

**SECOND AMENDMENT
TO
WEBER COUNTY
ZONING DEVELOPMENT AGREEMENT**

THIS SECOND AMENDMENT TO WEBER COUNTY ZONING DEVELOPMENT AGREEMENT (this "**Amendment**") is made to be effective as of date this Amendment is approved by the Weber County Commission and is made by and between Summit Mountain Holding Group, L.L.C., a Utah limited liability company, ("**Developer**") and Weber County, a body politic in the State of Utah ("**County**") with reference to the following:

RECITALS:

A. Developer and County are parties to that certain Weber county Zoning Development Agreement (the "**ZDA**") dated as of January 13, 2015. A true and correct copy of the ZDA is attached and incorporated into this Amendment as Exhibit A. Any undefined capitalized terms used in this Amendment shall have the same meanings ascribed to such terms in the ZDA.

B. Developer's predecessor-in-interest and the County entered into that certain Weber County Zoning and Development Agreement by and between the County and Western America Holding, LLC a Utah limited liability company recorded in the Office of the Recorder for the County as Entry # 2607988 on November 29, 2012 (the "**Original ZDA**"). The Original ZDA was amended by that certain First Amendment to the Powder Mountain Zoning and Development Agreement made by and between Developer and the County dated as of September 10, 2013 (the "**First Amendment to the Original ZDA**") pursuant to which Developer assumed obligations under the Original ZDA.

C. The ZDA and the Original ZDA, as amended, were further amended by that certain First Amendment to ZDA recorded as of July 12, 2019. A true and correct copy of the First Amendment to ZDA is also attached and incorporated into this Amendment as Exhibit A. The Original ZDA and the ZDA as previously amended as described above are referred to in this Amendment as the Existing ZDA.

D. Developer and the County desire to amend Sections 1.4, 3.2, 4.1, and 4.2 of the Existing ZDA to allow the Land Use Authority to approve changes to some of the conceptual Master Plan exhibits without a public hearing or presentation to the legislative body. Such changes would be considered by the Land Use Authority to be slight and inconsequential or for clarifying purposes, and would not be considered amendments to the ZDA.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants set forth below, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, Developer and the County agree as follows:

AGREEMENT:

1. Recitals. The above recitals are an integral part of the agreement and understanding of Developer and County and are incorporated into this Amendment by this reference.

2. Effect of Slight and Inconsequential Changes to Master Plan.

2.1 Section 1.4 of the Existing ZDA shall be amended by adding the following sentence to the end of section 1.4:

“Notwithstanding the foregoing, slight and inconsequential changes made to the Master Plan pursuant to Section 3.2 are contemplated as part of this Agreement and shall not be considered amendments or modifications to the Agreement.”

2.2 Section 4.1 of the Existing ZDA shall be amended by replacing the first sentence with the following:

“Subject to Section 3.2, Developer shall develop the subject property based upon representations made in the Rezone Application and the approved Master Plan (Exhibit B).”

2.2 Section 4.2 of the Existing ZDA shall be amended by replacing the second sentence with the following:

“Subject to Section 3.2, Development inconsistent with the Master Plan will not be approved.”

3. Concept Development Plan. Section 3.2 of the Existing ZDA shall be deleted in its entirety and replaced with the following:

“Weber County shall retain the right to approve or deny more specific/detailed concept development plans for Areas A through F. The concept development plans shall be approved prior to or in conjunction with the first application for site plan or subdivision approval within each development Area.

Notwithstanding the foregoing, the Developer and County acknowledge that the “Master Plan” and “Illustrative Plan” maps in the Master Plan document for Areas A through F (i) are conceptual in nature and may be further refined by the parties, and (ii) that specifics regarding locations of roads, building area and product types (e.g. multi-family, mixed-use, single family, corporate retreats, etc.) may be moved within the Areas generally depicted as A through F. Unit density for each Area (A through F) is fixed and may not be transferred between Areas. Concept development plans for each Area are expected to evolve and be presented in phases in the context of a more detailed master plan for each Area. County approvals for these concept development plans will initially be reviewed and considered by the Land Use Authority. Proposed changes that the Land Use Authority determines are slight and inconsequential, including the details of road locations, building areas, and product types, shall not require amendment of the ZDA, and the Land Use Authority is hereby designated as the approving authority for those changes. Any proposed changes that the Land Use Authority deems are not slight and inconsequential shall be submitted by Developer in the form of a zoning development agreement application and shall be reviewed by the planning commission and the legislative body, following the statutory process for legislative amendments to a development agreement.”

4. Effect of Second Amendment. Except as expressly modified by this Amendment, all the terms and conditions of the ZDA shall remain in full force and effect. In the event of a conflict between the terms of the ZDA and this Amendment, this Amendment shall control.

5. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties having been duly authorized, have executed this Amendment to be effective as of the date this Amendment is approved by the Weber County Commission.

Approved by the undersigned parties this _____ day of _____ 2022.

DEVELOPER:

SUMMIT MOUNTAIN HOLDING GROUP, L.L.C., a Utah limited liability company

By Summit Revolution LLC, its sole member

By: _____
Anne C. Winston
Authorized Signatory

COUNTY:

WEBER COUNTY CORPORATION

By: _____
Name:
Title:

ATTEST:

By: _____
Name:
Title: Weber County Clerk/Auditor

EXHIBIT A

Copy of ZDA and First Amendment

See attached.

FIRST AMENDMENT
TO
WEBER COUNTY
ZONING DEVELOPMENT AGREEMENT

7/2/2019

THIS FIRST AMENDMENT TO WEBER COUNTY ZONING DEVELOPMENT AGREEMENT (this "**Amendment**") is made to be effective as of date this Amendment is approved by the Weber County Commission and is made by and between Summit Mountain Holding Group, L.L.C., a Utah limited liability company, ("**Developer**") and Weber County, a body politic in the State of Utah ("**County**") with reference to the following:

RECITALS:

A. Developer and County are parties to that certain Weber county Zoning Development Agreement (the "**ZDA**") dated as of January 13, 2015. A true and correct copy of the ZDA is attached and incorporated into this Amendment as Exhibit A. Any undefined capitalized terms used in this Amendment shall have the same meanings ascribed to such terms in the ZDA.

B. Developer's predecessor-in-interest and the County entered into that certain Weber County Zoning and Development Agreement by and between the County and Western America Holding, LLC a Utah limited liability company recorded in the Office of the Recorder for the County as Entry # 2607988 on November 29, 2012 (the "**Original ZDA**").

C. The Original ZDA was amended by that certain First Amendment to the Powder Mountain Zoning and Development Agreement made by and between Developer and the County dated as of September 10, 2013 (the "**First Amendment to the Original ZDA**"), pursuant to which Developer assumed obligations under the Original ZDA and agreed to fund the Development Funded Reserve Account for the Special Assessment Bonds ("**Series 2013 Bonds**") issued by the County pursuant to that certain Indenture of Trust and Pledge dated as of September 1, 2013 (the "**Indenture**"). The Developer and the County subsequently agreed to revise the terms and conditions for Developer's obligation to fund the Development Funded Reserve Account but never reduced those agreements to writing. The "**Development Funded Reserve Account**" shall have the meaning specified in the Indenture.

D. Developer and the County desire to amend the ZDA to: (i) Revise the Reinvestment Fee Covenant required by Section 7 and provide flexibility for future amendments to the covenant; (ii) amend the "regional public trails" and "loop trails" shown on page 45 of Exhibit B and confirm Developer's completion of construction of the trails systems required by Section 4.8; and (iii) update additional sections of the ZDA to more accurately reflect current conditions, each as more particularly described in this Amendment.

E. Developer and the County also desire to confirm that the Original ZDA was superseded by the ZDA and to carry over, amend, and reduce to writing the Developer's agreement to fund the Development Funded Reserve Account as set forth in this Amendment.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants set forth below, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, Developer and the County agree as follows:

Exhibit A to the Second Amended Development Agreement

AGREEMENT:

1. Recitals. The above recitals are an integral part of the agreement and understanding of Developer and County and are incorporated into this Amendment by this reference.

2. Avalanche Hazards. Section 2.1 of the ZDA shall be deleted in its entirety and replaced with the following:

“Developer delivered an avalanche hazards memorandum to the County on January 30, 2017. The memorandum shows that the potential for avalanche threats is very low to non-existent as the terrain currently exists throughout the development areas. Man-made hazards are possible and further analysis will be conducted on a case-by-case basis as requested by the County.”

3. Wildfire Prevention. Section 2.5 of the ZDA shall be deleted in its entirety and replaced with the following:

“The Developer shall seek input from the U.S. Forest Service or the Utah Department of Natural Resources, Division of Forestry, Fire and State Lands to develop an Integrated Wildland Fire Management Plan (“Wildfire Management Plan”) that addresses wildfire prevention, evacuation, suppression, and staff education. Developer shall complete the Wildfire Management Plan and commence implementation before June 30 2019. Developer shall address any site-specific requirements identified within the Wildfire Management Plan that pertain to individual development areas at the time of development review application.”

4. Environmental and Geological Recommendations.

4.1 Section 2.6 of the ZDA is amended by the insertion of the following sentence:

“Copies of the State of Utah Department of Environmental Quality letter dated October 12, 2007 and the Utah Geological Survey letter dated September 18, 2007 are attached as Exhibit E.”

4.2 Exhibit C attached to this Amendment and is added as a new Exhibit E to the ZDA.

4.3 Section 11 of the ZDA is amended to add the following:

“E. Environmental Quality/Geological Survey Letters”

5. Dedication of Public Road Right of Way.

5.1 Section 4.5 of the ZDA is amended by the insertion of the following as the penultimate sentence:

“The maintenance of this right-of-way dedication is to be determined between the Developer and the County.”

5.2 Page 40 of Exhibit B is amended by the insertion of the following between the second and third sentence:

Exhibit A to the Second Amended Development Agreement

“Prior to any right-of-way dedication, Developer and the County shall agree on the maintenance of the right-of-way.”

6. Trail Systems.

6.1 The second and third sentences of Section 4.8 of the ZDA shall be deleted in their entirety and replaced with the following:

“Developer has completed the trails shown on Exhibit B, which trails shall remain open to the public as a fee free recreational activity.”

6.2 Page 45 of Exhibit B shall be deleted in its entirety and replaced with Exhibit B attached and incorporated into this Amendment.

7. Sustainability. The second sentence of Section 4.10 shall be deleted in its entirety and replaced with the following:

“Compliance with Section C (Environmental Stewardship) and Section D (Design Goals and Principles) of the Powder Mountain Design Guidelines, as may be amended in substantially similar form from time to time, shall satisfy this requirement.”

8. Recreation Facilities Plan. Section 4.12 of the ZDA is amended by the insertion of the following at the end of the section:

“The biennial report shall also review the practicality of constructing a regional public trail connecting the Property to the valley.”

9. Best Practices. Section 4.14 of the ZDA is deleted in its entirety and replaced with the following:

“Developer agrees that all construction under its control will utilize best management practices. All construction projects are required to have a Utah Pollutant Discharge Elimination System (UPDES) permit with the State of Utah and an associated Storm Water Pollution Prevention Plan (SWPPP). The SWPPP for each project shall outline the planned best management practices for the specific project. The UPDES and SWPPP are a requirement of the contractor and owner of the specific construction project. In some cases this may be the Developer, but in many cases this will be a party not subject to this Agreement.”

10. Traffic Mitigation. Section 6.5 of the ZDA is deleted in its entirety and replaced with the following:

“The Parties will work together collectively to set reasonable limitations on construction traffic to provide a safe working environment on the existing access road and surrounding roads. These limitations will be presented to County Engineering for approval prior to or in conjunction with any site plan/ subdivision submittal and during construction as issues may arise. Developer shall make reasonable accommodations to ease construction traffic, such as placing staging areas in appropriate areas and providing lower level parking areas and shuttles for construction workers.”

Exhibit A to the Second Amended Development Agreement

11. Reinvestment Fee Covenant.

11.1 Section 7.1 of the ZDA shall be amended by adding the words “as amended by the Developer from time to time” at the end of the section.

11.2 Section 7.2 of the ZDA shall be amended by deleting subsections (f), (g), and (h) in their entirety and replacing them with:

“(f) any transfer, sale, or conveyance by the Master Developer, including without limitation any transfer from Master Developer to a Neighborhood Developer, or an affiliate or joint venture of Master Developer; (g) any transfer, sale, or conveyance by a Neighborhood Developer, or affiliate or joint venture of Master Developer, including without limitation all initial sales to end purchasers; (h) any transfer to an immediate relative, a family trust, or other closely held entity solely for estate planning purposes.”

11.3 Section 7.2 of the ZDA shall be amended by adding a new subsection (j) which provides: “(j) or any other similar transfer that does not result in a transfer to a bona fide purchaser for value.”

12. Development Funded Reserve Account. Sections 1.02, 1.03 and 1.04 of the First Amendment to the Original ZDA are amended and superseded in their entirety with the following:

12.1 Developer agrees to remit to the County, who will then forward to the Special Assessment Bond Trustee (the “**Trustee**”) an amount of \$6,000.00 (each, a “**DFRA Assessment**”) before each residential building ERU building permit will be issued by Weber County to a property owner within the Special Assessment Area (as defined in Ordinance No. 2013-21, as amended by Ordinance No. 2013-24, as such Ordinance may be further amended from time to time) (each, a “**Qualifying Building Permit**”) commencing with the fifty-first (51st) Qualifying Building Permit. The Developer will remit each DFRA Assessment to the County before issuance of each Qualifying Building Permit. The County will verify to Developer at least annually and from time to time upon Developer’s request that the Trustee has deposited the DFRA Assessment funds in the Development Funded Reserve Account (as defined in the Bond Indenture).

12.2 The Developer shall continue to remit the DFRA Assessments to the Trustee until Weber County has issued one hundred twenty (120) Qualifying Building Permits after the first fifty (50) Qualifying Building Permits and the total amount of the DFRA Assessments equals Seven Hundred Twenty Thousand Dollars (\$720,000.00).

12.3 Money on deposit in the Development Funded Reserve Account may only be used to make up shortfalls of debt service on the Series 2013 Bonds as otherwise provided in Section 5.4(b) of the Indenture. The money on deposit in the Development Funded Reserve Account shall be released to Developer as provided in Section 5.4(e) of the Indenture.

Exhibit A to the Second Amended Development Agreement

13. Effect of First Amendment. Except as expressly modified by this Amendment, all the terms and conditions of the ZDA shall remain in full force and effect. In the event of a conflict between the terms of the ZDA and this Amendment, this Amendment shall control.

14. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

15. ZDA Supersedes Original ZDA. The parties acknowledge and agree that the ZDA, as amended by this Amendment and any future amendments from time to time, supersedes and replaces in its entirety the Original ZDA.

IN WITNESS WHEREOF, the parties having been duly authorized, have executed this Amendment to be effective as of the date this Amendment is approved by the Weber County Commission.

Approved by the undersigned parties this 26th day of June 2019.

DEVELOPER:

SUMMIT MOUNTAIN HOLDING GROUP, L.L.C., a
Utah limited liability company

By Summit Revolution LLC, its sole member

By: 

Don Guerra
Authorized Signatory

COUNTY:

WEBER COUNTY CORPORATION

By: 

Name:

Title:

Webber County Commission Chair

ATTEST:

By: 

Name:

Title: Weber County Clerk/Auditor

APPLICANT NOTARIZATION

State of Utah)
County of Weber) :ss

On this 26th day of June, 2019, personally appeared before me Don Guessa [name of person(s)], whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who affirmed that he/she is the Authorized Signatory [title], of Summit Mountain Holding Group, LLC [name of LLC], limited liability company, by authority of its members or its articles of organization, and he/she acknowledged to me that said limited liability company executed the same.

[Signature]
Notary Public



EXHIBIT A

Copy of ZDA

See attached.

Exhibit A to the Second Amended Development Agreement

EH 2717835 PG 1 OF 113
LEANN H KILTS, WEBER COUNTY RECORDER
14-JAN-15 11:52 AM FEE \$1.00 DEP TOT
REC FOR: WEBER COUNTY PLANNING

C 2015-6

WEBER COUNTY
ZONING DEVELOPMENT AGREEMENT



W2717835

PARTIES: The parties to this Zoning Development Agreement ("Agreement") are Summit Mountain Holding Group, L.L.C., a Utah limited liability company and owner of the property commonly known as Powder Mountain (herein "Developer") and Weber County, a body politic in the State of Utah (herein "County"). The Developer and the County are collectively referred to herein as the "Parties."

EFFECTIVE DATE: The effective date of this Agreement will be the date that rezoning approval is granted as outlined below by the Weber County Commission ("Commission").

RECITALS

WHEREAS, the Developer seeks to rezone certain property located within the Ogden Valley Township of unincorporated Weber County, Utah from Forest Valley-3 (FV-3), Commercial Valley Resort Recreation-1 (CVR-1), and Forest-40 (F-40) to the Ogden Valley Destination and Recreation Resort-1 Zone (DRR-1 Zone) for the general purpose of developing a year round destination resort upon property that consists of approximately 6,198 acres and is more particularly described in Exhibit A attached hereto and incorporated herein by this reference ("Property"); and

WHEREAS, the County seeks to promote the health, welfare, safety, convenience and economic prosperity of the inhabitants of the County through the establishment and administration of zoning regulations concerning the use and development of land in the unincorporated area of the County as a means of implementing the General Plan as adopted for all or part of the County; and

WHEREAS, the Developer has requested that the above referenced Property be rezoned for the purposes of allowing it or its designees to develop the Property in a manner that has been presented to the County and that is represented in the Master Plan described and shown in the rezone application for the DRR-1 Zone ("Rezone Application"); and

WHEREAS, the Developer considers it to its advantage and benefit for the County to review its petition and supplementary information having prior knowledge of the development, so as to more completely assess its compatibility with applicable zoning ordinances, the County's General Plan, the surrounding area, and those uses that exist on the lands surrounding the property; and

WHEREAS, the County is desirous of rezoning the property for the purpose of developing it in the manner presented, but the County does not feel that the property should be rezoned unless the proposed development is commenced as soon as conditions allow and completion is pursued in good faith; and

NOW THEREFORE, for good and valuable consideration in receipt of which is hereby acknowledged and accepted by both Parties, the Parties hereto mutually agree and covenant as follows:

AGREEMENT

1. General

- 1.1. The County shall rezone the Property described in Exhibit A from Forest Valley-3 (FV-3), Commercial Valley Resort Recreation-I (CVR-1), and Forest-40 (F-40) to the Ogden Valley Destination and Recreation Resort-1 (DRR-1) Zone for the purpose of allowing the Developer to construct its conceptually pre-designed project on the subject Property.
- 1.2. The responsibilities and commitments of the Developer and the County, as detailed in the Developer's Rezone Application and this document when executed, shall constitute a covenant and restriction that shall run with the land and be binding upon the Developer, its assigns and successors in interest.
- 1.3. Both Parties acknowledge that this Agreement will be recorded in the Office of the Weber County Recorder, and recognize the advantageous nature of this Agreement which provides for the accrual of benefits and protection of interests to both Parties.
- 1.4. This Agreement constitutes the entire Agreement between the Parties; however, the Parties acknowledge that an official, recorded copy of the Rezone Application will be kept in the Weber County Clerk/Auditors Office and the Planning Division Office for reference purposes. The Parties may consider amendments or modifications to the provisions of this Agreement and/or the Master Plan only by written instrument. In the event that an amendment to the Master Plan included in the Rezone Application ("Master Plan") is sought, it may only be made after considering the recommendation of the County Planning Commission which may hold a public meeting to obtain public input on the proposed amendment or modification of the Master Plan.
- 1.5. This Agreement with any amendments or modifications shall be in full force and effect according to this approved Agreement until the property covered herein has been reverted to its former zone designation as a result of default.
- 1.6. Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under any applicable state law.

2. Health and Safety

- 2.1. Developer shall address reasonable site specific avalanche hazards at the site plan level of approvals for development.
- 2.2. Developer agrees to grant access or convey property along (SR158) for, at least two, run-away truck ramps (or other safety facilities) at a time and location that UDOT determines is beneficial.
- 2.3. The Developer is committed to utilizing efficient low-emission fireplaces in future development on the Property, including but not limited to, natural gas, liquid propane and high efficiency wood burning systems. The Developer will work with the County to facilitate the use of such heating methods, but the Developer shall not be prohibited from utilizing traditional log-burning fireplaces on a limited basis in lodges, hotels, corporate retreats, commercial areas and single-family homes, so long as the Developer shall comply with all applicable federal, state and local regulations.

- 2.4. The Developer shall construct and provide a combined facility or individual facilities for the Weber County Sheriff and Weber Fire District at a time that is deemed necessary and practical as determined by the jurisdictions. The facility may be integrated to accommodate both agencies and shall meet the requirements of both the Weber Fire District and the Weber County Sheriff's Office. Accommodations include, but are not limited to, those outlined in the Emergency Services Plan provided on page 50 of Exhibit B. The facility location(s), design, and floor plan shall be approved by the Weber County Sheriff's Office and the Weber Fire District.
 - 2.5. The Developer shall seek input from the U.S. Forest Service or the Utah Department of Natural Resources, Division of Forestry, Fire and State Lands to develop and implement a wildfire prevention, evacuation and suppression plan for the entire Project no later than 18 months after the date of this Agreement. Developer shall address phase and site specific wildfire hazards and management plans at the time of and within all development review applications.
 - 2.6. Developer agrees to follow the recommendations of the State of Utah Department of Environmental Quality and Utah Geological Survey as outlined in letters dated October 12, 2007 and September 18, 2007 respectively.
3. Master Plan
- 3.1. County hereby adopts the Master Plan found in Exhibit B. It is recognized that the Master Plan may be amended by the Developer from time to time, subject to the provisions of Section 1.4, above.
 - 3.2. Developer shall also prepare more detailed development plans for the various neighborhoods ("Development Areas"), so long such plans are consistent with the Master Plan. The Master Plan includes the following six Development Areas: (i) Development Area A – Mid-Mountain, (ii) Development Area B – The Ridge, (iii) Development Area C – Earl's Village, (iv) Development Area D – Summit Village, (v) Development Area E – Gertsen, and (vi) Development Area F – The Meadow. Each Development Area may contain multiple subdivisions. In connection with the development of such subdivisions, each subdivision plat shall be approved by the County so long as all applicable standards are met and such subdivision plats are reasonably consistent with the Master Plan.
4. Development
- 4.1. Developer shall develop the subject property based upon representations made in the Rezone Application and the approved Master Plan (Exhibit B). The Master Plan may be refined, in accordance with provisions of the DRR-1 Zone, but material changes to the general concept of the Master Plan will not be changed without prior formal approval of the County.
 - 4.2. Developer agrees that development, consistent with the Master Plan, will be subject to and part of a more specific and more detailed subdivision and/or plan review. Development inconsistent with the Master Plan will not be approved.
 - 4.3. In the event that a new wastewater treatment facility is constructed within the resort boundary, such facility shall be approved by Utah DEQ and the County Health

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Department to provide a level of effluent quality that will allow the re-use of treated water for snowmaking, aquifer recharge, and irrigation of fields, forests, and/or landscaping.

- 4.4. Developer acknowledges that by rezoning the Property, the County is not representing or guaranteeing that there are readily available services to support the entire project. Further, the Developer agrees that no development shall be allowed unless Developer demonstrates the ability to provide water, sewer and other necessary infrastructure in accordance with state laws, rules and regulations, and county codes.
- 4.5. Developer agrees to dedicate a public road right-of-way (at least 66 feet wide) from an existing public road within the Property to a point on the project boundary that provides area for the full development of a secondary public road. The right-of-way, which may need to be entirely located on Powder Mountain Resort property, shall be dedicated by the Developer within six months of any County request for such dedication. At the County's discretion and at a minimum, the road right-of-way shall be generally located in an area represented in the attached Exhibit C.
- 4.6. Developer agrees to dedicate a public road right-of-way (at least 66 feet wide) for a secondary public road across property that is currently owned (as of November 30th, 2014) by Summit Mountain Holding Group and that lies in Cache County and is traversed by an existing dirt road that is called out on Exhibit C. The right-of-way shall be dedicated by the Developer within six months of any County request for such dedication.
- 4.7. The proposed boutique hotel, located near the top terminal of the existing Sundown chairlift, may only be constructed if methods or technology can be applied (at the time of construction) in such a manner so as to limit light emissions to an imperceptible level as seen from the developed camping areas of North Fork Park. The methods and technology shall be approved by the Ogden Valley Planning Commission at the time of site plan review.
- 4.8. At minimum all "regional public trails" and "loop trails", shown on page 45 of Exhibit B, shall be open to the public as a fee free recreational activity. "Regional public trails" shall be constructed and open to the public by fall of 2017. "Loop trails" shall be constructed and open to the public by fall of 2018.
- 4.9. The County will review more detailed development plans and will approve/issue Land Use, Conditional Use, and Building Permits based on compliance with applicable standards including but not necessarily limited to State Law, the Weber County Zoning Ordinance, Building Code and/or Health Regulations.
- 4.10. Developer shall incorporate principles of sustainability into the development when practical and feasible. Developer shall demonstrate practicality and feasibility at the time of and within all development review applications.
- 4.11. Developer shall consider comments made by the State of Utah Division of Wildlife Resources (DWR) at the site plan level of approvals for all development applications per the existing Resource Development Coordinating Committee (RDCC) process including trails and wildlife buffers. DWR comments, eligible for consideration, shall be those submitted prior to a Planning Commission meeting where the related

application is being considered for the first time. Where not otherwise required by the DRR-I Zone, reasonable and customary wildlife buffers will be part of the Developer submittals for design review/subdivision applications.

- 4.12. The Developer has submitted a Recreation Facilities Plan as part of the Rezone Application. Recreation facilities shall be provided commensurate with the level of residential development and consistent with the Recreation Facilities Plan. Beginning two years after approval of the Rezone Application, the Developer shall provide a biennial report to the Planning Division Staff that inventories all existing (constructed) recreation facilities and approved commercial projects and residential units or lots to date. The inventory shall include, but not be limited to, the number, type and general location of facilities and lots or units. Recreational facilities and commercial projects shall be represented in terms of acreage or square footage, whichever is more appropriate. General location(s) shall be provided in terms of development area as illustrated on the Overall Land Use Plan.
 - 4.13. In connection with the development, the Developer or its successors in interest shall make the following donations to the County, which sums shall be used solely for the benefit of the local community by purchasing and maintaining open lands or other community projects, as determined by the County: i) upon completion (completion shall mean the issuance of a permanent certificate of occupancy) and sale of the 1st unit, the Developer or its successors in interest shall donate \$100,000; ii) upon completion and sale of the 100th unit, the Developer or its successors in interest shall donate \$100,000; iii) upon completion and sale of the 1,000th unit, the Developer or its successors in interest shall donate \$350,000; iv) upon completion and sale of the 2,000th unit, the Developer or its successors in interest shall donate \$500,000; and v) upon completion and sale of the 2,800th unit, the Developer or its successors in interest shall donate \$500,000. In the event that Developer establishes permanent open space, public use space, conservation areas or similar community benefits within Powder Mountain or the surrounding area, the County will consider applying the value of the land and improvements included in such community benefits as a credit against the amounts to be donated by Developer at the time of the sale of the 1,000th unit and thereafter, as set forth above. Failure of the Developer to pay the donations, in cash or community benefits acceptable to the County, in accordance with the above schedule will be deemed to be sufficient reason for County to deny additional building permits until the donation is received.
 - 4.14. Developer agrees that all construction will utilize best management practices. Final site plan applications made to Weber County shall be accompanied by a summary of the best management practices being utilized.
5. Density
- 5.1. Residential and commercial density shall not exceed 2,800 units which include the units that have been approved and recorded since the approval date of Zoning Development Agreement C2012-212 (E#2607988). The number of units will be applied in two density phases. Multiple development phases are anticipated within each density phase.

- 5.2. The Developer shall be entitled to the following density on the following terms and conditions: Phase 1 Density: 1,477 units which may include condominiums, single-family dwelling units, multi-family dwelling units, hotel rooms, corporate retreats, and others listed and allowed in the DRR-1 Zone. Hotel rooms shall count as the equivalent of one-third (1/3) of a single family dwelling unit. In other words, a 100 unit hotel would count as 33 units. Condominium units containing lock out rooms that can be separately rented shall be counted as one unit (including the lock out rooms). Commercial development is not included in the density limitation. Following the construction of the first 250 units by Developer, recreational and commercial uses shall be developed as needed, in Developer's commercially reasonable judgment, to support the resort.
- 5.3. Phase 2 Density. Upon meeting the requirements specified in Section 5.2 above and the conditions and benchmarks specified in this Agreement, the Developer shall be entitled to proceed with Phase 2 Density, an additional 1,323 units, which may include condominiums, single-family dwelling units, multi-family dwelling units, hotel rooms, corporate retreats, and others listed and allowed in the DRR-1 Zone. Hotels and lock out rooms shall count as described in Section 5.2. Attached is Table 5.3 that sets forth the approved Phase 1 and Phase 2 density.

TABLE 5.3 – PHASE 1 AND PHASE 2 DENSITY AND DESCRIPTION	
Type of Use	Density Equivalent
Single-Family Dwelling	1 unit
Multi-family Dwelling	1 unit per dwelling unit
Hotel Room	.33 units
Commercial Square Footage	N/A. Does not count toward unit density.
Corporate Retreats	First 36 corporate retreat rooms do not count toward unit density. Each room after 36 counts as .33 units.
TOTAL PHASE 1 DENSITY PERMITTED:	1,477 units
TOTAL PHASE 2 DENSITY PERMITTED:	1,323 units
TOTAL PROJECT DENSITY PERMITTED: 2,800 units	
Workforce housing units shall not be counted toward density of the Project regardless of where they are located, as provided by the DRR-1 Zone.	

- 5.4. The first 36 corporate retreat rooms shall not count against the Project's density entitlement. Additional corporate retreats may be added, however, such additional corporate retreat rooms will count towards the density limitations and each corporate retreat room shall count as .33 units for density purposes.

6. Traffic Mitigation

- 6.1. The provisions of this Article 6.1 shall apply after the completion (completion shall mean the issuance of a permanent certificate of occupancy) of the first 1,477 units. Following the completion of the first 1,477 units, County shall issue a scoping letter and the Developer shall pay for a traffic safety/impact study by an entity acceptable to the Parties (the "Traffic Study" or "Study"). The Study shall address the existing access road for the Property and shall make recommendations for improvements to the existing access road and related safety issues, including but not limited to guard rails, additional signage, flashing lights in dangerous areas, and runaway ramps. The Parties shall forward the study to the Utah Department of Transportation ("UDOT") and actively seek UDOT's implementation of the study's recommendations. The study shall also determine whether a secondary access is necessary for emergency purposes and/or general use and provide cost estimates for improvements to the "Powder Mountain Road" and the secondary access in a location approved by the County.
- 6.2. Developer agrees that air transportation into the Resort and Resort air operations will comply with the standards and requirements for heliports in the Ogden Valley. Heliports are allowed only in the DRR-1 and F-40 Zones, subject to applicable standards and requirements. "Resort air operations" refers to those aerial operations vital to construction and management of the resort, i.e., lift installation and avalanche control.
- 6.3. Weber County shall retain the right to define the scope of and, as part of any development application, require the Developer to submit a traffic analysis that can be used to verify representations made in the Powder Mountain Resort Traffic Impact Analysis dated September 26, 2014 and attached as Exhibit D. In the event that representations are/were incorrect and anticipated levels of service are not as expected, the Developer agrees to investigate the traffic volumes, utilizing a qualified traffic/transportation consultant, determine the impacts attributable to Powder Mountain and provide mitigation designed to return service to anticipated levels as represented in Exhibit D.
- 6.4. Developer agrees to continue providing employee transit for Powder Mountain employees in perpetuity and implement and perpetually continue providing a minimum of 5 travel demand reduction methods as proposed on page 44 of the Powder Mountain Resort Traffic Impact Analysis dated September 26, 2014 and attached hereto as Exhibit D. These methods may be changed and others implemented as proposed by Summit Mountain Holding Group and approved by Weber County.
- 6.5. The Parties will work together collectively and with local residents to set reasonable limitations on construction traffic to provide a safe working environment on the existing access road and surrounding roads. These limitations will be presented to the Planning Commission for approval prior to or in conjunction with any site plan/ subdivision submittal. Developer shall make reasonable accommodations to ease construction traffic, such as placing staging areas in appropriate areas and providing lower level parking areas and shuttles for construction workers.

7. Reinvestment Fee Covenant

- 7.1. The Developer agrees to keep in place the reinvestment fee covenant ("Reinvestment Fee Covenant") as recorded on January 27, 2014 (document entry number 2672941) and amended on October 1, 2014 (document entry number 2704954).
- 7.2. A notice of Reinvestment Fee Covenant, that complies with the provisions of Utah Code, shall also be kept in place. The Reinvestment Fee Covenant, as described in section 7.1, shall require that every purchaser of a unit shall pay the master association a reinvestment fee of one and one-half percent (1.5%) of the purchase price of such unit. Notwithstanding the preceding sentence, this Section shall not apply to any of the following: (a) the creation of any mortgage for refinancing purposes; (b) any foreclosure of a first mortgage; (c) the exercise of a power of sale available under a first mortgage; (d) the taking of a deed or assignment in lieu of a foreclosure by a first mortgagee; (e) the conveyance by a first mortgagee of a deed to a parcel, lot, dwelling unit or improvement, or part thereof or interest therein, to a grantee if such first mortgagee shall have obtained title to such parcel, lot, dwelling unit or improvement, or part thereof or interest therein, pursuant to subclause (b), (c) or (d) above; (f) any transfer, sale or conveyance by the Developer, including without limitation any transfer from Developer to a neighborhood developer; (g) any transfer, sale or conveyance by a neighborhood developer, including without limitation all initial sales to end purchasers; (h) any transfer to a family trust or other closely held entity solely for estate planning purposes; or (i) conveyance by will, intestate succession, or trust to a deceased owner's heir. For purposes of the reinvestment fee, a "transfer" shall mean, whether in one transaction or in a series of related transactions, any sale, conveyance, assignment, or other transfer of any beneficial ownership of or interest in any parcel, lot, or dwelling unit, including but not limited to (1) the conveyance of fee simple title to any parcel, lot, or dwelling unit, (2) the transfer of any ownership interest in any timeshare, fractional ownership interest, or vacation club interest, (3) the transfer of more than 50 percent (50%) of the outstanding shares of the voting stock of a corporation which, directly or indirectly, owns one or more lots, parcels, or dwelling units and (4) the transfer of more than 50 percent (50%) of the interest in net profits or net losses of any partnership, limited liability company, joint venture or other entity which, directly or indirectly, owns one or more parcels, lots, or dwelling units.

8. Vested Rights

- 8.1. This Agreement shall vest with respect to the Property, all of the uses, densities, maximum building heights, the ability to transfer density and earn bonus density, design guidelines and design review procedures set forth in the Master Plan and this Agreement.
- 8.2. Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("Changes in the Law") applicable to the Property. In the event that Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or

suspended, or performance thereof delayed, as may be necessary, to comply with the Changes in the Law.

9. Reserved Legislative Powers: Compelling Countervailing Public Interest

9.1. Nothing in this Agreement shall limit the future exercise of the police power of the County in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the County to enact such legislation under its police power, such legislation shall only be applied to modify the vested rights described in Section 8.1 and the other provisions of this Agreement, based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah, as set forth in *Western Land Equities, Inc., v. City of Logan*, 617 P.2d 388 (Utah 1980) or successor case and statutory law. Any such proposed change affecting the vested rights of the Developer and the Property, or other provisions of this Agreement, shall be of general application to all development activity in the area included within the Rezone Application, unless the County declares an emergency. The Developer shall be entitled to prior written notice and an opportunity to be heard with respect to any proposed changes and its applicability to the Property under the compelling, countervailing public policy exception to the vested rights doctrine. In the event that the County does not give prior written notice, the Developer shall retain the right to be heard before an open meeting of the County Commission in the event that Developer alleges that its rights under this Agreement have been adversely affected.

10. Default and Enforcement

- 10.1. The Developer acknowledges that the County's granting of the rezoning outlined herein is contingent upon the Developer proceeding expeditiously with the implementation of its development plan. The County acknowledges that the development of the Property will occur in phases over an extended period of time. Nevertheless, in the event that the Developer does not begin construction of its first phase of improvements within one year following the Effective Date, as evidenced by Developer submitting a complete building permit application and paying all applicable fees for the construction of any portion of the first 1,477 units, the County shall have the right to process a rezone of the Property to reinstate the zoning classifications of the Property to those that existed immediately prior to the Effective Date.
- 10.2. The following conditions, occurrence and/or action will constitute a default by the Developer, its assigns and/or its successors in interest:
- 10.2.1. A breach of any provision, responsibility, or commitment presented in the Rezone Application (or other required rezone submittals) and agreed to through this Agreement.
- 10.2.2. Failure to present a detailed development plan, gain County approval and obtain Land Use/Conditional Use and Building Permits and commence construction within the manner of time specified in Section 10.1 of this Agreement.

- 10.3. In the event that any of the conditions constituting default, by the Developer (including its assigns or successors in interest) occur, the County may examine the reasons for the default and at its discretion, modify the terms of this Agreement, approve a change to the Master Plan or initiate steps to revert the zoning designation to its former zones.
- 10.4. Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned or transferred to any other party, individual or entity without assigning also the responsibilities arising hereunder.
- 10.5. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be invalid the remainder of the Agreement shall remain in full force.
- 10.6. This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the Parties hereto nor any rights or benefits to third parties, except as expressly provided herein.
- 10.7. This Agreement contains the entire Agreement between the Parties with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed and approved by the Parties hereto.
- 10.8. The Exhibits to the Agreement are incorporated herein by the reference to them in the Agreement.
- 10.9. Any notices, requests, or demands required or desired to be given hereunder shall be in writing and shall be delivered personally to the party for whom intended, or, if mailed be certified mail, return receipt requested, postage prepaid to the Parties as follows:

For Developer:

Summit Mountain Holding Group, L.L.C.
3923 N. Wolf Creek Drive
Eden, UT 84310

Attn: Paul Strange

For Weber County:

Weber County Planning Division
2380 Washington Blvd., Suite 240
Ogden, UT 84401

Any party may change its address by giving written notice to the other party in accordance with the provisions of this section.

11. Exhibits

- A. Property Description
- B. Master Plan
- C. Secondary County Public Roadway Proposal Dated October 9, 2014
- D. Powder Mountain Resort Traffic Impact Analysis Dated September 26, 2014

Exhibit A to the Second Amended Development Agreement

~~EN 2717835 PG 11 OF 113~~

IN WITNESS WHEREOF, the Parties hereto, having been duly authorized, have executed this Agreement to be effective upon date of approval.

Approved by the Parties herein undersigned this 13 day of January, 2015.

Weber County Corporation
"County"

Summit Mountain Holding Group, L.L.C.
"Developer"

By: [Signature]
Kerry W. Gibson
Chair, Weber County Commission

By: [Signature]
Name: Todd Strang
Its: Authorized Signatory

ATTEST:

[Signature]
Ricky D. Hatch, CPA
Weber County Clerk/Auditor

~~EN 2717835 PG 12 OF 113~~

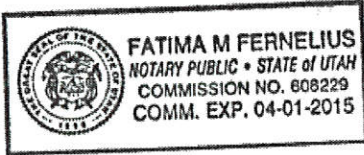
CORPORATE ACKNOWLEDGMENT

State of Utah)
)ss.
County of Weber)

On this 13 day of January, in the year ²⁰¹⁵ ~~2014~~, before me, Fatima M Fernelius a Notary Public in and for the State, personally appeared, Paul Strange proved, on the basis of satisfactory evidence, to be the Authorized Signatory of Summit Mountain Holding Group LLC corporation which executed the foregoing instrument, and that said instrument was signed on behalf of said corporation by authority of a Resolution of its Board of Directors that said corporation executed the same.

Witness my hand and official seal.

Fatima M Fernelius
Notary Public



APPROVED AS TO FORM:

[Signature]
Weber County Attorney

1/12/15
Date

Exhibit A

Powder Mountain Legal Description for DRR-1 Rezone

The following metes and bounds description has been put together primarily from record information and the bearings and dimensions are intended to follow various parcel lines, section lines, and the county line, and those line locations as they actually exist are to preside over these metes and bounds calls.

Beginning at the Weber County Monument at the Intersection of the Weber/Cache County Line and the North Line of Section 1, Township 7 North, Range 1 East, Salt Lake Base and Meridian (Basis of Bearings is North 89°55'51" West between the Northeast Corner of Section 1 Township 7 North, Range 1 East, Salt Lake Base and Meridian and the Weber County Monument at the intersection of the Weber/Cache County Line and the Section Line); Running thence along the Weber/Cache County Line the following (81) Courses: 1) South 26°39'20" East 457.03 feet, 2) South 36°45'22" East 374.24 feet, 3) South 66°54'26" East 745.76 feet, 4) South 67°48'15" East 1,214.23 feet, 5) South 68°53'51" East 618.68 feet, 6) South 32°02'26" East 1,432.62 feet, 7) South 47°01'38" East 1,561.89 feet, 8) South 74°16'55" East 602.01 feet, 9) South 84°37'17" East 129.79 feet, 10) North 74°55'18" East 101.38 feet, 11) South 76°31'57" East 92.39 feet, 12) South 65°19'33" East 171.60 feet, 13) North 89°40'40" East 28.76 feet, 14) North 89°40'40" East 75.92 feet, 15) North 52°55'34" East 193.59 feet, 16) North 69°40'16" East 221.91 feet, 17) North 59°06'24" East 118.16 feet, 18) South 67°13'20" East 69.76 feet, 19) North 86°54'23" East 63.24 feet, 20) South 86°25'04" East 100.69 feet, 21) South 74°00'19" East 244.83 feet, 22) North 74°03'46" East 521.31 feet, 23) North 66°25'48" East 317.77 feet, 24) North 70°24'30" East 153.33 feet, 25) North 58°12'10" East 285.32 feet, 26) South 84°07'27" East 53.98 feet, 27) South 87°03'34" East 69.14 feet, 28) North 81°05'29" East 97.39 feet, 29) South 42°06'19" East 88.79 feet, 30) South 29°32'36" East 90.02 feet, 31) South 60°56'58" East 66.00 feet, 32) North 89°45'17" East 75.88 feet, 33) South 40°32'55" East 57.25 feet, 35) North 79°41'20" East 72.99 feet, 36) North 82°58'43" East 52.82 feet, 37) North 72°17'57" East 58.58 feet, 38) South 82°52'28" East 50.93 feet, 39) North 75°58'50" East 120.54 feet, 40) South 63°46'05" East 276.76 feet, 41) North 82°55'41" East 343.76 feet, 42) North 64°52'15" East 188.03 feet, 43) South 83°46'40" East 176.84 feet, 44) South 70°02'49" East 59.60 feet, 45) North 73°42'12" East 72.74 feet, 46) North 59°12'49" East 102.26 feet, 47) North 25°41'17" East 70.59 feet, 48) North 66°03'04" East 70.31 feet, 49) North 42°54'13" East 128.35 feet, 50) North 54°47'53" East 84.47 feet, 51) North 49°51'28" East 87.14 feet, 52) North 38°48'21" East 141.86 feet, 53) North 36°53'14" East 116.00 feet, 54) North 70°56'50" East 94.54 feet, 55) North 52°44'33" East 145.13 feet, 56) North 59°00'12" East 111.75 feet, 57) North 55°28'15" East 198.69 feet, 58) North 61°38'46" East 91.96 feet, 59) South 87°10'59" East 103.70 feet, 60) North 80°38'14" East 286.76 feet, 61) North 84°30'35" East 198.43 feet, 62) North 61°36'18" East 92.91 feet, 63) North 50°22'10" East 103.07 feet, 64) North 27°03'07" East 101.09 feet, 65) North 42°50'05" East 153.03 feet, 66) North 38°49'16" East 262.69 feet, 67) North 44°43'21" East 190.34 feet, 68) North 81°07'16" East 180.14 feet, 69) North 70°39'00" East 172.83 feet, 70) North 73°43'10" East 165.69 feet, 71) South 88°30'22" East 241.18 feet, 72) North 89°39'35" East 108.74 feet, 73) North 83°37'52" East 170.29 feet, 74) North 84°51'13" East 215.80 feet, 75) South 81°51'43" East 144.54 feet, 76) North 73°14'01" East 160.54 feet, 77) North 89°12'59" East 152.04 feet, 78) South 86°20'53" East 125.49 feet, 79) North 89°57'00" East 141.72 feet, 80) South 84°52'46" East 141.65 feet, 81) South 73°46'48" East 11.88 feet To the Center Section Line of Section 4, Township 7 North, Range 2 East Salt Lake Base and Meridian; thence South 00°19'06" East 3,583.87 feet along said Section Line to the Quarter Corner of Section 4 and 9, Township and Range aforesaid; thence South 00°03'35" West

along the Center Section line 5,405.90 feet to the Quarter Section corner of Sections 9 and 16, township and range aforesaid; thence South $86^{\circ}20'47''$ East along the South Section Line 2,617.49 feet to the Corner of Sections 9, 10, 15 and 16, township and range aforesaid; thence South $46^{\circ}37'20''$ West 3,639.90 feet to the center of Section 16; thence South $00^{\circ}43'08''$ West along the Center Section Line 2,358.71 feet to the Quarter Corner of Sections 16 and 21 township and range aforesaid; thence South $86^{\circ}47'40''$ West along the Section Line 2,650.21 feet to the Corner of Section 16, 17, 20 and 21, township and range aforesaid; thence North $85^{\circ}54'28''$ West along the section line 2,614.70 feet to the Quarter Corner of Sections 17 and 20, Township and Range aforesaid; thence South $87^{\circ}20'03''$ West along the Section Line 2,432.26 feet to the Corner of Sections 17, 18, 19 and 20, Township and Range aforesaid; thence North $03^{\circ}35'27''$ West along the Section Line 2,575.97 feet to the Quarter Corner of Sections 17 and 18, Section and Range Aforesaid; thence North $85^{\circ}39'14''$ West along the Quarter Section Line 1,270.03 feet; thence North $04^{\circ}19'32''$ West 3,520.00 feet; thence West 2,460.69 feet; thence South $02^{\circ}20'05''$ East 659.64 feet to the West Sixteenth Corner of Sections 7 and 18; thence North $84^{\circ}07'08''$ West along the Section Line 1,197.28 feet to the Corner of Sections 7 and 18, Township 7 North, Range 2 East, and Sections 12 and 13, Township 7 North, Range 1 East; thence North $89^{\circ}39'48''$ West along the Section Line 1,322.81 feet; thence North $00^{\circ}06'22''$ West 2,681.08 feet to the Quarter Section Line; thence North $89^{\circ}50'14''$ West along said Quarter Section Line 1,322.49 feet to the Center of Section 12, Township 7 North, Range 2 East; thence North $00^{\circ}04'52''$ West along the Quarter Section Line 1,344.10 feet; thence South $89^{\circ}45'43''$ East 1,319.67 feet; thence North $00^{\circ}12'08''$ West 1,340.37 feet to the Section Line; thence North $89^{\circ}45'21''$ West along said Section Line 1,317.72 feet to the Quarter Corner of Sections 1 and 12, Township and Range Aforesaid; thence North $89^{\circ}50'36''$ West along the Section Line 2,635.43 feet to the Corner of Sections 1, 2, 11 and 12, Township and Range Aforesaid; thence South $00^{\circ}01'44''$ East along the Section Line 5,346.97 feet to the Corner of Sections 11, 12, 13 and 14, Township and Range Aforesaid; thence South $89^{\circ}26'58''$ West along the Section Line 2,647.58 feet to the Quarter Corner of Sections 11 and 14, Township and Range Aforesaid; thence South $89^{\circ}26'58''$ West along the Section Line 2,647.58 feet to the Corner of Sections 11, 10, 14 and 15, Township and Range Aforesaid; thence North $89^{\circ}19'32''$ West along the Section Line 2,134.72 feet; thence North 2,637.58 feet; thence North $03^{\circ}52'25''$ East 3,942.57 feet; thence North $38^{\circ}42'06''$ East 668.17 feet; thence North $64^{\circ}01'06''$ East 1,766.53 feet to the Quarter Corner of Sections 2 and 3, Township and Range aforesaid; thence North $02^{\circ}39'45''$ East along the Section Line 2,514.91 feet to the Corner of Sections 2 and 3, Township and Range Aforesaid, and Sections 34 and 35, Township 8 North, Range 1 East, Salt Lake Base and Meridian; thence North $01^{\circ}11'03''$ East along the Section Line 3,223.27 feet More or Less to the Weber and Cache County Line; Running Northeasterly and Southeasterly 11,901 feet More or Less along said Weber and Cache County Line to the point of beginning.

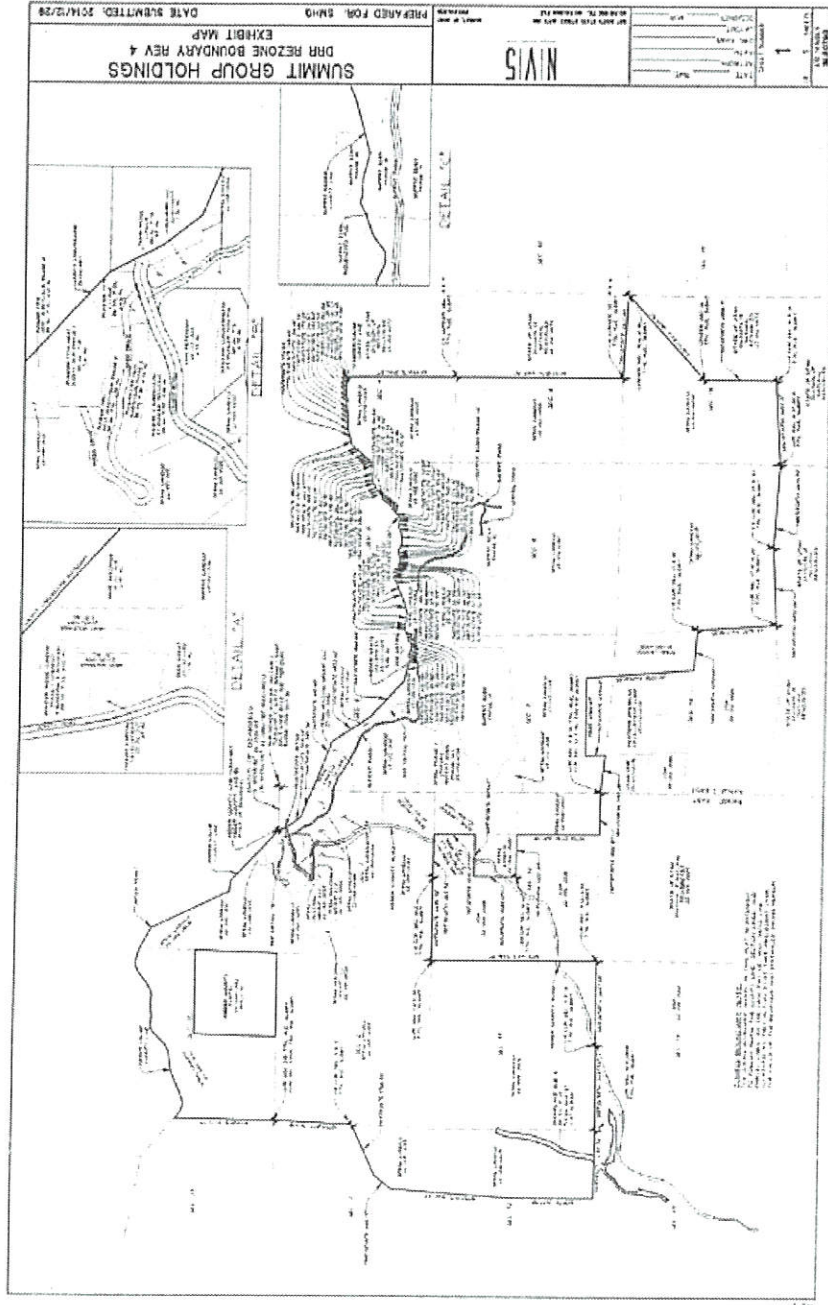
Less and Excepting the following:

Aspen Drive, Powder Mountain West Subdivision Phase 1, Powder Mountain West Subdivision Phase 2, Powder Mountain West Subdivision Phase 3, Sundown Condominiums at Powder Mountain Phase 1, Moon Ridge Condominiums, Powder 11 Subdivision at Powder Mountain, Powder Mountain Village, Powder Ridge Condominiums Phase 1, Powder Ridge Condominiums Phase 1 Building 3 Amended, Weber State Parcel 23-012-0109, Powder Mountain West Subdivision Phase 4, Powder Ridge Condominiums Phase 1 Amended, Snowflake Subdivision 3 "Open Space", Tax Parcel 23-044-0012, Tax Parcel 22-001-0014, Tax Parcel 22-001-0017, Tax Parcel 23-012-0082, Tax Parcel 23-012-0105, Tax Parcel 23-012-0106, Tax Parcel 23-012-0107, and Tax Parcel 23-012-0119.

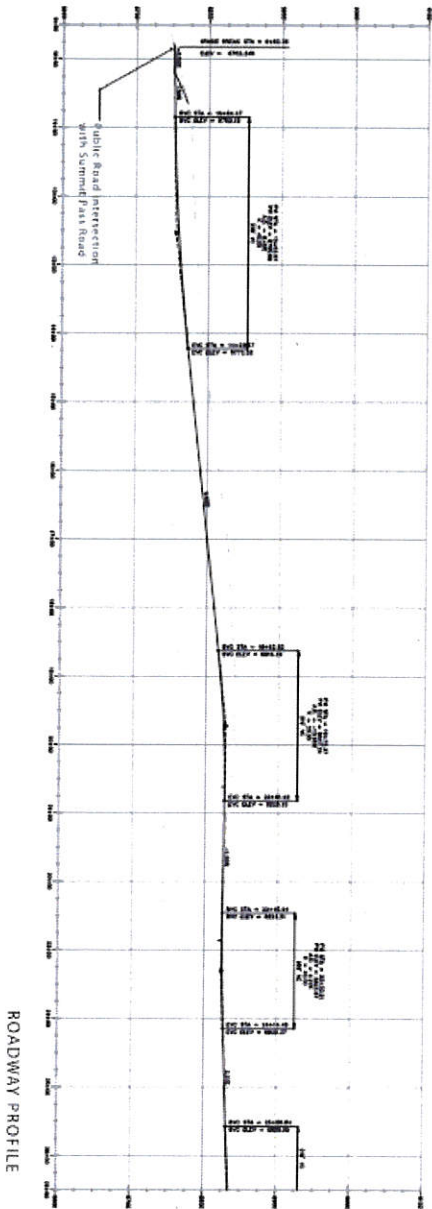
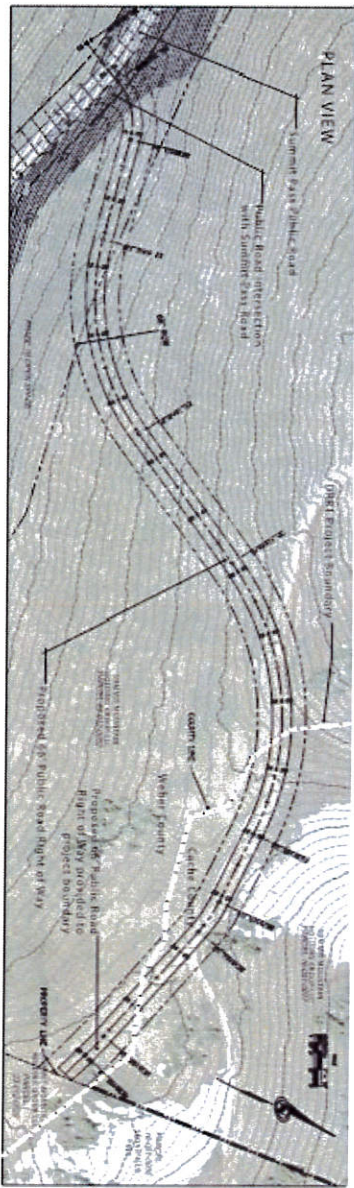
Containing Approximately: 6198 Acres

Exhibit A to the Second Amended Development Agreement

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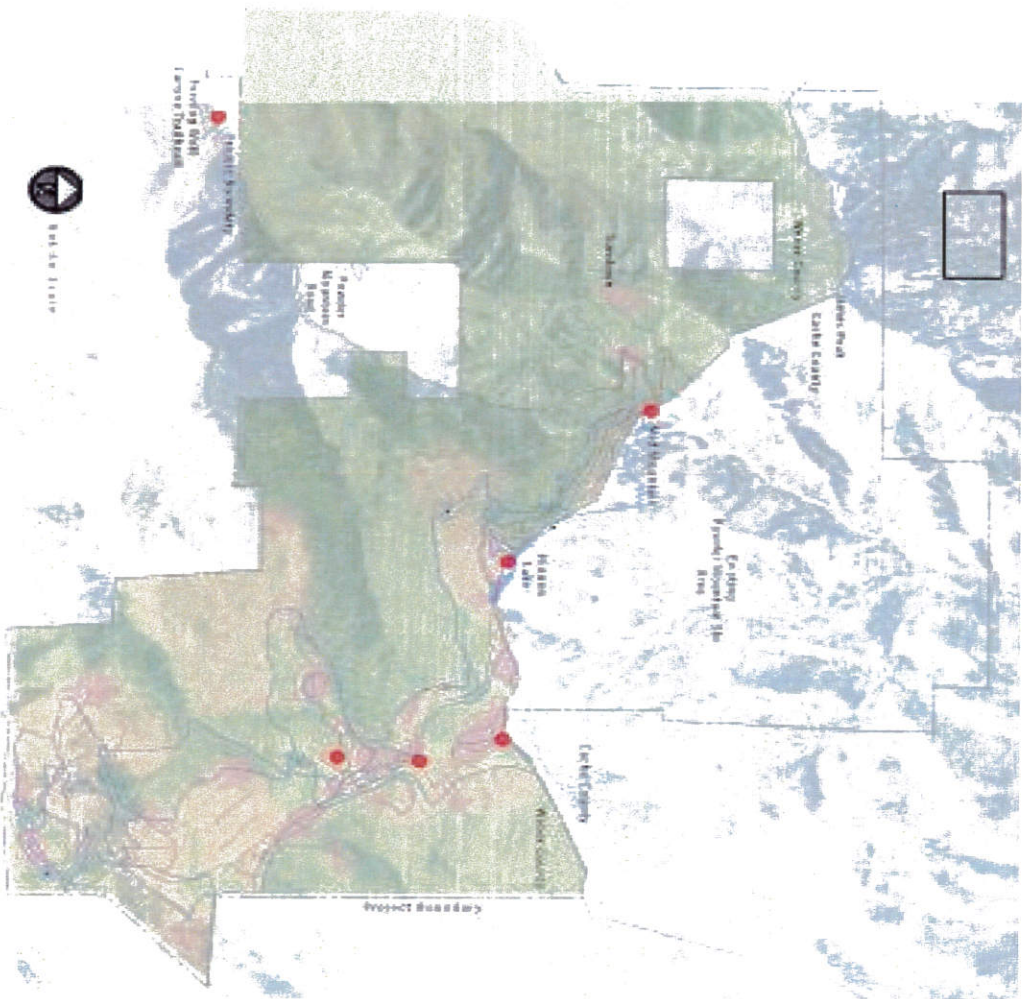
Public Roadway Access



Powder Mountain is committing to a public road right of way that will enable a secondary roadway link from the resort to the east via Cache County. This public access road right of way would utilize Powder Mountain Road, Summit Pass and this proposed roadway to provide a feasible point of connection for a future roadway access to the east. Prior to any right-of-way dedication, Developer and the County shall agree on the maintenance of the right-of-way.

This site is being provided at a point adjacent to the Stonefield, Inc. parcel within Cache County and is sited at a location with topography that is feasible for a roadway extension. Any roadway alignment provided further east of this point is off of the subject property and would therefore require those property owners to provide access. This access extension, design, location etc. is to be determined at a later date and is not part of this rezoning application.

Open Space with Trails Plan



The Open Space and Trails System diagram illustrates project trails that will connect neighborhoods to one another and to a regional trail network, if developed in the future. Powder Mountain is committed to providing regional public trail recreation through the project to ensure public trail access to and through the area. Powder Mountain will work with the adjacent landowners, UDOT, and Weber Pathways to promote these connections, if feasible. A goal has been placed on creating loops within the project. The efforts were developed in conjunction with Weber Pathways and the International Mountain Biking Association to provide beginner level trail loops as shown. In addition, there will be a variety of trails, multi-use trails, single-track for mountain biking and general-use trails for walking and hiking.

OPEN SPACE CALCULATION

Approximately 6,140 acres of the Powder Mountain property are located in Weber County. In Weber County, approximately 75 percent (4,740 acres) of the total land has been inventoried as open space. In order to calculate the open space for the ORSI zone requirements, the approximate 1,100 acres that have a slope more than 40 percent were subtracted from the total acres, resulting in an Adjusted Gross acreage of approximately 4,000 acres. Development is planned on approximately 1,500 acres, leaving 2,500 acres or 63% of the Adjusted Gross Acreage preserved as open space.





State of Utah

Department of
Environmental Quality

Richard W. Spratt
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

October 12, 2007

Scott Mendoza
Weber County Planning
Weber Center Suite 240
2380 Washington Blvd.
Ogden, Utah 84401

Subject: Powder Mountain Resort

Location: New commercial/residential community proposed adjacent to
Power Mountain Resort.

Purpose: Rezone for the expansion of the ski resort, and construction of 610
single family dwellings, 850 townhomes/condominiums, 320 hotel rooms, 5-8
hotels, and associated commercial retail and restaurants including landscaping and
access roads.

The Utah Division of Water Quality staff has reviewed the referenced information. It is our opinion that applicable water quality standards may be violated in the South Fork and Middle Fork of the Ogden River, Wolf Creek, and Pineview Reservoir unless appropriate Best Management Practices (BMPs) are incorporated to minimize the erosion-sediment load to any adjacent waters during project activities and operation of the facilities. Pineview Reservoir is listed on Utah's 303(d) list for dissolved oxygen, temperature, and total phosphorus. The beneficial use listed as impaired is 3A (cold water aquatic life). We recommend that appropriate water quality parameters of adjacent water be monitored for effectiveness.

Potential impacts from runoff during construction or during operation of the facility may include the degradation of water quality, increased quantities and intensities of peak flows, channel erosion, flooding, and geomorphologic deterioration that may directly or indirectly cause an inability of streams to sustain ecology and support their designated beneficial uses. Site designs should minimize the creation of additional impervious surfaces in watersheds that increase sheet runoff and promote designs that result in infiltration of runoff. Emphasis in design should avoid concentrations of storm water to fewer drainage locations. The intent should be to allow or mimic the natural flow patterns to the degree possible.

The Division of Water Quality requests the following conditions be included in the proposed project, as follows:

1. Whenever an applicant causes the water turbidity in an adjacent surface water to increase by 10 NTU's or if turbidity is visibly increased, the applicant shall notify the Division of Water Quality.
2. The applicant shall not use any fill material which may leach organic

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chemicals (e.g., discarded asphalt) or nutrients (e.g., phosphate rock) into the receiving water.

3. Applicant shall protect any potentially affected fish spawning areas.
4. The following permits from our Division are required during the construction phase of the project when more than a total of one acre of land is disturbed as a result of the project:
 - a. Construction activities that grade one acre or more are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Storm Water General Permit for Construction Activities, Permit No. UTR100000. The permit requires the development of a storm water pollution prevention plan to be implemented and updated from the commencement of any grading activities at the site until final stabilization of the project. A fact sheet describing the permit requirements and application procedures can be found on our web site waterquality.utah.gov.
 - b. Dewatering activities during the construction may require coverage under the UPDES General Permit for Construction Dewatering, Permit No. UTG070000. The permit requires water quality monitoring every two weeks to ensure that the pumped water is meeting permit effluent limitations.
 - c. In addition to these permitting requirements, the Division of Water Quality requires the submission of plan elements for permanent storm water runoff control and treatment. Control of pollutants such as petroleum and de-icing products must be implemented.
5. Repair of damaged riparian areas along the above-mentioned waters or tributaries should be included in project design. Riparian areas along creek banks help to reduce erosion, provide habitat and maintain proper temperatures necessary to retain beneficial uses of the waterbody.

Enclosed please find a map of the waters that may be affected by any development in the rezoned area. Please contact Shelly Quick at (801) 538-6516 if you have questions concerning the water quality comments for this project.

Exhibit A to the Second Amended Development Agreement



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

Office of the Governor
PUBLIC LANDS POLICY COORDINATION

JOHN HARJA
Director

RESOURCE DEVELOPMENT COORDINATING COMMITTEE
Public Lands Section

3/14

September 18, 2007

Scott Mendoza
Weber Center
2380 Washington Boulevard
Ogden, Utah 84401-1473

SUBJECT: Powder Mountain Resort Re-Zone For Development
Project No. 07-8271

Dear Mr. Mendoza:

The Resource Development Coordinating Committee (RDCC) has reviewed the Powder Mountain re-zone proposal in Weber County. The Utah Geological Survey (UGS) comments:

The UGS performed a cursory review of the report by AMEC Earth and Environmental, Inc. (AMEC) dated December 13, 2001 that is included as a section of the environmental impact study for the proposed Powder Mountain Resort rezone. AMEC identified geologic hazards on the property including slope instability/landslides, karst, debris flows, rock falls, problem (shrink/swell) soil, and shallow bedrock. AMEC's investigation is a preliminary study and more detailed work should be performed for areas where they have identified specific hazards. AMEC specifically recommends more detailed studies be done adjacent to areas where they identified landslides and limestone bedrock (potential karst areas). Addressing geologic hazards is best done early in the planning and design stages of development. Dealing with hazards after construction has begun or is completed can be difficult and costly.

Conclusions and recommendations in this review are based on data presented in the AMEC report. The Department of Natural Resources, Utah Geological Survey (UGS) provides no warranty that the data in the reports is correct or accurate, and has not done an independent evaluation of the geology/geologic hazards of the area. Recommendations in this review are provided to aid Weber County in reducing risks from geologic hazards

The Committee appreciates the opportunity to review this proposal. Please direct any other written questions regarding this correspondence to the Resource Development Coordinating Committee, Public Lands Section, at the above address or call the Director, Jonathan G. Jemming, at (801) 537-9023, or Carolyn Wright at (801) 537-9230.

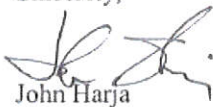
Sincerely,

John Harja
Director
Public Lands Policy Coordination Office

EXHIBIT B

Page 45 of Exhibit B to the ZDA

See attached.

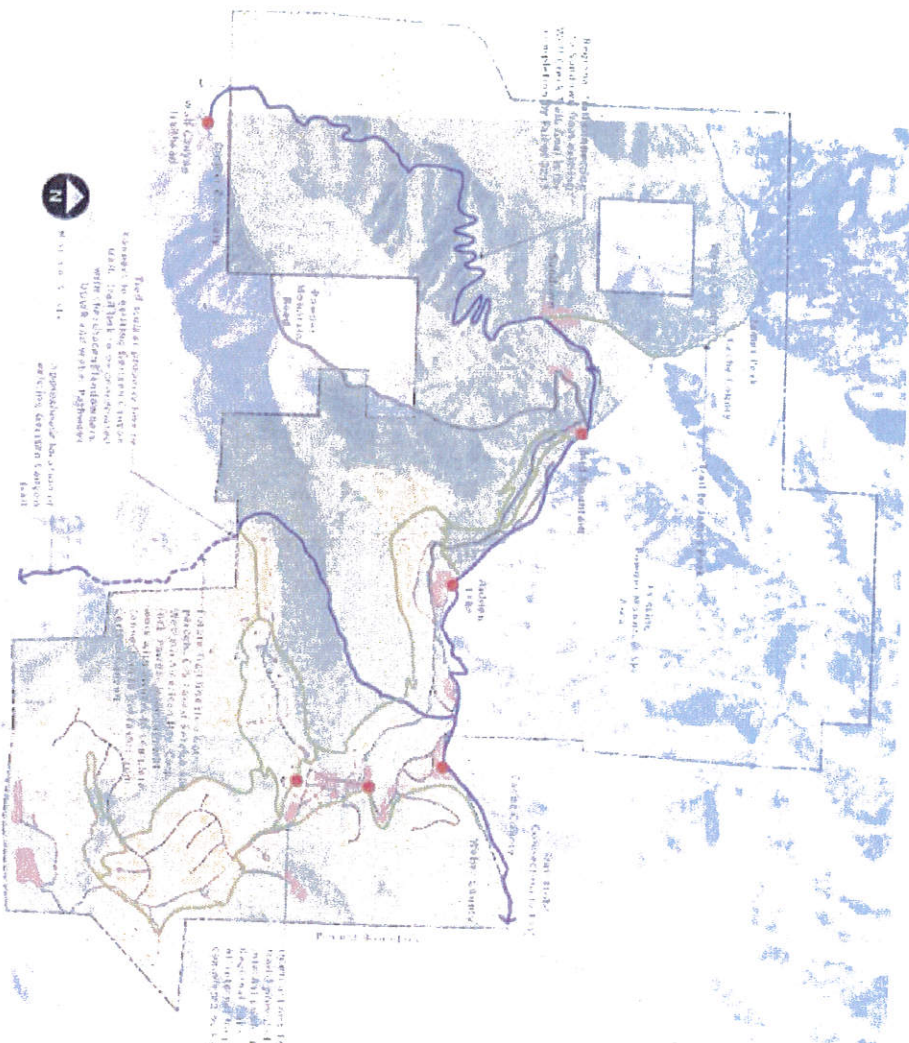
Exhibit A to the Second Amended Development Agreement

Exhibit B

Open Space with Trails Plan

POWER MOUNTAIN

Water-Courtesy Rezone Application 0899 45



The Open Space with Trails System includes a variety of trail types and features. The trails are designed to provide connectivity between the existing and proposed trails, and to provide a network of trails for recreation and transportation. The trail system is designed to provide connectivity between the existing and proposed trails, and to provide a network of trails for recreation and transportation.

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Exhibit A to the Second Amended Development Agreement

EXHIBIT C

New Exhibit E to ZDA

EXHIBIT E

Copies of the State of Utah Department of Environmental Quality letter dated October 12, 2007 and the Utah Geological Survey letter dated September 18, 2007

See attached.



State of Utah

Department of
Environmental Quality

Richard W. Sprott
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

JON M. HUNTSMAN
Governor

GARY HERBERT
Lieutenant Governor

Exhibit A to the Second Amended Development Agreement

EH 2990685 PG 31 OF 33

October 12, 2007

Scott Mendoza
Weber County Planning
Weber Center Suite 240
2380 Washington Blvd.
Ogden, Utah 84401

Subject: Powder Mountain Resort

Location: New commercial/residential community proposed adjacent to
Power Mountain Resort.

Purpose: Rezone for the expansion of the ski resort, and construction of 610
single family dwellings, 850 townhomes/condominiums, 320 hotel rooms, 5-8
hotels, and associated commercial retail and restaurants including landscaping and
access roads.

The Utah Division of Water Quality staff has reviewed the referenced information. It is our opinion that applicable water quality standards may be violated in the South Fork and Middle Fork of the Ogden River, Wolf Creek, and Pineview Reservoir unless appropriate Best Management Practices (BMPs) are incorporated to minimize the erosion-sediment load to any adjacent waters during project activities and operation of the facilities. Pineview Reservoir is listed on Utah's 303(d) list for dissolved oxygen, temperature, and total phosphorus. The beneficial use listed as impaired is 3A (cold water aquatic life). We recommend that appropriate water quality parameters of adjacent water be monitored for effectiveness.

Potential impacts from runoff during construction or during operation of the facility may include the degradation of water quality, increased quantities and intensities of peak flows, channel erosion, flooding, and geomorphologic deterioration that may directly or indirectly cause an inability of streams to sustain ecology and support their designated beneficial uses. Site designs should minimize the creation of additional impervious surfaces in watersheds that increase sheet runoff and promote designs that result in infiltration of runoff. Emphasis in design should avoid concentrations of storm water to fewer drainage locations. The intent should be to allow or mimic the natural flow patterns to the degree possible.

The Division of Water Quality requests the following conditions be included in the proposed project, as follows:

1. Whenever an applicant causes the water turbidity in an adjacent surface water to increase by 10 NTU's or if turbidity is visibly increased, the applicant shall notify the Division of Water Quality.
2. The applicant shall not use any fill material which may leach organic

chemicals (e.g., discarded asphalt) or nutrients (e.g., phosphate rock) into the receiving water.

3. Applicant shall protect any potentially affected fish spawning areas.
4. The following permits from our Division are required during the construction phase of the project when more than a total of one acre of land is disturbed as a result of the project:
 - a. Construction activities that grade one acre or more are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Storm Water General Permit for Construction Activities, Permit No. UTR100000. The permit requires the development of a storm water pollution prevention plan to be implemented and updated from the commencement of any grading activities at the site until final stabilization of the project. A fact sheet describing the permit requirements and application procedures can be found on our web site waterquality.utah.gov.
 - b. Dewatering activities during the construction may require coverage under the UPDES General Permit for Construction Dewatering, Permit No. UTG070000. The permit requires water quality monitoring every two weeks to ensure that the pumped water is meeting permit effluent limitations.
 - c. In addition to these permitting requirements, the Division of Water Quality requires the submission of plan elements for permanent storm water runoff control and treatment. Control of pollutants such as petroleum and de-icing products must be implemented.
5. Repair of damaged riparian areas along the above-mentioned waters or tributaries should be included in project design. Riparian areas along creek banks help to reduce erosion, provide habitat and maintain proper temperatures necessary to retain beneficial uses of the waterbody.

Enclosed please find a map of the waters that may be affected by any development in the rezoned area. Please contact Shelly Quick at (801) 538-6516 if you have questions concerning the water quality comments for this project.



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

Office of the
PUBLIC LANDS POLICY COORDINATION

JOHN HARJA
Director

RESOURCE DEVELOPMENT COORDINATING COMMITTEE
Public Lands Section

Exhibit A to the Second Amended Development Agreement

September 18, 2007

Scott Mendoza
Weber Center
2380 Washington Boulevard
Ogden, Utah 84401-1473

SUBJECT: Powder Mountain Resort Re-Zone For Development
Project No. 07-8271

Dear Mr. Mendoza:

The Resource Development Coordinating Committee (RDCC) has reviewed the Powder Mountain re-zone proposal in Weber County. The Utah Geological Survey (UGS) comments:

The UGS performed a cursory review of the report by AMEC Earth and Environmental, Inc. (AMEC) dated December 13, 2001 that is included as a section of the environmental impact study for the proposed Powder Mountain Resort rezone. AMEC identified geologic hazards on the property including slope instability/landslides, karst, debris flows, rock falls, problem (shrink/swell) soil, and shallow bedrock. AMEC's investigation is a preliminary study and more detailed work should be performed for areas where they have identified specific hazards. AMEC specifically recommends more detailed studies be done adjacent to areas where they identified landslides and limestone bedrock (potential karst areas). Addressing geologic hazards is best done early in the planning and design stages of development. Dealing with hazards after construction has begun or is completed can be difficult and costly.

Conclusions and recommendations in this review are based on data presented in the AMEC report. The Department of Natural Resources, Utah Geological Survey (UGS) provides no warranty that the data in the reports is correct or accurate, and has not done an independent evaluation of the geology/geologic hazards of the area. Recommendations in this review are provided to aid Weber County in reducing risks from geologic hazards

The Committee appreciates the opportunity to review this proposal. Please direct any other written questions regarding this correspondence to the Resource Development Coordinating Committee, Public Lands Section, at the above address or call the Director, Jonathan G. Jemming, at (801) 537-9023, or Carolyn Wright at (801) 537-9230.

Sincerely,

John Harja
Director
Public Lands Policy Coordination Office