



4TH DISTRICT COURT - HEBER
WASATCH COUNTY, STATE OF UTAH

<p>MUSTANG DEVELOPMENT LLC, Plaintiff,</p> <p>vs.</p> <p>TOWN OF HIDEOUT, Defendant.</p>	<p>RULING</p> <p>ON REMAINING PRONG OF PLAINTIFF'S REQUEST FOR TRO</p> <p>Case No: 220500009</p> <p>Judge: JENNIFER A MABEY</p> <p>Date: June 9, 2023</p>
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Plaintiff's motion for a temporary restraining order regarding Defendant's stated reasons for denying building permits in the Golden Eagle subdivision had previously come before the Court for hearing. After the hearing held on March 28, 2023, the Court issued it's oral ruling on May 1, 2023, at which time the Court ruled that four of the five bases identified in Plaintiff's motion were not permissible reasons for the Town of Hideout to deny the issuance of building permits to Plaintiff. However, as to the remaining reason--that of a requirement that there be a completed storm drainage plan approved by the Town--the Court was concerned that it was not fully informed about that issue and the history of the agreements between the Town and Plaintiff. Accordingly, the court ordered that a supplemental evidentiary hearing be held to assist it in making its determination.

The evidentiary hearing was held on May 19, 2023. The parties were then allowed to submit closing arguments in writing, with a deadline of May 24, 2023. Now, having considered the evidence as well as the arguments from counsel, the Court rules that the Town of Hideout may not refuse to issue building permits based upon the status of the storm drainage plans. The Court is persuaded by Plaintiff's arguments that a storm drainage plan is not a normal requirement for the issuance of building permits, and the Court's interpretation of the minutes upon which the Town has relied for its position that the drainage plan was required for the issuance of permits is consistent with Plaintiff's--that condition, to the extent it existed, related to the issuance of permits for infrastructure. Plaintiff has been constructing roads and drainage systems for a lengthy period of time. The Town's position that it now takes is inconsistent with the approval of the subdivision and the work on drainage issues that has taken place with the Town's knowledge over the course of multiple years at this point.

As the court has previously clarified, its rulings on whether the conditions identified in Plaintiff's motion for a temporary restraining order apply only to whether the Town may deny the issuance of building permits based upon those factors and should not be construed as an indication that the Town is being ordered TO issue building permits, because there may be other valid reasons for a building permit to be denied. In addition, the Court's rulings regarding the issuance of building permits may or may not apply to the issuance of certificates of occupancy, which are evaluated on a different standard and set of requirements.

However, at this stage, the Court finds that Plaintiff has met the requirements for injunctive relief pursuant to Rule 65A as to each of the five identified reasons set forth in its Motion for Temporary Restraining Order and Preliminary Injunction. Accordingly, the Court orders that the Town may not use those enumerated bases to deny the issuance of building permits. Plaintiff is instructed to prepare an order consistent with this ruling in conjunction with the oral ruling issued on May 1, 2023.

End Of Order - Signature at the Top of the First Page

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 220500009 by the method and on the date specified.

EMAIL: ROBERT KELLER RCK@SCMLAW.COM

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06/09/23

/s/ JENNIFER A MABEY

Date: _____

Signature