

# Exhibit I

For attention County Commission,

Craig Dearden Jan M Hogmaister Kerry W Gibson,

March 6th 2012

Weber County Planning,  
2380 Washington Boulevard, Suite 240,  
Ogden Utah 84401-1473

Dear Sirs/Madam, Appeal: Conditional Heli Port Permit Granted February 28th with Review condition.

I have attended many commission hearings while the Heli Port ordinance went through the discussion stages into law.

I applied for a conditional permit and it was decided further time was required to evaluate certain conditions. On February 28th at my second hearing the consent was granted with a requirement for a further review in 6 months based on a report from the DWR to be considered despite the DWR being out of time, it was not specific or clear as to what was required in this report despite being prompted by the in house attorney. It was further considered necessary to review sound levels but these could not be specified as to what would be an acceptable level to demonstrate I had reasonably mitigated any detrimental or adverse sounds by being 2/3 rds of a mile away.

I wish to appeal the requirement to a further review and request a clear unequivocal decision that grants the permit based on my fully complying with the conditions of the ordinance which has been fully supported twice by the Planning Department.

I cannot be expected to plan ahead without certainty. I have spent a great deal of time working to have support from Heli ski enthusiasts that are considering investing in my property and others looking at the opportunity for charitable trust support for disabled skiers that could be based on my property. The heli ski permit being a key essential factor. My time to decide on these options is fast running out as to how I proceed with the development.

The DWR have now written and it is clear they do not have jurisdiction over private land and indeed support heli skiing in other areas of National Forest and have requested we work together in how we approach and depart with helicopters. I support this and am more than prepared to ensure this is adhered to. Our same pilots fly regularly for the DWR when inspecting and counting the wildlife flying right down to some 10 feet above the herds, the herds do not respond while these studies are made. Our pilots work all winter with the DWR carrying out this practice right over the land adjacent to my property, this has gone on for the past 25 years with no complaints, largely being out of earshot over my land. We do not have a conflict with the DWR. This made very clear to the commission but has been ignored. The DWR fly helicopters to prevent poaching and even last Friday flew 2 DWR guys with guns to shoot Coyote and Wolves. They fly low to dart the big game which do not move, history shows no deaths darting from helicopters against 20 per cent deaths darting from ground machines. They have no permission to do this over private land but are free to do so over all the DWR land surrounding my property. There is no basis to say the review should subject to further DWR reports when we have their support.

The question of sound levels led the planning commission into complete disarray with no ability to define what level is required to allow a conditional permit. The last meeting was very confusing, I was told by the chairman I had done all that was required, There was a suggestion the public should go out with their phones with a sound application and record sounds and come back and report them to the commission with no indication of required levels. I provided charts with actual sounds recorded by a University and 2 other charts were presented as well. It was agreed the helicopter at 2/3rd of a mile would be no more 70 db which was demonstrated in chambers to be no more than conversation level. The chart provides for much louder noise levels in every day life in Greenhill's, trucks, ATV's, snow plows, chain saws, wood chippers and grass cutters are just some examples of far noisier and longer duration sounds that exceed 110 db's. They are not proposing to ban all these users.

On March 4th I spent 7 hours waiting to measure the sound of a larger than normal helicopter fully loaded making an approach into the landing zone and a full power take off. He approach 300 agl and was visible from the top of Maple Drive for about 20 seconds. The recorded level averaged 58 db's with the range 52 to 70 db. The 70 db was a flash reading for about 1 second. The pilot explained later that was likely an air pocket. These readings were while in sight, when out of sight nothing recorded above 52 db.. With no sounds other than the breeze the recordings were 42/48 db. A gust of wind flashed 70 db. My car engine recorded 70 db. A motor bike came by recording 88 db.

Everything recorded fits precisely with all the tests provided and agrees with the expert speaking on behalf of the residents of expected sound levels.

The ordinance required a set back of 200 feet to mitigate helicopter noise, the commissioners considered this sufficient to mitigate any noise nuisance as the guidance to support the ordinance. I am 3,500 feet away and out of sight. This emphatically demonstrates compliance and shows how out of control the thinking has become. The commissioners have refused to set a maximum allowable db level which is unenforceable so a 200 foot set back was set as the only guide. At 70 db a helicopter 2/3 rd of a mile away for 20 seconds of exposure, no more than a traffic noise level does not constitute a nuisance or disturbance.

The commission wrote a clear ordinance after months of deliberation, the last meeting was disturbing to hear arbitrary confused thinking being applied coupled with disputes between themselves, refusing to accept proven analysis and clearly unable to clarify quite what is acceptable. I ask for the review to be set aside based on the DWR letter (which was delivered out of time) coupled with my undertaking given, the evidence of sound levels cannot be refuted and fully demonstrates that by being 2/3rd of a mile away and out of sight I have mitigated beyond all reasonable doubt any detrimental effects. I have lost all faith in the commission being able to make a clear rational and fair decision which I believe I am surely entitled to, I have had the full support of the planning department at every step. There is no justification for yet another review which will only add to the confusion already before us. This permit is open to be revoked should I not comply with the ordinance and perhaps the most vested interest in protecting the ordinance is within my own sub division where clearly I must retain support.

Thank you

Tim Charlwood

## Appeal Addendum

Kelly appeal letter.

I feel I should refute many of the blatant lies, wholly inaccurate statements, mischievous assertions made without knowledge or fact by a Deputy no less. The implied innuendoes regarding my relationship within the planning department and resulting prejudice I believe to be insulting to all parties. While this may not deal directly with the issues of ordinance the language and statements made go far beyond what can be expected by a gentleman of the law, he should know better than to fabricate evidence. He colluded with Mr Ratcliffe a Greenhill's resident at our commissioners site meeting when I was approached by Ratcliffe with a question "why should you have a heli permit when you refuse to let us ride our ATV's on your land" They are very angry and have encouraged trespassing on my land. This underscores the real issue. Kelly lives in Kelly Drive out of sight and out of mind and has no awareness whatsoever of the work being undertaken on the land or any of my business, in addition this has nothing to do with my heli permit at all, just attempted malice. The minutes of the meetings destroy all credibility of Kelly and his malicious language particularly statements regarding my being instructed to bring the heaviest helicopter from Diamond Peaks. A total nonsense, and designed to discredit me, as is much of this irrelevant appeal letter which should be struck out with an apology from Kelly, unlikely it seems.

Tim

## Exhibit J

March 13, 2012

Weber County Planning Division  
2380 Washington Blvd. Suite 240  
Ogden. Utah 84401-1473

Attention:

Sherri Sillitoe [ssillito@co.weber.ut.us](mailto:ssillito@co.weber.ut.us)

Sean Wilkinson [swilkinson@co.weber.ut.us](mailto:swilkinson@co.weber.ut.us)

Dear Weber County Planning Commission members:

We appreciate the time you spend working for the benefit of the citizens of Weber County and the personal sacrifice this entails.

As homeowners in the Green Hills Home Owners Association (GHHOA) we respectfully appeal the February 28, 2012 decision of the Ogden Valley Planning Commission (OVPC) to grant a Conditional Use Permit (CUP) for a commercial heliport directly located above our home at the top of Kelly Drive.

We believe that the OVPC rushed to judgment in granting the CUP without first ascertaining the impact it would have on noise levels and wildlife. In fact the enclosed letter from the Utah Division of Wildlife Resources (UDWR) was dated March 1, one date after the CUP approval.

The applicant, Mr. Charlswood, has not met Weber County's requirement to (1) *"demonstrate that the contemplated use... would be essential or desirable to the public convenience or welfare in that area,* (2) *that it will not impact the integrity and character of the surrounding property or* (3) *that the use can be made compatible by imposing conditions."*

(1) *The applicant has not demonstrated that the heliport would be essential or desirable to the public convenience or welfare in the area.* This is attested to by the number of Green Hills residents who have attended OVPC meetings and spoken against the heliport because of concerns about wildlife and noise. A representative of the Utah Division of Wildlife Resources (UDWR) also spoke against the heliport because the adjacent property is a wildlife conservation area and no motorized access is permitted from January 1 to March 31 to minimize negative impact on wildlife. Planner Sean Wilkinson had requested a written finding from UDWR on helicopter flights over the conservation area when motorized access is prohibited. The UDWR failed to respond timely so there was no written expert evidence on this concern when the CUP was granted.

(2) *The applicant has not demonstrated that the heliport would not impair the integrity and character of our properties.* The heliport would be located within two-thirds of a mile of the homes at the top of Green Hills and would destroy the quiet character of our rural neighborhood. Flights would be operated by the commercial Diamond Peaks Heli-Ski Adventures. Its website shows below that they use large heavily-loaded helicopters.

"Diamond Peaks uses the Bell Long Ranger, L-3's and L-4's because of their safe high mountain performance abilities. The L-4 helicopters can safely carry 6 people, but we fly with 5: 1-pilot, 1-guide, & 3-guests. Because of the altitude and the additional weight with the equipment (skis, boards, packs), a seat is left unclaimed to compensate for that weight."

The flight pattern from Diamond Peak's airport in Mountain Green to Mr. Charlswood's commercial heliport would be along the ridgeline directly above our homes. The helicopters would start their descent as they approach the heliport, so they would be flying low along our ridgeline. The proximity of the flight path to our homes raises serious concerns about safety should the helicopter experience mechanical problems during takeoff or landing. The flight pattern on takeoff would be above the wildlife conservation area.

Last month, five OVPC members, planner Sean Wilkinson, and GHHOA members met with Mr. Charlswood for an on-site visit. The purpose was to view the site, see a helicopter take off and land, and measure its noise. Mr. Charlswood did not honor his commitment to have a helicopter there, even though Mr. Wilkinson had procured appropriate equipment to measure noise. Thus there was no on-site test of the noise that fully-loaded (5 people and equipment) helicopters would actually produce particularly with echoes.

*The OVPC's conditional use permit does not include conditions that mitigate our concerns.* Neither of the two conditions in the CUP mitigates our concerns:


*"Flights (landings and take-offs) shall be measured by decibel meters and the findings shall be presented to the Planning Commission."* We have no reason to expect that Mr. Charlswood will meet this condition just as he failed to produce a helicopter and decibel measures for the February site visit.

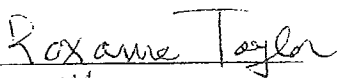
*An official review from the Utah Division of Wildlife Resources shall be obtained during the 6 month period approval period for review by the Planning Commission.* The March 1 UDWR letter states, "The project area is located within crucial big game winter range for mule deer, elk, and moose. The project, as currently proposed, located the helipad less than 300 feet from the boundary of a conservation easement held by UDWR, and within 3/4 mile of the UDWR Middle Fork Wildlife Management Area...UDWR is concerned about the potential impacts on wintering big game animals, including disturbance from the helicopters and displacement of wildlife from crucial winter range habits." UDWR added five stipulations to be included within the OVPC's CUP. These were not been included in the CUP approved the day before.

It is our request that the CUP be rescinded immediately. We request that Mr. Charlswood be required to satisfy the concerns raised in our letter before any further consideration of his commercial venture located immediately above our quiet neighborhood.

Sincerely,

Tom and Roxanne Taylor  
9704 Kelly Drive  
Huntsville UT 84317  
[tomroxanne@AOL.com](mailto:tomroxanne@AOL.com)  
801.388.6130

  
March 13, 2012

  
March 13, 2012

Encl: UDWR letter

cc: Weber County Commissioners

Exhibit K

Donald & Dawn Kelly  
9082 E Kelley Dr.  
Huntsville UT 84317  
(801) 745-1531

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March 13, 2012

Weber County Commissioners Office  
2380 Washington Blvd  
Ogden UT 84401

RE: Appeal of Decision related to Ogden Valley Planning Commission approval of CUP <sup>2012</sup> 20112-01

Dear Commissioners Zogmeister, Dearden, and Gibson;

Recently the Ogden Valley Planning Commission (OVPC) granted a conditional use permit for the use of a heliport on property belonging to Timothy Charwood of Park City Utah. The OVPC erred in the granting of the permit for a number of reasons. First, the application was vague and failed to address concerns raised by both the OVPC itself as well as residents. Second, the applicant provided misleading and inaccurate information regarding specifics of the use intended and failed to comply with requirements put forth by the OVPC to issue a permit. Third, the applicant has enjoyed extraordinary access to Weber County Planning staff, which provided prejudicial information to the Planning Commission during the first hearing in January of 2012 and erred in various instructions to the OVPC. Fourth, OVPC made it very clear during both meetings that when crafting the ordinance they relied on to make their decision, the intention was to allow heli-skiing operations to be based at the ski resorts or in the back country, and not to permit operations which adversely affect residential areas of the Ogden Valley. In this respect the OVPC failed to honor the spirit of the ordinance. Fifth, this proposal is lacking in every way a previous proposal in Eden lacked. Sixth, and finally, this conditional use permit for a commercial heliport utterly fails to meet the requirements of section 22C in the Weber County Ordinances. We respectfully request that the County Commission rescind the decision to grant CUP 2012-01.

Timothy Charwood applied for a conditional use permit to install a heliport on his property on 01/06/2012 immediately after Weber County adopted a new ordinance specifying where heliports may be built. Mr. Charwood's initial application identified three potential locations for the heliport, however two were deemed not to meet the minimum zoning requirement of 40 acres by the planning staff. Mr. Charwood wrote in his application "N/A see note 1" for all items under the heading **Basis for Issuance of Conditional Use Permit** "Note 1" does not adequately or accurately address the concerns raised in "Basis."

The OVPC initially tabled the application over a number of concerns including noise, impact on wildlife, health, and fire concerns. A representative from the Utah Division of Wildlife Resources (DWR) was present at the meeting and noted potential conflicts with the CUP and the surrounding wildlife conservation easements. To address the concerns a site visit was arranged and Mr. Charwood allegedly arranged for a Diamond Peaks helicopter to arrive and depart from his property. He was instructed at the meeting to provide the biggest helicopter that Diamond Peaks flies. Members of the OVPC and Planning staff arrived on that Saturday equipped with a sound level meter and were given a tour of the site. The meeting adjourned to the cul-de-sac at the top of Maple Drive and we waited for a helicopter, which never arrived. Mr. Charwood's contribution was to point out an Air Ambulance that was enroute to Wolf Mountain that day and remark that no one heard it.

In spite of the applicant failing to meet the requirement for a live on site assessment and no response from DWR the OVPC still granted the CUP. This was justified in the meeting notes by referencing one of the planning commission members using a cell phone "ap" to monitor ambient noise in the commission chamber and by an unmonitored submission from Mr. Charwood purportedly done at the Morgan county airport, also using a cell phone "ap" and referencing a Medical Helicopter at 100' and 2/3 of a mile. This shoot from the hip attempt to bypass a very reasonable request that the applicant supply factual data is unacceptable. It's also unacceptable that DWR was not given adequate time to address their concerns.

In Mr. Charlwood's "note 1" he stated that "all flight approaches and departures would be over the Sanctuary Property and then continue over uninhabited forestry land at higher altitude." This statement and the elaboration on it submitted by Mr. Charlwood at the January OVPC meeting, is false. Due to terrain and operational cost considerations helicopters arriving and departing to either Weber Canyon or the Morgan County Airport transit Green Hill Country Estates at relatively low altitude. Mr. Charlwood stated that the heliport would be located 200 feet away from ridgelines to reduce noise which, while possibly technically correct, is extremely misleading. The only suitable location is a building pad located where the "ridge" dividing Maple Canyon and Kelley Canyon meets the Mountain to the east of Mr. Charlwood's property. The other two initially proposed locations are areas where Mr. Charlwood leveled the tops of two prominent knobs to make building sites, both of which sit on the aforementioned ridge. Mr. Charlwood stated that heli-skiing helicopters are already flying over Green Hill enroute to their drop off area and aren't noticed. This statement is patently false, as the flight path from Mountain Green actually crosses Huntsville Town and fails to consider proximity with landing and taking off.

During Mr. Charlwood's presentation he submitted that a public benefit of his project would be the possibility that Skiers with the Park City based National Ability Center *might* have the opportunity to heli-ski. According to an individual who lives in Green Hill and whose son skied with the National Ability Center, that operation is based solely at Park City Mountain Resort. When questioned by the OVPC Mr. Charlwood appeared to verbally stumble and was unable to provide any specifics regarding when, how, or how often this use might occur. We concluded that, while Mr. Charlwood may have had a conversation with someone at the National Ability Center, no actual plans exist for such an operation. Mr. Charlwood could have addressed this by simply providing a letter from the Center stating that they were considering his proposal. Aside from the National Ability Center we cannot discern any public benefit to this CUP. Were Diamond Peaks, a Huntsville based company, to be part of the submission some benefit to the local business community might be assumed. However, no such inclusion took place and, even if it had, the OVPC has shown little regard for Diamond Peaks' operation in the past.

Mr. Charlwood has applied for a commercial heliport operation and has apparently been in discussion with Diamond Peaks Heli Ski Adventures, however Mr. Charlwood provided nothing but generalities regarding the flight operations and the charter carriers that would be using his facility. He stated that he would not be receiving payment for the use of the facility, other than having potential buyers view his property. Apparently, Mr. Charlwood would like the best of both worlds, namely to have relaxed standards associated with a non-commercial operation while engaging in commercial activity. No discussion was undertaken regarding Mr. Charlwood's ability to run a commercial heliport. No discussion of business licensing, taxation or other issues pertinent to the County took place. The instructions included in the February meeting notes at the end of page 1 and continuing onto page 2 regarding business licensing are in error and once again demonstrate the bias of the Planning Office with regard to this application. No pertinent discussion of site design recommendations for a heliport took place. The review of fire issues and associated fire suppression was limited to the Weber Fire District's concern about refueling, which was removed from the proposal. The appropriate entity for review of fire concerns with a "back country" heliport should have been the Utah Division of Forestry, Fire, and State Lands which apparently was not consulted.

Mr. Charlwood has enjoyed extraordinary access to the Weber County Planning Office as a result of his multi-year construction of the Sanctuary subdivision, so much so that Sean Wilkinson of the Planning Office has repeatedly shed any pretense of impartiality and advocated for approval of the CUP. Mr. Wilkinson went to bat for Mr. Charlwood during the initial project presentation and effectively made off limits a central concern of the Green Hill neighborhood; specifically, access. Mr. Wilkinson stated that the Planning Staff had reviewed the legal agreement providing easement access for Mr. Charlwood over Green Hill private roads and the OVPC could not consider access in their review of the CUP. Mr. Wilkinson's assertion was simply wrong and biased the OVPC against considering a major issue with the CUP. It is completely understandable that the OVPC would not review the legal easement; however it is inexcusable that the OVPC would not consider items which should have been addressed under point two of **Basis**. Specifically, the residents of Green Hill do not lose their rights as citizens to have the impact of access for commercial activity taken into account simply because the road it is transiting is private. By taking access off the table the OVPC failed to consider roadway width, slope, proximity of residential

construction, and safety concerns with maintenance. This does not even address emergency vehicle access to a site that is secured with a heavy gate and which has steep, narrow, unpaved roads. The net effect is that Weber County washed its hands of access concerns and placed the entire burden on Green Hill HOA. Mr. Wilkinson's advocacy was also apparent in the meeting minutes from the February meeting when he addressed noise concerns, the DWR response, and the OVPC's role in assessing commercial and business use. As a side note, we find it remarkable that the Weber County Assessor's Office is completely unaware of the subdivision application to the Planning Office (approved by OVPC), the extensive site work and road construction which has been done (estimates of \$1,000,000 or more in construction), and the active marketing of the site with a price between \$3,000,000 and \$5,000,000.

The OVPC relied on a newly crafted ordinance, which they themselves said was inadequate to address the concerns raised by this proposal. Effectively, the OVPC stated that they had no choice but to grant the CUP because the ordinance *makes it possible* to have a particular use granted. Using this logic, Diamond Peaks should have been operating out of the Red Moose Lodge under a CUP for the past two years, arguably a better location than this one. The Notice of Decision references two "conditions" but does not assign responsibility for meeting them and provides no metric or process for measuring noise. The CUP provides greater latitude for operation than even Mr. Charlwood requested and does not limit flight times, seasons of operation, number of flights, and does not address what happens in six months during review, one way or the other.

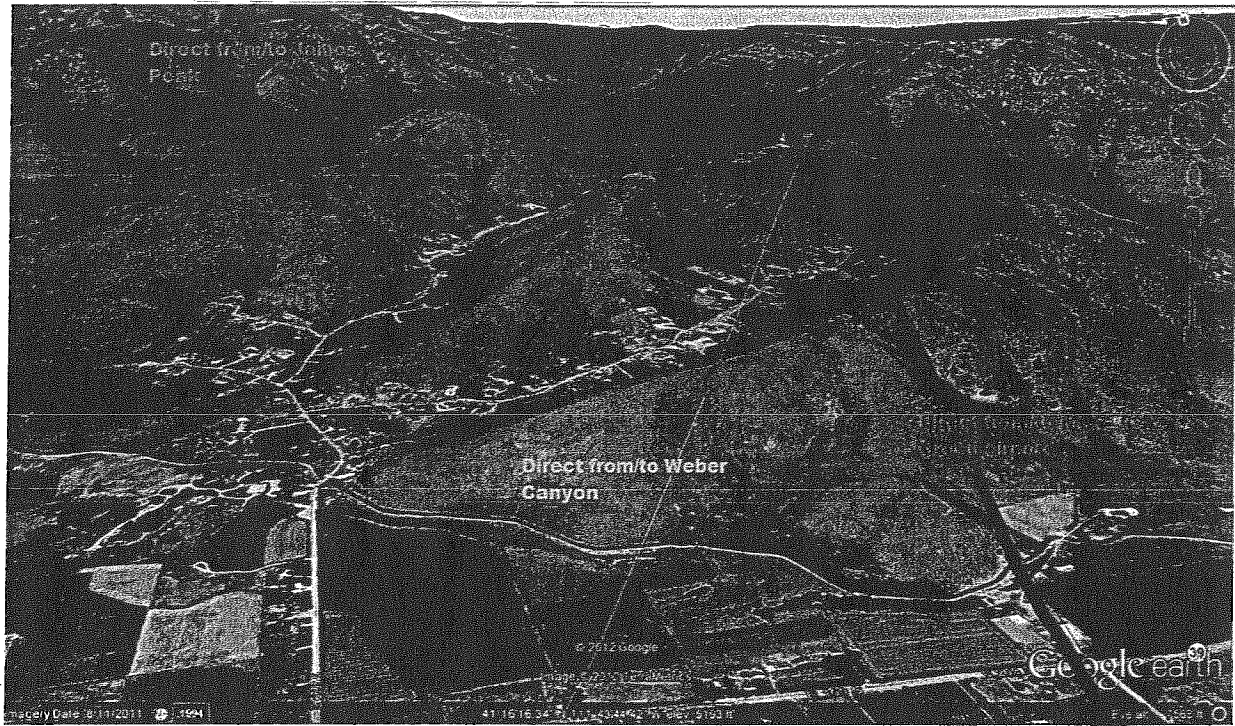
Comparing this location to the one in Eden we are struck by the similarities as much as the differences. In Eden, the heliport was intended to be on the property of the Red Moose Lodge. Access to the hotel, already a commercial site, was excellent and there is a fire station nearby. There are only two residences within a ¼ mile. To the north, Snowcrest Jr. High is about 1/5<sup>th</sup> of a mile away. At Mr. Charlwood's property he is almost completely surrounded by wintertime wildlife conservation land. To the south and west of his property there is a residential subdivision with the closest house .62 miles from his proposed location, directly down Kelley Canyon. To the south, the County has approved the construction of Green Valley Academy, purportedly a school. There are no nearby hotels or lodging facilities to the Charlwood property and access from Powder Mountain is of dubious value over the Morgan Airport.

In conclusion, this proposal, and the subsequent public discussions with the OVPC have failed to meet the requirements of Section 22C of the Weber County Ordinances. Specifically, ***The applicant must demonstrate that the contemplated use is compatible with the zoning ordinance standards and that the use would be essential or desirable to the public convenience or welfare in that area, that it will not impair the integrity and character of the surrounding property, or that the use can be made compatible by imposing conditions. These conditions may include, but are not limited to, the size, shape, location and topography of the site, the hours and days of operation, how to minimize environmental impacts such as noise and air pollution, location of vehicle access points, outdoor lighting, landscaping standards, fencing, water and wildlife protection, etc.*** Mr. Charlwood has asserted that this venture is not a money making operation for him and that the heli-skiing season only lasts from January through March. Indeed, given the amateur nature of the application documents, it's hard to believe the even Mr. Charlwood takes this proposal seriously. No charter operator is waiting idly, unengaged in their normal business, while this permit is given proper consideration. In spite of the fact that Mr. Charlwood has had plans on file with Weber County for a residential subdivision for years, together with site visits by County Officials, and no agricultural activities, he continues to receive a Green Belt tax exemption making the tax value of his entire property a small fraction of what each Green Hill property owner currently pays. The public benefit of this project is negligible while the concerns are numerous. Given these facts the CUP should be denied on its face. However, should the Commission decide to give Mr. Charlwood the opportunity to address the concerns noted, no permit should be granted until this has been done and proper comment from affected parties is allowed. This is only fair to the tax paying citizens who reside in Green Hill and Weber County.

Sincerely,

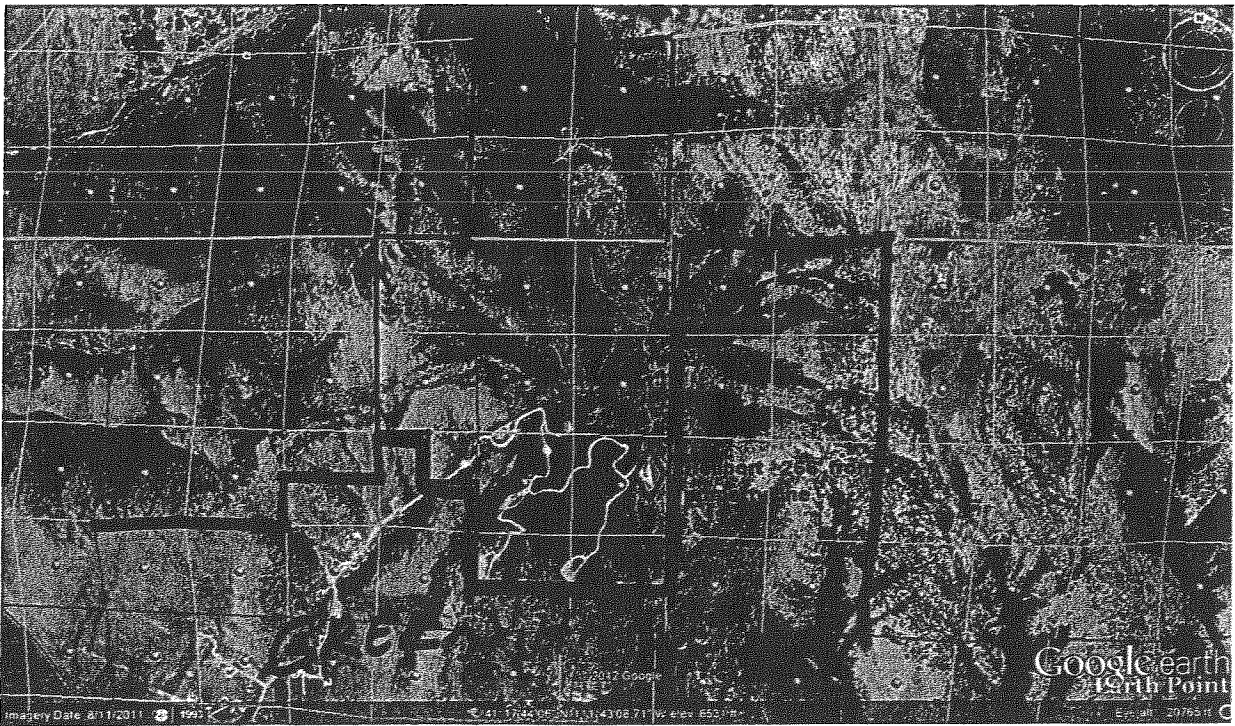
A handwritten signature in black ink, appearing to be 'D. R. K.', with a long, sweeping underline that extends across the bottom of the page.





Flight paths to and from proposed heliport.

Mt Green



Black lines are Charlwood's Property. Red lines are Green Hill.