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February 25, 2008

Efficient Building Advisory Group
c/o High Country Conservation Center
PO Box 4506
Frisco, CO 80443
Via e-mail: Carly@highcountryconservation.org

Re: Summit Sustainable Building Code January 10th Draft

Dear Advisory Group Members:

The Summit County Builders Association (SCBA) has been waiting with great anticipation for this FIRST DRAFT, and we are appreciative of the opportunity to participate with the Efficient Building Advisory Group. That being said, and as pointed out at the January 31st public forum, many subjects, their validity, and their weight within the document require further consideration, analysis, study, definition, etc. The SCBA believes that moving from voluntary to mandatory with a document of this nature demands a higher standard of consideration. For example, a builder may participate in Built Green Colorado while disagreeing with some of the content. Mandatory compliance, however, would logically cause those disagreements to become challenges.

It should be noted that the SCBA does not endorse the Summit Sustainable Building Code as drafted, though our leadership and many of our members believe strongly in the future of this document. At this time, however, adoption and interpretation of the document by any municipality is far too subjective for public policy. Equitability and consistency to all applicants and among all sectors of the building industry is crucial to the economy of Summit County. The SCBA strongly encourages all Summit County governments to "stick together" on this document for this reason.

For the record, the recent history regarding this document includes January 14th as the first business day that the document was available for public review and January 17th as the first meeting in eight months of the Efficient Building Advisory Group. January 31st was the first public forum regarding the document.

The SCBA has compiled our FIRST LIST of comments regarding the Summit Sustainable Building Code, attached. Please understand that these comments should in no way be considered final to the first draft of the SSBC. Perhaps on third draft, the document could be considered adoptable by a government in Summit County.

Noted at the January 31st public forum, one of the greatest concerns the SCBA has is applicability to multi-family projects of all shapes and sizes. Equitability to all sectors of the building industry is crucial and no examples of a multi-family projects' performance within this document have been provided. The SCBA will not endorse the SSBC without a perceived equitability among all sectors. This exercise must be performed, and small, medium, and large sized real-life examples of multi-family projects need to be shared.

Many comments regarding test projects have come from members within the SCBA. The test project examples need to be expanded. We recommend that each jurisdiction provide at least three real-life examples of recent single family projects including at least one that would fail, and provide at least three real-life examples of recent multi-family projects including at least one that would fail. This effort will show more clearly the actual performance of the document.

Also noted at the January 31st public forum, the building community is requiring assistance from our local governments with regard to homeowners associations and opposition to some of these measures. Currently, this code will meet with substantial friction from most HOA's with respect to active solar space heating, active solar hot water, geothermal (tight building envelopes), PV solar, wind generated electric, clothes lines, and other similar types of techniques needed to generate points in this code. Currently, most of these types of things are being denied in subdivisions like The Highlands at Breckenridge. If we expect the code to work, it will require some serious support from our local governments encouraging homeowner's association acceptance. The SCBA believes that the truly best practices encouraged by this code are at the top of the not-in-my-backyard list. The SCBA requires a formal and complete description on how this will happen, and how it will be stated within the ordinance, prior to any endorsement of this code. At first glance, some points that could require assistance to achieve include:

- Solar panel systems
- Day-lighting measures
- Simple footprint
- Land use (storage of topsoil and fill material)
- Landscaping (excessive)
- Construction recycling
- Passive solar design
- Ground source heating
- Wind power
- Roofing
- Exterior wall finishes

Some of these items could be helped by re-defining "building envelope" and "disturbance envelope" to include allowances for use of areas outside envelopes with prescriptive measures for protection of trees and revegetation. The idea that vegetation cannot be returned to its natural state is nonsensical.

The SCBA strongly believes that there needs to a "hardship" appeal process described within the SSBC ordinance, but no buy-out option. For the County and the Towns, we suggest an appeal process to the Summit County Board of Adjustments. This single entity would provide needed consistency. Our concern is primarily directed toward addition / remodel projects. Surely this code cannot anticipate all situations.

By endorsement and/or comment with regard to the document, the SCBA makes no warranty to the legality of the document. SCBA recommends each municipality considering adoption discuss the legalities of these sorts of "Built Green" initiatives with an attorney. Instances of anti-trust lawsuits in Federal court are possible surrounding such initiatives. Portions of this document which limit the number of available manufacturers of building materials are extremely suspect.

The SCBA sincerely hopes the EBAG will consider carefully each of the comments the SCBA has submitted with this letter and within the attached list. In some instances, the Technical Advisory Panel or outside professionals should be consulted. In other issues, elected officials should be questioned. Furthermore, the SCBA believes strongly that all comments submitted to the group should be public and posted as such, perhaps at the High Country Conservation Center website. We look forward with anticipation to the second draft of this Summit Sustainable Building Code.

Sincerely,

David R. Koons
President

Cc: Town of Breckenridge
Town of Dillon
Town of Silverthorne
Summit County Government
High Country Conservation Center
Summit Daily News