

ENTRY NO. 01013800

03/03/2015 01:22:05 PM B: 2281 P: 1587

Ordinance PAGE 1/10

MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER

FEE 0.00 BY SUMMIT COUNTY CLERK



SUMMIT COUNTY, UTAH

ORDINANCE # 836

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE
PROMONTORY SPECIALLY PLANNED AREA**

EASTERN SUMMIT COUNTY, UTAH

Preamble

WHEREAS, Pivotal Promontory Development, LLC (“**Pivotal**”) has applied for an **Amendment** to the Development Agreement (“**Development Agreement**”) for the Promontory Specially Planned Area (the “**SPA**”) in order to add exhibits which more specifically identify vantage points from which ridgelines will be surveyed, consistent with Section 4.8.6.1.6 of the Development Agreement; and,

WHEREAS, Section 6.9.1 of the Development Agreement provides for substantial amendments thereto and requires a public hearing before the Eastern Summit County Planning Commission (“**Planning Commission**”), a recommendation by the Planning Commission, and a public hearing before the County Council (“**Council**”) prior to a final decision on this Amendment; and,

WHEREAS, a public hearing was held by the Planning Commission on February 5, 2015, after which the Planning Commission made a positive recommendation on same date; and,

WHEREAS, the Council conducted a properly noticed public hearing on February 25, 2015; and,

WHEREAS, the Council, acting pursuant to its authority under UCA §§ 17-27a-101, *et. seq.* (1953), as amended, has made certain determinations with respect to the SPA and in the exercise of its legislative discretion, has elected to approve this Amendment after receiving a recommendation from the Planning Commission and the holding of all necessary public hearings; and,

WHEREAS, it is in the best interests of Summit County (the “**County**”) and the health, safety, and general welfare of its citizens to approve this Amendment in order to clarify and specify the vantage points from which ridgelines will be surveyed.

NOW THEREFORE, the Legislative Body of Summit County, Utah, hereby ordains as follows:

SECTION 1. The Second Amendment to the Development Agreement for the Promontory Specially Planned Area, attached hereto as Exhibit A, in book form, consisting of 7 pages, five copies of which have been filed for use and examination in the office of the Clerk of Summit County, Utah, is hereby adopted by Summit County, and the Chair is authorized to sign and execute this Amendment on behalf

of the County.

SECTION 2. This Ordinance shall take effect fifteen (15) days after the date of its publication.

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Council, this 25TH day of February, 2015.

**SUMMIT COUNTY COUNCIL
SUMMIT COUNTY, UTAH**

By: *Kim Carson*
**Kim Carson
Council Chair**

Council Member Armstrong voted *aye*
Council Member Robinson voted *aye*
Council Member McMullin voted *aye*
Council Member Ure voted *aye*
Council Member Carson voted *aye*

ATTEST:

Kent Jones
**Kent Jones, County Clerk
Summit County, Utah**



APPROVED AS TO FORM:

David Thomas
**David Thomas
Chief Civil Deputy**

EXHIBIT A

WHEN RECORDED RETURN TO:

Summit County Clerk
Summit County Courthouse
60 North Main
Coalville, Utah 84017

**SECOND AMENDMENT TO
THE DEVELOPMENT AGREEMENT FOR
THE PROMONTORY SPECIALLY PLANNED AREA**

EASTERN SUMMIT COUNTY, UTAH

THIS SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE PROMONTORY SPECIALLY PLANNED AREA (the “**Amendment**”) is entered into this 25 day of Feb, 2015 (the “**Effective Date**”), by and between Pivotal Promontory Development, LLC, in its capacity as the developer of the Promontory SPA (“**Pivotal**”), and Summit County, a political subdivision of the State of Utah (the “**County**”). Pivotal and the County are individually referred to in this Amendment as a “**Party**” and collectively referred to herein as the “**Parties**”.

RECITALS:

- A. **WHEREAS**, Pivotal has applied for this Amendment in order to add exhibits which more specifically identify vantage points from which ridgelines will be surveyed, consistent with Section 4.8.6.1.6 of the Development Agreement (the “**Development Agreement**”) for the Promontory Specially Planned Area (the “**SPA**”); and,
- B. **WHEREAS**, the County, acting pursuant to its authority under UCA §§ 17-27a-101, *et. seq.* (1953), as amended, has made certain determinations with respect to the SPA and in the exercise of its legislative discretion, has elected to approve this Amendment after all necessary public hearings; and
- C. **WHEREAS**, it is in the best interests of the County and the health, safety, and general welfare of its citizens to approve this Amendment in order to clarify and specify the vantage points from which ridgelines will be surveyed.

AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

- 1. Amendment. The Development Agreement is hereby amended to include the attached Schedules 1 & 2, which augment both Section 4.8.6.1.6, as well as any applicable provisions in the Promontory Design Guidelines.

2. Intent. This Amendment more specifically identifies the vantage points from which ridgelines will be surveyed.

3. Miscellaneous.

a. Ratification of Agreement. In the event of any inconsistency between the terms of this Amendment and the Development Agreement, the terms of this Amendment shall control. Except as specifically provided in this Amendment and without waiving any rights of the Parties hereunder, the Parties specifically ratify, confirm, and adopt as binding and enforceable, all of the terms and conditions of the Development Agreement.

b. Effect on Agreement. From and after the date hereof, all references to the Development Agreement shall be deemed to mean the Development Agreement as amended by this Amendment.

c. Headings. The section headings in this Amendment are intended solely for convenience and shall be given no effect in the construction and interpretation of this Amendment.

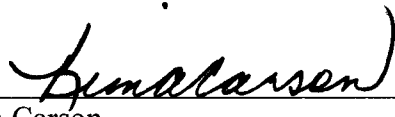
d. Counterparts. This Amendment may be executed in one or more counterparts, and by the different Parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Counterparts may be exchanged by telecopier, email or other means of electronic transmission.

[Signatures on following page]

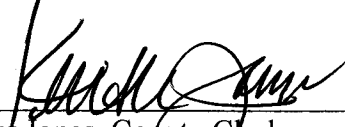
IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first set forth above.



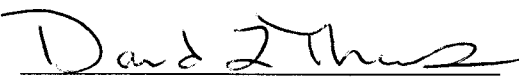
SUMMIT COUNTY, a political subdivision of the State of Utah

By: 
Kim Carson
Chair

ATTEST:


Kent Jones, County Clerk
Summit County, Utah

APPROVED AS TO FORM:


David L. Thomas
Chief Civil Deputy

PROMONTORY DEVELOPMENT, LLC

By: 

SCHEDULE 1

AMENDMENT TO PROMONTORY SUPPLEMENTAL DESIGN GUIDELINES TO ESTABLISH SPECIFIC POINTS FOR EVALUATING COMPLIANCE WITH RIDGELINE REQUIREMENTS.

In order to establish specific points for the evaluation of compliance with the ridgeline protection provisions of the Promontory SPA Plan And Development Agreement, the Promontory Supplemental Design Guidelines referenced in section 4.8.6.1.6 of the Promontory Development Agreement, as amended, are hereby amended to include a new subsection, immediately following the section entitled “Height and Massing of Structures” as follows:

Ridgeline Protection – Analysis of Development and Structures

All analysis and computer imaging of proposed development and any evaluation of compliance with the ridgeline requirements of Section 4.8.6.1.6 of Promontory’s Development Agreement shall be performed from the following four specific vantage points, each one representing the corresponding “view” referenced in said Section 4.8.6.1.6 and listed below:

- **US Highway 40** - vantage point is at Exit 2, the top of the northbound off-ramp
 - GPS Coordinate: Latitude: 40.718682 | Longitude: -111.485622
- **Interstate 80** - vantage point is the eastbound traffic lanes, just past the top of the rise located east of the US-40 interchange, where Promontory becomes visible as the primary ridge on the eastern horizon to I-80 drivers before dropping down into Tollgate Canyon.
 - GPS Coordinate: Latitude: 40.736978 | Longitude: -111.485854
- **Brown’s Canyon Road** - vantage point is where Promontory becomes visible as the primary ridge on the western horizon (at the old pull-out just East of the Mountain Valley Quarry rock yard entrance)
 - GPS Coordinate: Latitude: 40.710125 | Longitude: -111.417949
- **Highway 248** –vantage point is the top of the northbound off-ramp from US 40 at Quinn’s Junction
 - GPS Coordinate: Latitude: 40.680329 | Longitude: -111.46103

SCHEDULE 2



BROWNS CANYON VANTAGE POINT

Promontory Conservation Easement

HIGHWAY 248
(QUINN'S JUNCTION)
VANTAGE POINT

←
NORTH

US-40 VANTAGE POINT

80 VANTAGE POINT

VANTAGE POINTS - LOCATION MAP

Park City