Message

**From:** Piggott, Amelia [Piggott.Amelia@epa.gov]
**Sent:** 12/8/2016 4:47:16 PM
**To:** Parker, Robert [Parker.Robert@epa.gov]
**Subject:** Fw: Silver Gate Ranches Proposed Subdivision, Pace Ranch Property, Park City, UT
**Attachments:** removed.txt

FYI. I forwarded this to Andrea as well.

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**From:** Peterson, Steven D. <petersons@ballardspahr.com>
**Sent:** Wednesday, December 7, 2016 4:23:09 PM
**To:** 'Jami Brackin'; McKinstry, Robert
**Cc:** Piggott, Amelia; 'Walter J. Plumb III (drwjplumb@gmail.com)'; 'Walter J. Plumb III (drplumb@comcast.net)'; 'Laurie Goldner'; 'Robert McKinstry'; Pat Putt; Sean Lewis
**Subject:** RE: Silver Gate Ranches Proposed Subdivision, Pace Ranch Property, Park City, UT

Jami,

This responds to a portion of your email to my partner Bobby McKinstry and relates to your assertion that the Development Agreement has expired. The position of Resort Associates on this issue was set forth in Mark Durrant's letter dated September 13, 2013. Putting aside for the moment your position regarding the status of the Development Agreement, I would like to understand the public policy basis behind your position. You acknowledge vested rights to develop 18 lots. Why doesn't Summit County cooperate with the developer in situating the 18 lots in the very best location from a development standpoint. Resort Associates has constructed extensive improvements, including fencing, a beautiful entrance monument, barns, a pond and other improvements. The location of the proposed 18 lots eliminates all environmental issues, creates flat 2 acre lots for each homesite and permits a beautiful project to go forward leaving more than 100 acres of dedicated open space. What does it really matter where 18 lots are located on a 150 acre site? Summit County has approved massive density for Promontory and other developers immediately adjacent to the Pace Farm. Your position is really punitive in nature and intended to punish a developer you and Pat Putt do not like.

It appears that this impasse leaves no choice, but litigation. Accordingly, the developer intends to file a Declaratory Judgment action regarding the term of the Development Agreement. At the same time the developer will submit its revised subdivision plat to the County for decision. As you know phase 2 was halted because you asserted that the Pace Ranch is a "superfund" site notwithstanding the developer's studies showing virtually no contamination. You further advised that a plat note disclosing the alleged environmental status would be required which made it impossible to move forward. I can't imagine that a court will not take these facts into consideration in a determination of rights under the Development Agreement. Please advise if your email regarding the expiration of the Development Agreement constitutes the final decision of Summit County and not just the decision of the Planning Department and the County Attorney's office. If it is a final decision the developer will proceed and invites you to consider jointly drafting a set of stipulated facts for purposes of the Declaratory Judgment action.

**Steven D. Peterson**

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**From:** Jami Brackin [mailto:jbrackin@summitcounty.org]
**Sent:** Tuesday, December 06, 2016 2:31 PM
**To:** McKinstry, Robert (Phila)
**Cc:** 'Amelia Piggott (Piggott.amelia@epa.gov)'; 'Walter J. Plumb III (drwjplumb@gmail.com)'; 'Walter J. Plumb III (drplumb@comcast.net)'; 'Laurie Goldner'; Peterson, Steven D. (SLC); 'Robert McKinstry'; Pat Putt; Sean Lewis
**Subject:** RE: Silver Gate Ranches Proposed Subdivision, Pace Ranch Property, Park City, UT

Mr. McKinstry:

I appreciate the work you have done on this project and I am hoping you will understand that simply revising your plan or relocating the approved 18 units may not be an option. The project was approved with the homes on phase II sited and approved in a very specific location with the resulting open space being provided as a community benefit in exchange for the density. Changes to that approval would require an amendment to the Development Agreement which has now expired meaning that no amendment can take place. Further, while the approved phase II plat may be recorded, because the property is within the EPA's OU2 and the County's Overlay Zone, a plat note will need to be added requiring EPA /DEQ approval of any building or soil disturbances per the Overlay Zone Ordinance. If your plan can obtain that approval, that is a step in the right direction and may modify the plat note, but does not allow a modification of the approved plan.

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**From:** McKinstry, Robert [mailto:McKinstry@ballardspahr.com]
**Sent:** Monday, December 05, 2016 2:26 PM
**To:** Jami Brackin
**Cc:** 'Amelia Piggott (Piggott.amelia@epa.gov)'; 'Walter J. Plumb III (drwjplumb@gmail.com)'; 'Walter J. Plumb III (drplumb@comcast.net)'; 'Laurie Goldner'; Peterson, Steven D.; 'Robert McKinstry'
**Subject:** Silver Gate Ranches Proposed Subdivision, Pace Ranch Property, Park City, UT

Dear Ms. Brackin,

I have been working with Steve Peterson, Walter Plumb and Laurie Goldner of Sage Environmental to resolve the environmental issues relating to the above referenced proposed subdivision. As a result of extensive study of the property, we have been able to develop a revised design for the 18 unit subdivision that avoids all areas on the property that contain any level of constituents of concern exceeding EPA screening levels and will also avoid construction in wetlands areas. I have attached a link to a letter from Steve and me that encloses the revised project layout and a letter from Dr. Goldner on behalf of Sage laying out the results of the extensive environmental testing on the property. https://ballardspahr.sharefile.com/d-sbeaed19fc5d45579. Both letters conclude that the revised design will allow the County to approve the subdivision consistent with Ordinance 692 without the need for the involvement of EPA or DEQ. As reflected in Dr. Goldner's letter only three areas on the larger property have been "minimally impacted by tailings from historic mining operations" and "[a]ll impacted areas fall outside of the proposed development area." We are also mailing copies of the entire package to you and those receiving this email by mail.

As indicated in our letter, we would be happy to meet with you to go over these results if you believe it would be helpful.

Best Regards,

**Robert B. McKinstry, Jr.**

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