about the permit fees going to Grand County instead of San Juan County, and the increasing number of permits in Spanish Valley.

ADJOURNMENT

Motion to adjourn was made by Commissioner Wilson, Seconded by Commissioner Cloward. Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson, Commissioner Shrenk

Meeting was adjourned at 8:55 pm



BOARD OF COMMISSIONERS MEETING

Electronic Meeting
February 16, 2021 at 11:00 AM

MINUTES

The public will be able to view the meeting on San Juan County's Facebook live and Youtube channel

Audio link can be found at: <https://www.utah.gov/pmn/index.html>

Video link can be found at: <https://www.facebook.com/SanJuanUtah/videos/5803987779626979>

CALL TO ORDER

ROLL CALL

PRESENT

Commission Chairman Willie Grayeyes
Commission Vice-Chair Kenneth Maryboy
Commissioner Bruce Adams

INVOCATION

PUBLIC COMMENT

Public comments will be accepted through the following Zoom link <https://us02web.zoom.us/j/3125521102> or by phone One tap mobile +16699006833,,3125521102# US (San Jose)

There will be a three minute time limit for each person wishing to comment. If you exceed that three minute time limit the meeting controller will mute your line.

Time Stamp 2:42 (audio) 13:00 (video)

Lynda Smrz - Lynda asked who is responsible for enforcing the county's zoning ordinance. She discussed two upcoming commercial events and asked about Conditional Use Permits have been issued.

Beverly O'Neil - Beverly spoke about the Sky Ranch Phase II subdivision and stated that several concerns about the subdivision were not addressed. She also asked if there was a difference between the old and new plans. Beverly also spoke about the Sky Ranch Airport and asked that airport be condemned.

Tommy - Tommy spoke about item #17 on the agenda. He also asked the commission to support item #19 on the agenda and pass the Resolution supporting the continuation and modification of the Settlement Agreement.

Marlene Huckaby - Marlene stated that new members were needed for the Spanish Valley Water Board. She suggested that Monette Clark and David Focardi be appointed to the board.

Mary McGann - Mary, Grand County Airport Board, stated that flight plans for planes using Sky Ranch Airport should be considered before approving the Sky Ranch Subdivision. She asked the commission to postpone the approval of subdivision until a future date.

Kevin Walker - Kevin encouraged the commission to postpone the decision on the Sky Ranch Airport Subdivision because the airport has a big effect on the citizens living in the valley.

David Focardi - David read his qualifications for being on the Spanish Valley Water Board.

Mark Shapiro - Mark speaking of the San Juan Spanish Valley Special Service District, explained that water concerns are important to consider when developing Spanish Valley. He stated that Monette Clark and David Focardi would be good board members for

Karl Spielman - Karl explained that there are no safety provisions surrounding the Sky Ranch Airport and asked the commission to table the approval of the subdivision until further concerns can be addressed.

Carolyn Dailey - Carolyn asked the commission to appoint David Focardi and Monette Clark to the Spanish Valley Water Board. She also asked that ... She also asked the commission to table the approval of the Sky Ranch Subdivision until more information can be gathered.

President Jonathan Nez - President Nez talked about the successful turnout of the General Election and encouraged the commission to pass the proposed resolution renewing the Settlement Agreement which would give voters greater access to voting information and voting access.

Marilyn Holly - Marilyn asked the commission to approve the resolution which would increase the voting locations on the reservation.

Denise Oblick - Denise, along with her husband Don expressed concern about the location of the Sky Ranch Airport. She asked the commission to table the proposed Sky Ranch Subdivision until safety precautions can be addressed.

Nick Lee - Nick asked the commission to postpone the decision on the Sky Ranch Subdivision. He stated that planning a residential area around an airport should be reconsidered.

Monette Clark - Monette asked the commission to table the Sky Ranch Subdivision request until concerns can be resolved.

Coby Smith - Coby addressed item #10 concerning the revision of the Spanish Valley Zoning map. He thanked the Planning & Zoning Commission for considering the input of the citizens in making the revisions to the map.

Kenny Victor - Kenny encouraged the commission to support the proposed Resolution to continue the Settlement Agreement.

John Weisheit - John suggested that Monette Clark and David Focardi would be good additions to the Spanish Valley Water Board. He also offered his services as an advisor.

Tara Benally - Tara asked the commission to support the continuation of the Settlement Agreement. She spoke about the coordination that occurred between the Navajo Nation and San Juan County.

Frank Darcey - Frank, Chairman of the Spanish Valley Special Service District, expressed his support of the board members that were presented to the County Commission by the Special Service District for approval.

Nathaniel Brown - Nathaniel, Council Delegate, asked the commission to support the passing of the resolution supporting the continuation of the Settlement Agreement.

Kim Henderson - Kim asked the commission to uphold the recommendations of the Planning and Zoning Commission and approve the Sky Ranch Subdivision.

Yolanda Badback - Yolanda asked the commission to support the modifications of the Settlement Agreement as well as include a polling location in White Mesa.

Norbin Lameman - Norbin offered his support of the resolution to continue the Settlement Agreement.

Jeff Mattson - Jeff asked the commission to table the Skyranch Subdivision.

Terry Whitehat - Terry asked the commission to support the resolution to continue the Settlement Agreement.

Clifford Sagg - Clifford urged the commission to support the resolution supporting the Settlement Agreement.

Ann Leppanen - Ann commended the clerk's office for its work on the elections and asked the commission to approve the resolution supporting the continuation of the Settlement Agreement.

Mike Beinam - Mike explained that the Sky Ridge airport has met all FAA requirements. He also stated that it is currently authorized by the FAA for use with permission by the general public, but that the use would be limited.

Curtis Yanito - Curtis gave a comment in the Navajo language. He also spoke in support of the proposed resolution.

Herman Daniels - Herman, Council Delegate, asked the commission to support the resolution to continue the Settlement Agreement.

Colleen Benally - Colleen urged the commission to support the resolution to continue the extension of the Settlement Agreement.

Darlene Pino - Darlene offered her support for the proposed resolution.

Shirley Bendon - Shirley offered her support of the proposed resolution and for Rural Utah Project to increase voting.

Daylene Redhorse - Daylene expressed support of the extension of the Settlement Agreement.

Joan Tallis - Joan expressed support for the extension of the Settlement Agreement.

Mary Benally - Mary expressed support of the proposed resolution and good interpretation services.

CONSENT AGENDA (Routine Matters) Mack McDonald, San Juan County Administrator

The Consent Agenda is a means of expediting the consideration of routine matters. If a Commissioner requests that items be removed from the consent agenda, those items are placed at the beginning of the regular agenda as a new business action item. Other than requests to remove items, a motion to approve the items on the consent agenda is not debatable.

Time Stamp 1:47:15 (audio) 1:57:33 (video)

A motion to approve the agenda and move item #7 to the Business/Action section of the agenda was made by Commission Vice-Chair Maryboy. The motion was 2nd by Commissioner Adams.
Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams.

Mack reviewed with commission the meeting agenda along with the consent agenda

A motion was made by Commission Vice-Chair Maryboy to approve the consent agenda which was seconded by Commissioner Adams.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

1. Check Registers for 01/27/2021 through 02/03/2021
2. Check Registers for 02/03/2021-02/09/2021
3. February 2, 2021 Commission Meeting Minutes
4. Consideration and Approval to purchase four (4) Walk-n-Roll Packers
5. Ratification of the Memorandum of Understanding between the Utah Department of Technology Services and San Juan County Public Health for VaccinateUtah Software
6. 2021 Cal Black Airport FAA SF-424 CRRSAA Covid Grant Funding Authorization for \$9,000 for COVID-19 Available Spending

RECOGNITIONS, PRESENTATIONS, AND INFORMATIONAL ITEMS

7. Comments on Draft Forest Plan – Nick Sandberg, Public Lands Coordinator

Item Moved to the end of the agenda

BUSINESS/ACTION

8. Spanish Valley Special Service District Board Recommendation Appointment Approval, Mack McDonald, Chief Administrative Officer

Time Stamp 2:03:20 (audio) 2:13:38 (video)

Mack presented, for approval, the Spanish Valley Special Service District Board appointments. He explained that the current board made recommendations of individuals who they would like to serve on the Board. Mack also reviewed county by-laws regarding Special District Boards. Further discussion followed regarding board member qualifications.

A motion to deny the recommended board appointments was made by Commission Vice-Chair Maryboy and was seconded by Commission Chairman Grayeyes.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy
Voting Nay: Commissioner Adams

9. Sky Ranch Estates Subdivision Phase II, Scott Burton, Subdivision Administrator

Time Stamp 2:25:35 (audio) 2:35:53 (video)

Scott presented, for approval, the Sky Ranch Estates Subdivision Phase II Platte. Scott explained that the subdivision application was received in October 2020 and that it was reviewed by staff. He also stated that several changes were made after communication with the developer until zoning requirements were met. The application was then submitted to and approved by the Planning and Zoning. Scott also discussed and reviewed a map of the proposed subdivision with the Commission. He also explained that the airport predates most of the houses currently built in the area.

A motion to approve the subdivision was made by Commissioner Adams which was followed by further discussion occurred. Mack also explained that the airport is a private airport and will continue to operate. He explained that the airport meets the current San Juan County ordinance which was followed by more discussion.

A motion to temporarily table the item until a legal review could be obtained was made by Commissioner Adams, Seconded by Commission Chairman Grayeyes.

Voting Yea: Commission Chairman Grayeyes, Commissioner Adams
Voting Nay: Commission Vice-Chair Maryboy

10. Consideration and Approval of the Revision to Spanish Valley Zoning Map, Scott Burton, Subdivision Administrator

Time Stamp 2:47:53 (audio) 2:58:11 (video)

Scott presented, for approval, map adjustments to Spanish Valley. He explained that the draft map has been reviewed, received public comment, and was recommended by the Planning & Zoning Commission.

A motion to approve the revised Spanish Valley Zoning Map was made by Commissioner Adams. The motion was 2nd by Commission Vice-Chair Maryboy.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy,
Commissioner Adams.

11. Legacy Fields Subdivision Phase II, Scott Burton, Subdivision Administrator

Time Stamp 2:50:33 (audio) 3:00:51 (video)

Scott presented Legacy Fields Subdivision Phase II for approval. He stated that Phase I was previously approved by the commission and explained that Phase II proposes and additional 21 lots which all meet the lot requirements.

A motion to approve the subdivision was made by Commissioner Adams and seconded by Commission Vice-Chair Maryboy.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

12. Consideration and Approval of the Application for Spanish Valley Overnight Accommodations Overlay (Rezone), Scott Burton, Subdivision Administrator

Time Stamp 2:56:02 (audio) 3:06:20 (video)

Scott presented an application for approval. He explained that this is first step in a three step process and explained that this step is a request to modify the zoning map so that a parcel could be included in the zone. Scott explained that the property owner would like build a glamping campground. If approved, step 2 would also come to the commission for approval.

A motion to approve the application was made by Commission Vice-Chair Maryboy and seconded by Commissioner Adams.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

13. Letter of Support for the Sorenson Legacy Foundation Grant Application, Presented by Mikaela Ramsay, Assistant Library Director

Time Stamp 3:00:28 (audio) 3:10:46 (video)

Mikaela presented a letter of support for the Sorenson Legacy Foundation Grant application. She explained that the library is currently working on creating a co-working space for individuals who are passing through and need a place to work. It would also be available to local individuals who would need to use it. Mikaela requested that the commission provide a letter of support to receive and additional grant which would help with the construction of the space.

A motion was made by Commission Vice-Chair Maryboy to approve the letter of support and was seconded by Commissioner Adams.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

14. Consideration and Approval of the Support Letter to Bluff City Historic Preservation Association for the Creation of the Bluff River Trail, Mack McDonald, Chief Administrative Officer

Time Stamp 3:06:38 (audio) 3:16:56 (video)

Mack presented a letter of support to be sent to Bluff City Historic Perseveration Association expressing the county's support of the creation of the Bluff River Trail.

A motion to approve the letter of support was made by Commissioner Adams and seconded by Commission Vice-Chair Maryboy.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

15. Consideration and Approval of the contract between the Utah Department of Health and San Juan Public Health for COVID-19 San Juan County – Vaccine Supplemental Support Funding of \$58,800, Mack McDonald, Chief Administrative Officer

Time Stamp 3:07:37 (audio) 3:17:55 (video)

Mack presented, for approval, a contract with the State of Utah to provide education regarding the vaccine. The contract is in the amount of \$58,800.

A motion to approve the contract was made by Commissioner Adams and seconded by Commission Vice-Chair Maryboy.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

16. Consideration and Approval of the COVID Community Partners Project Contract with the Utah Department of Health and San Juan County Public Health for \$27,158.40, Mack McDonald, Chief Administrative Officer

Time Stamp 3:09:23 (audio) 3:19:41 (video)

Mack presented a contract with the Utah Department of Health which would help with mitigation of COVID-19 and assist with tracing and awareness of the disease.

A motion to approve the contract was made by Commission Vice-Chair Maryboy and seconded by Commissioner Adams.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

17. Consideration and Approval of a letter of support for extension and expansion of the Radiation Exposure Compensation Act (RECA) and for State Rep. Doug Owen's House Concurrent Resolution (H.C.R. 18) to express Utah's support to US Congress to extend and expand RECA's benefits. Commissioner Willie Grayeyes

Time Stamp 3:10:40 (audio) 3:20:58 (video)

Mack requested that the commission approve a letter of support to allow for the extension and expansion of the Radiation Exposure Compensation Act. Commissioner Grayeyes explained that the radiation and exposure benefits will expire in 2022 so letters of support need to be sent to the State of Utah to help continue the assistance from the Federal Government.

A motion to approve the letter of support was made by Commission Chairman Grayeyes which was seconded by Commissioner Adams.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

18. Consideration and Approval of the Continuation of Uranium and Radiation Exposure Compensation Act Support Letter to the Navajo Nation Council Office of the Speaker. Mack McDonald, Chief Administrative Officer

Time Stamp 3:13:48 (audio) 3:24:06 (video)

Mack presented a letter of support which would be sent to the Navajo Nation Council Office of the Speaker in regards to the Radiation Exposure Compensation Act.

A motion to approve the letter of support was made by Commissioner Adams and seconded by Commission Vice-Chair Maryboy.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

19. CONSIDERATION AND APPROVAL OF THE RESOLUTION STATEMENT OF INTENT AND POSITION REGARDING THE STIPULATED SETTLEMENT AGREEMENT IN NAVAJO NATION HUMAN RIGHTS COMMISSION, ET AL. V. SAN JUAN COUNTY, ET AL., CASE NO. 2:16-CV-00154 JNP, FOR THE PURPOSE OF MEETING IN GOOD FAITH TO DISCUSS THE MODIFICATION AND EXTENSION OF THE STIPULATED SETTLEMENT AGREEMENT DATED FEBRUARY 22, 2018. Commissioner Willie Grayeyes

Time Stamp 3:14:40 (audio) 3:24:58 (video)

Commissioner Grayeyes presented a resolution to modify and continue the Settlement Agreement. The commission discussed proposed modifications to the Settlement Agreement.

Commissioner Grayeyes presented the proposed resolution for approval. Commissioner Maryboy commended the clerk's office for the work they have done with the elections. He also recommended that radio stations other than KNDN be used to provide radio ads regarding election information. After some discussion, modifications were made to adjust the time period of the proposed revised Settlement Agreement to 2024.

Mack also mentioned conflicts of interest that exist with the hiring of Attorneys Boos or Irvine to replace Suitter Axland as the attorneys that would represent the county. After some discussion the proposed resolution was revised to remove the stipulation to change county representation during the Settlement Agreement discussions.

A motion to approve the resolution was made by Commissioner Adams and seconded by Commission Vice-Chair Maryboy.

Voting Yea: Commission Vice-Chair Maryboy, Commissioner Adams

Voting Nay: None

Voting Abstaining: Commission Chairman Grayeyes

7. Comments on Draft Forest Plan – Nick Sandberg, Public Lands Coordinator

Time Stamp 3:38:35 (audio) 3:48:53 (video)

Nick stated the Forest Service is accepting comments on the proposed draft Forest Plan. He presented the county's draft comments to the commission. Nick discussed the Forest Service's goals with the Forest Plan and explained the county's comments and suggestions with regards to those goals.

Following a lengthy discussion, a motion was made by Commission Chairman Grayeyes to table sending the comment letter. Commission Vice-Chair Maryboy seconded the motion. Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

9. Sky Ranch Estates Subdivision Phase II, Scott Burton, Subdivision Administrator – **continued**

Time Stamp 4:13:12 (audio) 4:23:30 (video)

A discussion on the Sky Ranch Estates resumed after the county attorney's office became available online.

Scott Burton explained that the Sky Ranch Estates Subdivision Phase II was being considered for approval and talked about the discussion earlier in the meeting and concerns over the airport. Mack also talked about the airport and explained that the current status of the airport is outside the scope of a county ordinance that was passed in 2019. A discussion occurred where Alex Goble, from the county attorney's office, explained that a denial of the proposed development without a reason based in law could cause the county legal trouble.

A motion was made by Commission Vice-Chair Maryboy to table the approval of the subdivision. The motion was seconded by Commissioner Adams.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy

Voting Nay: Commissioner Adams

After the vote, it was explained by the county attorney's office that tabling the approval of the subdivision resulted in a denial. Further discussion took place.

A motion to recall the item was made by Commissioner Adams and was 2nd by Commission Vice-Chair Maryboy.

Voting Aye: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

A motion to approve the subdivision with the stipulation that the applicant consult with the community and then bring that information back to the Planning and Zoning Commission was made by Commission Vice-Chair Maryboy. The motion was 2nd by Commissioner Adams. Voting Aye: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams.

COMMISSION REPORTS

There were no commission reports.

ADJOURNMENT

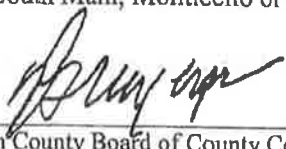
A motion to adjourn was made by Commission Vice-Chair Maryboy, Seconded by Commissioner Adams.

Voting Yea: Commission Chairman Grayeyes, Commission Vice-Chair Maryboy, Commissioner Adams

The Board of San Juan County Commissioners can call a closed meeting at any time during the Regular Session if necessary, for reasons permitted under UCA 52-4-205

All agenda items shall be considered as having potential Commission action components and may be completed by an electronic method **In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the San Juan County Clerk's Office: 117 South Main, Monticello or telephone 435-587-3223, giving reasonable notice**

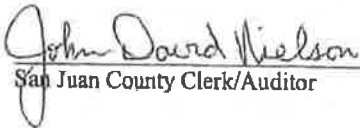
APPROVED:


San Juan County Board of County Commissioners

DATE:

3/2/2021

ATTEST:


San Juan County Clerk/Auditor

DATE:

3/2/21

BEFORE THE SAN JUAN COUNTY (UTAH) ADMINISTRATIVE LAW JUDGE

Karl Spielman, Tim O'Niell,
Beverly O'Niell,
Petitioners,

v.

San Juan County, Utah,
Respondents.

Mike Bynum,
Owner

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* Unofficial Transcript of
* Relevant Portions of Meeting
* of County Commissioners
* on February 16, 2021
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Part 1

Beginning at timestamp 2:37:00

(Timestamps based on YouTube recording, <https://www.youtube.com/watch?v=zGJvUZCQ7Dw>)

| Time | Participant | |
|---------|-----------------|---|
| 2:37:00 | Comm'r Grayeyes | Going on to Sky Ranch Estates Subdivision, Phase 2. Mr. Scott Burton, subdivision administrator. |
| 2:37:14 | Burton | All right |
| | Comm'r Grayeyes | You have the floor. |
| | Burton | 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 11 th 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. I believe the developers are on the lines, as well, if there are specific questions. They may be better at answering them that you would like them to weigh in on it. And, the way I understand this, this is either a yes |

| Time | Participant | |
|---------|-----------------|---|
| | | or a no. It's not a – if it were to be tabled, they would come back with the same. The application wouldn't change, so if it is a no I think I would [inaudible] out of courtesy to [inaudible] the developer if you have specific things you wanted them to look, maybe give them an opportunity to explain where it's, um, if that is what you're leaning towards. |
| 2:39:50 | Comm'r Grayeyes | All right. Um, the board, can we, what you're talking about? |
| | Burton | The subdivision? |
| | Comm'r Grayeyes | Yeah. |
| | Burton | So, in your packet, there's two, there's a plat, as well. |
| | McDonald | Um, do you want me to pull it out so you can see it on your computer, Commissioner? |
| | Burton | I don't have a large-scale plat, but I do have a more, an 8-1/2 by 11. |
| | Comm'r Grayeyes | Which view? |
| | Burton | Let me get to it. |
| 2:40:30 | Comm'r Grayeyes | Is this the one? |
| | McDonald | No, it's [inaudible] right here. Okay, it should be on your computer monitor. |
| | Burton | It's three pages to the plat, and they tie together this way. There's a right way. I've got separate sheets, so they kind of tie together. There's – this one ties right here. So, there's housing here in this little circle and then the runway comes this way and extends down here. |
| | Comm'r Grayeyes | What runway? |
| | Burton | So there's... |
| | Comm'r Grayeyes | Right here, the airstrip? |
| | Burton | Yeah, the airstrip runs right along here. And they have a 250 foot easement that is the runway that runs along the center right here. |
| 2:41:35 | Comm'r Grayeyes | A lot of comments were made, right, regarding this? |
| | Burton | 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. The airport has been there. Um, where this is a subdivision application that we received just recently. So. . . |
| 2:42:41 | Comm'r Grayeyes | Is there a motion to approve or deny? |
| | Comm'r Adams | I make a motion to approve |
| | Comm'r Grayeyes | Mr. Adams' Motion to Approve. Is there a second? |

| Time | Participant | |
|---------|-----------------|--|
| 2:43:00 | Comm'r Maryboy | Oh, stuck in mute, second, yeah. Now that's for the discussion, right? |
| | Mack | No, he just made a motion to approve it |
| 2:43:30 | Comm'r Grayeyes | Motion is to Approve without discussion |
| | Comm'r Maryboy | . . . [inaudible] to determine to acknowledge that. |
| | McDonald | Can you hear him? He was talking. |
| | Comm'r Maryboy | Mr. Chair? |
| | Comm'r Grayeyes | Mr. Maryboy? |
| 2:43:48 | Comm'r Maryboy | Where is this airport located at? |
| | Burton | Um, it's in Spanish Valley. |
| | Comm'r Grayeyes | Spanish Valley right in the middle of residences. |
| 2:44:22 | Comm'r Maryboy | Oh, my gosh. I will back out on my second on that one, then, if it's approval. For discussion I would but if it's for approval, I – maybe you can second that. |
| | Comm'r Grayeyes | There is a lot of comments made about Sky Ranch Development because the airport was first established way before residential housing. So, right now, their plan is to, um, adjacent to the runway, they will develop housing lots and build homes. The question that is raised are health and safety issues. If a plane crashes into some of the residences, we know who's going to be at fault. |
| 2:45:40 | Comm'r Maryboy | Um-hum. |
| | Comm'r Grayeyes | There were comments that were made. . . |
| | Comm'r Adams[?] | Who would be at fault? |
| | Comm'r Grayeyes | . . . that [inaudible] a lot of [inaudible] these safety measures are not in place. In fact somebody said, I've lived the airport airstrip runs sort of the northeast and southwest. |
| | Comm'r Maryboy | Yes sir. |
| 2:46:19 | Comm'r Grayeyes | And I believe there are three airplane hangars along the, adjacent to the airstrip, and a comment was made that somebody lives, Mr. Calvin Walker, I believe it was, at the end of the airstrip. There's no safety measures. If a plane doesn't take off and continues to run, what happens? |
| 2:45:56 | Comm'r Adams | I've been down there. I've been to the airstrip. |
| | Comm'r Grayeyes | Yeah, I've been there, too. |

| Time | Participant | |
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| | Comm'r Adams | I think that if it takes off, it'll just continue and it will run off into the field, there's not a home at the end of the strip. So it would just. . . |
| | Comm'r Grayeyes | Is it going? The runway is from the southwest to northeast. |
| 2:47:23 | Comm'r Adams | I guess it can go either way. |
| | Burton | It's kind of angled from southeast to northwest. |
| | Comm'r Adams | And, I think that the intention that he won't make -- my understanding was the homes that were being built, there would be a hangar underneath the home, but maybe not, I don't know. |
| 2:47:48 | Burton | Yeah, they have talked about . . . |
| | ? | Yeah. |
| | Burton | I don't know the exact configuration of what the homes will be, but, yeah, I think there is some desire. |
| | Comm'r Adams | I don't think that's a requirement, is it? |
| | Burton | No. And, they meet the lot size requirements per the plat, and that's what I say, you know. The concerns that are raised on each end of the runway, um, we recognize those concerns, but we don't have anything in our current zoning that requires a buffer area for private runways. These have their FAA license. |
| | Comm'r Grayeyes | But, there's no . . . [Crosstalk.] |
| | Burton | Not on private runways. |
| | Comm'r Adams | [Inaudible.] This is a private runway [inaudible]. [Crosstalk.] |
| 2:48:30 | Comm'r Maryboy | Mr. Chair. . . |
| | ? | Yeah, okay. |
| | Comm'r Grayeyes | Yes, Mr. Maryboy. [inaudible] |
| | Comm'r Maryboy | Mr. Chair, we're talking about safety issue and all of this. I've recused myself in seconding the motion for the record. Now, what I would like to do is maybe do a substitute motion and send this back to the safety expert regarding the location of the airport and also recognize the residential zoning. Maybe that way, we'll have a clearer picture of making a decision with each other. I would make that substitute motion. Give it back to the planning commission. |
| | McDonald | So, let me just try to help, um. We don't have a safety expert that would look at this. All that you can really apply, and this was kind of made to the planning commission as well, recognizing that there's an airport there. The airport's already been approved. It's in existence no matter what you do. It's gonna continue as a private airport, because it's that. It's an FAA approved private airport, so it exists. And, so really what you're looking at today is whether or not this plat, um, that they meet our zoning ordinance. That's all that we're looking at. We can certainly work |

| Time | Participant | |
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| | | with the private owner to try to mitigate any of the safety concerns, but, really, what we're looking at today with this plat map approval process is whether or not it meets code. Um, as you look at chapter 17-27a-603, it's kind of specific on what, what you're allowed to do once your approval is. We can't get into the airport ramifications or anything like that, because that's the private property owner's responsibility. When we look at this zoning, um, and there was a comment from the public as well. Back in 2018, we made these promises, but that was also under a different zone. Since then The Spanish Valley ordinances have been approved which allow for a higher density. So, the developer [inaudible] is that he went in and discussed this with the planning commission. That was really all you can weigh in on is whether or not it meets San Juan County ordinance. Um, you know, the lot sizes, we looked over that the lot sizes they do meet those changes in your ordinance and then, if you look through here, you one of those things mentioned is water, um, you know that water concern will come later, but it's something that they to reconcile themselves. The owner will have to go meet with the special service district and apply for the water permits if he hasn't already done so for these properties. But first and foremost, it's just subdividing his land in accordance with our ordinance. So really, we're looking at does this comply with our ordinance or not. That's really the only question that you can answer today. If it does comply with our ordinance, there is nothing in here that allows you to deny it. If it meets the ordinance. |
| 2:52:32 | Comm'r Maryboy | Mack? |
| | McDonald | Yeah, go ahead. |
| | Comm'r Maryboy | Did I hear you say it's a section 17? |
| | McDonald | Chapter 17-27a-603. |
| | Comm'r Maryboy | Thank you for that clarification. Mr. Chair? |
| | Comm'r Grayeyes | Yes sir. Go ahead. |
| | Comm'r Maryboy | That particular comment there that's being brought to us clearly states that the airport does not belong to the county or the state or any other entity as government. It belongs to the impacted people just like Navajo Oil and Gas. Navajo Oil and Gas is a section 17 to where it doesn't belong to the Navajo Nation, the state, or any other chapter. It belongs to the impacted area. So, therefore, the local people just made some comments. If it's a section 17, they're following the right order as it is, again without the help of our attorney. That's how I understand section 17. |
| 2:53:41 | McDonald | That sounds like a different chapter 17. This is the land use law in state code. Land use law doesn't give any rights to, um, to affected parties. It's mostly for individuals that own property. This is an owner acknowledgement survey and certificate. |

| Time | Participant | |
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| | Comm'r Adams | Mr. Chair? |
| | Comm'r Grayeyes | Mr. Adams. |
| | Comm'r Adams | Um, I'd like to request if we have an attorney online that he give us some advice. |
| 2:54:23 | Comm'r Grayeyes | Request for a legal opinion/advice. |
| | Comm'r Adams | I saw him on [inaudible] |
| | McDonald | He was on earlier. I know Kendall is not there. |
| | Burton | I talked to him earlier, and he had to go back in court. |
| | Comm'r Adams | Can we table the argument until we get an attorney online? |
| 2:55:03 | Comm'r Grayeyes | Temporary? Mr. Adams, temporarily table until legal attorney can respond to our or give us some advice on this issue. Is that your favor, Mr. Maryboy? |
| | Comm'r Maryboy | I stick with my motion, sir. Give it back to the planning commission to consult with the experts. That way, they can deal with the expert and give us all the data by the time they're done. |
| 2:56:02 | Comm'r Grayeyes | As I understand, I believe either the planning zoning committee has identified those issues before. The safe and healthy of the public. And, was forwarded to, um, the owner, but no response was made, no improvement. No planning of whatever is being that were issues so it just might be a continuation of that situation. |
| 2:56:55 | McDonald | Do you, Scott, are you aware of any conditions that are put on there before? |
| | Burton | Um, not that I'm aware. No. The airport, itself, was in place before any conditional use requirement was in our zoning. |
| | McDonald | Okay. |
| | Burton | And so, from what I understand it predates any – there is a conditional use now in our zoning, in our umbrella zoning, not the new zoning that's ... |
| | McDonald | In Spanish Valley. |
| 2:57:56 | Burton | ... that, you know, that we're doing this now. But, the umbrella ordinance does have a conditional use requirement for an airport. |
| | McDonald | But not back then. |
| | Burton | So, this was, this predated this. |
| | McDonald | Yeah. And this would be all grand – so the airport is grandfathered in when it was approved and continues forward to be grandfathered in. |
| | Burton | The planning commission has approved this so I don't know ... |
| 2:57:52 | McDonald | Yeah, we did take this, so last Thursday, this was on the planning commission for recommendation to you, and it came out as a favorable recommendation to them, the commission. As that, we can certainly table it until we get an attorney in here to look at it. |

| Time | Participant | |
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| | Comm'r Grayeyes | I'll go ahead and second Mr. Adams' motion to temporarily table until we get a legal opinion on it. So with that, I'd like to go ahead and call for the question at this time and say, all those in favor. |
| | Comm'r Adams | Aye. |
| | Comm'r Grayeyes | Aye. Opposed? Mr. Maryboy? |
| | Comm'r Maryboy | I oppose. [Crosstalk.] |
| 2:59:05 | Comm'r Grayeyes | The vote is – two in favor, one opposed. Motion carries. Next. |

Ending at timestamp 2:59:08

Part 2

Beginning at timestamp 4:24:35

| Time | Participant | |
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| 4:24:35 | McDonald | So the last item on the agenda, you had temporarily tabled the Sky Ranch Estates subdivision phase 2 until we can get an attorney here. It looks like we do have an attorney. Alex is on. Ah, Scott, I don't know if you want to recap that discussion. On that, we'll turn it over to Scott to kind of get us a recap of where we were at and then we can get into some of the legal discussion we've had. |
| | Burton | All right. So, we talked about this subdivision, Sky Ranch Estates Phase 2. We discussed that the airport, itself, is a use that's been there since 1985. Um, and that we are considering the subdivision, Phase 2, of this Sky Ranch Estates Subdivision, lot sizes, and things, that this was received in October. The county staff has reviewed it and has found that it meets all the requirements of the zoning, and then it went before the planning commission at their February 11th meeting, and they unanimously approved that so now it is coming before the county commission for their approval – the county commissioners. |
| | Comm'r Grayeyes | Is that number 11? |
| | Burton | It was... |
| 4:26:27 | McDonald | On the agenda, it was 9. |
| | McDonald | This is the one Commissioner Maryboy had asked us to hold off until we had an attorney present to help with the decision on there. One of the, one of the things, Alex if you're there, one of the things that was mentioned and just brought up is we've got Utah Code that we follow with as well as our ordinance that we follow for land use and plat maps. |
| | Goble | Yep. |
| 4:27:02 | McDonald | One of the things we discussed is everything on the plat map really should be considered outside of the airport. The airport isn't in |

| Time | Participant | |
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| | | ahead and put an airport right here and operate it. Maybe that needs to be done. So, I made a motion. |
| 4:35:35 | public | Mr. Chair, is it possible for me to make a comment? |
| | McDonald | So, with that . . . |
| | Goble | I'm not sure if there was a question in there for me or not, Mack. |
| | McDonald | Yeah, I didn't hear a question. I don't see the applicant online either anymore. I don't know if Mike has anything to add to it. With that, kind of what I'm hearing is Commissioner Maryboy had made a motion to table, did you hear that? |
| 4:36:07 | Comm'r Grayeyes | Yeah. |
| | McDonald | So, we just need a second for that. |
| | Comm'r Grayeyes | I will go ahead and second. If there's no further comment, all those in favor say "Aye." Aye. |
| | Maryboy | Aye. |
| | public | Yes. Yeah |
| | Comm'r Grayeyes | Opposed? |
| | Adams | No. |
| | Comm'r Grayeyes | One opposed. Two in favor. One opposed. The motion carries to table. |
| 4:36:51 | McDonald | So, one of the questions we have with that. So if it's tabled, what do you want us to do now with this? |
| | Goble | Mack, I can answer that question. |
| | McDonald | Okay, go ahead Alex. |
| | Goble | The tabling is a no. |
| | McDonald | So the tabling is actually a denial. |
| | Goble | It is an actual denial |
| | McDonald | So, but it's a denial without reason, though. That's why I have a hard time, is though that's a denial without reason |
| | Comm'r Adams | Open to a lawsuit? |
| | McDonald | Yeah... |
| 4:37:27 | Comm'r Grayeyes | It seems that a dinosaur was there before development around it. |
| | McDonald | Oh, absolutely. A pangea was there before. |
| 4:37:45 | Comm'r Grayeyes | At that time, there was no planning and zoning committee there. Also the commission did not have, or aware or not aware of the situation. This continues to rollover, rollover until . . . |
| | McDonald | Yeah. |
| 4:38:28 | Comm'r Grayeyes | People around there realize, hey, there's health and safety issues and there should be a buffer zone. All of that. How do we get out of it? |
| 4:38:53 | Burton | We need to consider the law as it is. That's what Alex was getting at. If we want a buffer zones then we need to do that through zoning ordinance and to develop an ordinance that creates a buffer zone. But, |

| Time | Participant | |
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| | | there's not one. That's where we're at right now, and we have an active application. |
| 4:39:10 | McDonald | And, that's the hard part is so you're in a point where land and property owners have rights to develop. They have the right to subdivide. And so last year you set the zoning to where you allowed for a smaller lot size in the Spanish Valley Ordinance. So, you allowed for that. All the applicant is doing is just that. He's made an application to go and get smaller lot sizes within his development. He owns that property. He has the right to do that [Inaudible]. Now, understanding that there's all these concerns you heard today that, you know, as homes encroach airports. If you look at several airports throughout Utah, you'll see this very same thing. Hill Air Force Base. Moab. Moab sits right next to the highway and any of bus that's driving down that road has a same problem with the approach with airplanes there. You look at airport 2 in Salt Lake City. This kind of all goes around. |
| 4:40:27 | ? | [Crosstalk] Provo Airport. |
| 4:40:38 | McDonald | All of these residential pieces encroaching airports. But the problem [Crosstalk] that you have is the airport was there before. And the developer, and what I like about it is the developer had mentioned that he's treating this as a private airport and the uses that are around here that he's planning on is a mixed use where you have residential and you have that airport hangar tied together. And so, he's creating a public or a private use, not a public use, with his own property. And so, to me that's — my concern is tabling kind of like Alex had mentioned is it is a denial, but you denied the application without cause, without merit. And that's illegal. You have to in your actions, we've got to state why it is that you do not like this plat, or where it meets and doesn't meet your zoning ordinance. That's why I referenced, and it's not Section 17 of Utah Code. It's chapter 17 of the Utah Code which governs plats required when land is subdivided, which is what this applicant is doing. If it's more information that you want for us to seek out before you make a decision, you know, then we can definitely state that as part of it. But, to just table it outside of no reason at all, I have some concerns with that, as well as your attorney. |
| 4:42:21 | Comm'r Grayeyes | Well, ah, the motloning party. . . |
| | McDonald | Commissioner Maryboy. |
| | Comm'r Maryboy | Mr. Chair, we just barely voted, right? |
| | Comm'r Grayeyes | Yeah. |
| | Comm'r Maryboy | And, after the fact, we're discussing. Mr. Chair, again, it's black and white. Two different things. The attorney wants to call it non-action item denial. But for the record, I tabled the item, and Mr. McDonald is seeking some guidance of what's supposed to come out of this tabling. Tabling motion. When we table deciding as you and Mr. Chair yourself, we are |

| Time | Participant | |
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| | | hoping that we would at least come up with a recommendation of who, how, when this item should be brought back. And, it doesn't make any sense for our attorney to tell us that no matter what, the airport was there and so therefore, those people that are around it can just hush and go back into their dark hole. I don't see it that way. These are people, just like you and I. They deserve to live where they want to. And, where is the negotiation? Where are the parties? We're the ones that are supposed to be the people, that's supposed to be in between the two parties to make a good living. I don't see that. So, again, we're discussing after the fact and, for the record, I tabled it. I didn't deny it. That's the attorney's call. If he wants to call it denial, then by all means. |
| 4:44:46 | McDonald | Okay. Just so you're aware when we did consult our ALJ, so our, so our (oh for some reason, it's skipping my head. It's getting late in the afternoon) our administrative law judge. When our administrative law judge looked at another item similar to this where you had just tabled it, um, he did, in fact, remind us that it is in state code that it does state that table during the land use decision is an actual denial. So, even if you table, you've got to give a little bit more than just an outright table because a table in itself is that, it's a denial. |
| | Comm'r Maryboy | Mr. Chair. |
| 4:45:44 | Comm'r Grayeyes | I guess it has to be table, isn't it. In this case it's tabled forever. |
| | McDonald | Which would be a denial, correct. |
| | Comm'r Grayeyes | Now... |
| | Comm'r Maryboy | Mr. Chair. |
| | Comm'r Grayeyes | If the table was with some type of timetable. |
| | Comm'r Maryboy | Mr. Chair. |
| 4:44:15 | Comm'r Grayeyes | And reason and directive would be more care than just to table it. If there was some, then we wouldn't be able to or there's not going to be any legal action against the tabling motion. That's what I would look for. Um... |
| | Comm'r Maryboy | Mr. Chair. |
| | Comm'r Grayeyes | Yes, Mr. Maryboy. |
| | Comm'r Maryboy | So my last question to our attorney. So this is a complete denial is the way you're going to respond. |
| | Goble | So, to answer that question if you table without any follow up directive or anything such as seeking information then it's a denial, and as the motion was only to table and nothing else was attached to that motion, then it's a denial. |

| Time | Participant | |
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| 4:47:23 | Comm'r Maryboy | Well, my phone cuts out. There's certain things I cannot hear. It must be the same thing on that side. You don't table anything without no probable cause or no recommendation. My tabling motion was to get you to get in touch with those that are involved with this and come back with an answer, but all that, I don't know if you all heard me, but that's what my recommendation and my tabling motion was. Did anybody hear that? |
| | Goble | That didn't come through to me. |
| | Adams | Nope. |
| | Comm'r Grayeyes | No. Neither I. |
| 4:48:08 | Comm'r Maryboy | Well, we already voted unless if you want to call it back and I can make that recommendations. |
| | Comm'r Grayeyes | Okay. Go ahead. Recall the item. |
| | Comm'r Maryboy | Go ahead Bruce. Bruce, want to recall it? |
| | McDonald | Do we need a vote? Do we make a motion to recall It so it's all clean? |
| 4:48:47 | Comm'r Grayeyes | Yeah. |
| | Comm'r Grayeyes | Is there a motion to recall the item? Number... |
| | McDonald | Seven. Let's see, sorry. |
| | Comm'r Grayeyes | Number 9. Item number 9. |
| | Comm'r Adams | Motion to recall. |
| | Comm'r Grayeyes | Mr. Adams' motion to recall. Is there a second? |
| | Comm'r Maryboy | Second. |
| | Comm'r Grayeyes | Second by Mr. Maryboy. All those in... |
| | Comm'r Maryboy | Mr. Chair. |
| | Comm'r Adams | Aye. |
| | Comm'r Grayeyes | All those in favor say "Aye." |
| | Comm'r Adams | Aye. |
| | Comm'r Maryboy | Aye. |
| | Comm'r Grayeyes | Aye. |

| Time | Participant | |
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| | Comm'r Grayeyes | Three in favor. |
| | Comm'r Maryboy | Mr. Chair. |
| | Comm'r Grayeyes | Nay, zero. Mr. Maryboy. |
| | Comm'r Maryboy | Mr. Chair, I'd like to make another motion. |
| | Comm'r Grayeyes | Okay, go ahead. |
| 4:49:40 | Comm'r Maryboy | I'd like to make a, I'd like to make a motion for approval of this project but with the conditions that the community is being consulted with the party that's going to be developing is being consulted and bring that information back to the planning commission. |
| | Comm'r Adams | Second. |
| | ? | [Inaudible.] |
| 4:50:12 | Comm'r Grayeyes | Mr. Maryboy, second by Mr. Adams. Any further and lengthy discussion? |
| | Comm'r Adams | Question. |
| | Comm'r Grayeyes | Question by Mr. Adams. |
| | Comm'r Adams | Alex, does that get us out of legal trouble? |
| | Goble | Um, yes and no. Um, if I'm understanding the motion correctly, the motion is to approve with a requirement which gets a little bit complicated that the developer needs to meet with the planning and zoning commission and take public comment on their concerns. If I understand commissioner Maryboy's motion correctly. |
| 4:51:00 | Comm'r Maryboy | The safety oversight that oversees airports and airplane and community, that, we need to know when the respond comes back. |
| | Goble | Okay. So, that discussion is for informational purposes? |
| | Comm'r Maryboy & Comm'r Adams | Yes. |
| | Goble | Then, I believe, as long as Mr. Burton has otherwise determined and the planning and zoning commission has otherwise determined the plat to be in compliance with the Spanish Valley Sub-ordinance, that should save us the legal trouble. |
| 4:51:32 | Comm'r Adams | Okay. Call for question. |
| | Comm'r Grayeyes | Call further question. All those in favor. |

| Time | Participant | |
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| | Comm'r Adams | Aye |
| | Comm'r Maryboy | Aye |
| | Comm'r Grayeyes | Aye |
| | Comm'r Grayeyes | Opposed, nay. Three in favor; zero opposed. Motion carries. Thank you. |
| | Comm'r Maryboy | So, what's the vote? |
| | ? | Tell us the vote. |
| | Comm'r Grayeyes | Three in favor, zero opposed. |
| | Comm'r Maryboy | I have to run to the [inaudible]. I'm going to be taking off, guys. |
| | McDonald | Okay, we just need a motion to adjourn. I think, though, unless you guys have public comments. |
| | Comm'r Maryboy | Motion to adjourn. |
| | Comm'r Adams | Second. |
| | Comm'r Grayeyes | Motion is made by Kenneth to adjourn. Seconded by Mr. Adams. And I third. Call further question. |
| 4:52:23 | Comm'r Adams | Yes. |
| | Comm'r Grayeyes | Say aye. |
| | Comm'r Maryboy | Aye. |
| | Comm'r Grayeyes | Aye. |
| | Comm'r Grayeyes | Three in favor. Opposed, nay? Nada. Three to zero. Motion to adjourn is at 3:45. |
| | ? | 6:00. [Crosstalk.] |
| | ? | We want to thank you guys. Appreciate it. |

Ending at timestamp 4:52:56 (YouTube recording)

Comm'r Grayeyes: Commissioner Willie Grayeyes
 Comm'r Maryboy: Commissioner Kenneth Maryboy
 Comm'r Adams: Commissioner Bruce Adams
 Burton: Scott Burton, Subdivision Administrator
 McDonald: Mack McDonald, County Administrator
 Goble: Alex Goble, Deputy County Attorney

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* ALSO ADMITTED IN FLORIDA
* ALSO ADMITTED IN NEW YORK
* ALSO ADMITTED IN OREGON
* ALSO ADMITTED IN TEXAS
* ALSO ADMITTED IN WYOMING

February 26, 2021

Via Email and First Class Mail

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Re: Appeal of Land Use Decision Regarding Sky Ranch Estates Subdivision Phase II

Dear Sirs:

This firm represents Karl Spielman and Tim and Beverly O'Niell. Mr. Spielman and the O'Niells are property owners in the Spanish Valley who are directly and adversely affected by the recent approval by the San Juan County Board of Commissioners ("Board") of the Sky

ClydeSnow

February 26, 2021

Page 2 of 12

Ranch Estates Subdivision Phase II (the "Decision").¹ Our clients hereby appeal the Board's Decision pursuant to Section 2-2 of the San Juan County Zoning Ordinance and request that an appeal hearing take place within thirty (30) days of the date of this letter.

Background²

The Sky Ranch airfield began as a small, dirt airstrip in the 1980s used by Bud Tangren for ranching activities. Mr. Tangren owned approximately 40 acres surrounding the airstrip. Our clients understand that Mr. Tangren transferred the property that included the airstrip to his son in or around 2003, and that his son subsequently sold the property to Mike Bynum. The airstrip was used infrequently in the late 1990s and early 2000s.

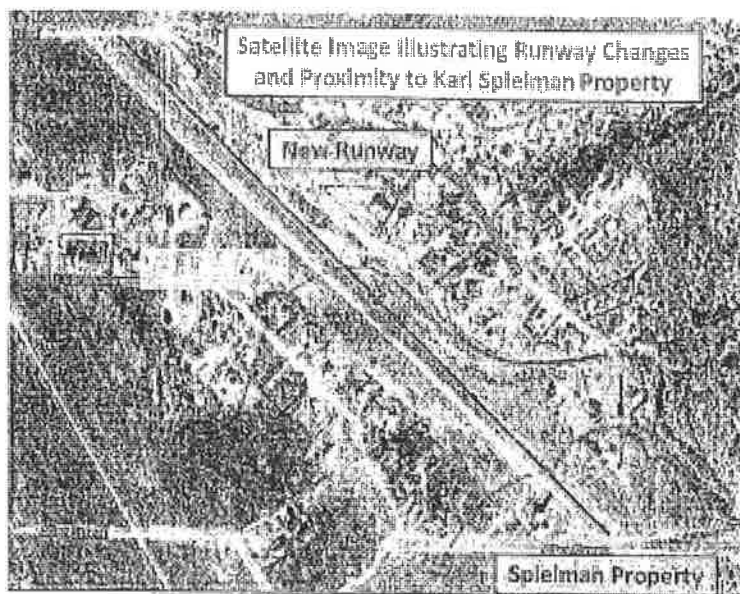
In or around 2001, while the property was still owned by Mr. Tangren, a subdivision known as Sky Ranch Estates Subdivision Phase I ("Phase I") was approved. Phase I consisted of six residential lots near the southern end of the airstrip. To date, only one residence has been constructed in Phase I.

Mr. Bynum, although not a pilot himself, envisioned a far more ambitious and large-scale development of the land around the airstrip. First, in 2017, Mr. Bynum installed a new runway to the east of the original airstrip. Without seeking approval of the Planning and Zoning Commission or the Board, Mr. Bynum graded and paved a brand new runway that extended an additional 550 feet south to Planesfield Drive and north to East Mount Peale Drive. Notably, Planesfield Drive is the border between Mr. Bynum's property and Mr. Spielman's property. The north end of the runway also extended into a piece of property purchased by Mr. Bynum that was not part of Mr. Tangren's property when the airstrip went into use. These changes transformed a small airstrip for ranching into a paved runway capable of accommodating heavy aircraft traffic.

¹ A recording of the February 16, 2021 Board meeting is available at <https://www.youtube.com/watch?reload=9&v=zGJvUZCQ7Dw> and will be referred to herein as the "Recording."

² The information herein is supported by the declarations of Karl Spielman and Tim O'Niell submitted with this appeal letter.

The following aerial diagram shows the change in location and then lengthening of the airstrip:³



Notably, in 2017, the San Juan County Zoning Ordinances stated that airports and airstrips were conditional uses in both the A-1 and RR-1 Districts.⁴ As such, any airport or airstrip placed in service in 2017 required a conditional use permit. Mr. Bynum did not seek or obtain a conditional use permit for his new runway.

After paving the new and expanded runway, Mr. Bynum filed an application with the Planning and Zoning Commission in 2018 seeking approval of the Sky Ranch Estates Subdivision Phase II ("Phase II"). At the time, the proposed Phase II included more than 30 new residential lots alongside the Sky Ranch Airport's new and expanded runway. After the Planning and Zoning Commission heard presentations by Mr. Spielman and his FAA and legal advisors, the Planning and Zoning Commission declined to take immediate action on the proposal, and it was subsequently withdrawn by Mr. Bynum. On February 11, 2021, Mr. Bynum presented a renewed Phase II proposal to the Planning and Zoning Commission, but this time the plan would add 75 residential lots around the new and expanded runway. The plat map for the most recent proposal clearly shows residential lots abutting the new runway. *See Exhibit A*. The plat shows that most lots include easements to accommodate the runway and suggests that houses would be built approximately 125 feet from the centerline of the new runway. *See id.*

³ The aerial diagram is incorporated from the Declaration of Mr. Spielman. *See Declaration of Karl Spielman*, ¶ 11.b. An aerial video showing the grading and repaving of the runway, taken by Chuck Nichols, is available at:

<https://www.dropbox.com/s/bi6g5sf3tec160m/Sky%20Ranch%20Airport%2012.12.17.mp4>.

⁴ San Juan County Zoning Ordinance (2011) at § 11-2(6).

This proximity of residential houses to a runway is contrary to the safety practices promulgated by the Federal Aviation Administration ("FAA") in Advisory Circular AC 150/5300-13A entitled "Airport Design" (the "FAA Advisory Circular").⁵ Although this Advisory Circular is not mandatory for private airports, the owners of private airports should and generally do follow these safety practices to protect human life and property and to protect themselves from tort liability in the event of accidents, which are unfortunately common among small aircraft and amateur pilots.

Among other things, the FAA Advisory Circular prescribes that runways be surrounded by enough open space to accommodate an airplane that is out of control. The following is Figure 3-16 from the FAA Advisory Circular, which shows the amount of open space that should surround a runway, referred to as the "Runway Protection Zone" or "RPZ." Color-coding has been added for ease of reference.

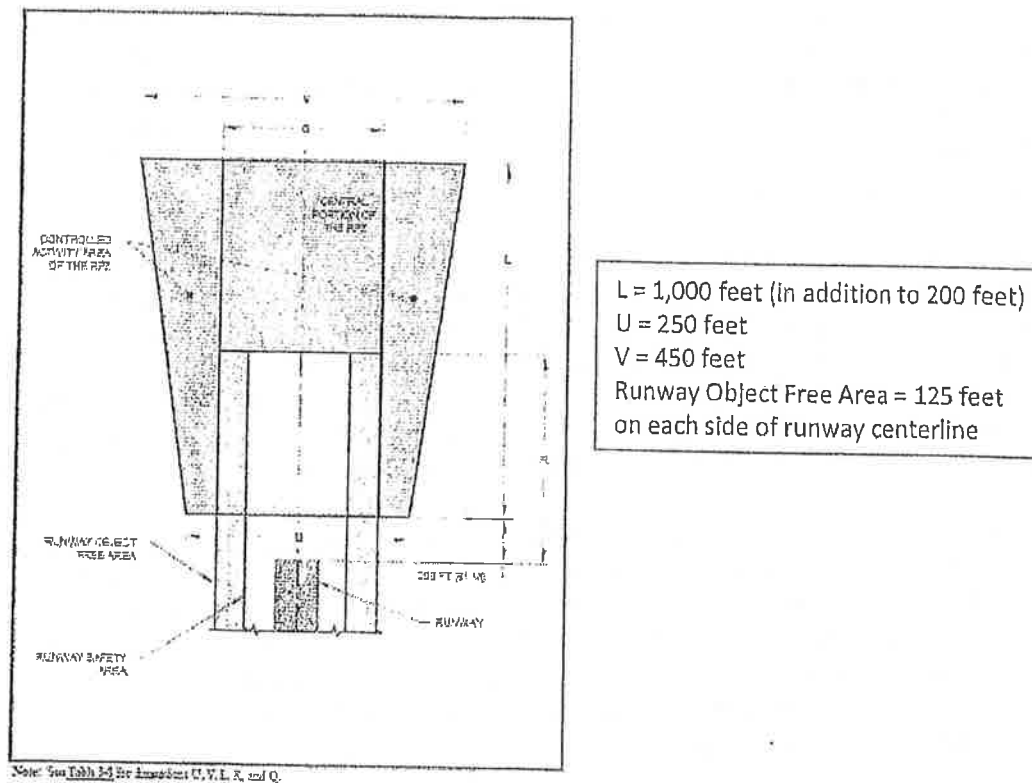


Figure 3-16. Runway Protection Zone (RPZ)

⁵ A copy of the Advisory Circular AC 150/5300-13A is available at https://www.faa.gov/documentLibrary/media/Advisory_Circular/150-5300-13A-chg1-interactive-201612.pdf.

These RPZ recommendations from the FAA have not been adhered to in the design of the Sky Ranch Airport or Phase II. The RPZ for the new runway would extend into at least the backyards of the proposed residential homes that would be built in Phase II, if not into the homes and other structures themselves. If a plane were to lose control during takeoff or landing, it is easily foreseeable that the wreckage could cause injury to Phase II residents or guests, as well as damage to property.

Moreover, the RPZ for the new runway currently extends approximately 1,200 feet into Mr. Spielman's property to the south and the same distance past East Mount Peale Drive to the north. This means that Mr. Bynum and Phase II are using property belonging to others as run-off space for the new runway. Mr. Spielman is effectively precluded from putting to use the northern 1,200 feet of his property. This loss of use reduces his property value. Moreover, Mr. Spielman, the O'Niells, and other uses of Planesfield Drive are placed at risk because that road now runs through the middle of the RPZ, roughly perpendicular to the end of the runway. Any plane that takes off near the end of the runway could easily collide with an automobile on the road because the runway has not implemented the 20:1 glide ratio that is recommended in the FAA Advisory Circular. The 20:1 glide ratio takes into account the fact that aircraft ascend and descend gradually, and in the seconds after take-off or before landing they may be close enough to the ground that they could collide with vehicles, buildings, or other structures. Thus, the 20:1 glide ratio requires an obstacle-free space similar to the RPZ to avoid collisions.

At the April 2018 meeting of the Planning and Zoning Commission, when Phase II was first proposed, these and other safety issues were presented by Randy Patchett, an expert on airport construction and operations from the FAA. Mr. Patchett expressed his opinion that the Sky Ranch Airport should follow the safety guidelines in the FAA Advisory Circular. He emphasized the need to surround an airstrip with enough open space to accommodate an airplane that loses control and may depart the runway. Mr. Patchett explained that none of the safety practices in the FAA Advisory Circular appeared to have been adopted at the Sky Ranch Airport.

At no time during or after its April 2018 meeting did the Planning and Zoning Commission make any findings on the safety implications of the new runway or the Phase II subdivision because Mr. Bynum withdrew the Phase II application. When Mr. Bynum re-submitted his expanded Phase II application in 2021, it was approved by the Planning and Zoning Commission without any discussion of these important safety issues or of the legal and factual questions surrounding whether the airfield had been "grandfathered in" as a nonconforming use or noncomplying structure.

Nearly concurrently with the Planning and Zoning Commission's 2018 proceedings on the Phase II application, the Sky Ranch Airport was addressed in the Spanish Valley Area Plan by Landmark Design. The Area Plan stated, "Sky Ranch is a private airfield located in the northern reaches of the Study Area. Since San Juan County does not have specific ordinances in place to ensure the operation of such facilities are safe and the impacts on surrounding users is

understood, Federal Aviation Administration (FAA) rules should apply.”⁶ Appendix K to the Area Plan summarized airport safety guidelines from the FAA and the Compatible Land Use Planning Guide for Utah Airports, which was created by the Utah Department of Transportation and the Mountainland Association of Governments to assist communities and counties as they consider land use regulation surrounding an airport.⁷ Appendix K notes, among other things, that “500 feet on either side of the runway centerline [should] be a ‘no development zone,’ where only structures used for maintenance of the airport and storage of aircraft should be allowed.”⁸

As a further resource, the FAA employs Community Planners who are available to consult with municipalities and property owners regarding the design of private airfields. Our clients understand that such consultations are provided upon request, free of charge. The FAA’s Community Airport Planners for the Denver ADO Region are John Sweeney (303-342-1263, john.sweeney@faa.gov) and Christy Yaffa (303-342-1280, christine.yaffa@faa.gov).

Ultimately, adopting recommended safety guidelines would not preclude Mr. Bynum from having a runway but would require more careful planning to protect both the residents of Phase II and its immediate neighbors. Open space *must* be provided for the safety of those on the ground and also those in an aircraft. The runway *must* have open, obstacle-free areas around the runway and near both terminal ends. Phase II should not be approved in its current form, bisected by a runway that is out of compliance with zoning laws and out of compliance with safety guidelines.

Grounds for Appeal

The Decision taken by the Board to approve Phase II was erroneous and should be reversed on appeal. The Decision was arbitrary and capricious because it was based on misinformation provided by County staff during the Board meeting on February 16, 2021. The Decision was also illegal because it was based on an erroneous interpretation of the 2019 San Juan County Spanish Valley Development Ordinances of the San Juan County Zoning Ordinance (the “2019 Spanish Valley Ordinances”).

I. Summary of the February 16, 2021 Board Meeting

During the Board meeting on February 16, 2021, the Commissioners observed that numerous citizens had expressed safety concerns that merited consideration. The Commissioners indicated that the Planning and Zoning Commission should consult with safety experts regarding the citizens’ concerns and report the experts’ recommendations to the Board before the Board voted on the Phase II application. In particular, the Board wanted to know whether additional

⁶ Spanish Valley Area Plan, adopted April 17, 2018, available at https://www.lidi-ut.com/images/project-docs/Spanish-Valley/SV_FINAL_PLAN_4-17-2018_compressed.pdf.

⁷ The Compatible Land Use Planning Guide for Utah Airports is available at https://www.udot.utah.gov/main_old/uconowner.gf?n=200411180926131.

⁸ *Id.* at Appendix K.

buffer zones should be required between the runway and the proposed residential housing.⁹ Commissioner Maryboy summed up his views, as follows: "Send this back to the safety experts regarding the location of the airport and also recognize the residential zoning. Maybe that way we will have a clear picture of making a decision with each other."¹⁰

County staff responded to the Commissioners' concerns with misinformation. County Administrator Mack MacDonald stated incorrectly that "the airport's already been approved," "it's an FAA approved airport," and "we don't have a safety expert."¹¹ Mr. MacDonald further stated that "the airport is grandfathered in."¹² Finally, he stated that "land use law doesn't give any rights to affected parties."¹³

Commissioner Grayeyes then indicated his understanding that the Planning and Zoning Commission had forwarded citizens' safety concerns to the applicant and that no response had been provided.¹⁴ Planning Director Scott Burton, who had been present at the April 2018 presentation by Mr. Patchett from the FAA, responded that he was not aware of any such health or safety concerns being forwarded to the applicant because the airport had been grandfathered in and was not currently before the commission.¹⁵

The matter was tabled by a majority vote of the Board until a legal opinion could be obtained. At the end of the meeting, Assistant County Attorney Alex Goble joined the meeting to provide the requested legal opinion. Mr. Goble reiterated the misinformation of the other County staff, stating, "As it was described to me, the airport was approved years ago."¹⁶ Based on this incorrect premise, Mr. Goble went on to advise the Board that to deny approval to Phase II because an approved airstrip exists nearby could "land the County in legal trouble" because "there is nothing in the ordinance that says that you can't build residential homes around an airport in that residential area."¹⁷

The Board again voted to table the matter "until we get in touch with the right appropriate people to give us some guidance and also a recommendation of how it's being dealt with in other

⁹ E.g. Recording at 2:45:12 ("... health and safety issues are not in place.") (Commissioner Grayeyes); 2:45:50 ("A lot of these safety measures are not in place.") (Commissioner Grayeyes).

¹⁰ Recording at 2:48:53.

¹¹ Recording at 2:49:33.

¹² Recording at 2:57:42; *see also* 4:27:40 ("All of this airport predates our current ordinance . . . and is grandfathered in.").

¹³ Recording at 2:53:50.

¹⁴ Recording at 2:56:05.

¹⁵ Recording at 2:57:01.

¹⁶ Recording at 4:29:16.

¹⁷ Recording at 4:29:24 ("Denying the residential development absent a reason in the ordinance itself, could land the County in legal trouble."); 4:29:45 ("To deny it because an airstrip exists nearby, yes" it would create legal jeopardy.); 4:30:06 ("Since there is nothing in the ordinance that says that you can't build residential homes around an airport in that residential area, those are the rules the County adopted and those are the ones we have to live by.").

rural cities.”¹⁸ Mr. Goble stated that “tabling” the matter was equivalent to denying it,¹⁹ and Mr. MacDonald argued against the Board’s decision, stating that the developer had created “a private airport” and could do what he wanted “with his own property.”²⁰ He further instructed the Board that it was “illegal” for them to deny the application “without cause.”²¹

Based on this erroneous information from their staff, the Board then voted to approve Phase II, subject to a condition that the community and aviation regulators be consulted by the Planning and Zoning Commission.²² In substance, the consultation requirement was entirely precatory – as long as consultation took place, the development could go forward, regardless of whether any community concerns were addressed or resolved.

II. The Decision Was Arbitrary and Capricious.

A decision by a land use authority “is arbitrary and capricious if the decision is not supported by substantial evidence in the record.” Utah Code § 17-27a-801(3)(c)(i). Here, the Decision was arbitrary and capricious because it was based on factually incorrect statements by County staff rather than on substantial supporting evidence in the record.

First, there is no evidence that the FAA has ever approved the Sky Ranch Airport or its smaller predecessor airstrip. As Mr. Patchett stated to the Planning and Zoning Commission in 2018, the FAA neither licenses nor approves small private airports but rather recommends safety practices for their design and operation, as set forth in the FAA Advisory Circular (which have not been implemented here). Mr. MacDonald’s statement that the FAA had approved the Sky Ranch Airport was simply incorrect.

Second, there were and are “safety experts” available to assist the County in evaluating the proposed configuration of the Sky Ranch Airport and Phase II from an aviation safety perspective. The FAA’s Community Airport Planners are available to consult with municipalities, and their contact information is set forth above. Mr. MacDonald misinformed the Board when he stated that the County did not have a safety expert with whom to consult about the Sky Ranch Airport or Phase II.

Third, the Land Use, Development, and Management Act (“LUDMA”) does afford rights to “affected parties” to challenge land use decisions. Utah Code Section 17-27a-701 requires counties to adopt ordinances permitting an “adversely affected person” to appeal land use decisions. Similarly, Utah Code Section 17-27a-801 permits an “adversely affected party” to challenge a land use decision in district court. And the 2019 Spanish Valley Ordinances take into account the rights of all nearby residents in stating that “development . . . shall promote and

¹⁸ Recording at 4:34:13 (motion by Commissioner Maryboy).

¹⁹ Recording at 4:37:10.

²⁰ Recording at 4:40:40; 4:41:00.

²¹ Recording at 4:41:15.

²² Recording at 4:49:30 (motion by Commissioner Adams); 4:51:01 (comment by Commissioner Maryboy clarifying terms of approval); 4:51:39 (vote approving motion).

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protect public health, safety, and welfare.”²³ Here, Mr. Spielman and the O’Niells are adversely affected parties due to their proximity to the proposed Phase II subdivision and their use of Planesfield Drive. In addition, as explained above, the new runway appropriates approximately 1,200 feet of Mr. Spielman’s property as run-off space and renders that portion of the property unsafe, unusable, and less valuable. Notwithstanding Mr. MacDonald’s incorrect statement to the contrary, Mr. Spielman and the O’Niells are adversely affected parties with the right to challenge the County’s erroneous Decision under LUDMA.

Fourth, there is no evidence in the record that the Airport has been “grandfathered in.” The Utah Code provides that a “nonconforming use” – colloquially referred to as a “grandfathered” use – to mean “a use of land that:

- (a) legally existed before its current land use designation;
- (b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and
- (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

Utah Code § 17-27a-103(46). Only “nonconforming uses” that meet this definition may be continued by a property owner despite a zoning ordinance prohibiting the use or structure. *See* Utah Code § 17-27a-510. “[T]he property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use” Utah Code § 17-27a-510(4)(c). Abandonment of a nonconforming use may be presumed if “the use has been discontinued for a minimum of one year.”

As set forth above, it has been hotly contested in the Planning and Zoning Commission whether the current Sky Ranch Airport is a continuation of the preexisting land use of the small airstrip that Mr. Tangren began using in the 1980s, considering (1) the relocation of the runway, its expansion, and the other substantial changes that took place in 2017, and (2) the infrequent use of the airstrip in the late 1990s and early 2000s. The applicant has not carried his burden of establishing the continuous existence of this non-conforming use, and the Planning and Zoning Commission has not made any findings on these issues, so it was incorrect for the County staff to represent to the Board that the airstrip had been “grandfathered in.”

Fifth, it is incorrect that none of the citizens’ safety questions had been posed to Mr. Bynum. Many such questions were posed to him during the April 2018 meeting of the Planning and Zoning Commission, and he was unable to provide satisfactory responses. Instead of addressing the safety concerns, Mr. Bynum withdrew his application for approval of Phase II shortly after the April 2018 meeting. The Planning and Zoning Commission did not entertain the citizens’ safety questions when Phase II was considered again in 2021.

²³ San Juan County Spanish Valley Development Ordinances of the San Juan County Zoning Ordinance, at ch. 1.

Sixth, Mr. Goble incorrectly advised the Board that a “tabling” or denial of Phase II would have landed the County in legal trouble.²⁴ As set forth in more detail in Section II, Mr. Goble’s advice was premised on an erroneous interpretation of the 2019 Spanish Valley Development Ordinances. The Sky Ranch Airport does not qualify as a statutory nonconforming use or noncomplying structure, and it has never been approved by the Board as a conditional use. It is a clear hazard to human health and safety, which is why the 2019 Spanish Valley Development Ordinances were drafted to intentionally exclude airports from the SVR District.²⁵ The Board is not required to ignore a clear and obvious danger in the middle of a proposed residential subdivision and was certainly empowered to withhold approval on this basis.

The Decision was not based on substantial evidence in the record. Indeed, based on the information before them, the Board voted twice to table Phase II. Only after being badgered and misinformed by County staff did the Board vote to approve Phase II. The Decision is therefore arbitrary and capricious and should be reversed.

It is immaterial that the record may contain some evidence that the Phase II plat map complies with the Ordinances’ requirements for lot sizes, lot spacing, frontage, and utility easements. The fact remains that the Board was misled by false information into approving Phase II, despite legitimate questions raised by at least two Commissioners during deliberations. The Decision should be reversed, and the matter should be remanded to the Planning and Zoning Commission and the Board so that a proper decision can be made based on accurate information.

III. The Decision Was Illegal.

“A decision is illegal if the decision is (A) based on an incorrect interpretation of a land use regulation or (B) contrary to law.” Utah Code § 17-27a-801(3)(c)(ii). Here, the Decision was illegal because it was premised on an incorrect interpretation of the applicable Ordinances and because the vote was taken contrary to the Policies and Procedures of the San Juan County Commission.

A. The Decision Was Based on an Incorrect Interpretation of the 2019 Spanish Valley Ordinances.

As set forth above, Mr. Goble advised the Board that to deny approval to Phase II because an approved airstrip exists nearby could “land the County in legal trouble” because “there is nothing in the ordinance that says that you can’t build residential homes around an

²⁴ The Policies and Procedures of the San Juan County Commission, available at <https://sanjuancounty.org/wp-content/uploads/2020/08/Commission-Procedures.pdf>, expressly permit the Board to “table” or “postpone” agenda items and require the County administrator to “ensure that such items shall be automatically added to the agenda of subsequent meetings until acted upon or permanently deleted by a majority vote of the Commission.”

²⁵ 2019 Spanish Valley Ordinances, ch. 1 (not identifying airstrips or airports as a permitted use or an enumerated conditional use).

airport in that residential area.”²⁶ This opinion was based on an erroneous interpretation of the 2019 Spanish Valley Ordinances.

The 2019 Spanish Valley Ordinances do not require the Board to ignore a clear and obvious danger in the middle of a proposed residential subdivision. Indeed, the Ordinances state with respect to the Spanish Valley Residential (“SVR”) District that “development in this district . . . shall promote and protect public health, safety, and welfare.”²⁷ Further, the Ordinances state that “[l]and deemed to be environmentally unsuitable shall not be platted for residential occupancy, or for such other uses as may increase danger to health, life, or property *The County shall not approve the subdivision of land if it is determined that the site is not suitable for platting and development purposes.*”²⁸ Airports are well-known sources of air pollution and groundwater pollution and are otherwise an unsuitable location for a residential subdivision unless safety precautions are implemented, including sufficient buffer zones.

Thus, contrary to Mr. Goble’s advice, the requirements in the 2019 Spanish Valley Ordinances for lot size, spacing, frontage, utility easements, and other easily measurable subdivision characteristics were not the only criteria for the Board to consider. The Ordinances permitted and even required the Board to consider whether the proposed development would “promote and protect public health, safety, and welfare” and whether the land in question was suitable to be platted for a residential subdivision. It is important for the Board to consider health, safety, welfare, and land suitability because the Ordinance so requires and because LUDMA allows any “adversely affected person” to appeal a land use decision. *See* Utah Code §§ 17-27a-701, -801.

The Board was not required to ignore the clear and obvious fact that most of the lots included an easement for an airstrip that would occupy much of the future residents’ respective backyards. Mr. Goble incorrectly advised the Board to place blinders on themselves to ignore the airport integrated into Phase II, along with its health and safety implications. The Board’s Decision reluctantly approving Phase II based on Mr. Goble’s erroneous advice should be reversed and remanded to the Planning and Zoning Commission and the Board for further reconsideration based on a correct understanding of the 2019 Spanish Valley Ordinances.

B. The Decision Was Procedurally Improper under the Policies and Procedures of the San Juan County Commission.

²⁶ Recording at 4:29:24 (“Denying the residential development absent a reason in the ordinance itself, could land the County in legal trouble.”); 4:29:45 (“To deny it because an airstrip exists nearby, yes” it would create legal jeopardy.); 4:30:06 (“Since there is nothing in the ordinance that says that you can’t build residential homes around an airport in that residential area, those are the rules the County adopted and those are the ones we have to live by.”).

²⁷ San Juan County Spanish Valley Development Ordinances of the San Juan County Zoning Ordinance, at ch. 1.

²⁸ *Id.* (emphasis added).

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The Policies and Procedures of the San Juan County Commission govern the conduct of Board meetings.²⁹ Among other things, they provide that a motion to reconsider may be "introduced [only] by a Commissioner who had voted with the prevailing side."³⁰

In the February 16, 2021 meeting, the Board properly voted to "table" the Phase II application until further information could be obtained regarding citizens' safety concerns.³¹ Commissioners Maryboy and Grayeyes voted in the majority, and Commissioner Adams voted in the minority. At the end of the meeting, Commissioner Adams made a motion to "recall" or "reconsider" the prior vote on the Phase II application.³² Such a motion was improper because Commissioner Adams voted in the *minority* on the prior tabling motion. Because the motion to reconsider was not properly made, the subsequent vote to approve Phase II was out of order, illegal, and should be reversed.

For the foregoing reasons, the Decision should be reversed and remanded to the Planning and Zoning Commission and to the Board so that the FAA's Community Planner and other experts can be consulted and so that the numerous open issues related to whether the Sky Ranch Airport is a nonconforming use can be resolved based on an adequate factual record.

Sincerely,

CLYDE SNOW & SESSIONS, PC



Matthew A. Steward
Shaunda L. McNeill

²⁹ See Policies and Procedures of the San Juan County Commission, available at: <https://sanjuancounty.org/wp-content/uploads/2020/08/Commission-Procedures.pdf>.

³⁰ *Id.*

³¹ Recording at 4:36:48.

³² Recording at 4:49:06.

Exhibit "A"



STAFF REPORT

MEETING DATE: February 11, 2021

ITEM TITLE, PRESENTER: Sky Ranch Estates Subdivision Phase II, Scott Burton, Subdivision Administrator

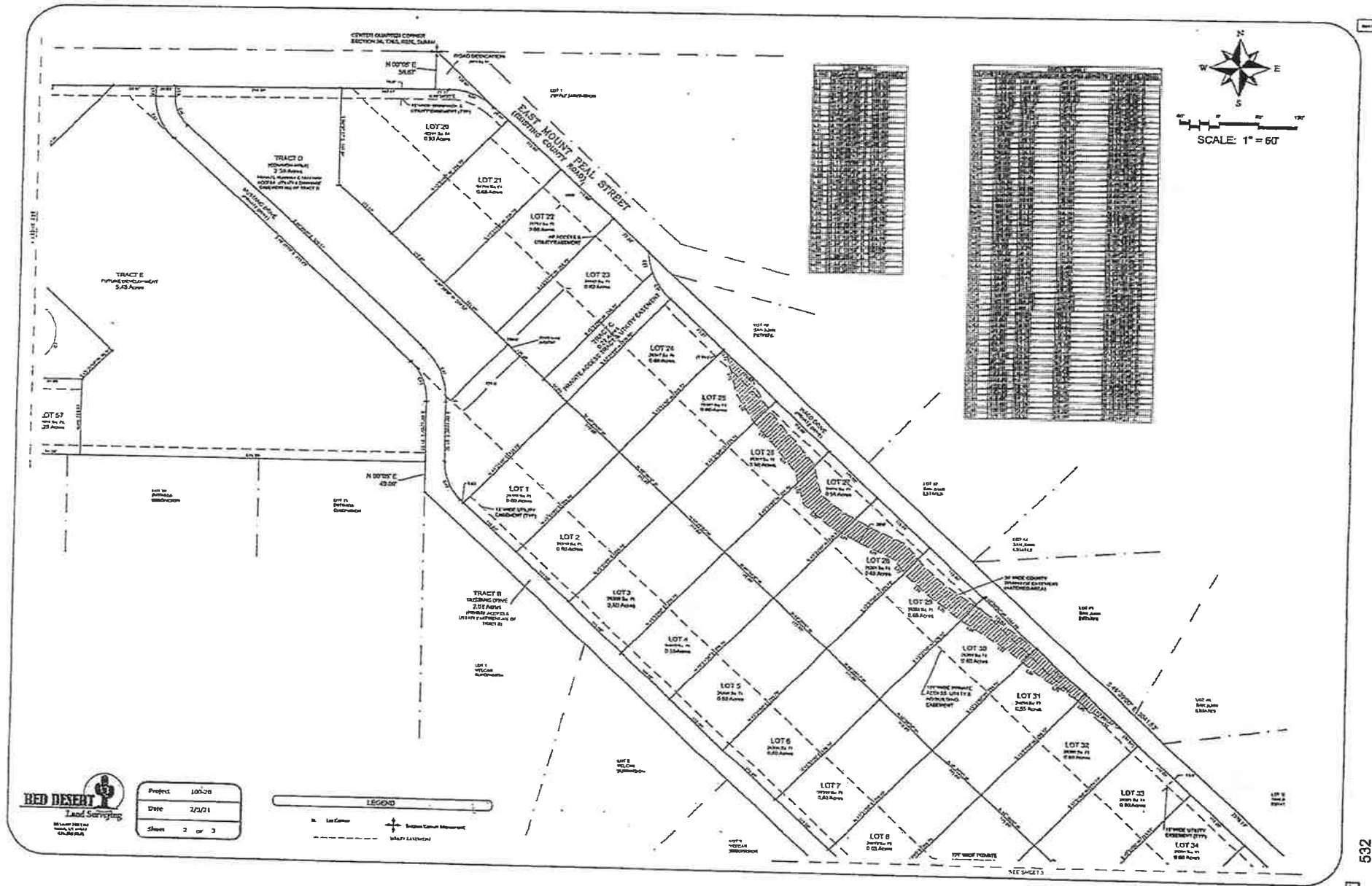
RECOMMENDATION:

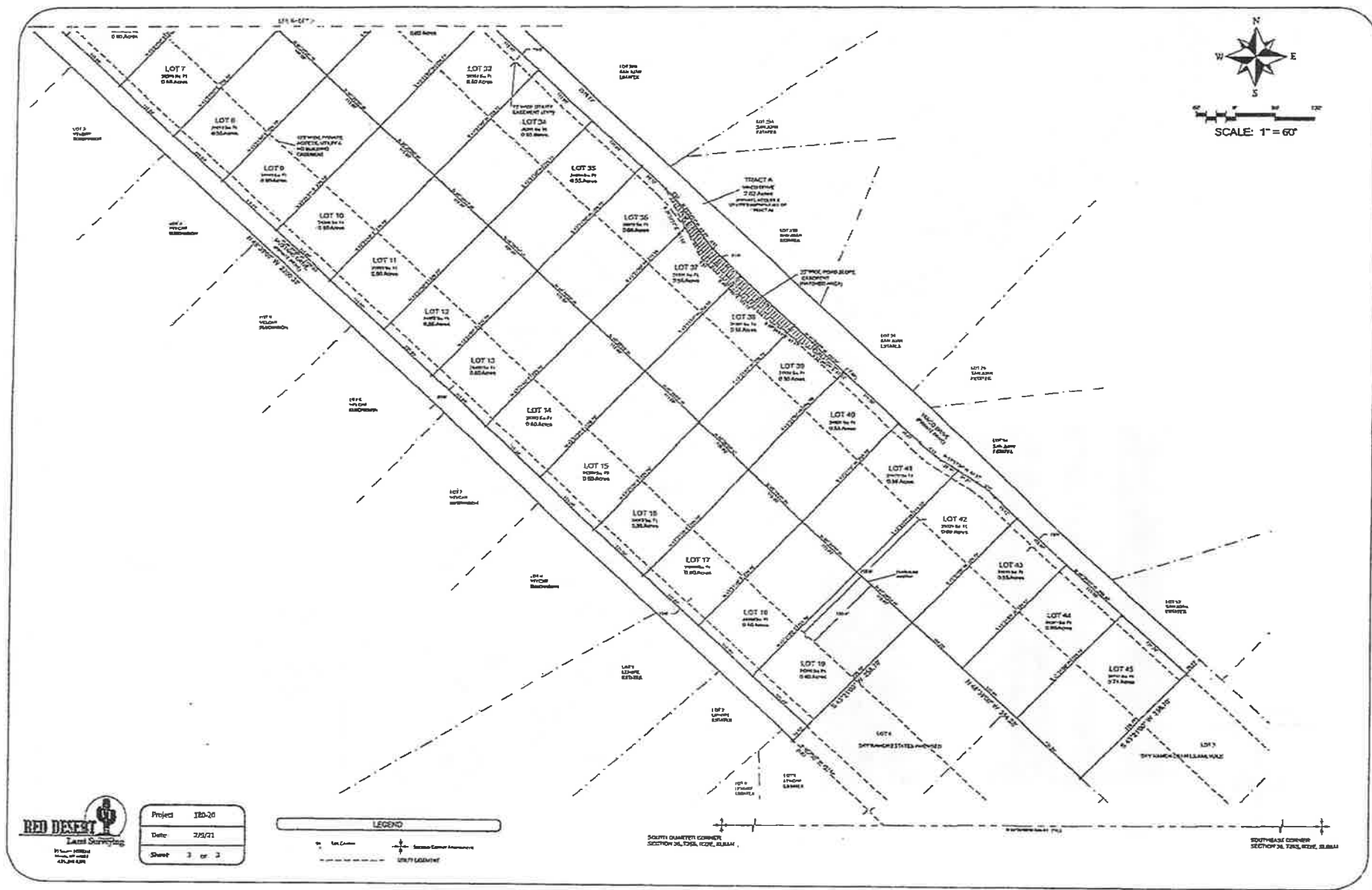
SUMMARY

The Sky Ranch Estates Subdivision was approved in June, 2000 with 6 lots at the south end of the Sky Ranch airport, with 32 acres reserved for future development. Sky Ranch Estates Phase II proposes to add 75 addition lots.









Declaration of Karl Spielman

I, Karl Spielman, state and declare as follows:

1. I have owned Red Annie Ranch in Northern San Juan County, Utah, since May of 1998. My ranch property encompasses approximately 71 acres, which are located immediately south of a subdivision known as Sky Ranch Subdivision Phase I.
2. I have spent 39 years as a pilot. I have several Type Ratings, including as a commercial pilot. I am still an active pilot and aircraft owner, with significant experience managing an aviation business, and with small airports.
3. I offer this declaration as part of my appeal of a land use decision by the Board of San Juan County Commissioners on February 16, 2021, approving a new subdivision in Northern San Juan County known as Sky Ranch Subdivision Phase II.
4. My understanding is that Sky Ranch Subdivision Phase I was approved for development by San Juan County on January 9, 2001, at which time it consisted of six lots and a small airstrip that had been used prior to that time by the previous owner, Bud Tangren, as a landing area for an airplane he used personally for ranching activity. To date, only one residence has been constructed in Phase I.
5. Bud Tangren's airstrip was used infrequently between the years of 1998 when I moved in next door, and 2008 when Mike Bynum bought the property. I know this because I was next door and mine was the contact phone number for the airstrip in Bud's absence. I did this as a favor for Bud Tangren who was concerned that itinerant aircraft would use the airstrip in his absence. He was a resident of Las Vegas and rarely at Sky Ranch.

6. After Mike Bynum bought the property in 2008, the rate of aircraft visitation declined further until 2016 or 2017, due to the deterioration of the runway surface with 4' high Chamisa (rabbitbrush), which rendered the airstrip unusable for months at a time between infrequent yearly mowings. I witnessed this directly.

7. In approximately December 2017, the owner of the unsubdivided land adjacent to the airstrip, Mike Bynum, significantly altered the existing airstrip. He changed the location of the airstrip – keeping the south end of the airstrip approximately where it had been, but moving the north end of that airstrip to the east by approximately 80 feet. At the same time, he lengthened the airstrip by approximately 550 feet, extending it over an additional tax parcel north of the original Tangren property containing the original airstrip. Mr. Bynum also had the newly-expanded airstrip re-aligned, graded and paved. Approximately 50 feet of an existing building was put to demolition to facilitate this expansion. In my view as a pilot, this was a completely new runway that was more capable of handling larger aircraft and more significant traffic than the old runway that Bud Tangren had maintained for his personal use.

8. After the runway was lengthened and paved, it ended only a few feet from my property. As a result, if any airplane overruns the runway on takeoff heading south, or comes in short on landing to the north, the airplane will certainly be damaged and the wreckage will end up on my property. This prospect significantly impinges on my ability to use my property, because it would be impossible for me to locate any structure on my land that is proximate to the end of the runway, for fear that the structure could be damaged or destroyed in any mishap, or even in ordinary aircraft operations. Mr. Bynum is not entitled to use my land as the overrun space for his airport, but that is precisely what he has done by building the runway in that way that he

has and the County's acquiescence makes it complicit. Airplane accidents at all small airports are inevitable and could be liability events for the County and Mr. Bynum if, as seems likely, injury or property damage occurs on neighboring lots or structures. Mr. Bynum's use of my property as run-off space also substantially reduces the value of my property. For example, I cannot sell the property for housing development as long as a runway abuts the border of the property, without proper open space separation between the two parcels, which must be contained on Mr. Bynum's property and not mine.

9. Shortly after making the changes to the runway noted above, Mr. Bynum sought approval for an expansion of the Sky Ranch development from 6 lots to more than 36 with an additional subdivision known as Sky Ranch Subdivision Phase II. In this Phase II proposal, Mr. Bynum asked to develop additional lots on either side of the runway. The runway would be for use by the owners of those lots and their guests.

10. Mr. Bynum's proposal was brought before the San Juan County Planning and Zoning Commission at several of its meeting in early 2018. I also attended those meetings and was given an opportunity to make a formal presentation to the Planning and Zoning Commission on April 12, 2018 concerning the proposed development and the recently-altered runway that is an integral part of the development. In making my presentation, I was joined by Randy Patchett, an expert on airport construction and operations from the Federal Aviation Administration, and by my then lawyer, Dale B. Kimsey from Sandy, Utah. All three of us made detailed presentations to the Planning and Zoning Commission.

11. I understand that the meeting of the Planning and Zoning Commission was recorded, but the recording is no longer available on the Utah Public Notice Website. I have asked my

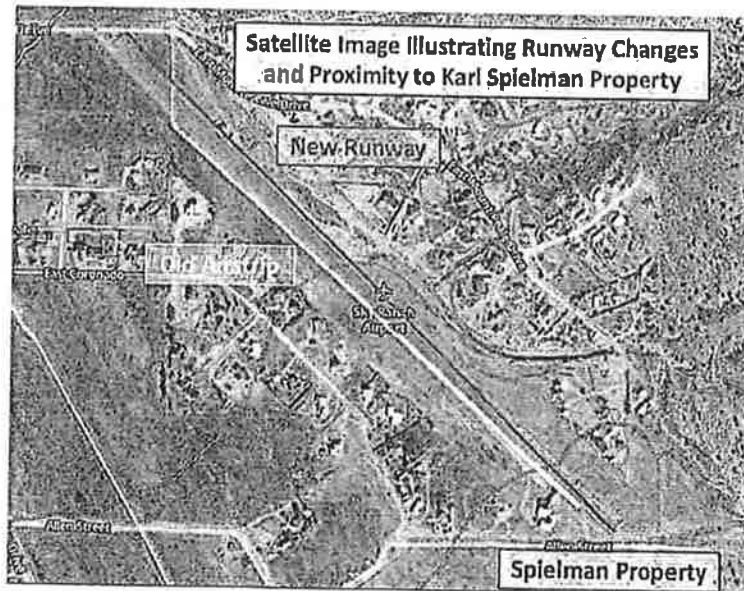
legal team to attempt to obtain a copy of that recording, because reviewing it could help me to refresh my recollection. But this was an important meeting and I have done my best to recall the details of the meeting in the paragraphs below. I will strive to confirm my recollection when and if the recording becomes available; at this time, my best recollection is reflected below.

a. Mr. Patchett from the FAA explained to the Planning and Zoning Commission the difference between a private airstrip and a small private airport. An airstrip, such as the one that had been used by Bud Tangren, is typically used by a single aircraft (or very few aircraft) on an occasional basis. Such airstrips have few if any FAA requirements. A small private airport is a larger operation, with the capacity for additional takeoffs and landings. The FAA neither licenses nor approves the operation of small private airports, but the FAA does encourage certain safety practices at such airports. These practices are fully described in the FAA's Advisory Circular AC 150/5300-13A entitled "Airport Design". This document contains all of the FAA's hard-won knowledge gained by years of crash investigations and successful safe planning practices for airports large and small including Mr. Bynum's Sky Ranch. Most important to our considerations here, are the inclusion of enough open space to accommodate an airplane that is out of control due to either an over-shot or aborted landing or takeoff. Airplanes depart the runway for many reasons and not all that infrequently. FAA guidance encourages that design considerations such as Displaced Thresholds, Runway Obstacle Free Areas (ROFA's), and Runway Protection Zones (RPZ's) be incorporated in Mr. Bynum's planning. Adopting these simple safety features would not preclude Mr.

Bynum from having a runway, but would help protect both the residents of Sky Ranch and its immediate neighbors from harm. Open space *must* be provided for the safety of those on the ground and also those in the aircraft itself. Runways *must* have open, obstacle-free areas near their terminal ends. Common sense also tells us this. As it is currently configured, Mr. Bynum's property is not large enough to accommodate these necessary design features. He is essentially dumping his safety oversights onto my property and onto the property of other neighbors north of the runway. Mr. Patchett explained that none of these safety practices appeared to have been adopted at the Sky Ranch airport. Living next to the airport, as I do, I am unaware of the adoption of any such safety practices since Mr. Patchett's presentation.

b. Mr. Kimsey, my legal advisor, described for the Planning and Zoning Commission that reasons why the airport that existed as of April 2018 should not be considered the same airport that had been operated by Bud Tangren. In December 2017, the airport had been transformed from a small rancher's airstrip into a substantially changed airport that was meant to host significantly more flight operations. These changes included physically moving the runway, making the runway substantially longer, grading the runway and paving it to accommodate heavier aircraft traffic. The changes to the runway can still be seen in satellite pictures, where the old airstrip that had belonged to Bud Tangren is visible angling to the west of the airport runway that was built by Mr. Bynum in December 2017. My legal advisor explained that the changes meant the "use" of the property had changed significantly and was, essentially, a new use. As a result, he explained to the Planning and Zoning Commission,

even if Bud Tangren's airstrip had been a non-conforming use that could continue to operate, the new and significantly changed airport represented a new use that required a conditional use permit under the County's Zoning Ordinances of the time, before it could be allowed to operate. My legal advisor and I argued that the proposed Phase II subdivision should not be approved until a conditional use permit for the airport was obtained, because the airport (which bisects the subdivision) is such an integral part of the plan. The following aerial diagram shows the manner in which the runway was extended past the original Skyranch property, and shifted eastward in 2017:



12. My recollection is that the April 2018 meeting ended without the Planning and Zoning Commission taking any action on the proposed Sky Ranch Subdivision Phase II proposal. As a result, no conclusions were reached by the Planning and Zoning Commission concerning the issues that had been raised – especially with respect to the compliance of the airport with FAA best practices and the question whether the airport was a grandfathered use or in need of a conditional use permit before further development could proceed. Indeed, when I asked

Walter Bird, then the Head of Planning for San Juan County, what conclusion the Planning and Zoning Commission had reached, he answered that they probably would require Mr. Bynum to obtain a conditional use permit. When I asked him if I should come to the May 2018 Planning and Zoning Commission meeting, Mr. Bird said that Mr. Bynum had pulled the application and so I need not attend.

13. Scott Burton, who I understand is the current San Juan County Zoning Administrator, sat two rows behind me with Mr. Bird at the April 12, 2018 meeting and should be familiar with this outcome. Trent Schafer, who was the Chair of the Planning and Zoning Commission at that time, remains the Chair of the Planning and Zoning Commission today.

14. Mr. Bynum again proposed the Sky Ranch Subdivision Phase II at the Planning and Zoning Commission meeting on February 11, 2021. To the best of my knowledge, *none of the issues* that were raised by me and my advisors at the Planning and Zoning Commission meeting in April 2018 had been answered or resolved before the February 11, 2021 meeting. My understanding is that none of those issues were discussed in any detail at that meeting. The Planning and Zoning Commission nevertheless recommended that the Board of San Juan County Commissioners approve the proposal.

15. The proposed Sky Ranch Subdivision Phase II was subsequently considered by the Board of San Juan County Commissioners on February 16, 2021. At that meeting, I was permitted three minutes to address the Commissioners on the proposal. At the meeting, I did the best I could to present the issues raised by the subdivision and the operation of the runway, but I could not offer nearly the amount of detail that I and my advisors had presented in April 2018.

16. I believe the history of consideration in April 2018 is important to my appeal, because County staff members made three erroneous claims to the Board of County Commissioners that I believe were material to the decisions made at the February 16, 2021 meeting.

a. First, the Commissioners were told that the FAA had "license[d]" the airport and that it was "approved" by the FAA. To the best of my knowledge, these statements were untrue. The FAA does not approve or license airports like the Sky Ranch; rather, the FAA promotes best practices at such airports by encouraging county planners to adopt design criteria outlined in their advisory circular (referenced above), as was described by Mr. Patchett in April 2018. None of those best practices have ever been adopted at Sky Ranch.

b. Second, the Commissioners were told repeatedly that the airport was "grandfathered in." My understanding, based upon the presentation by my lawyer in April 2018, is that serious issues existed and still exist whether, in light of the significant changes made to the runway in December 2017, the airport remained "grandfathered" or had become a new use that required a conditional use permit in order to operate.

c. Third, at one point in the meeting, following a statement by Commissioner Grayeyes suggesting that health and safety issues had been forwarded to the owner and never responded to, Mr. Burton was asked if he knew of any such issues and he said no, none that he was aware of, or statements to that effect. Of course, such issues had been raised in April 2018 at a meeting Mr. Burton had attended. To the best of my knowledge and understanding, those issues have never been addressed by Mr. Bynum.

17. If 75 residential homes and aircraft storage hangars are built around the runway, the use of the air traffic on the runway is likely to see a dramatic increase. It is also likely that many of the homes in Phase II will be made available as short-term rentals to non-local pilots wishing to vacation in the Spanish Valley. I estimate that the number of take-offs and landings (referred to collectively in the aviation industry as "aircraft operations") could easily increase to 100 or more total operations during a single holiday weekend. The Sky Ranch airfield is a challenging place to land and take-off because of the nearby hills and frequent cross-winds, and I am concerned that Phase II will attract pilots unfamiliar with the area and unable to navigate the airfield safely. In my opinion as an experienced pilot, the risk of non-local pilots attempting to navigate a challenging airfield that is closely bordered by residential housing and roads is a recipe for disaster.

Pursuant to Utah Code Ann. § 78B-5-705, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Dated this 26th day of February 2021.

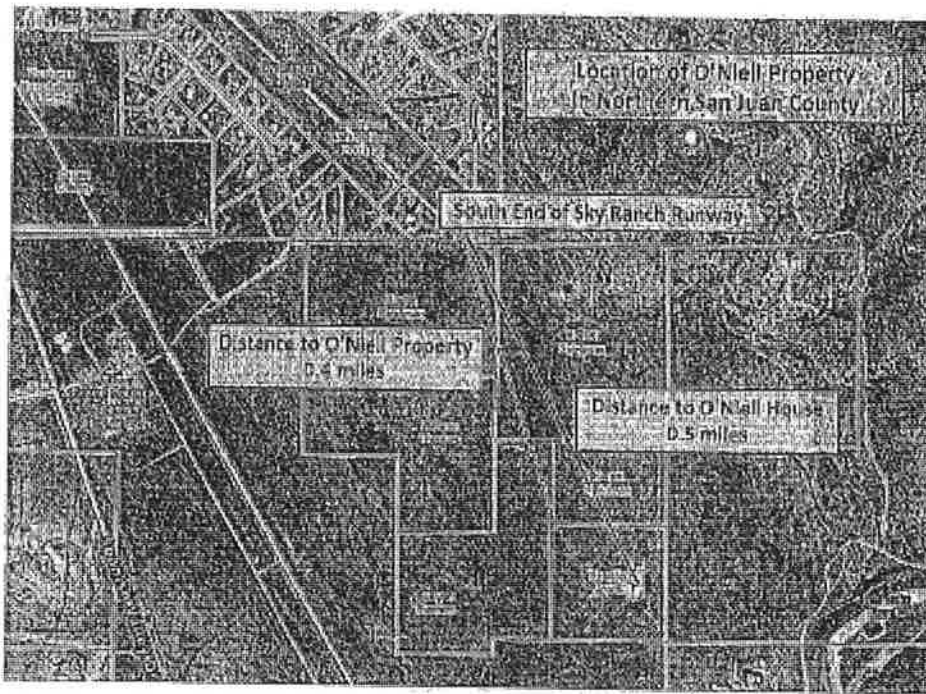
Karl Spielman

Karl Spielman

Declaration of Tim O'Niell

I, Tim O'Niell, state and declare as follows:

1. Along with my wife, Beverly O'Niell, I reside in northern San Juan County just north of Ken's Lake. We have owned this property, which includes approximately 14 acres and our house, for approximately 18 years. My property is directly south of land owned by Karl Spielman. My property boundary is approximately 0.4 miles from the south end of the present Sky Ranch runway and my home is approximately 0.5 miles from the south end of the runway.



2. I offer this declaration as part of our appeal of a land use decision by the Board of San Juan County Commissioners on February 16, 2021, approving a new subdivision in Northern San Juan County known as Sky Ranch Subdivision Phase II.

3. Flights have been very infrequent during most of our 18 years in the Spanish Valley, especially during the last decade or so of Bud Tangren's ownership of the airfield in the late 1990s and early 2000s.

4. My wife and I have long been concerned by the operation of the Sky Ranch airport and our concerns are significantly heightened by the prospect of up to 75 additional residences and accompanying airplanes located at and using the airport, as a result of the newly approved subdivision. Having reviewed the website at the Canyonlands Field Airport, which is substantially larger, including a substantially longer and wider runway, I was surprised to learn that only 40 single engine aircraft are resident at that airport, with 2 additional helicopters, 2 commercial jets and 2 private jets also located at that field. The Sky Ranch development, in contrast, calls for 75 new residences, most of them right alongside the runway, creating the possibility that up to 75 new aircraft will be using Sky Ranch on a regular basis. This could be more aircraft than regularly reside at the larger Canyonlands Field Airport.

5. My wife and I are especially concerned about safety issues presented by the airport and the prospect of more frequent flights. We understand that the airport lacks many safety features that the Federal Aviation Administration encourages at private airports of this kind. Our concern is heightened by the prospect that many of the pilots who may use the airport will be recreational pilots, rather than professionals. We are concerned that the risk of mishap is much greater when an airport of this kind is used by less experienced pilots. We also understand that flying conditions in Spanish Valley can be challenging and that difficult wind patterns were at least part of the reason the old Canyonlands Airport was closed and the new Canyonlands Field Airport was moved to a much less convenient, but safer location north of

Moab. The north end of the old Canyonlands Airport runway was located less than a quarter mile from the north end of the Sky Ranch runway.

6. My wife and I also are concerned about the prospect of additional noise coming from low altitude overflights of our property as aircraft land and take off from Sky Ranch. A very loud helicopter already regularly uses the airport, and the small number of flights into and out of the airport in the past have imposed a very different burden on us and other neighbors than the prospect of an airport that could host many flights every day – perhaps even more flights than at Canyonlands Field Airport.

7. My wife and I have regularly expressed our concerns about Sky Ranch in public meetings, in telephone conversations with San Juan County personnel and in letters to the editor. In communications with the Board of San Juan County Commissioners and with the Planning and Zoning Commission in 2019 (attached as Exhibit A), and also in a letter to the Editor of the San Juan Record in 2018 (attached as Exhibit B), we expressed our support for the promise in the Spanish Valley Area Plan (adopted by the County Commission on April 17, 2018) that the County would apply Federal Aviation Administration (FAA) rules to the airport, because “San Juan County does not have specific ordinances in place to ensure the operation of such facilities are safe and the impacts on surrounding uses is understood.” (See Spanish Valley Area Plan, page 33.) Unfortunately, we are not aware of the adoption of any FAA safety measures by Sky Ranch. We are therefore shocked and dismayed that the County would consider approving a new subdivision where the airport is an integral part, without making sure FAA best practices have been implemented. Unfortunately, the prescriptions in the Area Plan were never considered or discussed during the County Commission’s deliberations on February 16, 2021.

8. When the proposed Sky Ranch Subdivision Phase II came before the Board of San Juan County Commissioners on February 16, 2021, my wife was allowed 3 minutes to address the Commissioners (a copy of her comments is attached as Exhibit C). My wife reminded the Commissioners that many safety concerns about the airport had been raised in 2018, when the Phase II subdivision was first proposed, and that none of those concerns had yet been addressed. She highlighted dangers presented by air conflicts in the area and by aircraft operating at dangerously low altitudes over our house. She noted that those issues will only become more problematic as the number of flights increases as new homes and aircraft hangars are built in the development.

9. During the course of the February 16, 2021 County Commission meeting, County staff members repeatedly told the County Commissioners that no consideration could be made of health, welfare and safety concerns associated with the airport or of the prospect of significantly increased operations resulting from the expanded number of houses and aircraft hangars at Sky Ranch. We were surprised by these statements, since the airport is clearly an integral part of the subdivision development. The runway bisects the entire development and most of the lots in the development include a significant easement for the runway. The County's own Area Plan, moreover, calls for the airport to meet FAA standards – yet we and the County's Commissioners were told discussion of such issues was out of order.

Pursuant to Utah Code Ann. § 78B-5-705, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Dated this 26th day of February 2021.

Tim O'Neill

Tim O'Neill

Exhibit “A”

May 4, 2019

Dear San Juan County Commissioners & San Juan County Planning Commission:

My name is Tim O'Neill and my wife and I have owned land and been residents of Spanish Valley in San Juan County for 16 years. Our home is located just north of Ken's Lake.

Over the past 18 months I have attended a few of the meetings concerning development of Spanish Valley (2 meetings held at the Water Grand County District and 2 meetings of the Planning Commission in Monticello).

I am glad that more people are aware and interested in what is happening in our end of the valley, as evidenced by the standing room only crowd at the April 3 meeting in Grand County.

I am for the development of Southern Spanish Valley having a plan and to be well thought out. My concern is that much of the plan as it was developed doesn't seem to reflect the current residents wishes as expressed in the Spanish Valley Area Plan Guiding Principles.

Most of the Spanish Valley Area Plan Guiding Principles and comments are targeted at keeping a quiet rural area that we current residents sought out when we chose Spanish Valley as our home.

I was very surprised to find the height ordinance would allow a 120-foot building in our valley. Most of us find a 2-story building to be out of place in Spanish Valley – consider lowering height restriction to a maximum of 2-3 story being the tallest structure allowed.

I thought comments at the April 3rd meeting urging San Juan County to get ahead of the nightly rentals in residential areas and to prohibit residential nightly rentals. AS I see it nightly rentals is a commercial activity with extra noise, traffic and congestion in an area designated for people to live a quiet peaceful life.

I was glad to see in the Spanish Valley Area Plan on Landmarks website that San Juan County will apply FAA rules to the proposed Sky Ranch airport. Even if the growth in Spanish Valley is slower than expected, there is already too many people that would be affected by air traffic in what has already become a residential area including San Juan County and SITLA. If air traffic is allowed at Sky Ranch, it will slow the growth and lower property values for everyone in the area. The FAA rules clearly show not enough room at Sky Ranch buffer zones required for safety, not to mention for noise.

We have a beautiful newly expanded airport a short distance north of town where it is safe and doesn't bother the residents of San Juan or Grand counties.

I have concerns about other issues:

Do we have enough water for expansion on this scale?

Much higher density in an area where 1 acre was the smallest lot with many people having larger parcels?

Air quality in the valley from the gravel pits are creating impressive clouds of dust down the whole valley and are a health hazard to all.

So here is hoping that we can find a path for moderate growth that doesn't take away the quality of life that we all came here for initially.

Tim O'Neill
Beverly O'Neill

Exhibit "B"

Letters/Opinion

Letters to the Editor

The San Juan Record welcomes letters from our readers. Letters to the Editor must be:

- No more than 150 words
 - Signed
 - Include the author's address and phone number
- The San Juan Record reserves the right to edit letters for length, clarity and to eliminate libelous or defamatory material. Letters do not determine the editorial position of the San Juan Record.

SJR

The San Juan Record
1000 Main Street, Suite 100
Monticello, Utah 84403

AWARD-WINNING
NEWSPAPER

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Can airport safety issues be mitigated?

Dear Editor:

Out of sight, out of mind... this appears to be the sentiment of the decision-makers in San Juan County regarding the proposed Sky Ranch airport in Spanish Valley. Yet, nothing could be further from the truth for the residents of the surrounding neighborhoods.

The old ranch airstrip that accommodated maybe one or two planes per year for the past 50 years is being transformed into a huge runway and housing development that could see hundreds of take-offs and landings each year. The safety issues surrounding an airport are well known.

Eighty percent of all plane crashes are within approximately five minutes of take-off or landing. There are hundreds of residents that live within this zone already. This number will grow to thousands of residents when Spanish Valley is more fully developed. This safety issue will NOT resolve itself over time. Ever.

Is this airport going to benefit anyone but the developer and some private pilots? Is a new airport that caters to rich

pilots that want to fly directly into their driveways worth risking the lives and homes of nearby residents? Can these safety risks be mitigated by a nicely worded HOA agreement? Of course not.

I hope San Juan County Commissioners take into account the safety and well-being of the current and future residents of Spanish Valley, rather than giving in to the whims of a developer that wants to do a unique development. Let's continue to develop Spanish Valley as a place where families want to live and thrive and that provides residents with a much-sought-after quiet and rural quality of life.

The Sky Ranch airport may be a fine idea for an area that is not densely populated. But Spanish Valley doesn't fit that description these days.

If Sky Ranch is such a great idea - why is there so much opposition? (More than 100 Spanish Valley residents signatures on a petition opposing the development of Sky Ranch)

Berery O'Neill
Spanish Valley Resident

Loop road in Spanish Valley needs maintenance

Dear Editor:

We are writers to the SJC Commissioners, Administration, Road Dept and Spanish Valley Area Plan Advisory Commission as 17-year residents of San Juan County concerning a road that is so poorly maintained that we fear has become an extreme hazard to the lives that travel it.

The road, commonly known as the Spanish Valley/LaSal Loop Road, is a county highway that begins at the junction of Old Airport Road and Spanish Valley Road. It is a two-lane highway and is part of the LaSal Mountain Loop Road Scenic Backway. It is a popular drive with incredible views for cars and bicycles. Every year the traffic on this highway increases and will likely increase with the growth in Spanish Valley.

In our 17 years of residency, the road has never been resurfaced. Equally important is that the road has not been properly maintained and the amount of maintenance performed on it perverts to have decreased as the usage has increased.

Significantly, there have been two major construction projects that have resulted in heavy trucks traversing that road on a daily basis. Additionally, cattle traverse it doing significant damage to the hard shoulders/edges of the highway.

In speaking with current UDOT officials, we have learned that it is typical for governmental entities to include contract provisions in road projects that require the contractors to repair/resurface the highway after the projects have been completed.

In the case of this highway, either there were no such provisions made or they have not been enforced. We also learned that in the Monticello area, the County teams with cattle ranchers twice per year to patch road edges damaged by cattle. That doesn't happen here or at least has not happened in 17 years.

We are not experts, but we believe that the road should have been resurfaced at least once in 17 years. We note that Grand County has resurfaced their section of the road several times and that public record may be significant if someone is hurt or killed on it.

Governmental entities can be held liable for damage to property or harm caused to human beings if they know or should have known about dangerous conditions, particularly those regarding safety. Please note that Utah is in accord with most states, in waiving governmental immunity as a defense to liability.

We do not know if there have been official road inspections of this highway in the past but we urge you to conduct an official inspection as soon as possible. County officials traverse the road frequently and maintenance crews appear on occasion. We have spoken with them and they are aware of how serious the conditions are. The County has been on notice, at least unofficially, for quite some time.

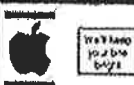
In any event, please consider this letter as official notice and report to the County of dangerous conditions that are an extreme safety hazard. There are potholes in the middle of the road but the real danger appears to be the hard shoulders.

What we are observing on a daily basis is cars and trucks driving straight down the middle of the highway and often at high speed for the sole purpose of avoiding the dangerous shoulders. We have barely averted head-on collisions and/or driving off the eastern side of the road to avoid a collision.

If you would like us to assist you in any way with such as taking photographs, please let us know. We thank you very much in advance for your time and attention to this matter.

Sincerely,
Shelia Canavan and Michael Chandler

Brent Johansen D.D.S.



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& Orthodontics
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Blanding, Utah
(335) 878-3440

SAN JUAN THEATRE
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MAY 14-17
Avengers
INFINITY WAR
PG-13 - Rating 7 p.m.

MAY 18-21
Call for Shows & Times

200 South 2nd East, Suite 100
Monticello, UT 84403
Call for Showtimes & Tickets
Call for Showtimes & Tickets

Monticello Gravestone Decoration Guidelines

Monticello Cemetery District agreement states:

All flowers, real or artificial, must be removed from graves within two (2) weeks after being placed on plot.

There are no restrictions for flowers placed in the vase(s) attached to the headstones above ground level.

All glass objects will be removed from plots as they are a hazard to the cemetery and cemetery equipment.

Every effort will be made, in this drought year, to maintain the beauty of the cemetery.

Monticello Cemetery Board
Walter W. Lewis, Brenda Chalmers, Terry Lewis

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COMMUNITY CALENDAR

Wednesday
MAY 16

- Monticello Middle Family Center, 10-11 a.m., participating at 200 South 100 East
- New Year, 10:30 a.m., Monticello Library
- Youth Union, 10:30 a.m., Monticello Library
- Monticello Rotary Club, Noon, Red Restaurant
- Lunch at Monticello Senior Center, Noon, 177 East 200 North, 844-478-1407
- Lunch at LaSal Senior Center, 12:00 p.m., 200 West 100 North, Monticello
- Monticello Economic Development Commission, 4 p.m., 100 South Community Center
- Monticello Airport Community Center, 5 p.m., 100 West 100 North, Monticello
- San Juan Health Services District Board meeting, 4 p.m., 300 West 100 North, Monticello
- Family Support Group, 4 p.m., San Juan Community Center, 2145 Main, Monticello
- AA meeting (Corynne of Serenity), 6 p.m., Rotary Room, 21 West 2nd South, Monticello
- AA meeting, 7 p.m., 132 1/2 South Main, Monticello
- 12-step Addict Recovery Class, 7 p.m., 1100 North 100 East, 255 N 100 E

Thursday
MAY 17

- Lunch at Monticello Senior Center, Noon, 177 East 200 North, 844-478-1407
- Lunch at LaSal Senior Center, 12:00 p.m., 200 West 100 North, Monticello
- AA meeting (The Red Rock Group), 4 p.m., 1100 North 100 East, 255 N 100 E
- AA meeting (Corynne of Serenity), 6 p.m., Rotary Room, 21 West 2nd South, Monticello
- AA meeting, 7 p.m., 132 1/2 South Main, Monticello
- 12-step Addict Recovery Class, 7 p.m., 1100 North 100 East, 255 N 100 E

Friday
MAY 18

- Lunch at Monticello Senior Center, Noon, 177 East 200 North, 844-478-1407
- Lunch at LaSal Senior Center, 12:00 p.m., 200 West 100 North, Monticello
- AA meeting (The Red Rock Group), 4 p.m., 1100 North 100 East, 255 N 100 E
- AA meeting (Corynne of Serenity), 6 p.m., Rotary Room, 21 West 2nd South, Monticello
- AA meeting, 7 p.m., 132 1/2 South Main, Monticello
- 12-step Addict Recovery Class, 7 p.m., 1100 North 100 East, 255 N 100 E

Saturday
MAY 19

- AA meeting (Corynne of Serenity), 6 p.m., Rotary Room, 21 West 2nd South, Monticello
- AA meeting, 7 p.m., 132 1/2 South Main, Monticello
- 12-step Addict Recovery Class, 7 p.m., 1100 North 100 East, 255 N 100 E

Sunday
MAY 20

- AA meeting (Corynne of Serenity), 6 p.m., Rotary Room, 21 West 2nd South, Monticello
- AA meeting, 7 p.m., 132 1/2 South Main, Monticello
- 12-step Addict Recovery Class, 7 p.m., 1100 North 100 East, 255 N 100 E

Monday
MAY 21

- AA meeting (Corynne of Serenity), 6 p.m., Rotary Room, 21 West 2nd South, Monticello
- AA meeting, 7 p.m., 132 1/2 South Main, Monticello
- 12-step Addict Recovery Class, 7 p.m., 1100 North 100 East, 255 N 100 E

Tuesday
MAY 22

- AA meeting (Corynne of Serenity), 6 p.m., Rotary Room, 21 West 2nd South, Monticello
- AA meeting, 7 p.m., 132 1/2 South Main, Monticello
- 12-step Addict Recovery Class, 7 p.m., 1100 North 100 East, 255 N 100 E

Wednesday
MAY 23

- AA meeting (Corynne of Serenity), 6 p.m., Rotary Room, 21 West 2nd South, Monticello
- AA meeting, 7 p.m., 132 1/2 South Main, Monticello
- 12-step Addict Recovery Class, 7 p.m., 1100 North 100 East, 255 N 100 E

Exhibit “C”

My name is Beverly O'Niell and I am a Spanish Valley / Northern San Juan County Resident. I want to comment today on Item # 9 "Sky Ranch Estates Phase II" of the Commission Meeting Agenda.

In Spring of 2018, the Sky Ranch Phase II application was presented to the Planning & Zoning Commission. Residents raised many concerns about the safety and appropriateness of an active airport in Spanish Valley. At that point the Sky Ranch developer pulled his application and the many concerns and questions have never been answered.

Now the Sky Ranch Phase II application is presented to the P&Z on Feb. 11. It appears these questions and concerns of 2018 were never addressed nor did the developers representative offer to explain any difference between the 2018 application and the 2021 application. So what happened to all those questions (of record) and what are (if any) the differences between the plans of 2018 and 2021?

I want to bring to your attention that there are other "Spanish Valley air-space" users.

Motorized hang gliders –

Remote control airplanes –

Hang Gliders -

Moab Fire Base Helicopter – which launches directly south of the Sky Ranch airport and is very active during the warm /hot months.

Day before yesterday I was walking with my dog just north of the Kens Lake Dam. I observed a small airplane take off from Sky Ranch Airport and flying at a very low altitude flew towards the NE corner of the dam. I thought it was going to hit the dam wall (fortunately it did not) It then flew over the dam wall down towards the lake at which point I did not see it again until he came out on the SW corner very close to the fire Base Heli Pad.

This conditional use, while already problematic with current population levels, will only become more of a conflict as the population in the area grows.

My husband and I live just south of the airport – under the flight patterns of aircraft (planes and helicopters) currently flying in and out of Sky Ranch Airport. Without any hanger homes built – there is a lot of activity. It is annoying and they fly right over our roof top or at times so low I can see the pilot out of my windows.

The South end of the runway ends only a few feet from our road, Planesfield Drive. There is no buffer zone on either end of the runway to protect traffic, including local school buses whose route is directly on the north end of the runway. FAA recommend large buffer zones on either end of the runway. We have never been contacted by the developer as to what concerns we might have as neighbors. I welcome new homes in Spanish Valley – I think the Sky Ranch Airport should be condemned as it only presents dangerous and hazardous consequences to the residents of Spanish Valley now and certainly in the future.

BEFORE THE SAN JUAN COUNTY (UTAH) ADMINISTRATIVE LAW JUDGE

Karl Spielman, Tim O'Niell,
Beverly O'Niell,
Petitioners,

v.

San Juan County, Utah,
Respondents.

Business Resolutions, LLC as
Trustee for Moab Development Trust,
Intervenor

*
* Administrative Appeal of Board
* of Commissions' Decision
* Approving Sky Ranch Estates
* Subdivision Phase II
*
*
*
*
*
*
*
*

**ORDER GRANTING MOTION TO INTERVENE; STAYING APPEAL PENDING
FURTHER PROCEEDINGS IN THE PLANNING & ZONING COMMISSION;
DENYING AS MOOT PETITIONERS' REQUEST FOR STAY**

WHEREAS, Business Resolutions, LLC as Trustee of Moab Development Trust ("Owner"), has moved to intervene in the above-captioned appeal and filed a Motion to Stay Appeal;

WHEREAS, Petitioners, Respondents, and Owner (the "Parties") have been in communication regarding the most efficient manner of resolving the present appeal;

WHEREAS, the Board of Commissioners granted approval of the Sky Ranch Phase II Subdivision ("Sky Ranch") subject to a condition of presenting additional information to the Planning Commission;

WHEREAS, Owner wishes to satisfy the condition and create a more complete record in the Planning & Zoning Commission with respect to the operation and regulation of Sky Ranch before the appeal proceeds;

THEREFORE, the ALJ ORDERS as follows:

1. The Owner's Motion to Intervene is hereby GRANTED. Business Resolutions, LLC as Trustee of the Moab Development Trust is made a party to this appeal.
2. The appeal is hereby STAYED, pending further proceedings in the Planning & Zoning Commission.

3. Beginning July 1, 2021, the County is ordered to provide monthly updates to the ALJ regarding the status of the proceedings in the Planning & Zoning Commission.
4. Petitioners' Request for Stay is DENIED AS MOOT.



Lyn Loyd Creswell

Administrative Law Judge

7 JUNE 2021

Date

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 and Mike Bynum as Manager*

BEFORE THE SAN JUAN COUNTY (UTAH) ADMINISTRATIVE LAW JUDGE

KARL SPIELMAN; TIM O'NIELL; and
 BEVERLY O'NIELL;

Petitioners,

vs.

SAN JUAN COUNTY, UTAH,

Respondents.

MOTION TO INTERVENE;

**OBJECTION TO REQUEST TO
 STAY BOARD OF
 COMMISSIONERS' DECISION;**

AND

**MOTION TO DISMISS, OR IN THE
 ALTERNATIVE, MOTION TO
 STAY APPEAL**

Parr Brown Gee & Loveless represents Mike Bynum as Manager and Business Resolutions, LLC as Trustee of the Moab Development Trust, the owner of the property that is the subject of this appeal (collectively, the "**Applicant**"). The Applicant hereby moves for permission to intervene in this matter. Rule 24 of the Utah Rules of Civil Procedure permits a party to intervene if the application is timely, the party claims an interest relating to the property and where the disposition of the action may impair or impede the party's ability to protect its interest. As the property owner, the Applicant should be permitted to participate as a party to this appeal to protect its own property rights and interests.

The Applicant submitted to San Juan County (the "**County**") an application (the "**Application**") for approval of the Sky Ranch Estates Subdivision Phase II ("**Sky Ranch**"). Sky Ranch Phase I, which created 6 lots around the existing private runway, was approved