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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 ~~2012-01~~²⁰¹²

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 Charlwood 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 Charlwood 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. Charlwood'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. Charlwood 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. Charlwood 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. Charlwood'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. Charlwood 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 OVPCs 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.

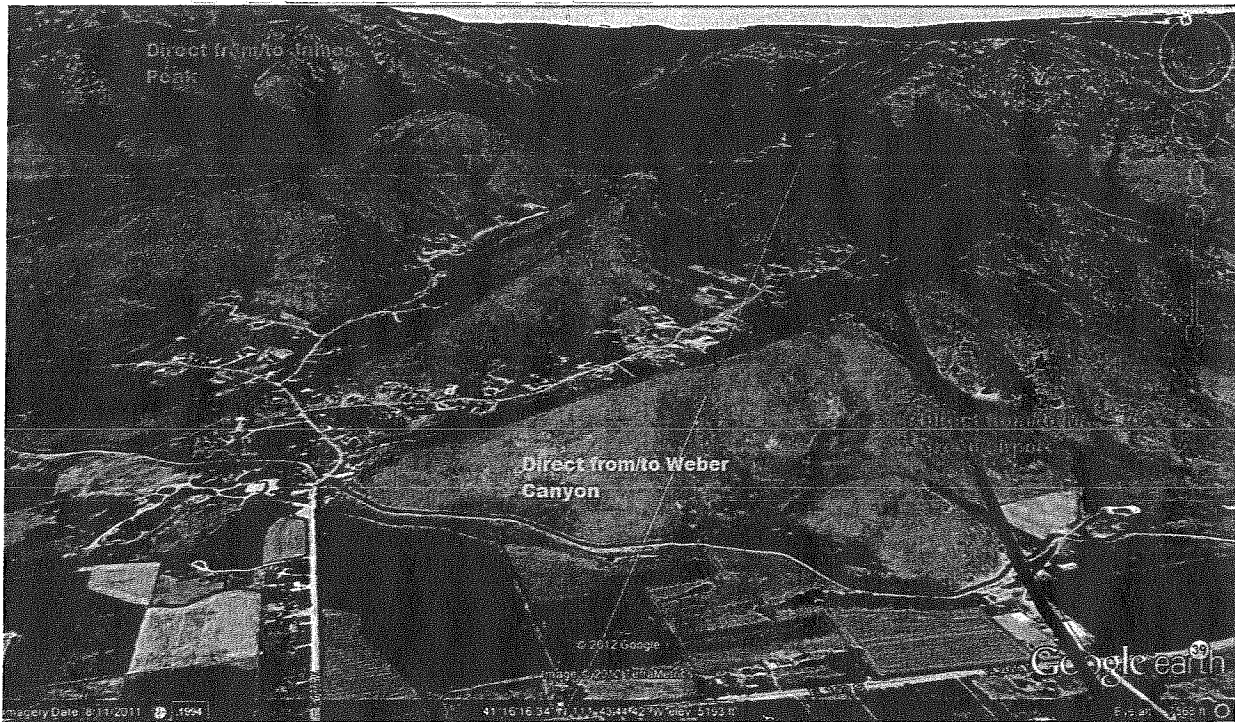
The OVPC relied on a newly crafted ordinance, which they themselves said was inadequate to address the concerns raised by this proposal. Effectively, the OVPC stated that they had no choice but to grant the CUP because the ordinance *makes it possible* to have a particular use granted. Using this logic, 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 1/5th 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.

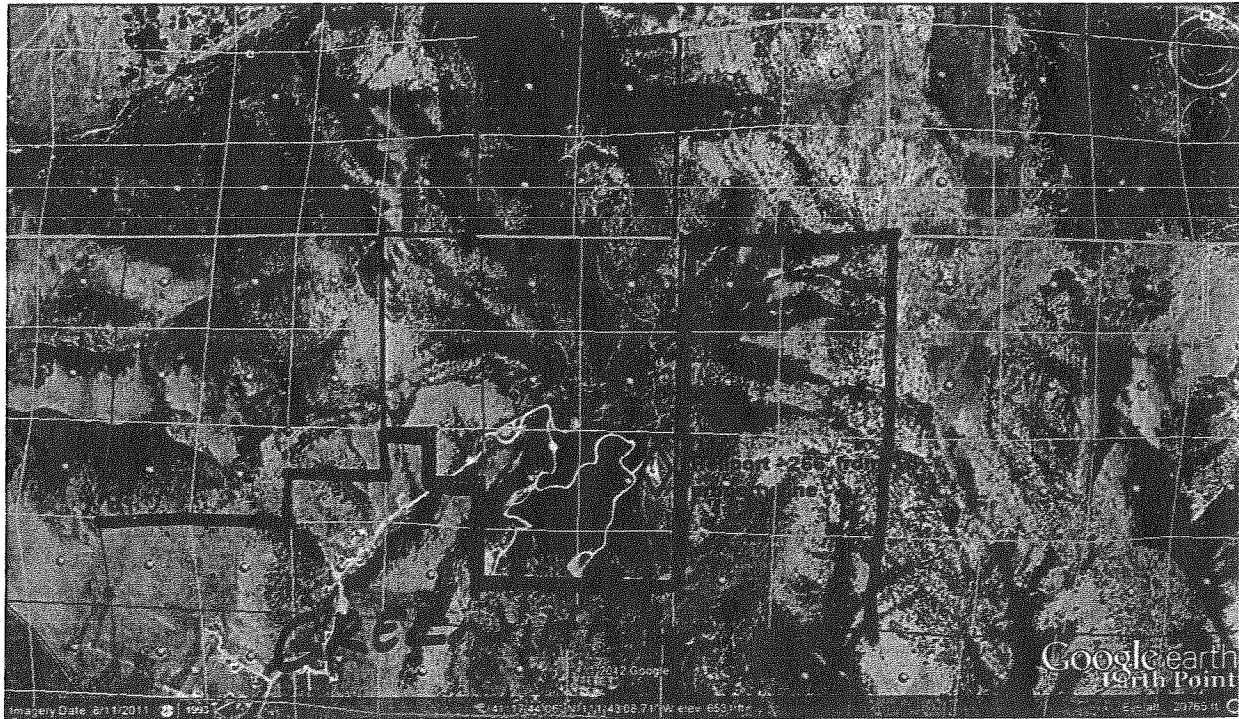
Sincerely,

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



Flight paths to and from proposed heliport.

Mt Green



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