

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 28 day of June, 2005, by and between Summit County, a body politic of the State of Utah, through its Board of Commissioners ("Summit County") and James Winkler, and JIMROB Jeremy, LTD, a Utah limited partnership (collectively, "Winkler").

RECITALS

- A. The Jeremy Center parcel, approximately 11.79 acres (the "Property"), which is owned by Winkler, was originally subdivided as part of the Jeremy Ranch Consent Agreement and received preliminary site plan approval from Summit County for 100,000 square feet of commercial and retail density on June 19, 2000;
- B. On June 19, 2001, the County took the position that the preliminary site plan had expired;
- C. Thereafter, a dispute arose as to the validity of the preliminary site plan culminating in Winkler bringing suit against Summit County in the District Court on January 14, 2004, Case No. 030500779MI, ("Lawsuit") asserting that he had vested development rights in the Jeremy Center;
- D. Winkler and Summit County now wish to resolve their respective claims and defenses in the Lawsuit.

NOW, THEREFORE, in consideration of the foregoing, the covenants, promises and releases set forth herein, the parties hereto agree as follows:

1. **Approval of Final Site Plan.**

Summit County hereby approves the Jeremy Center Final Site Plan, which is incorporated herein as Exhibit "A". Said Final Site Plan provides for 66,000 square feet of commercial and retail density.

- A. The issuance of further development permits, to include building permits, shall be governed by Chapter 10 of the Summit County Code (Snyderville Basin Development Code), or its successor ordinance. This shall include tendering all engineering and construction documents, final landscaping, lighting, architecture, elevations, and signage plans to Summit County prior to building permit application.
- B. Commercial uses shall be consistent with those listed in the Jeremy Ranch Consent Agreement. Fast food restaurants, drive through businesses, walk up food services, automotive services, sales, repairs, and maintenance, or uses that

RECORDER'S NOTE

LEGIBILITY OF WRITING, TYPING OR
PRINTING UNSATISFACTORY IN THIS
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Page -1-

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ALAN SPRIGGS, SUMMIT CO RECORDER
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REQUEST: SUMMIT COUNTY CLERK

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create excessive noise, noxious odors, nuisances or general high traffic levels are prohibited.

C. Each commercial use is limited to 3,000 square feet of "sales space."

D. Height of buildings is restricted to 30 feet, measured in accordance with the zoning regulations in effect at the time of building permit application.

E. Interior and exterior lighting must be turned off by 10:00 p.m.

2. Bus Loop Turn-around.

As an integral part of the consideration for the County entering into this Settlement Agreement, Winkler agrees to provide a bus loop turn-around on the Property or, in the alternative, shall contribute to the County sufficient money or bond (estimated to be \$45,000) to build a bus loop turn-around at the intersection of Jeremy and Rasmussen Roads. In the event that said turn-around is not constructed within five (5) years from the date of this Agreement, Winkler shall dedicate an easement on the Property sufficient to build a turn-around. Said easement shall not encroach any closer than 30 feet to any building.

3. Reimbursement of fees.

Summit County shall pay to Winkler as reimbursement for overpayment of development fees the amount of \$19,152.00. Payable within 30 days of execution of this Settlement Agreement.

4. Dismissal of Lawsuit.

Within 10 days after execution of this Settlement Agreement, Winkler and Summit County shall file in the Lawsuit a stipulation for dismissal with prejudice in the form attached hereto as Exhibit "B".

5. Winkler Release.

Except as provided in this Settlement Agreement, and conditioned upon issuance of the Final Site Plan approval (Exhibit "A"), Winkler, on behalf of itself and its respective past, present, and future insurers, assignees, subrogees, affiliates, subsidiaries, parent persons or entities, partners, limited partners, joint venturers, members, managers, shareholders, directors, officers, employees, employers, trustors, trustees, beneficiaries, loan participants, agents, fiduciaries, and attorneys does hereby fully and irrevocably release, acquit, and forever discharge Summit County, and its respective past, present, and future insurers, assignees, subrogees, affiliates, subsidiaries, parent persons or entities, partners, limited partners, joint venturers, members, managers, shareholders, directors, officers, employees, employers, trustors, trustees, beneficiaries, loan participants, agents, fiduciaries, and attorneys, and each of them who might be

liable or claimed to be liable, none of whom admit liability, but all of whom expressly deny liability, of and from any and all past, present, or future claims, demands, debts, contracts, actions or causes of action, suits or causes of suit, of any kind and nature whatsoever, whether known or unknown, suspected or unsuspected, and in whatever legal theory or form, which Winkler now has, claims to have, or has at any time theretofore had, or claims to have, arising from by reason of or in any way connection with any transaction, agreement, occurrence, act or omission whatsoever, pertaining to the Lawsuit.

6. Miscellaneous.

- a. Amendment and Waiver. No amendment or waiver of any provision of this Settlement Agreement shall in any event be effective unless the same shall be in writing and signed by the parties hereto, and then such waiver or consent shall be effective only in the specific instance or for the specific purpose for which it is given.
- b. Parties in Interest. This Settlement Agreement shall inure to the benefit of and be binding upon the parties named herein and their respective successors and assigns.
- c. Entire Transaction. This Settlement Agreement contains the entire understanding among the parties with respect to the transactions contemplated hereby and shall supersede all other agreements and understandings between the parties. Other than this Settlement Agreement, there are no other agreements, statements, representations, and/or warranties, oral or otherwise, upon which any of the other parties hereto are relying.
- d. Applicable Law. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Utah. The parties agree that any dispute arising from this Settlement Agreement shall be litigated in courts located in Summit County, Utah.
- e. Headings. This section and other headings contained in this Settlement Agreement are for purposes of reference only and shall not effect in any way the meaning or interpretation of this Settlement Agreement.
- f. Counterparts. This Settlement Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Settlement Agreement. Facsimile signatures shall be deemed to be originals.
- g. Attorney's Fees. In the event of breach of this Settlement Agreement, the party found at fault hereby agrees to pay the costs and reasonable attorney's fees incurred in the enforcement thereof.

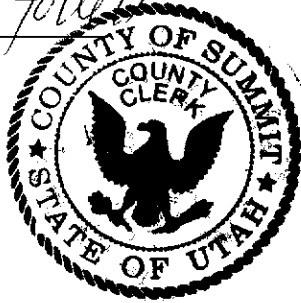
- h. Incorporated Documents. All exhibits, attachments, and other documents to be delivered by parties hereto concurrently herewith are hereby incorporated in this Settlement Agreement by this reference.

SUMMIT COUNTY

By: *Robert M.*
Chairman

ATTEST:

Susan Follett
Sue Follett
County Clerk



JAMES WINKLER

See attached facsimile
copy

JIMROB JEREMY, LTD.

By: *See attached facsimile*
General Partner *copy*

YBC

Fax: 4063225369

Jun 28 2005 9:51 P.01

JUN-28-2005 TUE 09:04 AM Bluffdale City

FAX NO. 8012533270

P. 02

SETTLEMENT AGREEMENT

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BK1739 PG1027

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liable or claimed to be liable, none of whom admit liability, but all of whom expressly deny liability, of and from any and all past, present, or future claims, demands, debts, contracts, actions or causes of action, suits or causes of suit, of any kind and nature whatsoever, whether known or unknown, suspected or unsuspected, and in whatever legal theory or form, which Winkler now has, claims to have, or has at any time theretofore had, or claims to have, arising from by reason of or in any way connection with any transaction, agreement, occurrence, act or omission whatsoever, pertaining to the Lawsuit.

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YBC

Fax:4063225369

Jun 28 2005 9:52 P.02

JUN-28-2005 TUE 09:04 AM Bluffdale City

FAX NO. 8012533270

P. 05

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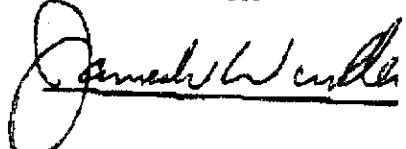
SUMMIT COUNTY

By: _____
Chairman

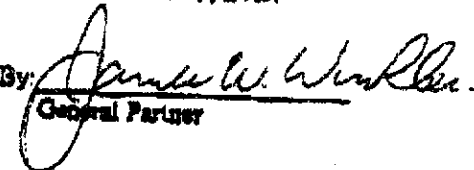
ATTEST:

Bry Pollert
County Clerk

JAMES WINKLER



JIMROB JEREMY, LTD.

By: 
General Partner

Flays -4-

BK1739 PG1030

Jody K. Burnett (A0499)
Robert C. Keller (A4861)
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Phone: (435) 336-3206
Facsimile: (435) 336-3287

Attorneys for Summit County

**IN THE THIRD DISTRICT COURT OF SUMMIT COUNTY
STATE OF UTAH**

JAMES WINKLER, an Individual and JIMROB JEREMY, LTD., a Utah limited partnership, Plaintiffs,	:	STIPULATED SETTLEMENT AND JOINT MOTION FOR VOLUNTARY DISMISSAL WITH PREJUDICE
v.	:	
SUMMIT COUNTY, a political subdivision of the State of Utah, and DOES I-X, Defendants.	:	Civil Docket No. 030500779 Judge Bruce C. Lubeck

In accordance with Rule 41 of the Utah Rules of Civil Procedure, the parties jointly move and agree to voluntarily dismiss with prejudice the above styled case and these proceedings upon the following stipulated terms:

1. That the Settlement Agreement, signed by the parties and incorporated herewith as Exhibit A, be incorporated into the Order of Dismissal.
2. That each party will bear their own costs and attorney fees.

WHEREFORE, the parties jointly request that this Court dismiss the above styled case with prejudice and incorporate the terms of this stipulation therein.

DATED this ____ day of July, 2005.

David L. Thomas
Chief Civil Deputy County Attorney
Attorney for Defendants

Bruce Baird
HUTCHINGS, BAIRD & JONES
Attorney for Plaintiffs