

**RESOLUTION NO. 2003 - 49****BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF SUMMIT
STATE OF COLORADO**

A RESOLUTION APPROVING PLANNING CASE #03-047, A MAJOR PUD MODIFICATION FOR THE SODA CREEK PUD TO CONVERT 40 EXISTING APARTMENT UNITS TO 20 DEED RESTRICTED AFFORDABLE HOUSING CONDOMINIUM UNITS AND 20 FREE MARKET CONDOMINIUM UNITS, SODA CREEK FILING NO. 3, BLOCK 1, TRACT A (Applicant: Larry Feldman and Tom Silengo).

WHEREAS, Larry Feldman and Tom Silengo have applied to the Board of County Commissioners for A Major PUD Modification for the Soda Creek PUD to convert 40 existing apartment units to 20 deed restricted affordable housing condominium units and 20 free market condominium units, Soda Creek Filing No. 3, Block 1, Tract; and

WHEREAS, the Summit County Planning Department has reviewed the application and recommended approval to the Board of County Commissioners; and

WHEREAS, the Snake River Planning Commission reviewed this request at their meeting on May 15, 2003 and voted unanimously to recommend that the Board of County Commissioners approve the request; and,

WHEREAS, the Board of County Commissioners has reviewed the application at a public meeting held on June 23, 2003 and July 14, 2003 and considered the evidence and testimony presented at the meeting; and

WHEREAS, the Board of County Commissioners finds as follows:

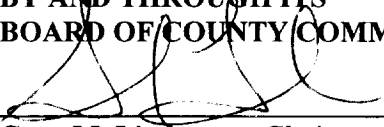
1. The modification is consistent with the efficient development and preservation of the entire planned unit development, The subject property is already developed, and the proposed PUD modification will not hinder nor physically alter any other property within the PUD. The PUD will still provide a predominantly single family zoning district that includes a multi-family tract, school site and open space. The boundaries of the PUD are not changing, nor are any of the provisions of the PUD significantly changing.
2. With the provisions set forth in the PUD, the modification does not affect the enjoyment of land abutting upon or across a street from the planned unit development or the public interest because the 40 multi-family units already exist, and are simply being converted from apartment units to condominium units. The Open Space and Trails Department has identified portions of Tracts A and D to locate a segment of the Swan Mountain Bike Path. By relocation of the proposed location of the bike path, the open space will be more enjoyable to all users.
3. The modification is not being granted solely for the special benefit upon any person. The conversion of 20 apartments to 20 affordable housing condominium units will benefit numerous Summit County residents whom are in need of affordable housing. Moreover, the applicant has voluntarily agreed to plat the necessary trail easements for the Swan Mountain Bikepath concurrent with the future planning of the property, which also benefits the entire County.
4. With the provisions set forth in the PUD, the modification is consistent with the findings for final PUD approval listed in Section 12206.05. Specifically, the modification helps to achieve the intent of the Countywide Comprehensive Plan and the Snake River Master Plan by addressing

their housing elements and providing for additional affordable housing units in the County. The modification continues to offer long-term rental units to Summit County employees and reduces density in the neighborhood. The site of the proposed PUD modification is already served by services and facilities, such as water, sewer and access. There are no development constraints being impacted by the current development. Moreover, the applicant does not need to transfer any development rights into the site because there is not an increase in density from that already approved in the Soda Creek PUD. The development within the Soda Creek PUD has preserved important natural features through the large tracts of open space. The site of the proposed PUD modification has also provided for improvements as required by the Development Code, including but not limited to landscaping, lighting, parking, access, snow storage and drainage. The units are already built and it has been shown that they are compatible with present area development, will not have a negative impact on the surrounding development, will not hinder the public health, safety, and welfare, and are the most efficient and economical use of land. The proposed PUD modification is justified by changes in the County's Development policy. The Countywide Comprehensive Plan and the Snake River Master Plan were both adopted after the Soda Creek PUD. The development policies outlined in these plans establish new policies concerning employee housing, and the proposed PUD modification is generally meeting this policy direction since the project will be providing 20 affordable housing units because it helps provide additional affordable housing units that the County needs. Further, the modification does not increase density in the Summit Cove Neighborhood.

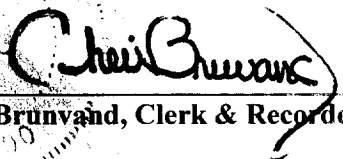
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SUMMIT, STATE OF COLORADO THAT PLANNING CASE #03-047, A MAJOR PUD MODIFICATION FOR THE SODA CREEK PUD TO CONVERT 40 EXISTING APARTMENT UNITS TO 20 DEED RESTRICTED AFFORDABLE HOUSING CONDOMINIUM UNITS AND 20 FREE MARKET CONDOMINIUM UNITS, SODA CREEK FILING NO. 3, BLOCK 1, TRACT A, AS REFERENCED IN EXHIBIT A IS HEREBY APPROVED.

ADOPTED THIS 14th DAY OF JULY, 2003.

**COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS**



Gary M. Lindstrom, Chairman


SEAL


Cheri Brunvand, Clerk & Recorder

EXHIBIT A

SODA CREEK AT LAKE DILLON PLANNED UNIT DEVELOPMENT DESIGNATION

The Summit Cove Planned Unit Development Designation, originally approved the 24th day of July, 1972 by the Board of County Commissioners of Summit County, Colorado with a portion of such PUD revised and renamed the Soda Creek at Lake Dillon PUD on the 26th day of July, 1993, and subsequently amended on the 27th day of June, 1994, the 28th day of April, 1997, and the 29th day of April 2002, is further hereby further revised and amended this 14th day of July, 2003. This designation establishes uses permitted on the property, its development plan and phasing, and specific development regulations which must be adhered to by Soda Creek Investment Company and Soda Creek Limited Liability Company and their successors and assigns, who are owners and developers, and are hereinafter referred to as the "Owner/Developers." This designation also specifies improvements which must be made and conditions which must be fulfilled in conjunction with this designation by the "Owner/Developers." This Planned Unit Development Designation applies to certain real property located in Summit County and described in attached Exhibit A, hereinafter referred to as the "Property."

This PUD Designation establishes the land uses and density that shall be permitted within the Property, a general development plan, development standards and conditions that must be adhered to by property owners within the Property and by the Owner/Developer. This PUD Designation also specifies improvements which must be made and conditions, which must be fulfilled in conjunction with the development of the Property. Where this PUD Designation does not address a specific development standard or requirement of the Summit County Land Use and Development Code ("Development Code"), the provisions of the Development Code shall apply. Where the PUD Designation addresses a specific development standard or requirement, the provisions of this PUD Designation shall supersede the provisions of the Code.

A. PERMITTED USES AND DEVELOPMENT PLAN

Use and development of the Property shall be in accordance with the specific requirements of this PUD Designation and in substantial compliance with the PUD Plan attached hereto as Exhibit B, and the following goals and objectives.

Goal: To preserve the natural environment while promoting a responsible, high quality community growth plan.

Objectives: To provide clustered development to maximize open space and provide for efficient use of urban services.

To provide a variety of open spaces both between and within development clusters.

To preserve existing landscape features where possible and replace vegetation when necessary to provide buffers and screening for development.

To consider visual impact of development from all common perspectives including existing developments areas and Highway 6.

1. Permitted Uses

The following uses are permitted within the Soda Creek Planned Unit Development:

BLOCK	ACRES (estimated)	MAXIMUM UNITS ¹
1	4.0	20 affordable-housing units and 20 market rate units ²
2	5.0	28 (total Blocks 2 & 3 combined)
3	7.8	see above
4	7.8	18
5	6.9	18
6	9.4	18
7	6.5	15
8	5.3	10
9	5.0	60 (total Blocks 9, 10 & 11 combined)
10	14.0	see above
11	7.2	see above
12	6.5	14
13	6.5	14
14	3.9	10
15	6.5	17
16	5.0	14
17	5.0	13
18	5.0	12
19	5.4	11
TOTAL	122.7	312

All units are single family except for Block 1 which is permitted for multi-family units. Within Block 1, twenty (20) of these units shall be affordable-housing, deed restricted units and twenty (20) shall be market rate units. Permitted uses on Block 1 include a mail facility and Summit Stage stop to be located on Tract B, and a historic park on Tract E, Soda Creek @ Lake Dillon, Filing #3. The number of units per block are maximums. At the subdivision and/or site plan

¹All uses are single family unless otherwise noted.

²20 Affordable Units are not included in the total density allowed.

stages the applicant must be able to prove that the density proposed is suitable for each block. Each proposed subdivision shall be evaluated with all provisions of this document including goals and objectives prior to final determination of maximum block density. In no event shall density be transferred within the PUD.

The block acreage are estimated only. Final block acreage shall not increase or decrease the estimated acreage by more than 10%. The total developed acreage shall not exceed 122.7 acres.

2. Conditional and Accessory Uses

Accessory and conditional uses shall be as defined for the R-4 zone in the Summit County Land Use and Development code. Accessory apartments meeting all standards of the Development Code as currently approved and amended from time to time shall be considered conditional uses.

B. DEVELOPMENT STANDARDS

1. Building Height

Building heights shall not exceed 35 feet as defined in the Land Use and Development Code for any single family or multi-family structure. Single family dwellings in Blocks 3, 4, 5, 6, 16 and 17 shall be further restricted to 31 feet.

2. Setbacks

All residential blocks shall be setback at least 25 feet from the edge of road right-of-way. Where traditional lots are developed building setbacks shall be at least 25 feet front and rear and 15 feet on side lot lines. If a clustered design is approved, the Planning Commission may vary the building setbacks in a manner consistent with the lot standards and objectives of this PUD. Other setbacks shall include:

- From stream/wetlands 25 feet to edge of block or lot line
- From edge of public trail corridor to block or lot line - 7.5 feet
(In the event that a trail to be constructed is on steep slopes or intersects other significant natural features {i.e., wetlands}, then the 7.5 setback for the trail can be lessened, to the satisfaction of the County.)
- From edge of power line easement to habitable dwelling - 25 feet
- Between existing property lines in Summit Cove Filings 1, 2, and 7 and newly created lot lines - 300 feet. The 300 foot setback between existing property boundaries in Summit Cove Filings 1,2, and 7 will not apply to any property boundaries created in Block 1, Soda Creek at Lake Dillon, Filing #3.

3. Lot Standards

All lots in Blocks 2, 3, 4, 5 and 6 shall maintain a minimum frontage of 90 feet. Cul-de-sac lots in Blocks 2, 3, 4, 5 and 6 shall maintain a width of 90 feet at the front setback line. Lots in all other blocks shall maintain a minimum frontage of 80 feet at the front setback line. All lots shall be a minimum of 12,000 sq. ft. in area. This minimum may be reduced for approved cluster development. All single family lots as conceptually approved are considered traditional or not cluster lots. For cluster development to be approved in the future, a significant amount of

usable (not subject to development constraints as defined by the Summit County Land Use and Development Code) open space in common ownership shall be provided within the development block. All units shall have visible and physical connection to open areas. Cluster development shall only be used to limit visual impact of development and to protect important resources.

4. Parking

At least four parking spaces (two interior and two exterior) shall be required for each single family residence. Where additional enclosed storage of at least 5' x 10' is provided for household, recreational and garden equipment, one interior and three exterior spaces may be provided. No parking shall be permitted on County roads.

The multi-family development on Block 1 shall meet all parking standards in the Summit County Land Use and Development Code.

5. Designated Open Space Areas

- a. The open space areas as shown conceptually on Exhibit B shall be used exclusively for open space recreation uses.
- b. The wetland areas associated with Soda Creek as shown conceptually on Exhibit B shall be dedicated to Summit County for public open space and recreation use only prior to recordation of the first final plat for development.
- c. Public use areas: Pursuant to Section 8601 of the Summit County Land Use and Development Code the Owner/Developer is required to provide lands for public use. With dedication and improvements as required by this designation, the owner/developer has fulfilled all requirements of Section 8601.
- d. Use of snowmobiles, *ATV's*, and other motorized vehicles on the trails and open space is prohibited.
- e. The Owner/Developer has dedicated the three Rice Barns and up to 1/2 acre of land to the Summit County Historical Society or its designee.
- f. The Building Restriction Zone (BRZ) as shown on the Conceptual Development Plan is a designated area that does not allowed placement of major structures, such as a house, due to the development constraints or unique characteristics such as natural features, and view corridors. Minor structures such as picnic shelters, tables, benches, and other street furniture, as well as playgrounds and other recreational structures are allowed. Roads or right-of-ways are permitted as well to go through a Building Restriction Zone (BRZ).

6. Public trails/trailheads

Two public trailheads shall be provided for public access to the US Forest Service lands to the south of the property. One trailhead shall be located at the school/park site and one adjacent to the existing trail on the southwest portion of the property. The owner/developer shall construct each trailhead as approved by the County Recreation Planner. The school trailhead shall be constructed prior to any development of Blocks 6-10. The southwest trailhead shall be constructed prior to any development of Blocks 9-19.

At least two public trails shall be provided through the property to the indicated trailheads. These trails shall foster a sense of openness and freedom. The trails shall be designed with

appropriate grades to encourage cross country skiing (maximum grade 10%). For any filing platted after April 29, 2002, trail construction must be completed in conjunction with the final grading and application of road base for required roads of that filing, to the satisfaction of the Open Space and Trails Department and the Planning Department. Trail construction shall be guaranteed through an adequate subdivision improvements agreement for each block that is platted. Prior to the recordation of the plat of the open space area associated with the trail depicted as "Publicly Dedicated" on Exhibit B, which is planned to be platted with Block 15, the affected property owners shall, as agreed to, either dedicate a trail easement for the trail depicted as "Publicly Dedicated" on Exhibit B hereto, or, in the alternative, dedicate to Summit County the property on which the trail is located as open space, this property being to the west of Block 15. The Owner/Developer shall grant a blanket easement over the roads graded on the unplatted property for access from any completed trail to the two public trailheads unless the Owner/Developer grants a defined easement according to the standards in this paragraph.

The Interior Trail System is intended for the non-motorized use and enjoyment of all of the residents within the Soda Creek at Lake Dillon PUD. Members of the public will not be precluded from the non-motorized use of these trails. Such use by the public, shall be subject to the same rules for prohibition of nuisances, including unleashed animals, that are applicable to the residents of the PUD. Motorized vehicles prohibited shall include but not be limited to automobiles, four wheel drive vehicles, snowmobiles, motorcycles, all-terrain vehicles. In the event that any member of the public using any portion of the trail system is determined to be creating a nuisance for any resident, such member of the public may be denied further use of said trails by the Executive Board of the Soda Creek at Lake Dillon Homeowner's Association.

Swan Mountain Bikepath

- a. Prior to the recordation of the final plat for Block 15, the owner shall dedicate, to the satisfaction of the Open Space and Trails Department, a general easement for the Swan Mountain Bikepath system across the northwestern private open space parcel of the PUD, as shown on Exhibit B. The specific location of such a bikepath system shall be subsequently determined and specified upon approval of the USFS.
- b. Upon USFS approval of the Swan Mountain Bikepath, the Open Space and Trails Department shall have a survey performed delineating the alignment of said bikepath system across the northwestern private open space parcel of the PUD, as shown on Exhibit B.
- c. Upon completion of this survey, and submission to the owners or authorized representatives of such open space parcel, the owners and the Open Space and Trails Department have agreed to modify the general easement granted pursuant to subsection (a) above, to ensure public access upon the Swan Mountain Bikepath as specifically delineated.
- d. Prior to the recordation of the condominium map for Block I, the Owner/Developer shall dedicate on the plat for Block I a trail easement across the northwest portion of Tract A and along the powerline easement on Tract A. The precise location of the easement across the northwest portion of Tract A shall be determined by the Open Space and Trails Department. One of these easements will be vacated in the future by Summit County once the Open Space and Trails Department determines the best alignment for the Swan Mountain Bike Path.

e. Those portions of the Swan Mountain Bikepath that traverse Tract A shall be constructed by the Open Space and Trails Department.

7. Wetlands

It is the intent of this PUD to preserve wetlands from development wherever possible. The Owner/Developer is required to obtain 404 permits as required by the U.S. Army Corps of Engineers wherever necessary for roads and utilities. Wetland areas shall remain free of development other than roads, trails and utilities.

8. Wildlife Protection

The Owner/Developer shall implement measures to prevent pets from this development from worrying, chasing or harassing wildlife within the subdivision or off-site and to prevent motorized vehicles from accessing adjacent US Forest Service lands. *At a minimum animal control requirements shall include the following:*

- *Dog runs shall be completed prior to the acquisition of a dog by any lot owner*
- *Control of dogs by visitors shall be the responsibility of the property owner*

A 'living fence' as defined in Colorado Division of Wildlife literature shall be constructed unless alternative mitigation measures are approved. Alternative protection measures to the living fence may be implemented if recommended by the Colorado Department of Wildlife and US Forest Service and approved by the Board of County Commissioners. Wildlife protection measures must commence with platting of Blocks 4 through 19. Gates at existing road access points to the US Forest Service must be constructed concurrent with the first subdivision plat.

9. Covenants and Architectural Approval

All properties shall be subject to a declaration of covenants, conditions and restrictions acceptable to the owner/developer. Prior to application for a grading permit from Summit County the applicant must show evidence that all plans have been submitted to the Architectural Review Committee.

10. Landscaping

The following are the minimum landscaping requirements for the Soda Creek @ Lake Dillon PUD. These requirements have been adopted to help create privacy between homes and enhance the overall feel of the community. Xeriscaping is encouraged. Saving water is a priority. Sod lawns are discouraged. Areas disturbed by construction must be revegetated with drought resistant grasses and wildflowers.

MINIMUM PLANTING REQUIREMENTS

- Five, six foot high nursery grown Colorado or Englemann Spruce*
- Five, 1.5 inch caliper narrowleaf cottonwood or aspen*
- Seven, five gallon shrubs*

ADDITIONAL NOTES

1. All areas disturbed by construction must be revegetated with drought resistant grass-wildflower mix. Slopes greater than 2:1 shall be covered with an erosion control blanket.
2. All planting materials must be irrigated with a drip irrigation system to conserve water and ensure plant survival.
3. Landscape plans must be submitted to the Committee for approval.
4. All planting material shall be guaranteed for 2 years after CO. Any dead plants shall be replaced by the owner.

CONSIDERATIONS

1. Landscaping and Plant Materials

These considerations are intended to protect and preserve the existing landscape and native species. The Owner and Owner's architect shall respect the location of existing trees in preparing plans for improvements to the Lot. New plantings shall be selected to blend into the natural mountain landscape and shall be indigenous to the Rocky Mountain Area.

New plantings shall be informally grouped to complement existing vegetation. Maintenance of existing native landscaping and additional plantings shall avoid an appearance of a manicured lawn. No grading shall occur within the discipline of trees to be retained. Trees located close to the excavation and construction zone shall be fenced for protection. All plant materials shall be located to avoid drainage or ice and snow falling from roof surfaces.

2. Landscape Plan and Revegetation

The Owner shall supply a landscape plan prior to final approval which lists and describes techniques and plant types to be used to permanently revegetate and stabilize all areas disturbed during construction.

3. Plant Materials List

The following is a list of plant materials which are indigenous to the area and grow well in this climate and at this altitude:

<u>Trees</u>	Limbar Pine - <i>Pinus flexilis</i>
	Narrowleaf Cottonwood - <i>Populus angustifolia</i>
	Willow - <i>Salix</i> sp.
	Quaking Aspen - <i>Populus tremuloides</i>
	Englemann Spruce - <i>Picea englemanni</i>
	Thin-leaf Alder - <i>Alnus tenuifolia</i>
	Colorado Spruce - <i>Picea pungens</i>

<u>Ground Cover</u>	Ajuga
	Kinnikinnick - Bear Berries
	Silver Mound

Purple-leaf Wintercreeper
Holly-grape

Shrubs *Japanese Barberry - Berbis thunbergi*
 Red Twig Dogwood - Cornus stolonifera
 Peking Cotoneaster - Cotoneaster augustifolia
 Snowberry - Symphorocarpus alba
 Service Berry - Amalanchier alnifolia
 Blueleaf Honeysuckle - Lonicera Korollowi
 Shrubby Cinquefoil - Potentilla fruticosa
 Canadian Buffaloberry - Sherpedia cnadensis

Seed Mix *Grasses: ((@) 200 lbs./acre)*
 50% by wt. *Baron Kentucky Bluegrass*
 25% by wt. *Pennfine Perennial Ryegrass*
 25% by wt. *Fortress Red Creepin Fescue*

Perennials *(Partial List)*
 Yarrow, Alyssum, Columbine, Indian Paintbrush, Daisy, California Poppy, Iris,
 Iceland/Oriental Poppy, Two Row Sedum

11. Affordable Employee Housing

The deed restricted affordable housing units and the market-rate units restricted to long-term rental housing in Block 1 and the provision for accessory apartments are intended to provide for employee housing in this development.

The Owner/Developer of Block 1 voluntarily agreed to the following specific PUD requirements for the deed restricted affordable employee housing units on Block 1:

- A) The initial selling price of the affordable housing units is to not exceed \$160,000.
- B) The maximum re-sale price is such that a unit may be sold for an amount in excess of the Unit Owner's original purchase price, plus the lesser of either: (1) an increase of three percent (3%) of such Owner's purchase price per year from the date of the Owner's purchase to the date of the Owner's execution of the Listing Contract with the Housing Authority (prorated at the rate of .25 percent for each whole month); or (2) the percentage increase in the figure that reflects one-hundred percent (100%) of the annual area median income (AMI) of a family of four for Summit County as determined by the United States Department of Housing and Urban Development, or any successor thereto, between the date of the Owner's purchase of the Unit and the date of the Owner's execution of the Listing Contract with the Housing Authority. All resale prices may include the realtor fees, however the subsequent selling price must be based on the previous selling price minus the previous realtor fees
- C) The purchaser must be employed year round in Summit County a minimum of 30 hours per week.
- D) The maximum income limit of purchasers is 100% Area Median Income (AMI) limit for Summit County.
- E) The affordable housing units and the market rate units are prohibited from being short-term rentals as defined by the Summit County Land Use and Development Code. This restriction on short-term rentals must be stated in the condominium declarations.

- F) The affordable housing units must be integrated among the market rate units as determined by the Summit County Planning Department in consultation with the Summit County Housing Authority.
- G) Concurrent with the recordation of the condominium map, the Owner/Developer must record the deed restriction for the affordable housing units, which incorporates the requirements of this PUD Designation and is in a form acceptable to the County Attorney.

C. REQUIRED IMPROVEMENTS

1. Access

Access to the property and to all building sites shall be provided by roads built to applicable County standards.

2. Water Systems

Water supply for the development shall be provided by East Dillon Water District. Design of the water system shall meet all standards and specifications of the District.

3. Sewer Systems

Sewer is to be provided by the Snake River Sewer District. Design of the sewer system shall meet all standards and specifications of the District.

4. Fire Protection

The entire property is located within the Snake River Fire District. All development on the property shall meet all fire protection requirements of the District.

5. Utilities and Easements

All new utility lines shall be installed underground in full accordance with the standards of each utility provider and County Subdivision Regulations. Easements for all utilities shall be shown on the final plat. *Maintenance of any snowstacking easements within the PUD which are not within a dedicated road right-of-way shall be the responsibility of the Soda Creek @ Lake Dillon Home Owners Association. At a minimum the Home Owners Association shall be responsible for the removal of snow from such easements so that space is continuously available for snowstorage purposes.*

6. Wood-burning appliances

Wood burning appliances are prohibited from all development in the Soda Creek PUD.

7. Off-site improvements

Improvements to Cove Boulevard shall be agreed upon by the Owner/Developer and the schedule for implementation approved by the Snake River Planning Commission prior to

recordation of the first final plat for the property. Improvements shall include at a minimum improvements to the Cove Boulevard/Sunlight Drive intersection and Cove Boulevard/Royal Coachman intersection to meet all standards of the County Road and Bridge Standards.

Construction of improvements shall occur incrementally as plats are approved and traffic increases. The intersection improvements shall be completed prior to recordation of any final plat for Blocks 2 through 19. A two lane realignment of Cove Boulevard from the existing four lane section to or beyond the Soda Creek Bridge will be completed prior to development of Blocks 4 through 19.

The Swan Meadow Service Road shall be completed prior to any development in Blocks 9 through 19.

D. IMPLEMENTATION

1. Platting Requirements

Preliminary and final plats: A preliminary and final plat shall be approved by the County prior to any development that involves selling or conveying any interest in the property to others. Densities of development indicated in Exhibit B represent maximum permitted densities and levels of use and each proposed development phase must meet all applicable standards and requirements as contained in the Summit County Land Use and Development Code unless such standards and requirements are specifically waived or modified by the terms of this designation.

E. GENERAL PROVISIONS

1. Enforcement

The provisions of the planned unit designation and the development plan relating to the use of land and the location of common open space shall run in favor of Summit County and shall be enforceable at law or in equity by the County without limitation on any power or regulation otherwise granted by law. Other provisions of the planned unit development designation and the development plan shall run in favor of the residents, occupants and owners of the planned unit development, but only to the extent expressly provided in, and in accordance with the terms of, the planned unit development designation and the development plan. Provisions not expressly stated as running in favor of the residents, occupants or owners of the planned unit development shall run in favor of the County.

2. Breach of Provisions of PUD Designation

If any time any provision or requirements stated in the planned unit development designation has been breached by the Owner/Developer, the County may withhold approval of any or all site plans or plat maps, or the issuance of any or all grading or building permits or occupancy permits applied for on the Property, until such breach has been remedied; provided, however, that the County shall not take affirmative action on account of such breach until it shall have first notified the Owner/Developer in writing and afforded the Owner/Developer a reasonable opportunity to remedy the same.

3. Binding Effect

The PUD Designation shall run with the land and be binding upon the Owner/Developer, their respective successors, representatives and assigns, and all persons who may hereafter acquire an interest in the Property or any part thereof, with the exception that provisions of this designation may be modified through an amendment in accordance with the procedure stated in the County Development Review Procedures. This designation shall be recorded in order to put prospective purchasers or other interested persons on notice as to the terms contained herein.

4. Amendments

Amendments to the provisions of a planned unit development designation shall be reviewed and acted upon as a rezoning application, subject to the County's procedures for zoning amendments and to the requirement for findings under the Planned Unit Development Act of 1972 at CRS 24-67-106(3)(b).

5. Notices

All notices required by this designation shall be in writing and shall be either hand-delivered or sent by certified mail, return receipt requested, postage prepaid, as follows:

Notice to County:

Board of County Commissioners
P.O. Box 68
Breckenridge, CO 80424

Notice to Owner/Developer

Soda Creek Limited Liability, Company
PO Box 140901
Dallas, TX 75214

Soda Creek Investment Company
722 Count Portales Dr.
Colorado Springs, CO 80906

All notices so given shall be considered delivered three days after the mailing thereof. Either party, by notice so given, may change the address to which future notices shall be sent.

6. Entire Designation

This designation contains all provisions and requirements incumbent upon the Owner/Developer relative to the Soda Creek at Lake Dillon Planned Unit Development, except as modified by subsequent action of the Board of County Commissioners in accordance with procedures set forth in the Summit County Land Use and Development Code and the Colorado Planned Unit Development Act (CRS 24-67-106) for amending planned unit developments, and except that nothing contained herein shall be construed as waiving any requirements of the Summit County Land Use and Development Code or other regulations otherwise applicable to the development of the Property.

7. Relationship to Original PUD Designation and Previous Amendments

To the extent the provisions of this revised PUD Designation are the same in substance to the provisions of earlier approved versions of this PUD designation, they shall be considered as continuations thereof and not new enactments. Where provisions of this revised PUD Designation conflict with earlier approved versions of the Summit Cove PUD Designation the provisions of this revised PUD Designation shall supersede and replace such provisions.

8. PUD Review Requirements

The Summit County Land Use and Development Code, Chapter 12, includes procedures and requirements for review of all Planned Unit Developments. The Owner/Developer shall be on notice of these requirements and shall insure that information necessary for the periodic review is made available to the County within the time frames as may be established in Chapter 12. The Owner/Developer further understands that failure to provide the necessary information or to proceed with the review process may result in development approvals within the PUD being withheld.

9. Effective Date

This designation must be signed by both the Summit County Board of County Commissioners and the Owner/Developer and must be recorded by the Summit County Clerk and Recorder in order to become effective. The effective date shall be the date of recordation.

IN WITNESS WHEREOF, the County and the Owner/Developer have executed this Designation as of the date first written above.

BOARD OF COUNTY COMMISSIONERS
OF SUMMIT COUNTY, COLORADO

/S/ Joe Sands*

Joe Sands, Chairman

ATTEST:

/S/ Doris Brill

Doris Brill, Clerk and Recorder

Soda Creek Limited Liability Company

/S/ Bruce Jones
BY:_____

WITNESS:

/S/ Mark Richmond

Soda Creek Investment Company

/S/ Bernard L. Trott

WITNESS:

/S/ J. Albert Bauer

* Denotes original signatories to PUD Designation

APPROVAL OF AMENDMENTS

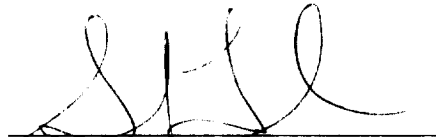
The foregoing document is the Soda Creek at Lake Dillon Planned Unit Development Designation as approved and signed by the Summit County Board of County Commissioners on the 24th day of July, 1972 and recorded at Reception No. 1972-34 and as amended by the Summit County Board of County Commissioners as follows:

Resolution No.	Reception No.	Date
86-84	334096	December 8, 1986
93-68	452862	October 7, 1993
94-64	471135	June 27, 1994
97-42	538244	April 28, 1997
02-44	683380	April 29, 2002
2003	-----	July 14, 2003

The planned unit development document dated the 24th day of July, 1972 and recorded at Reception No. 1972-34 and revised to incorporate the amendments approved as noted above shall remain in force as revised. The foregoing document is issued as a continuation of the original document. Copies of the original Summit Cove Planned Unit Development Designation and the amendments noted above are available from the Summit County Clerk and Recorder.

Adopted this 14th day of July, 2003.

COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS



Gary M. Lindstrom, Chairman

ATTEST



SEAL 

Cheri Brunvand, Clerk and Recorder