



May 8, 2024, 6:00 PM
Kane County Planning Commission
Land Use Authority
Kane County Commission Chambers
76 N. Main Street, Kanab, Utah

To listen to this meeting live call 435-676-9000, participant code 168030.

AGENDA

6:00 PM

Call to Order
Invocation
Pledge of Allegiance

1. Update on Commission Actions

Commissioner Wade Heaton will relay the County Commission's most recent actions.

2. Approval of Minutes

April 10, 2024

ADMINISTRATIVE ITEMS

Public Meeting

3. Temporary Use Permit: Brown

An application for a temporary use permit for a family reunion with more than 2 RVs on parcel 8-7-8-30, located on Bach drive on the east border of the Mirror Lake subdivision Plat A. Submitted by Lisa Safely for Angela Brown.

Public Meeting

4. Conditional Use Permit Amendment: Fortelay LLC

An application to extend a conditional use permit for a 7 unit motel on parcel 3-4.5-31-1A, located southeast of Johnson Canyon Road, Kane County, Utah. Submitted by Jonathan Mitchell.

Public Hearing*

5. Lot Joinder: Negroni

An application to amend a subdivision plat for a lot joinder, joining lots 3 & 4 becoming new lot 4 containing 0.73 acres, in the Maxwell Towery Subdivision near Big Water, Utah. Submitted by Tom Avant, Iron Rock Group.

LEGISLATIVE ITEMS

Public Hearing*

6. Zone Change/Ordinance 2024-15: Roth

An application for a zone change from Commercial 2 (C-2) to Residential 5 (R-5) for a 10 acre piece of parcel 3-6-36-1B, located at 2270 E. Mountain View Drive, east of Kanab. Submitted by Britt Roth.

Public Hearing*

7. Zone Change/Ordinance 2024-18: Carter

An application for a zone change from Commercial 1 (C-1) and Residential 1 (R-1) to Commercial 1 (C-1) for parcels 8-6-22-2, 8-22-3A and 8-6-22-3B

totaling 8.00 acres and Residential 1 (R-1) for parcels 8-6-27-4 and 8-6-22-4 totaling 175.77 acres, located off of Highway 89 across from Tod's Junction. Submitted by Brent Carter, New Horizon Engineering.

Public Hearing*

8. Zone Change/Ordinance 2024-16: Pope

An application for a zone change from Residential 1 (R-1) to Residential 2 (R-2) for parcel 8A-F-42 containing 3.9 acres, located in the Little Ponderosa Ranch Subdivision. Submitted by Jordan & Ashleah Pope.

Public Hearing*

9. Zone Change/Ordinance 2024-17: Conrad

An application for a zone change from Residential 1/2 (R-1/2) to Residential 1 (R-1) for lot 161-97 containing 1.23 acres, located in Duck Creek Pines Phase 4. Submitted by Brent Conrad.

Public Hearing*

10. Ordinance 2024-17: KCLUO Chapter 6

An ordinance revising Kane County Land Use Ordinance Chapter 6 Residential zones; requiring a lodge to have a fire suppression system to comply with Utah State Code and the International Building Code.

Public Hearing*

11. Ordinance 2024-17: KCLUO Chapter 21

An ordinance revising Kane County Land Use Ordinance Chapter 21 Subdivisions to become compliant with Utah code 12-27a-604.1 and changing the name of the Kane County Standard Specifications and Drawing Details for Design and Construction.

Agenda items may be accelerated or taken out of order without notice as the Administration deems appropriate.

*Public hearings are intended for the public to provide input to the Commission or to pose questions individuals believe the Commission and staff should consider. Public hearings are not intended for individual members of the public to engage in conversation. While questions may be posed by a member of the public, the Commission will attempt to refrain from answering or engaging in conversation during the public hearing.

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Shannon McBride at (435) 644-4966 or Wendy Allan at (435) 644-4364.

Planning Commission Meetings Statutory Authority, Rules & Procedures can be found online at kane.utah.gov; General; Land Use Ordinance 9-2-1 through 10.

1. Update on Commission Actions

Commissioner Wade Heaton will relay the County Commission's most recent actions.

2. Approval of Minutes

April 10, 2024



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
Kane County Commission Chambers
76 N. Main Street, Kanab, UT
April 10, 2024

ACTING CHAIRMAN: Gwen Brown

MEMBERS PRESENT: Doug Heaton, Byard Kershaw, Gwen Brown, Mason Haycock

MEMBERS ABSENT: John Reese, Jeremy Chamberlain, Matt Cox

EX-OFFICIO MEMBER: Commissioner Wade Heaton

STAFF PRESENT Shannon McBride, Land Use Administrator; Wendy Allan, Assistant P&Z Administrator; Rob Van Dyke, Attorney

6:00 PM Meeting called to order Gwen Brown
Invocation Doug Heaton
Pledge of Allegiance Byard Kershaw

GENERAL BUSINESS

1. Update on Commission Decisions

Commissioner Wade Heaton reported that the commission approved the lot joinder and amended plats. The zone change request from AG-FAA to RU-10, located east of Tod's Junction, was denied. The Maxwell zone change to RU-10, in the mouth of Johnson Canyon, was approved. The ordinance regarding the hard surface roads in subdivisions was tabled. The commission does not feel that the current ordinance should be applied county wide and they are looking at mechanisms to have it apply to specific areas.

2. Approval of minutes March 13, 2024

MOTION: Byard Kershaw made a motion to **approve** the March 13, 2024 minutes. Doug Heaton seconded the motion.

VOTE: The **motion passed** unanimously.

3. Public Meeting – Subdivision: Kanab 600 LLC

An application for the Willow Reserve Estates Phase 1 preliminary plat, creating 20 lots, parcels 4-5-5-2 and 4-5-6-1, located east of Kanab between the Crimson Estates Subdivision and the Palomar Subdivision.

Tracy Stratton, with Philo Development, presented the project. They are planning a total of 419 lots on approximately 600 acres. This application is for 20 lots in Phase 1, located in the northwest corner of the property along Mountain View Drive. They are not asking for any exceptions to their current R-1 zoning.

Gwen Brown had some concerns with the development agreement. She questioned why they keep referencing PIDs (Public Infrastructure Districts) in the development agreement. She reminded them that the PID had been denied and feels that any reference to a PID should be removed. Tracy indicated that they are agreeable to removing all PID language from the development agreement prior to the approval of final plat. Brennan Reese, Ensign Engineering, pointed out that the current PID language provides an option for an HOA or similar organization to “be responsible for, or have jurisdiction over, the preservation, maintenance, and ownership of open space/common areas” in the development agreement. Gwen reiterated that the PID language should be completely removed since the PID has been denied by the County Commission. Tracy again said that they are okay with removing the PID language. .

Gwen asked about the lots that are less than one acre. Tracy stressed that they will adjust the lot lines to assure all lots will be a minimum of one acre.

Gwen went on record expressing opposition to Recital H. which states “... (ii) has concluded that the terms and conditions set forth herein serve a public purpose and promote the health.” She also wanted it on the record that she disagrees with the statement in 5C about a “compelling, countervailing public interest, safety, prosperity, security, and general welfare of the inhabitants and taxpayers of the County.”

Gwen noted that they mention an equestrian center in the development agreement and that use is not allowed in R-1 zoning. Terry indicated that was an oversight and they will remove the Equestrian Center from the development agreement.

Gwen asked if they will have a sewer system or individual septic tanks. Terry explained that they would like to reclaim some of the sewer water. In phase 1 they want to put in dry sewer lines so that if a municipal sewer system, owned and operated by the Water Conservancy or an HOA, were put in place they would be ready to hook up. They are not opposed to removing those lines from the plans and going strictly with septic tanks. They have a soils report showing the percolation of all lots.

Attorney Rob Van Dyke asked about their request for 15 animals per lot, subsequent phases, the vesting of all current county ordinances for all 15 phases, and authorizing filing a preliminary plat for a subsequent phase as soon as the final plat for the previous phase is approved.

Terry stressed that they are trying to make a community with long lasting viability. If they vest if the current county code today they will be frozen in time. They do have the option of amending the development agreement at a later date. He stated that the market will judge the build out time but estimated a time frame of 10 to 25 years.

Byard asked if the lot size in a subdivision is required to be one acre or greater. Kane County Engineer, Tom Avant, talked about the rule of aliquot parts, explaining that typically you round to two significant digits, which in this case would show 1.00 acres with the rounding. Terry stressed that they will adjust the lots sizes to 43,560 square feet or more to avoid any size issue.

Tom reported that he issued a review a week ago and just got a response back late yesterday and he has not had time to do a full review of that response. He is concerned about some items in the drainage report. He noted that they excluded the comments on the development agreement in their response. Tom brought attention to item 3B4 in the development agreement which allows for them to get a third party engineer for review. He also noted that the application was signed by Greg Whitehead but he is not an officer of Kanab 600 LLC. He can sign as a manager of Philo Ventures who is the manager of Kanab 600 LLC. He recommended we have new applications that are signed properly. Tom stressed that he still needs to do a complete review before recommending approval. He said it is up to the P&Z to decide if they want to send it to the county commission with conditional approval or wait until they have a final review before forwarding it on. Byard preferred to have things correct before sending it to the commission. Gwen agreed.

Rob stressed that because the Planning Commission (P&Z) is a recommending body they should only be addressing exceptions to the ordinance in the development agreement. He clarified that the final draft of the development agreement is made after the Commissioners have approved the requested ordinance exceptions. Terry clarified that they are requesting conditional approval.

Gwen stated that the requested number of pets needs to meet ordinance requirements. Terry is agreeable to that request.

Rob suggested the Planning Commission focus on the requests for a third party engineer review, submitting the preliminary plat for a subsequent phase as soon as a final plat is approved, and vesting of the current ordinances for all phases of the project.

Brennan asked about the submittal process and the checklist for the preliminary plat application. He feels that they have checked all of the boxes on the checklist and now they need to work out the details of each of the items. He feels that many of the details could be worked out as they are moving towards final plat. He stressed that they have checked all the boxes on the application and stated that a preliminary submittal is not a perfect plan. They will continue to make changes and work through things as it moves through the process, having everything “nailed down” on the final plat.

Shannon explained that the new state code is requiring the subdivision process to change to make it less restrictive; not requiring them to go to the commissioners for approval. If the project is

vested in the current ordinance they will be required to go through the current subdivision process for all subsequent phases. She advised the applicant that it would be in their best interest to NOT vest in the current ordinance. Tom asked the P&Z to consider that if they vest the project in the current ordinance any subsequent changes to the R-1 zone, including uses, would not apply to any of the lots in this project.

Tom reiterated that the applicant has submitted what is on the list but those items are still in the review process and he cannot recommend approval until the items on the checklist are correct and have been finalized.

Gwen clarified that the items that need discussion are the request for a 3rd party engineer, vesting in the project in the current ordinance, and continuing the next phase before the previous phase is completed.

Brennan read section 3B(iv), "In the event the Parties cannot agree on a competent engineer, then the two proposed competent engineers shall pick a 3rd engineer, which 3rd engineer shall then resolve the dispute. The Parties agree that this dispute resolution process shall take not more than ninety (90) days." explaining that this would only come into place if they have a dispute with the county engineer in the which a 3rd party outside source could come in and review the dispute and make a decision within 90 days. It was clarified that the project engineer and county engineer would agree upon a 3rd party engineer independent of the current project.

Gwen again stated that she feels it would be best to have all corrections made before sending it to the County Commission. Mason asked Shannon about her recommendation in the staff report to postpone the project to the next meeting once all documents have been submitted and revised. Shannon advised the Planning Commission that it is up to them to decide if they want to recommend conditional approval or postpone the project.

Rob stressed that the P&Z needs to be clear as to what they are approving and recommending. Shannon reiterated that if it is approved conditionally she will not forward it to the commission until everything has been approved by the county engineer. She reminded the P&Z that the development agreement is not binding until it is approved by the commissioners.

Doug expressed the opinion that the 3rd party engineer clauses is a protection to the developer so that someone with an agenda cannot hold the project up. Mason further expressed that if there is a substantive problem the 3rd party engineer would most likely come to the same conclusion as the county engineer. Gwen reiterated that it would be cleaner to have the corrections completed prior to sending it forward to the commission.

Gwen asked for a discussion on vesting the project in the current ordinance. Terry stressed that they are wanting to invest in the current ordinance.

Gwen asked for comment regarding the over lapping of phases. Doug asked if there was a limit to how many phases could be overlapped. Rob clarified that the developer is requesting to submit an application for a subsequent phase upon approval of the current final plat. Byard asked if the

developer will be building the homes. Terry stated that is yet to be determined. Tom noted that the overlapping of phases is common and as long as the developer is bonding there is no risk to the county.

Mason expressed concern about the 3rd party engineer. He cannot conceive a situation in which a 3rd party engineer would be necessary. Tom noted that, as long as the developer has bonded for the project, a 3rd party engineer would not pose a risk to the county. Rob stressed that the county already has a process in place for appeals.

MOTION: Doug Heaton made a motion to **recommend approval** to the Kane County Commissioners, the Willow Reserves Estates Subdivision preliminary plat with the **DRAFT development agreement**, based on the findings documented in the staff report **with the conditions that we deny the 3rd party engineer clause, that the developer is allowed to invest the entire project with current ordinance and to layer the application process.** Mason Haycock seconded the motion.

FRIENDLY AMENDMENT: Doug Heaton amended his motion to include that **the developer will remove the items they agreed to in our discussion tonight.** Mason Haycock seconded the motion.

VOTE: The vote was **unanimous to recommend approval** of the motion, including the friendly amendment.

FINDINGS: The Willow Reserve Estates Preliminary plat and development agreement application conforms to the standards in the Kane County Land Use Ordinance and may be heard by the Land Use Authority. The application and preliminary plat complies with Utah State Code unannotated §17-27a-601, 603, 604, 604.5, 606, 607 and 608. The preliminary plat complies with the Kane County Land Use Ordinance, Title 9, Chapter 21C and D, Subdivision Regulations. All requirements for rights-of-way and easements conform to the standards in the Kane County Land Use Ordinance requirements and the Kane County Standards Specifications and Drawing Details for Design and Construction, which requires 66 foot rights-of-way. The private roads will be the required 50 ft. wide rights-of-way. All notices are in conformance to the standards and notice requirements of 17-27a-201 & 202. A notice for the public meeting was posted in two public places; notices were mailed out to all affected entities and posted on the Utah State and Kane County websites as a public meeting.

4. Public Meeting – Subdivision: Duck Creek Improvement Exchange LLC

An application for the Koti Subdivision preliminary plat, creating 2 lots, parcel 8-7-6-4B, located on Meadow Ranch Drive, Duck Creek Village, Utah. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter, New Horizon Engineering, explained that his client would like to divide their property into 2 lots. Each lot is over 1 acre. Meadow Ranch Drive is the easement that will service the lots. As part of this subdivision they will dedicate their portion of Meadow Ranch Drive to the county. They will add a fire hydrant, second water meter and power to the new lot.

Shannon stated that both she and the county engineer recommend approval.

MOTION: Mason haycock made a motion to **recommend approval** to the Kane County Commissioners, the preliminary plat for the two lot Koti Subdivision, on behalf of Jared Plewe. Byard Kershaw seconded the motion.

VOTE: The vote was **unanimous to recommend approval**.

FINDINGS: The KOTI subdivision, Phase 1, application and preliminary plat complies with Utah State Code unannotated §17-27a-601, 603, 604, 604.5, 606, 607 and 608. The KOTI subdivision, preliminary plat complies with Kane County Land Use Ordinance, Title 9, Chapter 21C and D, Subdivision Regulations. All requirements for rights-of-way and easements conform to the standards in the Kane County Land Use Ordinance requirements and the Kane County Standards Specifications and Drawing Details for Design and Construction, which requires 50 foot rights-of-way. The **private** road will be the required 50 ft. wide rights-of-way. All notices are in conformance to the standards and notice requirements of 17-27a-201 & 202. A notice for the public meeting was posted in two public places; notices were mailed out to all affected entities and posted on the Utah State and Kane County websites as a public meeting.

MOTION: A motion was made by Byard Kershaw to go in and out of public hearing at the call of the chair. The motion was seconded by Doug Heaton.

VOTE: The **motion passed** unanimously.

5. Public Hearing – Lot Joinder: Chapman

An application to amend a subdivision plat for a lot joinder, joining lots 17, 18, 19 & 20 becoming new lot 19, consisting of 2.04 acres, North Fork Estates #2, and vacating (9) 7.5 foot utility easements. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter, New Horizon Engineering, explained that his client would like to join 4 lots together and eliminate the easements between the lots.

Shannon stated that Garkane has started charging for their termination agreements and South Central will not give a termination agreement because they do not service the area. Shannon explained that there is a statement on the plat as to why they are vacating easements without the termination letters.

Acting Chairperson, Gwen Brown, called the commission into public hearing.

(No Comments)

Acting Chair Brown called the commission out of public hearing.

MOTION: Mason Haycock made a motion to **recommend approval** to the Kane County Commissioners amending a subdivision plat for a lot joinder, and vacating (9) 7.5' utility easements, in the North Fork Estates Subdivision, Unit 2, lots 17, 18, 19 & 20 becoming new amended lot 19 consisting of 2.04 acres, on behalf of Douglas and Barbara A. Chapman, based on the findings documented in the staff report. Byard Kershaw seconded the motion.

VOTE: The vote was **unanimous to recommend approval**.

6. Public Hearing – Ordinance 2024-11: KCLUO Chapter 1 & 21
An ordinance revising Kane County Land Use Ordinance Chapters 1 & 1 to become compliant with Utah Code 12-27a-604.1.

Commissioner Wade Heaton explained that in the 2023 legislative session there was a bill passed that requires counties to designate an Administrative Land Use Authority. He suggested that could be the Land Use Authority (Shannon) or the Planning Commission. It cannot be a legislative body (County Commission). The Administrative Land Use Authority will review all administrative applications and apply county ordinance. Commissioner Heaton stressed that the Planning Commission and County Commission will be responsible for setting the ordinance that the Administrative Land Use Authority will apply.

Rob added that this new state law is intended to take the administrative decisions out of the politicians' hands. Rob explained that our subdivision ordinance has been purely administrative, meaning that if it complies with ordinance the property owner can subdivide the land. Rob informed the P&Z that the Administrative Land Use Authority could be the Planning Commission, the Land Use Administrator, the County Engineer, or some newly formed board. He stressed that it cannot be the County Commission. Once this decision is made Rob and Shannon will move forward with revising the county's subdivision ordinance to comply with state code.

Wade advised the Planning Commission that the intent is to remove administrative decisions from those who are feeling political pressure. Doug noted that the administrator would only be applying the ordinance as it is written. Doug suggested that the current Land Use Administrator should be designated as the Administrative Land Use Authority.

Acting Chairperson, Gwen Brown, called the commission into public hearing.

Tom Avant – Owner of Iron Rock Group. He stated the he has worked with the county for over 30 years. He stated that Shannon is the best Land Use Administrator he has worked with.

Rob noted that the decision being made now could be changed later if necessary. He also mentioned that they could designate different Administrative Land Use Authority for the different type of land use applications.

Acting Chair Brown called the commission out of public hearing.

MOTION: Doug Heaton made a motion to **recommend** to the county commissioners that the Land Use Administrator become the Administrative Land Use Authority for the purpose of executing administrative action regarding land use. Byard Kershaw seconded the motion.

VOTE: The vote was **unanimous to recommend this ordinance**.

Mason Haycock made a motion to adjourn. Byard Kershaw seconded the motion.
Meeting was adjourned at 7:44 pm.

Land Use Authority Vice-Chair
Gwen Brown

Assistant Planning & Zoning Administrator
Wendy Allan

Public Meeting

3. Temporary Use Permit: Brown

An application for a temporary use permit for a family reunion with more than 2 RVs on parcel 8-7-8-30, located on Bach drive on the east border of the Mirror Lake subdivision Plat A.

Submitted by Lisa Safely for Angela Brown.



DRAFT STAFF REPORT

DATE: 04/29/2024

PROJECT: An incomplete application for a Temporary Use Permit for a family R.V./camping site on parcel 8-7-8-30. This parcel borders the Mirror Lake Subdivision, Plat A. The application was submitted by Angela Brown with Lisa Safely, Heritage Acres Family Trust, as trustee/manger, signing the application. All surrounding lots are zoned Residential 1/2, (R-1/2), and Residential 1 (R-1). The zoning of parcel 8-7-8-30 is Residential 5 (R-5) and contains 4.7 acres.

The reason for the temporary use permit is to have 80 people and over two (2) camping sites used on a residential lot for June 13, 14, 15, and 16th 2024.

FINDINGS: Kane County Land Use Ordinance 9-15B-1: **PURPOSE:** The purpose of this article is to provide for a temporary use permit and standards for the permitting process for nonpermanent uses in order to protect the health, safety and general welfare of the public and surrounding zones and to avoid uses which will be detrimental to adjacent properties. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-15B-2: TEMPORARY USE PERMIT PROCESS:

Unless otherwise stated in this title, temporary activities shall be allowed upon the issuance of a temporary use permit by the land use authority. The land use authority may issue a temporary use permit after the applicant has provided the following information:

- A. A description of the proposed temporary use, the proposed beginning and ending dates, and the proposed hours of operation.
- B. A description of the property to be used for the temporary use, including the location of the use in relation to other buildings, and the location of streets to be used for access.
- C. Sufficient information to determine that adequate provisions for trash disposal and sanitary facilities shall be provided.
- D. Additional information required by the land use authority in order to ensure surrounding land uses are not negatively impacted by the temporary use.
- E. Any provision set forth in the conditional use permit process that may be deemed necessary for a temporary use. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-15B-3: CONSIDERATIONS:

The applicant of a temporary use permit shall demonstrate that the considerations listed below have been addressed. If an application is denied, the denial shall specify which of these considerations, if any, were not addressed to the satisfaction of the land use authority:

- A. Circulation: The effect on local traffic and the location of access points to the property.
- B. Adjacent Property: The effects of the proposed use on nearby property, including, but not limited to, the effects of noise, glare, odor, and traffic.
- C. Refuse And Service Areas: The amount of refuse and service areas (garbage receptacles and bathrooms) necessary for the proposed use, the location of the refuse and service areas, and a plan for adequate maintenance of the areas.
- D. Utilities: Location and availability of utilities.
- E. Screening And Landscaping: Installation of screening and fencing where necessary to protect adjacent property.
- F. Compatibility: The level of general compatibility with nearby properties and the appropriateness of the use in relationship to other properties.
- G. Other Factors: Any other review factors which the land use authority considers to be appropriate to the property in question. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-15B-4: REQUIREMENTS:

The land use authority may approve, approve with additional requirements or deny a temporary use permit application. If additional requirements are deemed appropriate, the land use authority may place requirements on the temporary use as part of the approval to assure that adequate mitigation measures are associated with the use. The requirements shall become part of the temporary use permit approval. Violations of any of the requirements shall be treated in the same manner as other violations of this title. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-15B-10: TERMINATION:

- A. A temporary use permit shall become null and void in the following cases:
 - 1. The use for which the permit was approved is terminated.
 - 2. The time granted for the use in the approved permit has expired.
 - 3. The land use authority or other county agent as assigned finds that the terms of the permit have been violated or that there is a hazard to the public health, safety and welfare.
- B. The site shall be cleared of all debris at the end of the temporary use. All temporary structures shall be cleared from the site within five (5) days after the use is terminated.

TEMPORARY USE STANDARDS: A temporary use permit may only be issued if the Land Use Authority finds:

- 1. That the use is temporary and impermanent.

The 2021 Permit stated: This permit will not be renewed from year to year. The family will need to apply for a zone change and R.V. CUP for the year 2022. The family did not apply for a temporary use permit in the year 2022. They also, did not apply for a zone change, however, Jim has implied the family will apply for a variance.

I received several phone calls acknowledging the property was used in 2022 for multiple R.V.'s without the temporary use permit.

The temporary use permit was denied in the 2023 year due to safety concerns with parking, noise and the number of people on the property.

2. That the use will not create a nuisance, hazard or interfere with neighboring properties and the enjoyment thereof.

In 2020, KCLUA only received two complaints on this parcel and the use thereof. In the initial site visit in 2020, there were no hazards on the property. It was due to a new neighbor moving in that a complaint was received. The KCLUA has not received any further complaints about this property.

As of July 11, 2023, I have received four emails and multiple phone calls complaining about vehicles, noise, dust, fires, parking, safety issues and bathroom/septic situation on this property over the 4th of July weekend.

3. That the location will not create a traffic hazard or parking problem in the right of way and that parking is available on-site or at satellite locations by separate permit. Traffic control, if necessary, shall be provided at the expense of the applicant, unless the event is deemed of significant interest to the county, in which case traffic control may be provided by appropriate town or county officials.

There is ample parking on the parcel.

I received several emails and phone calls showing and stating OHV, trucks, and cars parked on the road, blocking driveways, causing dust and safety issues. The amount of vehicles was very impactful to the neighborhood and roads.

4. That all associated signs conform to the county sign regulations and will be temporary and impermanent.

No signs are located on the premises except for location address.

5. That the lot be kept clean and free from litter and debris at all times.

The parcel was well kept during several site visits.

6. That landscape and natural vegetation areas will not be injured or trampled and the liability for replacement of any damage which may occur shall be assumed by the applicant.

The property was well maintained and vegetation and trees had been preserved.

7. The applicant shall have health department approval where food items or food products are handled or sold, and in any other situation where health department standards apply.

No food products are sold.

8. That adequate on-site sanitary facilities are available or shall be provided by the applicant.

There is a cabin and bathroom on the parcel. The R.V.'s will need to add septic's when a CUP, zone change or variance is applied for.

9. That the applicant shall have sufficient liability insurance for the requested use or event.

No insurance will be needed for private use and no rentals will be allowed.

STAFF DETERMINATIONS: Kane County Land Use Administrator, Shannon McBride, has reviewed the application and supporting documents and recommends that the family needs to apply for a zone change for this property and use. **This permit will not be renewed from year to year. The 4th of July holiday in 2023 was a significant impact on the neighbor's.**

Jim Sanford mentioned applying for a Variance for the year 2023.

MOTION: I move to **approve/deny** the Temporary Use Permit for more than **two camping sites and 80 people** on parcel 8-7-8-30, submitted by Heritage Acres Family Trust, Lisa Safely, as trustee/manager, based on the findings documented in the staff report.

THANK YOU.

Minutes of the July 12, 2023 P&Z meeting:

3. Public Meeting – Temporary Permit: Heritage Acres Family Trust

An application for a temporary permit requesting permission to have more than 2 RVs on a residential lot for the July 4th and July 24th holidays. Submitted by Jim Sanford.

Shannon explained that this application was submitted too late to get it on the agenda prior to the 4th of July weekend. She gave Jim verbal approval because they have held their reunion in the past with no issues. She stressed she does not usually approve temporary permits.

Jim Sanford explained that they have been having a family reunion on this 5-acre parcel since 1978. Shannon noted that prior to 2013 RVs were not allowed on the mountain. Tracy Sanford stated that this was their 45th year and the turnout was larger than expected and acknowledged that things got out of hand. The property was originally bought with the intent of holding family reunions. The Sanfords asked what they can do to become compliant. Tracy stated that they were red tagged in 2020.

Jim indicated they want to pursue a variance. He feels that 5-acres should allow more than 2 RVs. He would like to see the ordinance amended to allow 2 RVs per acre. He explained they have a bathroom and a RV clean out and stressed that they keep their property maintained.

Tracy read a letter from the neighbor, Arvil Rhinehart, in support of their family reunion. She also read a letter from Lisa Safely, a family member.

Jim stated that they do not have any activities scheduled for the 24th of July. They just want to know what they can do moving forward.

Shannon reported that in 2021 Heritage Acres came in for a Temporary Use Permit and the P&Z told them that the permit would not be renewed from year to year. In 2022 they did not apply for a temporary permit. They were red tagged in August of 2022 because they had more than 2 RVs on the property.

Shannon explained that in 2013 the county added RVs as a permitted use in residential zones. Prior to that time RVs were not an allowed use on Cedar Mountain. The P&Z decided at that time to allow no more than 2 RVs and they could not be rented out. She clarified that Heritage Acres was not her first red tag. Shannon stated that when she got a complaint in 2021 she drove up the mountain herself to follow up on it. In 2021, Shannon strongly suggested they ask for a zone change. They did not apply for that, so their only option was a temporary use permit. When they came in this year she suggested a variance may work, basing that suggestion on the use she had seen in 2021. She does not feel that a variance is an option at this time because of the amount of people and the health and safety concerns. Shannon stated she received at least 5 complaints. About the Sanford's reunion.

Shannon suggested that if the P&Z decides to approve the temporary permit that they limit the amount of RVs and people allowed on the property. Doug recommended the applicant withdraw the application and look for a long term solution. He offered them the use of his personal property. Matt expressed concerns about safety issues.

Jim stated he would like to find a way to leave 6 RVs on the property over the summer. Shannon stressed that if the Temporary Use Permit is not approved they will not be allowed to keep 6 RVs on the property over the summer because the ordinance only allows 2 RVs in a residential zone.

Gwen questioned why they did not apply for a permit in 2022. Tracy said she was under the impression that they only needed the 2021 permit. She then went on to say she had a lot going on in her life in 2021 so she didn't pursue another permit.

Attorney Van Dyke stated that the applicant can withdraw their application but it is a moot point. He suggested the property owner apply on time next year and then the P&Z can put reasonable limitations on the temporary use. Rob stressed that the P&Z can choose whether or not they approve a temporary permit.

MOTION: Matt Cox made a motion to **deny** the Temporary Use Permit for more than two RVs on parcel 8-7-8-30, submitted by Heritage Acres Family Trust, Jim Sanford, as trustee/manager, based on the findings documented in the staff report. Seconded by Gwen Brown.

VOTE: The vote was **unanimous to deny**.

FACTS & FINDINGS:

A temporary use permit may only be issued if the Land Use Authority finds:

1. That the use is temporary and impermanent.

The 2021 Permit stated: This permit will not be renewed from year to year. The family will need to apply for a zone change and R.V. CUP for the year 2022. The family did not apply for a temporary use permit in the year 2022. They also, did not apply for a zone change, however, Jim has implied the family will apply for a variance.

I received several phone calls acknowledging the property was used in 2022 for multiple R.V.'s without the temporary use permit.

2. That the use will not create a nuisance, hazard or interfere with neighboring properties and the enjoyment thereof.

In 2020, KCLUA only received two complaints on this parcel and the use thereof. In the initial site visit in 2020 there were no hazards on the property. It was due to a new neighbor moving in that a complaint was received. The KCLUA has not received any further complaints about this property. As of July 11, 2023 I have received four emails and multiple phone calls complaining about vehicles, noise, dust, fires, parking, safety issues and bathroom/septic situation on this property over the 4th of July weekend.

3. That the location will not create a traffic hazard or parking problem in the right of way and that parking is available on-site or at satellite locations by separate permit. Traffic control, if necessary, shall be provided at the expense of the applicant, unless the event is deemed of significant interest to the county, in which case traffic control may be provided by appropriate town or county officials.

There is ample parking on the parcel.

I received several emails and phone calls showing and stating OHV, trucks, cars parked on the road, blocking drive ways, causing dust and safety issues. The amount of vehicles was very impactful to the neighborhood and roads.

4. That all associated signs conform to the county sign regulations and will be temporary and impermanent.

No signs are located on the premises except for location address.

5. That the lot be kept clean and free from litter and debris at all times.

The parcel was well kept during several site visits.

6. That landscape and natural vegetation areas will not be injured or trampled and the liability for replacement of any damage which may occur shall be assumed by the applicant.

The property was well maintained and vegetation and trees had been preserved.

7. The applicant shall have health department approval where food items or food products are handled or sold, and in any other situation where health department standards apply.

No food products are sold.

8. That adequate on-site sanitary facilities are available or shall be provided by the applicant.

There is a cabin and bathroom on the parcel. The R.V.'s will need to add septic's when a CUP, zone change or variance is applied for.

9. That the applicant shall have sufficient liability insurance for the requested use or event.

No insurance will be needed for private use and no rentals will allowed.

Denial Letter from 2023

July 18, 2023

Jim Sanford
Heritage Acres
1016 W. Vermillion Circle
Kanab, UT 84741

Subject: Denial of Temporary Use Permit Application

Dear Mr. Sanford,

I hope this letter finds you well. I am writing in response to the temporary use permit application you submitted for more than 2 RVs on parcel 8-7-8-30, zoned Residential 5. After careful review and consideration, I regret to inform you that the Planning Commission has denied the request for the temporary use permit.

Upon evaluating the proposed use and its potential impact on the area, we have identified several safety concerns that cannot be adequately addressed. The existing infrastructure, including roads, utilities, and emergency services, are not capable of accommodating the increased demand and potential risks associated with the influx of a large family reunion. This could jeopardize the safety and security of both participants and property owners in the surrounding vicinity.

Additionally, the proposed use would likely lead to overcrowding issues. The existing zoning regulations and land use restrictions are in place to maintain a balanced and harmonious community environment. Granting the temporary use permit would contravene these regulations, potentially straining resources and disrupting the overall quality of life for property owners in the area.

While we understand the importance and benefits of allowing more than 2 RVs on your property for your family reunion, we would like to recommend exploring alternative options that align with the existing zoning regulations. We encourage you to consider pursuing a variance or looking for a larger parcel of land with the appropriate zoning designation to accommodate your intended use. This approach would ensure compliance with the regulations while providing the necessary space and facilities for the proposed activities.

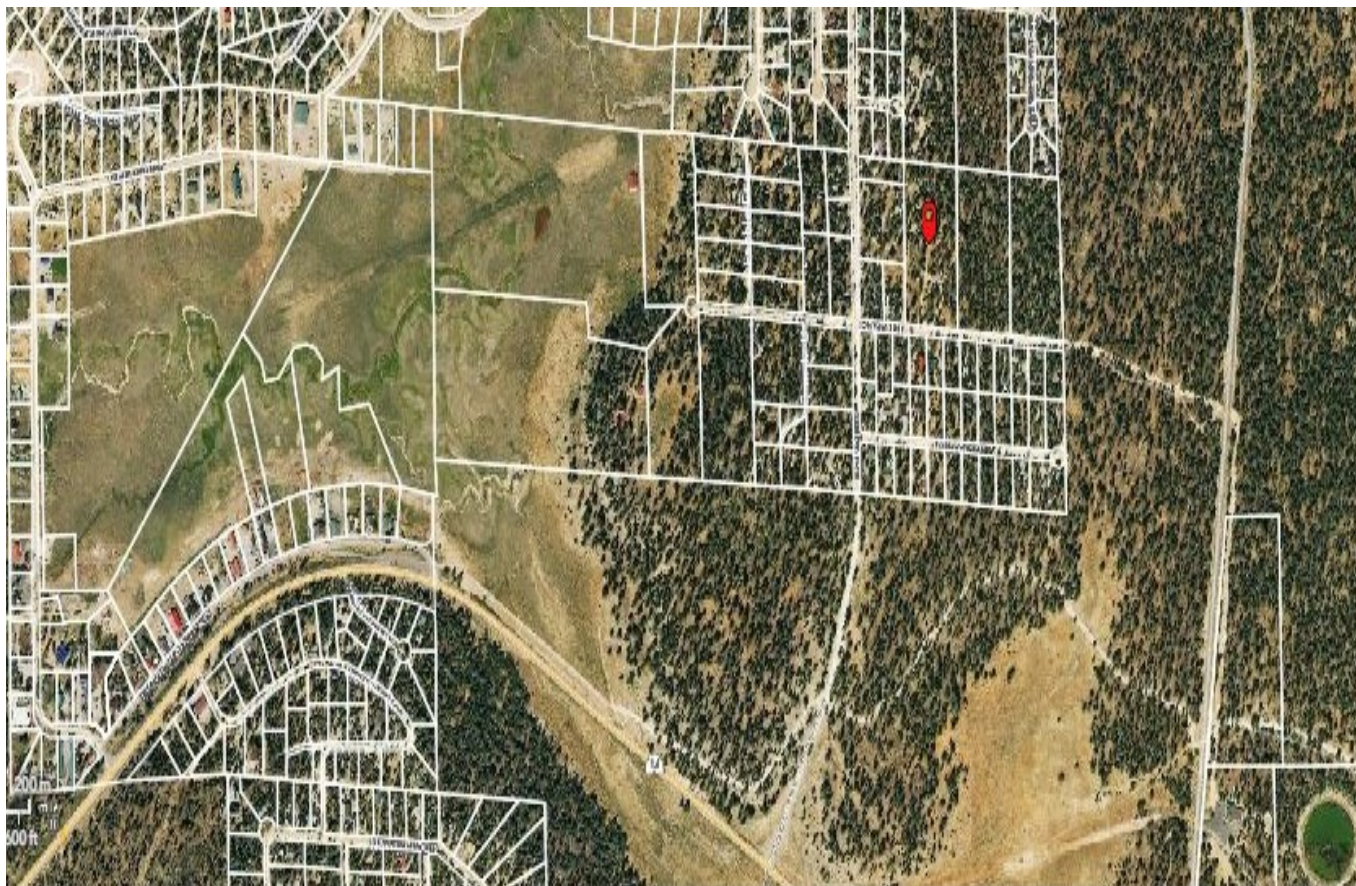
By adhering to the established zoning regulations, we can maintain the integrity and safety of our community while supporting appropriate and sustainable development.

Once again, I regret to inform you that the temporary use permit application for more than 2 RVs on parcel 8-7-8-30 has been denied based on the aforementioned safety and overcrowding issues. I appreciate your understanding in this matter and remain available for any further discussions or clarification.

Sincerely,

Shannon McBride
Planning Administrator

SM/wfa



76 North Main Street, Kanab, Utah 84741



76 North Main Street, Kanab, Utah 84741

Public Meeting

4. Conditional Use Permit Amendment: Fortelay LLC

An application to extend a conditional use permit for a 7 unit motel on parcel 3-4.5-31-1A, located southeast of Johnson Canyon Road, Kane County, Utah. Submitted by Jonathan Mitchell.

**Kane County Planning & Zoning
Land Use Authority
Shannon McBride, Administrator**



STAFF REPORT

DATE: 3/30/2024

PROJECT: The Applicants, Boavida, LLC, Iron Rock Engineering, with Tom Avant holding power of Attorney, submitted an amended Conditional Use Permit application for 7 motel units, each being less than 400 sq. ft., located on parcel 3-4.5-31-1A, zoned Commercial 1, on 11.25 acres.

FINDINGS: The above application complies with the Kane County Land Use Ordinance, 9-15A-1-6: Conditional Uses and the Kane County Land Use Ordinance 9-5-3 (F-I) Agricultural Zone (Uses Table) which allows the use of glamp-grounds through a conditional use permit. The CUP has the conditions to mitigate safety issues and must be implemented at the time of the building permit application. This motel is accessed off a Class B County road 3205.

Kane County Land Use Ordinance, (KCLUO)

9-7B-5: USES TABLE:

Hotel, motel, inn	C	P
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Kane County Land Use Ordinance: 9-15A-2-F-1-3:

F: Findings: In approving a conditional use permit, the Land Use Authority shall find:

1. That the proposed use is necessary or desirable and will contribute to the general well-being of the community;
2. That the use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity;
3. That the proposed use is in harmony with the intent of the general plan and the zone in which it is located. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

All notices are in conformance with all standards and notice requirements of §17-27a-201-205. The agenda was noticed in three different public places and posted on the Kane County and Utah State websites.

This CUP complies with Utah State Code section unannotated § 17-27a-506, Conditional Uses.

- (1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

- (2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

The conditions as stated in the CUP application will be enforced by the Land Use Authority, (LUA) Administrator and the Building Department staff throughout the building process. After the development is finalized the LUA Administrator will enforce the CUP conditions.

As part of approving a conditional use permit, Kane County may require that a Traffic Impact Study (TIS) be completed for any development projects where it is deemed necessary. The traffic study shall, at a minimum, incorporate traffic engineering principles and standards as presented in national practices. Additional requirements and investigation may be imposed upon the applicant as necessary. The County shall determine the need and requirements for a traffic impact study. The requirements of the TIS may be expanded, reduced, or altered by the County based on the proposed project being analyzed. (Ord. O-2017-16, 1-8-2018)

This conditional use permit may be revoked in whole or in part or may be modified based on any failure to observe any of the conditions outlined herein or those enforceable in law or in equity.

9-15A-2-E, 1-28: The Land Use Authority shall approve a conditional use permit if conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. In approving any conditional use permit, the Land Use Authority may impose conditions deemed necessary to protect the public welfare, ensure compatibility with other uses in the vicinity, and ensure that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions may include the following:

1. Assurance that the use will not be detrimental to the health, safety, comfort, order, or general welfare of persons residing or working in the vicinity;
2. Assurance the use will:
 - a. Comply with the intent, spirit and regulations of the Kane County Land Use Ordinance and Kane County General Plan. Kane County Land Use Ordinance, Chapter 7 – Commercial Zones, Chapter 10 - Supplementary & Qualifying Regulations, Chapter 13 - Parking and Loading Space, and Chapter 15 - Conditional Uses.
 - b. Make the use harmonious with other neighboring uses in that zone;
3. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

Kane County Land Use Ordinance

9-13-3: PARKING REQUIRED: At the time of site plan approval of any building or issuance of a building permit a site plan indicating no less than the minimum of parking spaces as shown in the uses table with adequate provisions of ingress and egress by standard sized automobiles shall be required. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-13-4: SPACE SIZE: The dimensions of each street parking space shall be at least nine feet by eighteen feet (9' x 18') for diagonal or ninety degree (90°) spaces, or nine feet by twenty two feet (9' x 22') for parallel spaces, exclusive of access drives or aisles. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-13-7: LOCATION OF PARKING SPACES: Parking spaces as required above shall be on the same lot or on a public street or public parking lot within five hundred feet (500'). The land use authority may approve community parking plans, or parking garages, or other arrangements, or agreements with site specific plans with the main building, or, in the case of buildings, other than dwellings, may be located not farther than five hundred feet (500') therefrom. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-13-9: PARKING LOT REQUIREMENTS: Every parcel of land hereafter used as a parking lot shall be paved with a surfacing material of asphalt or concrete composition or four inch (4") gravel road base.

Each parking lot shall be permanently maintained. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-13-12: ACCESSIBLE PARKING:

A. Required: Any parking area to be used by the general public shall provide accessible parking spaces. Accessible parking spaces shall conform to the standards of the international building code and the "Uniform Federal Accessibility Standards Manual". (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-13-13: SUBMITTAL OF PARKING, LOADING AND CIRCULATION PLANS:

Detailed plans for off street parking, loading, circulation, and screening shall be submitted to the land use authority for approval. Said plans shall be in compliance with all standards and provisions set forth in this title and shall receive written approval of the land use authority prior to the issuance of a building permit. Appropriate filing fees shall be determined by the land use authority and submitted with each plan.

Notwithstanding all provisions of this section, all commercial, industrial and professional developments and all other nonresidential uses of land shall provide sufficient parking for all employees, business vehicles and equipment, customers, clients and patients of such business, industry or professionally used property, as may be required by the planning commission in addition to spaces presently required by this title. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

4. Evidence that all required public facilities have adequate capacity to serve the proposed conditional use;

Feasibility letters from UDOT, WKCSSD, SWPHD, Garkane, were submitted. If on-site laundry service will be done the septic system will be sized appropriately for all wastewater uses.

5. Limiting the hours, days, place and/or manner of operation; comply with the nuisance ordinance and hours of operation.

Kane County Nuisance Ordinance 4-3-3-25 Noise Related Nuisances: It shall be unlawful for any person in the county in a public or private place to make, cause to be made or allow the making of any noise which is inconsistent with the zoning area between the hours of eleven o'clock (11:00) P.M. and sunrise

which is unnecessary or unusual, which noise annoys, disturbs or affects the comfort, repose, health or peace of others. Any such noise hereinbefore described, heard outside the limits of the real estate from which said noise has its source and heard by another person, shall be a noise as is hereby prohibited, which noise constitutes the basis of the violation of this section.

6. Requiring size or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, glare, erosion, odor and/or dust;

Site plans will be reviewed by Civil Science. Road base and gravel will be required for driveway to mitigate dust concerns. **An on-site manager will need to reside on the premise.** Require gravel to the access of the motel site. An eco-friendly alternative on the road. **Comply with a dust mitigation plan that is approved by Civil Science.**

7. Requiring larger setback areas, lot area, and/or lot depth or width:

Commercial setbacks will be in place.

KCLUO 9-7A-2: DEVELOPMENT RESTRICTIONS IN A COMMERCIAL ZONE: A. Setbacks: Minimum yard setback requirements shall be established in permitted use, conditional use or planned unit development approval; except no commercial building shall be located closer than fifty feet (50') to any Residential Zone boundary, or to any street line which continues into a Residential Zone, and no such building shall encroach on any easement. Any commercial lots abutting commercial lots shall have a front setback of no less than twenty five feet (25'), a side setback of no less than five feet (5') and a rear setback of no less than twenty feet (20'). (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

8. Limiting the building height size or lot coverage, and/or location on the site;

KCLUO 9-7A-3: MAXIMUM BUILDING HEIGHTS:

C-1 Zones: Four (4) stories and/or a maximum building height of forty feet (40') allowed with no limit on height for roof line and architectural features. (Ord. O-2019-2, 1-14-2019)

9. Designating the size, number, location and/or design of vehicle access points or parking areas;

Refer to #3

10. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved provided that:

N/A

- a. An essential link exists between a legitimate governmental interest and each exaction; and
- b. Each exaction is roughly proportionate, both in nature and extent to the impact of the proposed development;

11. Assurance that the use will not be detrimental to the health, safety, comfort, order, or general welfare of persons residing or working in the vicinity; therefore dust mitigation, noise, glare, light and traffic plans need to be detailed. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration,

exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations, as listed below:

Each cabin will have a gravel driveway that will end with a significantly wider parking space to provide ample room for multiple vehicles. This will match building code requirements, and enough space will be provided to turn vehicles around. Exact dimensions will need to be determined by the building department. There is an existing road that leads to the motel from Highway 89 with an easement in place that provides ingress and egress to the property.

Drainage, water quality facilities, and parking areas will be inspected for compliance with KCLUO Chapters 13 & 15.

12. Limiting the number, size, location, height and/or lighting of signs;

All signs will be in compliance with Chapter 16 - Sign Regulations.

13. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;

All lighting will comply with the dark sky recommendations as found in Chapter 9-10-14. Sign permit required through the building department. The building department inspects electrical on signs.

Lighting: The concerns of safety, utility, dark sky protection and aesthetic appearance need not compete. Good modern lighting practices can provide adequate light for safety and utility without excessive glare or light pollution. Careful attention to when, where, and how much nighttime lighting is needed results in better lighting practices, darker skies and reduced energy use and costs. Kane County encourages lighting practices and systems which will: minimize light pollution, glare, and excessive glare; conserve energy and resources while maintaining nighttime safety, utility, security, and productivity; and curtail the degradation of the nighttime visual environment. Any and all new and major addition to land uses, developments and buildings or structures are encouraged to use hooded lighting practices. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

14. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;

As much native vegetation will remain in place to provide natural screening. With any berms or landscaping that is installed, it will be added to the regular maintenance schedule with their maintenance and landscaping teams.

15. Requiring and designating the size, height, location and/or materials for fences;

A 6 ft. privacy fence is proposed along the south property line. Fences under 7 ft. tall do not require a bldg. permit. Privacy fencing should be installed between the Lazy J Subdivision and the motel development. Utah is a fence-out state. A privacy fence on the south and west side of just the development.

16. Encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, slopes, cultural resources, and/or sensitive lands;

Wildland Urban Interface for fire protection will need to be complied through the building department.

The majority of the land will remain as is. No trees or brush will be cleared, except that which is necessary to make way for structures, road, paths, etc. There are no water areas or wetlands found on the property.

Existing trees, soils, vegetation, watercourses, habitat area, drainage areas, and slopes will be preserved as much as possible. There are no historic resources, cultural resources, and/or sensitive lands.

17. Requiring the protection and preservation of groundwater recharge areas;

All state and federal guidelines and permits need to be applied for through the building department. The septic system will be reviewed by the Southwest Public Health Department.

18. Limiting noise generation;

The units are strategically placed throughout the development. Customers will be encouraged to refrain from loud activities after daylight business hours.

19. Minimizing environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;

The majority of the land will remain as is. No trees or brush will be cleared, except that which is necessary to make way for structures, road, paths, etc. There are no water areas or wetlands found on the property. Existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, and slopes will be preserved as much as possible. There are no historic resources, cultural resources, and/or sensitive lands.

20. Requiring turn lane improvements at street intersections when: N/A

a. An unsafe condition would be created by the development without the improvements; or

b. The projected increase in traffic generated by the new or expanded use will lower the level of service;

Utah Department of Transportation feasibility letter submitted.

21. Providing for emergency access;

The existing current dirt road that leads from highway 89 to the motel, and the road to be developed within the development, will be kept and well maintained. The road and driveways on site will be adequately wide so that in the event of an emergency, access will be appropriate for all vehicles. Emergency access will be provided.

22. Requiring pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks;

This motel is in a rural area outside any city limits. Because of this, it will have an insignificant impact on any existing public transit circulation, parks, businesses or related facilities.

23. Requiring approval of septic and of water systems;

Health Department permit/approval obtained. The building department will sign off on septic at the building permit stage.

24. Requiring buildings to be built to specific requirements; (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

State/international building codes will be applied when building. The building department will need to inspect all cabins and foundations.

25. Recreation vehicle parks: a) business license required; b) Transient Room Taxes required; c) the use must be consistent with the environmental, commercial, and economical land use purposes stated in the General Plan, as amended; d) an official site plan that clearly demonstrates that the park will not cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, or other similar unreasonable risks; the existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets shall be reviewed; e) RV parks and campgrounds/glamping sites must have State and/or County approved access off a State highway, County B or D road, BLM road or, if off a private road, roads will meet Wild Land Interface Urban Code standards and will require a road maintenance agreement between property owners and easement holders memorializing the mutual understanding that an increased use to the road will result and that proof of easements to property would be required; f) Health Department permit required if over forty (40) RV sites; the Department of Environmental Quality permit is also required for water and waste; g) must comply with Building Department and building permit regulations; h) on-site manager for RV parks and campgrounds; unless the campground is considered a primitive campground; i) requirements for the management and maintenance of facilities is adequate; j) the use shall not result in a situation which will create a need for essential services which cannot be reasonably met by local service providers, including roads and access for emergency vehicles and residents; fire protection; police protection; schools and school busing; drinkable water; sewer; storm drainage; and garbage removal; k) feasibility letters required for services extended to the RV parks and campgrounds to mitigate traffic safety conditions as to not adversely affect the use and surrounding areas; l) emergency access is adequate; m) a plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses is adequate; n) exterior lighting is adequate and does not unduly disturb the surrounding areas; o) exceptions include rural unimproved subdivisions that can only be used for agricultural purposes as defined in Utah State Code 59-2-502; (Ord. O-2017-16, 1-8-2018)

Mitigation: Feasibility letters from Western Kane County Service District, Garkane Energy, Southwest Health Department and UDOT.

STAFF RECOMMENDATIONS: Kane County Land Use Administrator, Shannon McBride and Civil Science Engineering, Kelvin Smith, recommends approving the conditional use permit application, submitted by Forelay, LLC for a 7 unit motel, located on parcel 3-4.5-31-1A, zoned Commercial 1, on 11.25 acres.

This does NOT need to be recommended to the County Commissioners.

I move to **approve/deny** the Amended Conditional Use Permit, submitted by Fortelay, LLC for a 7 unit motel located on parcel 3-4.5-31-1A with the conditions as listed in the staff report (*if denied, the reasons for denial would need to be health, safety and welfare; in other words, what conditions could not be mitigated*).

Here is a brief summary of the sequence of events related to Parcel # 3-4.5-31-1A:

- Feb 18, 2021; paid Conditional Use Permit fee
- Apr 14, 2021; Kane County Planning Commission and Land Use Authority Meeting approving Conditional Use request
- Aug 13, 2021; submitted Kane County Address Application
- Mar 28, 2022; I received a voicemail from Hayden Houston with the Paria River District Office of Bureau of Land Management stating that access to my parcel crosses BLM land and they have not issued a Right-of-Way
- Mar 29, 2022; I received a cease-and-desist letter from the BLM office stating that I was not allowed any access to my property across BLM land. This effectively halted any and all work on the parcel.
- April - July 2022; I met with Whit Bunting from the Paria River District BLM Office and continued to communicate with Hayden Houston as well as Levi Lefevre (who replaced Hayden during this process) from the local BLM office. Additionally, I had several calls and emails with BLM representatives from their national headquarters attempting to find a right-of-way (ROW) certificate as was recorded previously by the county.
- Aug 11, 2022; working through my title company, I hired an attorney to help research BLM's claims and the history of whether a ROW had been granted and was simply mis-recorded in BLM's records
- Oct 17, 2022; completed the ROW application and submitted it for review by the BLM
- Jan 3, 2023; Levi from BLM confirmed to my attorney and me that he was still reviewing the ROW application
- Feb 28, 2023; received the written approval of the Right-of-Way granted by the BLM (attached)
- March 2023; submitted ROW to Kane County Recorder

When the Right-of-Way Grant was finally approved and the ROW recorded by Kane County, I restarted conversations with each contractor I had initially reached out to for this project to have them provide updated quotes and timelines for work. Before scheduling a meeting with the Land Use Authority to discuss the project details, I wanted to make sure I had a correct timetable for each step, which brings us to today.

Public Hearing

5. Lot Joinder: Negroni

An application to amend a subdivision plat for a lot joinder, joining lots 3 & 4 becoming new lot 4 containing 0.73 acres, in the Maxwell Towery Subdivision near Big Water, Utah.

Submitted by Tom Avant, Iron Rock Group.



STAFF REPORT

DATE: 05/1/2024

PROJECT: A complete application for Amending a Subdivision Plat for a Lot Joinder, on behalf of Gary and Sandra Negroni in the Maxwell Towery Subdivision, consisting of lots 3 and 4 becoming new lot 4, containing .73 acres, within Section 32, T42S, R1 East SLB & M. The project was surveyed and submitted by Tom Avant, Iron Rock Engineering. These lots are zoned Residential 1 (R-1), as are most surrounding lots in the area. The zoning will remain the same.

The reason for the lot joinder is to save on taxes.

FINDINGS: Amending (joining) the above-stated lots conforms to the standards in the Kane County Land Use Ordinance 9-21E-9 (A-F) and Utah Code Sections §17-27a-201, 202, 206, 208 and §17-27a-608, 609. All requirements have been met. The project has been posted in two public places, and on the county and state websites. Notices were mailed out to all property owners within 500 feet of the project. The new lot will retain the R-1 zone.

STAFF DETERMINATIONS: Kane County Surveyor, Travis Sanders, Civil Science, recommends approval of this project. Kane County Land Use Administrator, Shannon McBride, has reviewed the application and supporting documents and recommends approval. The project complies with county and state ordinance requirements.

MOTION: I move to **approve/deny** the amended subdivision plat for a Lot Joinder, on behalf of Gary and Sandra Negroni in the Maxwell Towery Subdivision, consisting of lots 3 and 4 becoming new lot 4, based on the findings documented in the staff report.

THANK YOU.

AMENDED PLAT
GARY & SANDRA NEGRONI
LOTS 3 & 4 MAXWELL TOWERY
SUBDIVISION

LOCATED IN THE SW 1/4, NW 1/4 OF SECTION 32,
TOWNSHIP 42 SOUTH, RANGE 1 EAST,
SALT LAKE BASE AND MERIDIAN



SURVEYOR'S CERTIFICATE

I, Thomas W. Avant, a Professional Land Surveyor, License No. 5561917, hold this license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act and have completed this survey of the Property described hereon in accordance with Section 17-23-17 and have verified all measurements and have placed monuments as represented on this Amended Plat. I certify that by authority of the hereon owner, I have made a survey of the tract of land as shown on this Plat to combine the 2 lots into a single lot as well as Public Utility Easements, as shown, which are herein after known as

"Amended Lots 3 & 4, Maxwell Towery Subdivision Amended"

and that the same has been correctly surveyed and staked on the ground as sown on this plat.

Thomas W. Avant, PLS # 5561917

Date:

NARRATIVE

The purpose of this survey was to retrace and mark on the ground the lines as shown on this Amended Plat at the request of the client. The purpose of the survey is to delineate the boundaries for Lot 3 and 4 of Maxwell Towery Subdivision Amended and combine the two lots into a single lot. All corners are set and found as shown. The basis of bearing for this survey is the Utah State Plane coordinate system South Zone, as measured between the Northwest corner of lot 3 & the Northeast corner of lot 4 with a bearing and distance of S89°02'41"E 321.24' as shown on this plat.

Legal Description:

All of Lots 3 and 4 of Maxwell Towery Subdivision Amended, as recorded in the Office of the Kane County Recorder, Utah on Plat T-A, more particularly described as follows:

BEGINNING at the Northwest Corner of said Lot 3, and running; thence, along the north lot line, South 89° 04' 02" East 153.06 feet, to the north corner common to said lots; thence, along the north line of said Lot 4, South 89° 01' 27" East 168.18 feet, to the northeast corner of said lot; thence, along the east lot line, South 00° 33' 10" West 98.97 feet, to the southeast corner of said lot; thence, the south lot line, North 89° 03' 17" West 168.40 feet, to the south corner common to said lots; thence, along the south line of said Lot 3, North 88° 59' 15" West 153.02 feet, to the southwest corner of said lot; thence, along the west lot line, North 00° 39' 47" East 98.84 feet feet, to the POINT OF BEGINNING; containing 0.73 acres (more or less).



Building on Solid
Foundations

460 E. 300 SOUTH
KANAB, UTAH 84741
435-644-2031
www.ironrockeng.com

AMENDED PLAT
LOTS 3 & 4
MAXWELL TOWERY SUBDIVISION, AMENDED
CLARK BENCH, UT

INITIAL SUBMITTAL	DATE: 04/04/2024		DESCRIPTION:	
	REV#	DATE:		

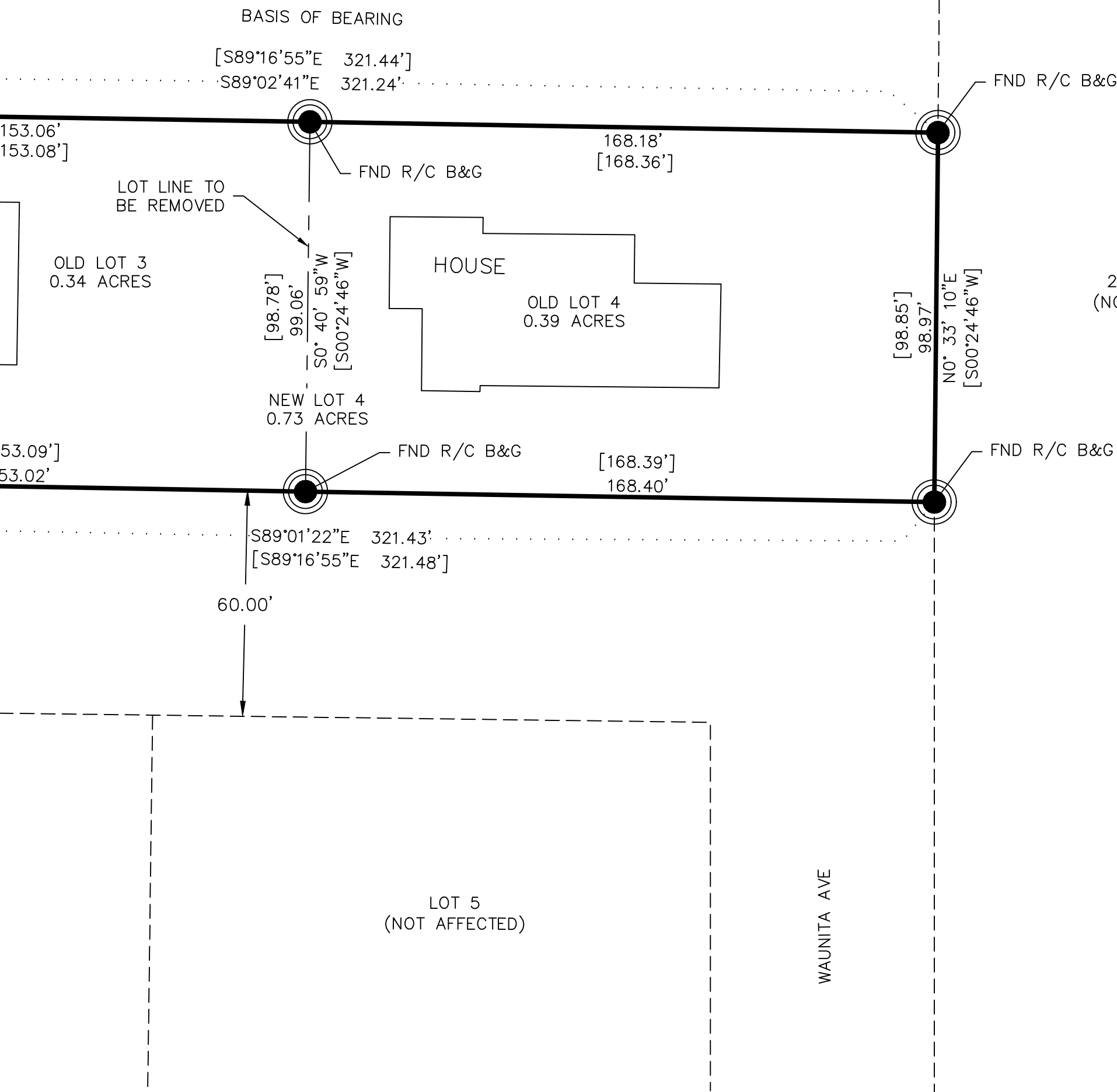
DRAWN BY: CM

SCALE: 1"=30'

SHEET:

1 OF 1

LOT 9
(CLARK BENCH ACRES)
(NOT AFFECTED)



REFERENCED DOCUMENTS

- OFFICIAL PLAT, MAXWELL TOWERY SUBDIVISION, 1988.

LEGEND

- SET 5/8" x 24" REBAR WITH PLASTIC CAP MARKED IRON ROCK PLS 5561917
- FOUND MONUMENT AS NOTED

PROPERTY LINE
ADJACENT PROPERTY LINE
EASEMENT
PROPERTY LINE TO BE REMOVED
SURVEY BOUNDARY
RECORD BEARING AND DISTANCE

SURVEYED AT THE REQUEST OF :
GARY & SANDRA NEGRONI
7426 W GUAVA
CLARK BENCH, UT 84741

STATE OF UTAH ,) s.s. ACKNOWLEDGMENT
COUNTY OF .)
On this _____ day of _____, 20____, personally appeared before me Gary Negroni & Sandra Negroni, who is personally known to me (or satisfactorily proved to me), and who being by me duly sworn did say that they executed this Amended Plat.
Notary Public Full Name: _____
Commission Number: _____
My Commission Expires: _____
A Notary Public Commissioned in Utah
Notary Public (signature) _____
No Stamp required (Utah Code 46-1-16(6))

OWNER'S DEDICATION
Know all men by these presents that the undersigned Gary Negroni & Sandra Negroni, are the owners of the above described tract of land, and hereby cause the same to be combined into one lot to be hereafter known as "Amended Lots 3 & 4 Maxwell Towery Subdivision Amended, the undersigned owners also hereby convey to any and all public utility companies a perpetual, non-exclusive easement over the public utility easements shown on this plat. The same to be used for the installation maintenance and operation of utility lines and facilities.
IN WITNESS WHEREOF, I have set my hand this the _____ day of _____, 20____.
Gary Negroni _____ Sandra Negroni _____
7426 W Guava 7426 W Guava
Clark Bench, UT 84741 Clark Bench, UT 84741

COUNTY SURVEYOR CERTIFICATE

I, _____, Kane County Surveyor, do hereby certify that this office has examined the above Amended Plat and have determined that it is correct and in accordance with information on file in this office and recommend it for approval this _____ day of _____, 20____.

KANE COUNTY SURVEYOR

APPROVAL AND ACCEPTANCE
by the Kane County Land Use Authority

We the Kane County Land Use Authority have reviewed the hereon Amended Plat and by authorization of said Kane County recorded in the minutes of it's meeting of the _____ day of _____, 20____, hereby accept the said Amended Plat with all commitments and all obligations pertaining thereto and is hereby ordered filed for record in the Office of the Kane County Recorder.
Attest: _____ Chairman-
Kane County Clerk Kane County Land Use Authority

COUNTY ATTORNEY CERTIFICATE

I, _____, Attorney for Kane County, do hereby certify that I have examined the above Amended Plat and said plat meets the requirements of Kane County and is hereby recommended for approval this _____ day of _____, 20____.

KANE COUNTY ATTORNEY

CERTIFICATE OF RECORDING

I, _____, Recorder of Kane County, do hereby certify that above Plat was filed for recording in my office this _____ day of _____, 20____.

KANE COUNTY RECORDER ENTRY NO. RECORDED AND FILED AT THE REQUEST OF:
DATE TIME BOOK PAGE FEE

Public Hearing

6. Zone Change/Ordinance 2024-15: Roth

An application for a zone change from Commercial 2 (C-2) to Residential 5 (R-5) for a 10 acre piece of parcel 3-6-36-1B, located at 2270 E. Mountain View Drive, east of Kanab.
Submitted by Britt Roth.



KANE COUNTY LAND USE AUTHORITY

Shannon McBride
LAND USE AUTHORITY
ADMINISTRATOR

DRAFT Staff Report

DATE: April 15, 2024

To: Planning Commission
From: Shannon McBride, Land Use Administrator
Subject: Project # 24020: Zone Change Application, C-2 to R-5 (10 acres), Ordinance O-2024-15
Parcel 3-6-36-1B consisting of 40 acres and re-zoning a 10 acre portion for a future 2 lot subdivision.

HEARING NOTICE: *This item has been noticed to property owners within 500 feet of the subject area and on public websites. A public notice was posted in two public locations, and a sign was posted near the parcel.*

PROPERTY PROJECT HISTORY	
Project Number	Vacant Land
24020	Current zone is Commercial 2 (C-2)

REQUEST: On April 15, 2024, Britt Roth, submitted a zone change application for parcel 3-6-36-1B Dark Sky Recreation Vehicle Park, zoned C-2 located off of Mountain View Drive, close to the Crimson Estates Subdivision, requesting to rezone a portion of the 40 acre parcel to R-5. They would like to create a two-lot subdivision to build two residences.

BACKGROUND: Parcel 3-6-36-1B obtained the C-2 zoning in February 2021 for a 40-acre R.V. Park. The Roth's planned on living in their two R.V.s but have since decided to build two homes. The bank requires separate lots for the loan. Residential zoning would work best for the future 2 5-acre lots subdivision they want to apply for in June. The zone change to R-5 would be more restrictive than the current C-2 zone, limiting any new commercial uses on the west side of their property.

LEGAL DESCRIPTION: Commencing at the South ¼ corner of Section 36, Township 43 South, Range 6 West, SLB&M, Utah, and running thence North 89°53'27" West along the south line of said Section 36, 1226.57 feet to the True Point of Beginning, thence North 89°53'27" West along the south line of said Section 36, 347.67 feet; thence North 00°38'46" West 1295.89 feet to the southern right-of-way line of old Kanab to Johnson Highway, known as Project S-280, State Road Commission: thence South 76° 03' 28" East along said southern right-of-way line; 281.08 feet; thence South 76° 35' 46" East continuing along said right-of-way, line 77.96 feet; thence South 00° 38' 46" East 1210.75 feet to the south line of said Section 36 and the point of beginning containing two 5 acre parcels within then acre portion.

FACTS & FINDINGS:

- Parcel 3-6-36-1B meets the minimum acreage required to be zoned R-5. The parcel is currently zoned C-2.
- The property owners requests R-5 zoning which requires a zone change.
- If the zone change is approved all uses contained in the R-50 uses table will be allowed.
- Surrounding parcels are zoned AG, AG-FAA, Manufacturing and Commercial 2.
- The parcel would gain access from Highway 89 and Mountain View Drive.
- All property owners within 500 ft. of this parcel have been mailed a public notice and a sign has been posted near the parcel.
- **9-6A-1: Purpose:** To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- **Kane County General Plan, Preamble:** Given these basic premises, the Kane County Commission will use this Plan to guide land use decisions for the county. Where decisions regarding property rights versus property values are being made, deference shall be given to property rights. This Plan will assure that present and future residents and visitors to Kane County will be housed under safe, sanitary, and attractive conditions. Land uses in the unincorporated county will reflect the intent of the Commission to expect intensive, urban-scale uses and to provide self-supported basic services without county financial support.

The current uses are as stated below:

9-7C-1: PURPOSE: The purpose of the commercial 2 zone is to provide for heavy commercial areas not appropriate near or in Residential Zones to meet larger commercial uses. (Ord. O-2022-42, 7-26-2022)

9-7C-2: USE REGULATIONS:

A. Permitted Uses: The following uses are permitted in the C-2 zone:
Any permitted use listed in the L-C and C-1 zones.

Accessory uses and buildings, customarily incidental and subordinate to an approved permitted use.

Auditoriums, conference rooms, museums, theaters, libraries and community social centers.

Car wash (large).

Freight or trucking yard or terminal.

Heli pad commercial.

Propane storage tanks.

Repairing, renovating, painting and cleaning of goods, merchandise and equipment.

Retail and/or wholesale sale and/or rental of goods, merchandise and equipment, which may include storage and display outside an enclosed building.

B. Conditional Uses: The following uses are subject to the conditional use approval process outlined in chapter 15 of this title.

Accessory uses and buildings, customarily incidental and subordinate to an approved conditional use.

ATV's/UTV's rentals.

Dams and Reservoirs.

Hospital.

Hotel or motel.

Motor vehicle, trailer, camper and recreational vehicle sales agency.
Recreational Vehicle Parks.
Storage units.
Solar Power panels producing over 25 KW.
Substation.

If the zone change is approved the following uses and uses table applies:

9-6A-4: MODIFYING REGULATIONS:

A. Animals And Fowl: No building, structure or enclosure housing animals or fowl shall be constructed closer to a dwelling on adjacent lots closer than twenty five feet (25').

B. Accessory Building Side Yard: Accessory buildings located at least ten feet (10') behind the main building may have a three foot (3') side yard requirement except that the street side of a corner lot shall be a minimum of thirty feet (30') for all buildings.

C. Accessory Building Rear Yard: Accessory building located at least ten feet (10') behind the main building may have a rear yard of three feet (3') provided that a corner lot rearing on a side yard of another lot, the minimum rear yard for all buildings shall be eight feet (8').

D. Water And Sewer: Individual water supply and/or sewage disposal systems shall be subject to the approval of the department of health.

E. Manufactured Homes: A manufactured home shall meet all county snow loads at the time of siting and less than ten (10) years old shall meet all snow loads and energy codes at the time of siting. If older than ten (10) years, manufactured home must be inspected and approved by the Kane County building department.

F. Allowable Numbers Of Household Pets: Private holding and ownership of up to a maximum number of animals in a given land use (zoning) area as shown below; without a conditional use permit.

1. R- $\frac{1}{2}$ may house a maximum of six (6) household pets. (Please note: As of February 22, 2022 Kane County will no longer accept new lots designated with the R- $\frac{1}{2}$ Zone. The R- $\frac{1}{2}$ will remain in Modifying Regulations for administrative purposes only.)

2. R-1 may house a maximum of six (6) household pets.

3. R-2 may house a maximum of twelve (12) household pets.

4. R-5 may house a maximum of fifteen (15) household pets.

G. Livestock: The keeping of livestock for personal use is permitted, except that no more than one large animal, or no more than ten (10) small farm animals weighing fifty (50) pounds each or less, may be kept for each six thousand two hundred fifty (6,250) square feet of area dedicated for each animal not to exceed a maximum of ten (10) large animals on any lot.

H. Number of Dwellings Allowed per Lot or Parcel: No more than two single-family dwellings allowed per lot or parcel in Residential 1, 2 and 5 zones. Only 1 single-family dwelling is allowed in the Residential $\frac{1}{2}$ zone.

I. Short Term Or Vacation Rental: In the event that there is more than one dwelling on a single lot that may be considered a short term rental or vacation rental as defined in section [9-1-7](#) of this title only one renting of those dwellings may be used as a short term rental or vacation rental, except in the R-2 and R-5 Zones where a conditional use permit can be applied for to allow a second nightly/short term rental.

J. Private Cemeteries within a subdivision shall have a sealed concrete vault. A permanent marker will be placed on each individual grave site. The cemetery shall be 50 feet from any

property line. The cemetery's legal description shall be recorded in the Recorder's Office. No green burials are allowed within platted subdivisions. Green burials will only be allowed on 10-acre or larger parcels. No more than two burial plots will be allowed on each individual lot within a platted subdivision, except in the R-5 zone which allows a maximum of five plots. No plots will be sold commercially. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013; amd. Ord. 2014-15, 7-28-2014; Ord. O-2019-5, 4-22-2019; amd. Ord. O-2022-06, 3-22-2022; Ord. O-2022-18, 4-26-2022; Ord. O-2022-60, 11-22-2022; Ord. O-2023-31, 9-26-2023)

9-6A-5: CODES AND SYMBOLS:

(Please note: As of February 22, 2022 Kane County will no longer accept new lots designated with the R-½ Zone. The R-½ will remain in the uses table for administrative purposes only.)

A. In section [9-6A-6](#) of this article is a table describing uses of land or buildings that are allowed in the zone as shown. Permitted uses are indicated by a "P" in the appropriate column. Uses that may be permitted by a conditional use permit issued by the Land Use Authority are indicated by a "C" in the appropriate column. If a use is not allowed in a given zone, it is either not named in the use list or it is indicated in the appropriate column by a dash, "-".

B. Any use not named in this table which may be considered harmonious with the zone and current allowed uses can be considered for proposed inclusion into this chapter by the Kane County Land Use Authority in a public hearing and approval of the County Commission. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013; amd. Ord. 2014-16, 8-25-2014; amd. Ord. O-2022-06, 3-22-2022)

9-6A-6: USES TABLE:

BY USES TABLE

Use	R- ¹ / ₂	R-1	R-2	R-5			
Use	R- ¹ / ₂	R-1	R-2	R- ¹ / ₂	R-1	R-2	R-5
Accessory buildings and uses customarily incidental to conditional uses	C	C	C	C	C	C	C
Accessory buildings and uses customarily incidental to permitted uses	P	P	P	P	P	P	P
Accredited private educational institution having a curriculum similar to that ordinarily given in public schools	C	C	C	C	C	C	C
Animal shelter, commercial	-	-	C	C	C	C	C
Animal shelter, private	P	P	P	P	P	P	P
Apartments	-	-	-	-	-	-	-
Assisted living buildings	C	P	P	P	P	P	P
Barndominium	-	P	P	P	P	P	P
Bed and breakfast	-	-	C	C	C	C	C
Building with a height greater than 35 feet	C	C	C	C	C	C	C
Campground/glamp-ground	-	-	-	-	-	-	-
Cemetery private	C	C	C	C	C	C	C
Child daycare or nursery	C	C	C	C	C	C	C
Church	C	C	C	C	C	C	C
Commercial construction, storage yard	-	-	-	C	C	C	C
Condos	-	-	-	-	-	-	-

Construction equipment and supply trailer, temporary	C	C	C	C
Construction field office, temporary	C	C	C	C
Duplex (one per lot or parcel)	-	C	P	P
Electrical power substation or overhead lines with base structure greater than 70 feet in height	C	C	C	C
Group home ¹	P	P	P	P
Guest home	-	P	P	P
Home occupation	P	P	P	P
Internal Accessory Dwelling Unit (IADU)	P	P	P	P
Kennel and/or catteries (private)	P	P	P	P
Livestock	P	P	P	P
Lodges, residential	-	-	-	C
Park models	-	-	-	-
Personal agriculture, the tilling of the soil, the raising of crops, horticulture, and gardening, personal	P	P	P	P
Planned unit developments	C	C	C	C
Private road	P	P	P	P
Public parks and playground	P	P	P	P
Public, quasi-public, and private service utility lines, pipelines, power lines overhead lines with base structure over 70 feet	P	P	P	P
Recreational vehicle park	-	-	-	-
Residential facilities	P	P	P	P
Residential facilities for persons with disabilities ¹	P	P	P	P
Residential facilities for the elderly ¹	P	P	P	P
Single family dwelling (1 per lot or parcel)	P	P	P	P
Solar panels attached to a residential home producing less than 25 kW of energy	P	P	P	P
Temporary buildings for uses incidental to construction work, including living quarters for a guard, night watchman or family, which buildings must be removed upon completion or abandonment of the construction work	P	P	P	P
Townhomes	-	-	-	-
Vacation rental and/or short term rental (one per lot or parcel)	P	P	P	P
Vacation rental and/or short term rental (two per lot or parcel)	-	-	C	C

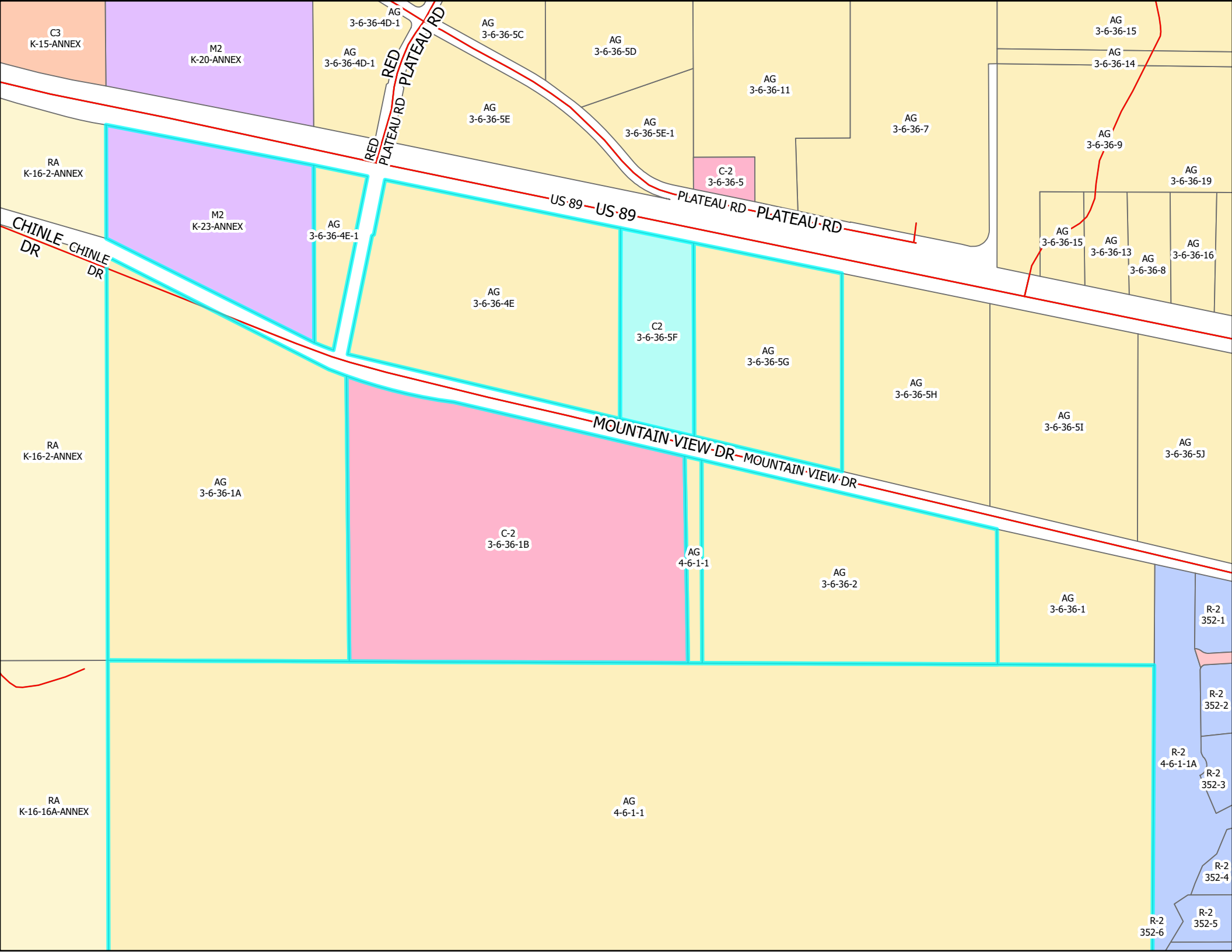
Conclusion: The Planning Commission should vote based on behalf of Kane County's best interest, including; future planning efforts, private property owner's rights, protecting existing zones, rights of surrounding property owners, and also maintaining the purposes of the Land Use Ordinance and General Plan.

Because zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner; *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (UT App 1995)

If the zone change amendment is adopted, the regulations of the new zone of R-5 can be found in the Kane County Land Use Ordinance, Chapter 6: Residential Zones.

MOTION: I move to recommend denying/approving the zone change from C-2 to R-5 for 10 acres of parcel 3-6-36-1B, & Ordinance O-2024-20 to the County Commission based on the facts and findings as documented in the staff report.





KANE COUNTY ORDINANCE NO. O 2024-08

**AN ORDINANCE AMENDING THE ZONING OF PARCEL 3-6-36-1B
FROM COMMERCIAL 2 TO RESIDENTIAL 5**

WHEREAS, the Kane County Board of Commissioners finds that said zone change is in accordance with the Kane County Land Use Ordinance **9-6A-1: PURPOSE:** To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

WHEREAS, the Kane County Board of Commissioners desires to implement the recommended zone change; and the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended zone change and desires to enact the following recommendations;

WHEREAS, the statutory authority for enacting this ordinance is Utah State Code Sections 7-27a-201- 205, 17-27a-308, and 17-27a-505;

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make the recommended zone change to a portion of Parcel 3-6-36-1B from C-2 to Residential 5;

NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH, ORDAINS AS FOLLOWS:

The portion commencing at the South ¼ corner of Section 36, Township 43 South, Range 6 West, SLB&M, Utah, and running thence North 89°53'27" West along the south line of said Section 36, 1226.57 feet to the True Point of Beginning, thence North 89°53'27" West along the south line of said Section 36, 347.67 feet; thence North 00°38'46" West 1295.89 feet to the southern right- of- way line of old Kanab to Johnson Highway, known as Project S-280, State Road Commission; thence South 76° 03' 28" East along said southern right-of-way line; 281.08 feet; thence South 76° 35' 46" East continuing along said right-of-way, line 77.96 feet; thence South 00° 38' 46" East 1210.75 feet to the south line of said Section 36 and the point of beginning containing two 5 acre parcels within then acre portion.

Is hereby rezoned from C-2 to R-5 and shall from here forth be zoned.

---- END OF ORDINANCE ----

Section 1. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 2. Effective Date

This ordinance is effective fifteen (15) days after adoption, and after publication and notice are completed as set forth below.

Section 3. Publication and Notice.

This Ordinance shall be deposited in the Office of the Kane County Clerk. The Kane County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the Kane County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this ____ day of _____, 2024.

ATTEST:

Patty Kubeja, Chair
Board of Commissioners Kane County

Chameill Lamb
Kane County Clerk

Commissioner Heaton voted _____
Commissioner Kubeja voted _____
Commissioner Meyeres voted _____

Public Hearing

7. Zone Change/Ordinance 2024-18: Carter

An application for a zone change from Commercial 1 (C-1) and Residential 1 (R-1) to Commercial 1 (C-1) for parcels 8-6-22-2, 8-22-3A and 8-6-22-3B totaling 8.00 acres and Residential 1 (R-1) for parcels 8-6-27-4 and 8-6-22-4 totaling 175.77 acres, located off of Highway 89 across from Tod's Junction. Submitted by Brent Carter, New Horizon Engineering.



KANE COUNTY LAND USE AUTHORITY

Shannon McBride
LAND USE AUTHORITY
ADMINISTRATOR

Staff Report

DATE: April 19, 2024

To: Planning Commission
From: Shannon McBride, Land Use Administrator
Subject: Project # 24022: Zone Change Application, Ordinance O-2024-18, changing parcels 8-6-22-2, 8-6-22-3A and 8-6-22-3B to Commercial 1 (C-1) totaling 8 acres and parcels 8-6-27-4 and 8-6-22-4 Totaling 175.77 acres to Residential 1 (R-1).

HEARING NOTICE: *This item has been noticed to property owners within 500 feet of the subject area, on the Utah State and Kane County's public websites. A public notice was posted in two public locations, and a sign was posted on the lot.*

REQUEST: On April 17, 2024, Brent Carter, Swains Creek, LLC submitted a zone change application requesting C-1 for parcels 8-6-22-2, 8-6-22-3A and 8-6-22-3B, totaling 8 acres and Residential 1 (R-1) for parcels 8-6-27-4 and 8-6-22-4 totaling 175.77 acres, located across from Tod's Junction and adjacent to Oaken Acres Subdivision, Kane County, Utah. He wants to realign zones with parcel lines. Currently, he has 13.20 acres of C-1 and will be reducing the C-1 down to 8 acres.

LEGAL DESCRIPTION: ALL OF PARCELS 8-6-22-2, 8-6-22-3A and 8-6-22-3B, totaling 8 acres and Residential 1 (R-1) for parcels 8-6-27-4 and 8-6-22-4 totaling 175.77 acres.

FACTS & FINDINGS:

- The above parcels meet the minimum acreage required to be zoned C-1 and R-1. The parcels are currently zoned R-1 and C-1.
- The owner requests the parcels to be re-zoned to R-1 and C-1 which requires a zone change.
- Surrounding lots and parcels are zoned C-1, R-1 and Agriculture.
- All property owners within 500 ft. of this parcel have been mailed a public notice, and a sign has been posted on the parcel.
- The parcels would gain access from Lutherwood Road.
- **9-6A-1: PURPOSE:** To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

- **9-7A-1: PURPOSE:** The purpose of the light commercial zone is to provide appropriate locations for the development and operation of administrative and professional offices, publicly owned and operated community facilities and related uses. This zone is intended to serve as a buffer between residential and more intensive commercial uses with low to no impact on residential and agricultural zones. (Ord. O-2022-42, 7- 26-2022)
- **9-7A-2: USE REGULATIONS:** Development of any parcel of land for any of the uses listed in this section, exceeding five thousand (5,000) square feet of total building floor area will require a different zone designation.
 - A. Permitted Uses: The following uses are permitted in the L-C zone:
 Accessory uses and buildings, customarily incidental and subordinate to an approved permitted/conditional use.
 Administrative, executive, professional, medical and research offices.
 Banking and other financial institutions.
 Churches, temples and other places used exclusively for worship.
 Mobile food vendor.
 Parking lots for approved principal uses.
 Public buildings and offices.
 Public park, playground or recreation facilities.
 Public utility service and maintenance facilities.
 Restaurants.
 - B. Multi-Residential, Residential And Agricultural Uses: All uses listed in the multi-residential, residential and agricultural uses table are allowed in the L-C Zone with their appropriate designation of permitted or conditional unless otherwise changed in the commercial uses table.
 - C. Conditional Uses: The following uses are subject to the conditional use approval process outlined in chapter 15 of this title:
 Accessory uses and buildings, customarily incidental and subordinate to an approved conditional use.
 Cemetery.
 - D. Any uses not set forth in this section are not allowed.
 - E. Other: Any use not named which may be considered harmonious with the zone and currently allowed uses can be considered for proposed inclusion into the chapter by the Kane County Planning Commission in a public hearing and approval of the County Commission. (Ord. O-2022-42, 7-26-2022; amd. Ord. O-2023-12, 4-25-2023)
- **Kane County General Plan, Preamble:** Given these basic premises, the Kane County Commission will use this Plan to guide land use decisions for the county. Where decisions regarding property rights versus property values are being made, deference shall be given to property rights. This Plan will ensure that present and future residents and visitors to Kane County will be housed under safe, sanitary, and attractive conditions. Land uses in the unincorporated county will reflect the intent of the Commission to expect intensive, urban-scale uses and to provide self-supported basic services without county financial support.
- **Kane County General Plan, Pg. 6 Land Use Goals** Unincorporated land uses will remain at densities which can be adequately serviced and which retain the qualities of a rural, open setting with uses not typically found in a town or city. Residential Land Uses

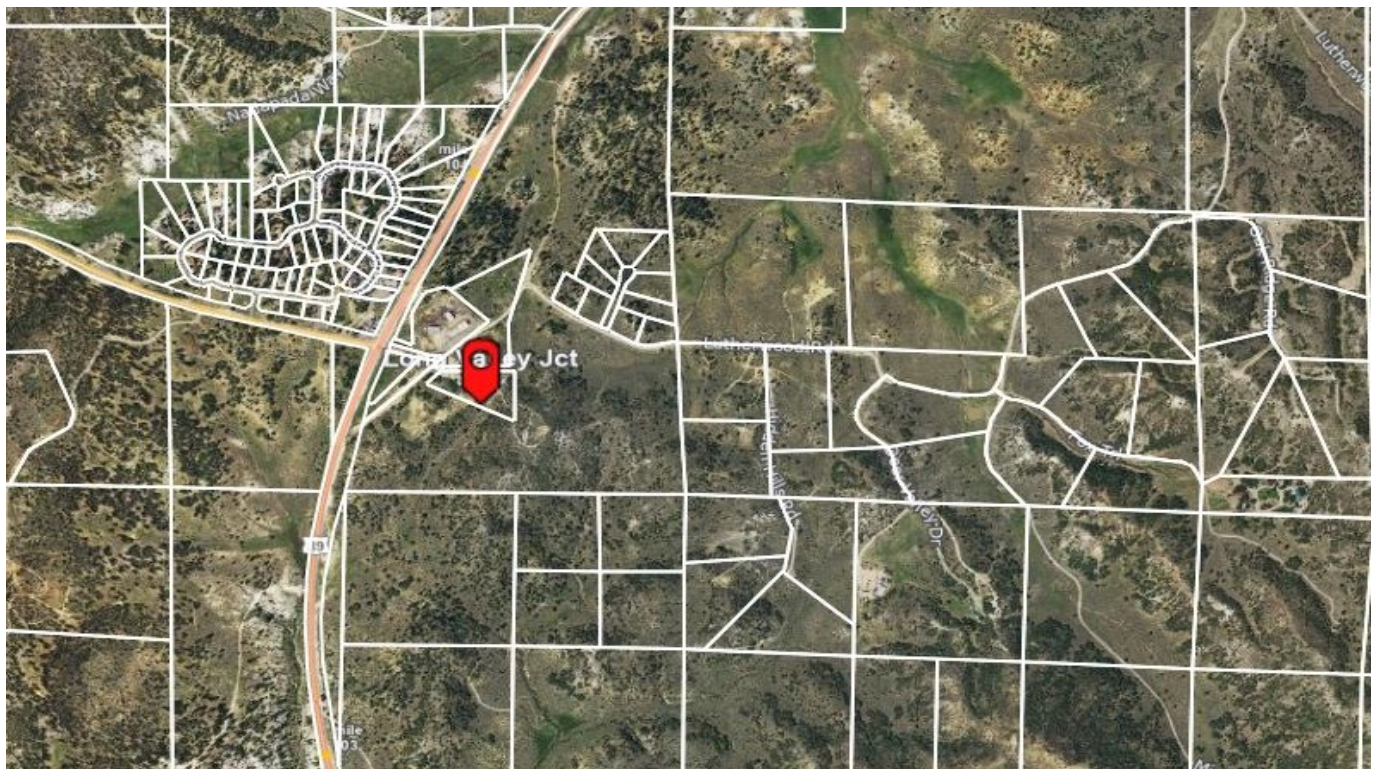
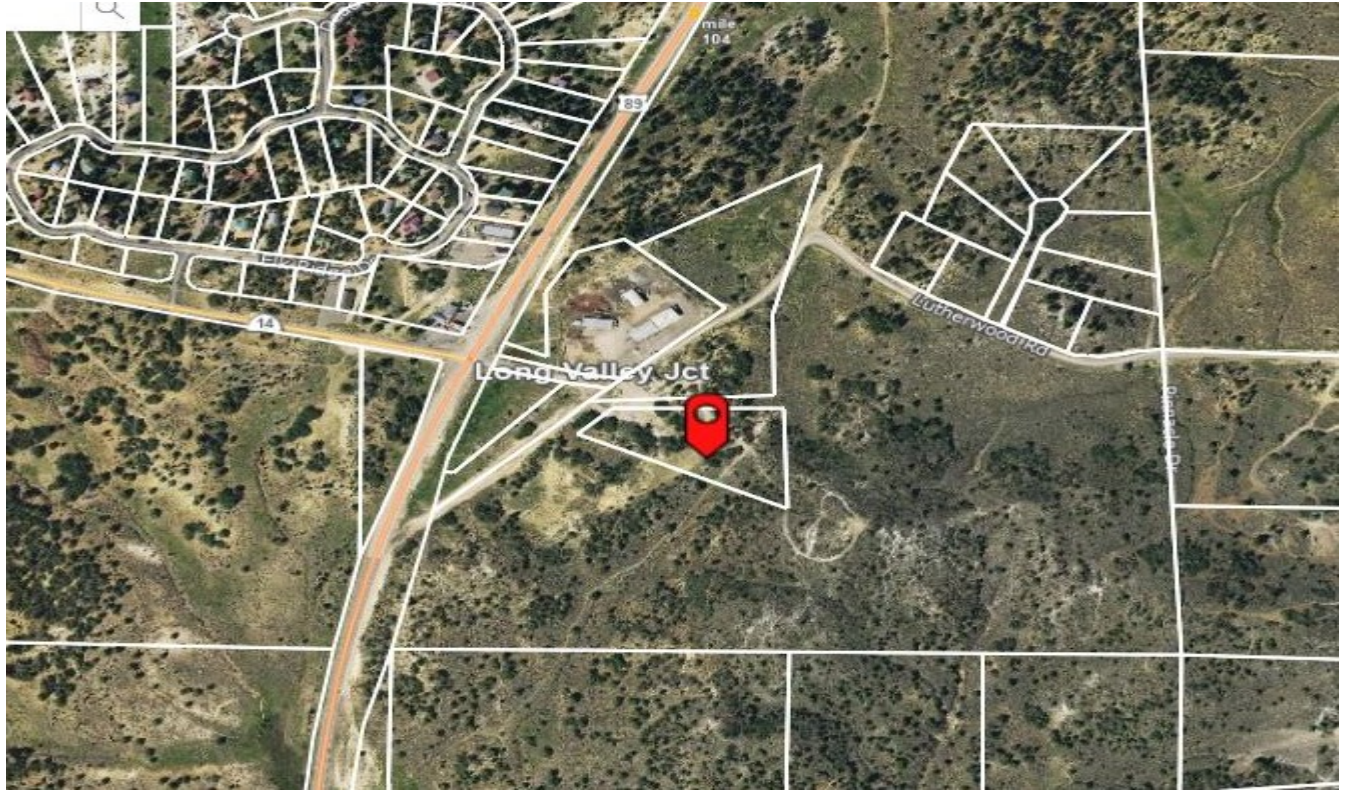
Goal #1: To provide for residential areas that support and complement the unique rural quality and character of Kane County. Objective: Minimum allowable densities in unincorporated zoning districts will be determined by the land use ordinance.

- If the zone change is approved the uses contained in the R-1 and C-1 uses table will be allowed.

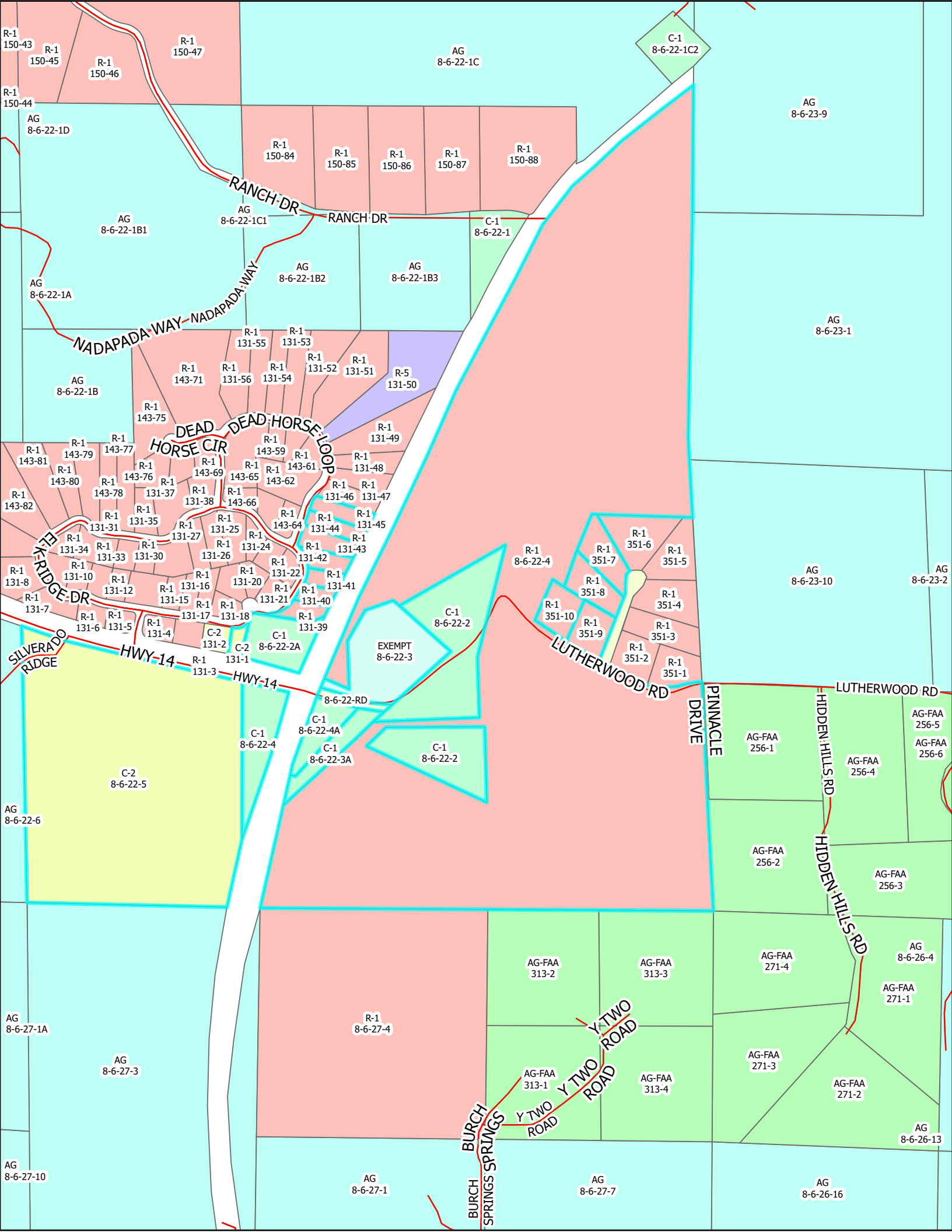
Conclusion: The applicant's request to rezone parcels 8-6-22-2, 8-6-22-3A and 8-6-22-3B, to C-1 totaling 8 acres and parcels 8-6-27-4 and 8-6-22-4, R-1 totaling 175.77 acres, would remain consistent with the Kane County General Plan and give private property rights deference. In the interest of growth, it would be beneficial to Kane County to allow properties to be utilized for the intended use if the use fits the qualifying zone; whether Commercial, Agricultural, Rural, or Residential. The Planning Commission should vote based on behalf of Kane County's best interest, including; future planning efforts, private property owner's rights, protecting existing zones, rights of surrounding property owners, and also maintaining the purposes of the Land Use Ordinance and General Plan.

Because zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner; *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (UT App 1995)

MOTION: I move to recommend denying/approving the zone change to C-1 for parcels 8-6-22-2, 8-6-22-3A and 8-6-22-3B totaling 8 acres and parcels 8-6-27-4 and 8-6-22-4 to R-1 totaling 175.77 acres & Ordinance O-2024-18 to the County Commission based on the facts and findings as documented in the staff report.



76 North Main Street | Kanab, Utah 84741 | p: (435) 644-4966 | www.kane.utah.gov
 Shannon McBride | Land Use Administrator | e-mail: smcbride@kane.utah.gov



KANE COUNTY ORDINANCE NO. O 2024-18

AN ORDINANCE AMENDING THE ZONING OF PARCELS 8-6-22-2, 8-6-22-3A AND 8-6-22-3B TO COMMERCIAL 1 AND PARCELS 8-6-27-4 AND 8-6-22-4 TO RESIDENTIAL 1

WHEREAS, the Kane County Board of Commissioners finds that said zone change is in accordance with the Kane County Land Use Ordinance 9-6A-1: PURPOSE: To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

WHEREAS, the Kane County Board of Commissioners desires to implement the recommended zone change; and the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended zone change and desires to enact the following recommendations;

WHEREAS, the statutory authority for enacting this ordinance is Utah State Code Sections 17-27a-201- 205, 17-27a-308, and 17-27a-505;

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make the recommended zone change to 8-6-22-2, 8-6-22-3A and 8-6-22-3B totaling 8.00 acres and parcels 8-6-27-4 and 8-6-22-4 totaling 175.77 acres.

NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH, ORDAINS AS FOLLOWS:

LEGAL DESCRIPTION: ALL of 8-6-22-2, 8-6-22-3A, 8-6-22-3B, totaling 8 acres and parcels 8-6-27-4 and 8-6-22-4 totaling 175.77 acres .

Is hereby rezoned from Residential 1 and Commercial 1 and shall from here forth be zoned Residential 1 and Commercial 1.

Section 1. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 2. Effective Date

This ordinance is effective fifteen (15) days after adoption, and after publication and notice are completed as set forth below.

Section 3. Publication and Notice.

This Ordinance shall be deposited in the Office of the Kane County Clerk. The Kane County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is

available at the Office of the Kane County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

End of Ordinance.

ADOPTED this ____ day of _____, 2024.

ATTEST:

Chameill Lamb
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Kubeja voted _____
Commissioner Meyeres voted _____

Public Hearing

8. Zone Change/Ordinance 2024-16: Pope

An application for a zone change from Residential 1 (R-1) to Residential 2 (R-2) for parcel 8A-F-42 containing 3.9 acres, located in the Little Ponderosa Ranch Subdivision. Submitted by Jordan & Ashleah Pope.



KANE COUNTY LAND USE AUTHORITY

Shannon McBride
LAND USE AUTHORITY
ADMINISTRATOR

Staff Report

DATE: April 16, 2024

To: Planning Commission
From: Shannon McBride, Land Use Administrator
Subject: Project # 24019: Zone Change Application, R-1 to R-2, Ordinance O-2024-16
Lot 8A-F-42 consisting of 3.9 acres

HEARING NOTICE: *This item has been noticed to property owners within 500 feet of the subject area, on the Utah State and Kane County's public websites. A public notice was posted in two public locations, and a sign was posted on the lot.*

REQUEST: On April 15, 2024, Jordan and Ashleah Pope, submitted a zone change application for lot 8A-F-42, Little Ponderosa Ranch Subdivision, Kane County, Utah, requesting to rezone from Residential 1 (R-1) to Residential 2 (R-2). The intended use is to build a guest home with the square footage of 75% of the existing, single-family dwelling.

LEGAL DESCRIPTION: All of lot 42 BLOCK "F" AMENDED PLAT PONDEROSA RANCH SUBDIVISION.

FACTS & FINDINGS:

- Lot 8A-F-42 meets the minimum acreage required to be zoned R-2. The lot is currently zoned R-1.
- The owner requests the lot be zoned R-2 which requires a zone change.
- Surrounding lots and parcels are zoned R-1 and Agriculture.
- All property owners within 500 ft. of this parcel have been mailed a public notice, and a sign has been posted on the lot.
- The lot would gain access from Fir Road and Beaver Road.
- **9-6A-1: PURPOSE:** To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- **KCLUO 9-11-2: A.** The size of the guest home shall be as follows:

Zone	Size
R-1	50% of the principal dwelling
R-2	75% of the principal dwelling

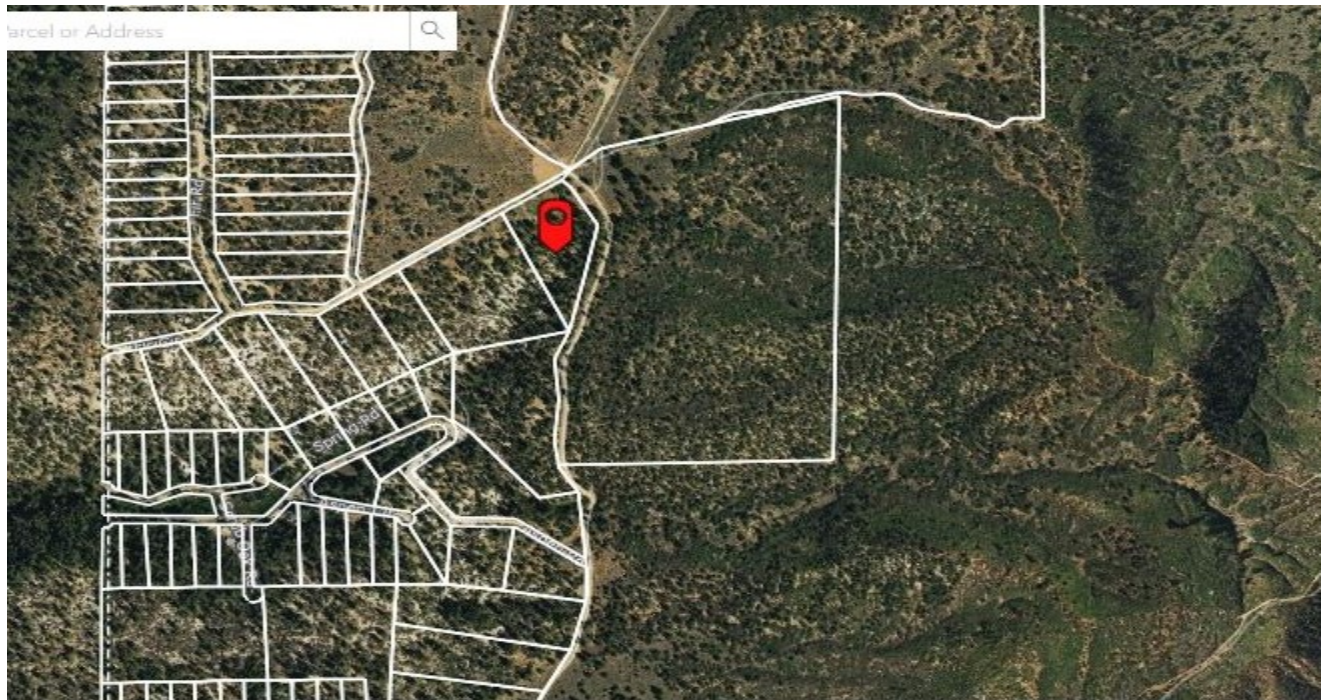
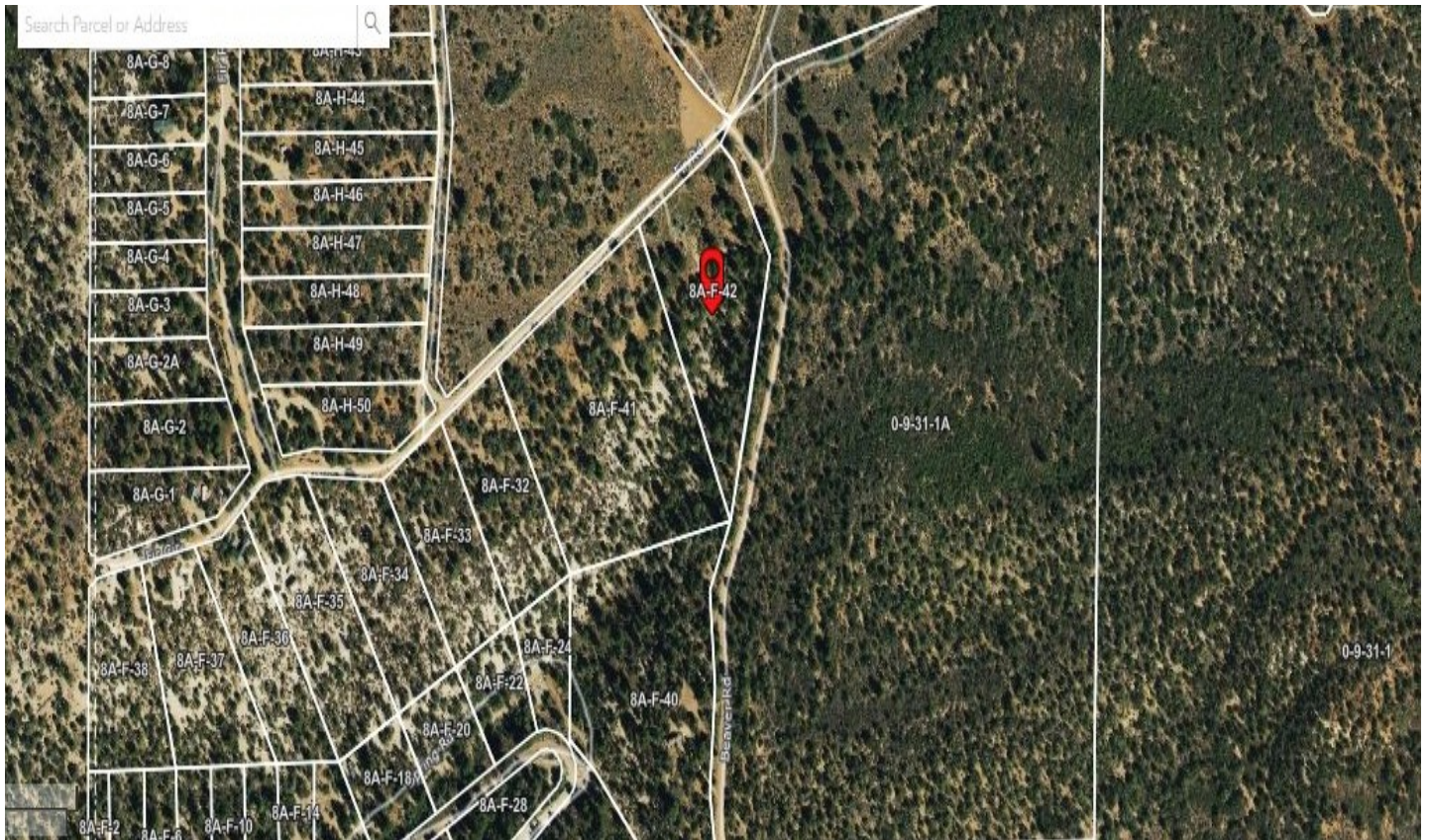
R-5	The square footage shall be not greater than the principal dwelling
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- **Kane County General Plan, Preamble:** Given these basic premises, the Kane County Commission will use this Plan to guide land use decisions for the county. Where decisions regarding property rights versus property values are being made, deference shall be given to property rights. This Plan will ensure that present and future residents and visitors to Kane County will be housed under safe, sanitary, and attractive conditions. Land uses in the unincorporated county will reflect the intent of the Commission to expect intensive, urban-scale uses and to provide self-supported basic services without county financial support.
- **Kane County General Plan, Pg. 6 Land Use Goals** Unincorporated land uses will remain at densities which can be adequately serviced and which retain the qualities of a rural, open setting with uses not typically found in a town or city. Residential Land Uses Goal #1: To provide for residential areas that support and complement the unique rural quality and character of Kane County. Objective: Minimum allowable densities in unincorporated zoning districts will be determined by the land use ordinance.
- If the zone change is approved the uses contained in the R-2 uses table will be allowed.

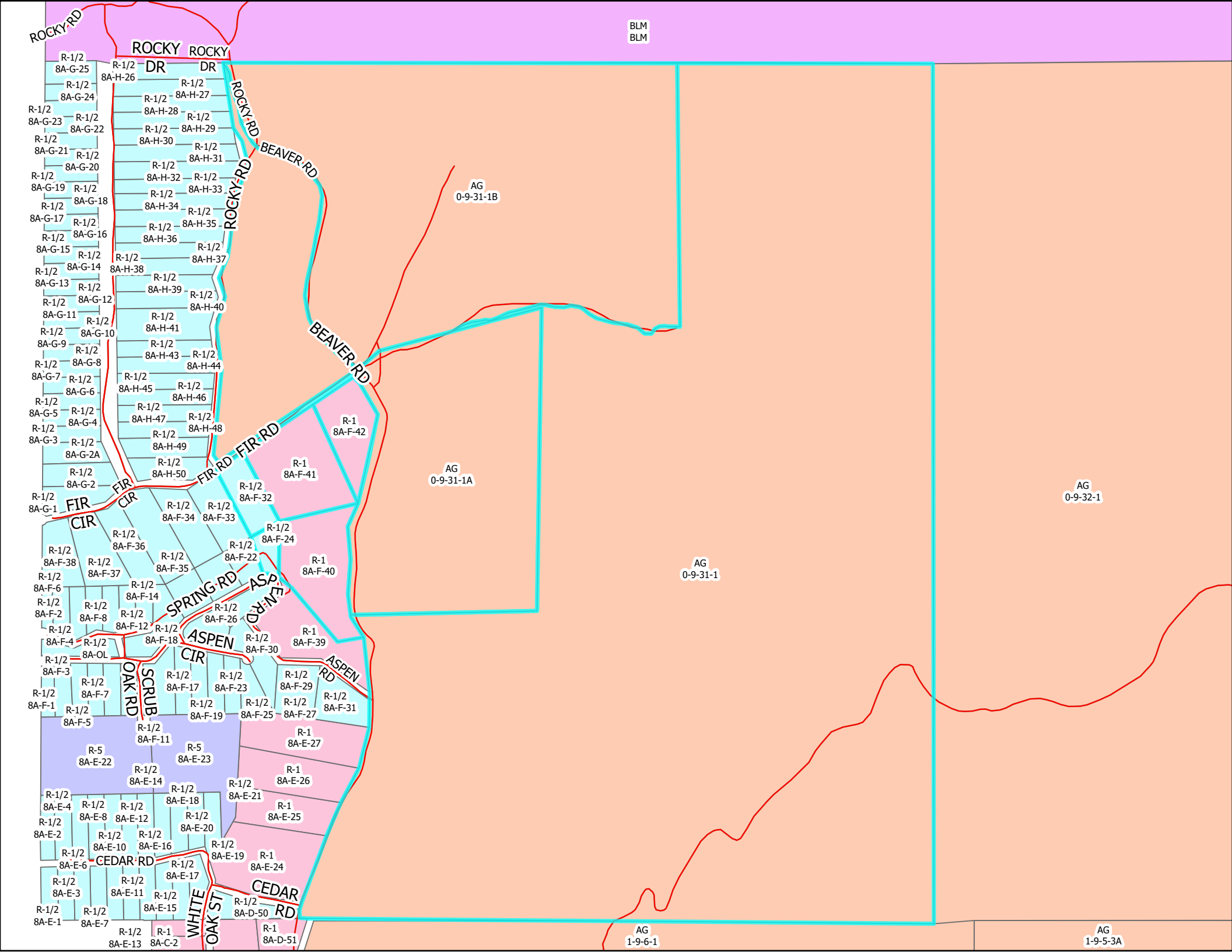
Conclusion: The applicant's request to rezone lot 8A-F-42, from R-1 to R-2, would remain consistent with the Kane County General Plan and give private property rights deference. In the interest of growth, it would be beneficial to Kane County to allow properties to be utilized for the intended use if the use fits the qualifying zone; whether Commercial, Agricultural, Rural, or Residential. The Planning Commission should vote based on behalf of Kane County's best interest, including; future planning efforts, private property owner's rights, protecting existing zones, rights of surrounding property owners, and also maintaining the purposes of the Land Use Ordinance and General Plan.

Because zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner; *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (UT App 1995)

MOTION: I move to recommend denying/approving the zone change for lot 8A-F-42 from R-1 to R-2 & Ordinance O-2024-16 to the County Commission based on the facts and findings as documented in the staff report.



76 North Main Street | Kanab, Utah 84741 | p: (435) 644-4966 | www.kane.utah.gov
 Shannon McBride | Land Use Administrator | e-mail: smcbride@kane.utah.gov



KANE COUNTY ORDINANCE NO. O 2024-16

**AN ORDINANCE AMENDING THE ZONING OF LOT 8A-F-42
IN THE LITTLE PONDEROSA RANCH SUBDIVISION FROM RESIDENTIAL 1 TO
RESIDENTIAL 2**

WHEREAS, the Kane County Board of Commissioners finds that said zone change is in accordance with the Kane County Land Use Ordinance 9-6A-1: PURPOSE: To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

WHEREAS, the Kane County Board of Commissioners desires to implement the recommended zone change; and the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended zone change and desires to enact the following recommendations;

WHEREAS, the statutory authority for enacting this ordinance is Utah State Code Sections 17-27a-201- 205, 17-27a-308, and 17-27a-505;

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make the recommended zone change to lot 8A-F-142, from Residential 1 to Residential 2;

NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH, ORDAINS AS FOLLOWS:

LEGAL DESCRIPTION: ALL of lot 42 Block “F” Amended Plat of Little Ponderosa Ranch Subdivision.

Is hereby rezoned from Residential 1 to Residential 2 and shall from here forth be zoned Residential 2.

Section 1. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 2. Effective Date

This ordinance is effective fifteen (15) days after adoption, and after publication and notice are completed as set forth below.

Section 3. Publication and Notice.

This Ordinance shall be deposited in the Office of the Kane County Clerk. The Kane County Clerk is directed to publish a short summary of this Ordinance with the name of the members

voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the Kane County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

End of Ordinance.

ADOPTED this ____ day of _____, 2024.

ATTEST:

Chameill Lamb
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Kubeja voted _____
Commissioner Meyeres voted _____

Public Hearing

9. Zone Change/Ordinance 2024-17: Conrad

An application for a zone change from Residential 1/2 (R-1/2) to Residential 1 (R-1) for lot 161-97 containing 1.23 acres, located in Duck Creek Pines Phase 4. Submitted by Brent Conrad.



KANE COUNTY LAND USE AUTHORITY

Shannon McBride
LAND USE AUTHORITY
ADMINISTRATOR

Staff Report

DATE: April 17, 2024

To: Planning Commission
From: Shannon McBride, Land Use Administrator
Subject: Project # 24021: Zone Change Application, R-1/2 to R-1, Ordinance O-2024-17
Lot 97 consisting of 1.23 acres

HEARING NOTICE: *This item has been noticed to property owners within 500 feet of the subject area, on the Utah State and Kane County's public websites. A public notice was posted in two public locations, and a sign was posted on the lot.*

REQUEST: On April 16, 2024, Brenton Lee Conrad, submitted a zone change application for lot 161-97, 2890 N. Browning Road, Duck Creek Pines, Phase 4, Subdivision, Kane County, Utah, requesting to rezone from Residential 1/2 (R-1/2) to Residential 1 (R-1). The intended use is to build a guest home with the square footage of 50% of the existing, single-family dwelling.

LEGAL DESCRIPTION: ALL of new lot 97 amended Plat of lots 97 & 98 Duck Dreek Pines, Phase 4.

FACTS & FINDINGS:

- Lot 97 meets the minimum acreage required to be zoned R-1. The lot is currently zoned R-1/2.
- The owner requests the lot be zoned R-1 which requires a zone change.
- Surrounding lots and parcels are zoned R-1/2.
- All property owners within 500 ft. of this parcel have been mailed a public notice, and a sign has been posted on the lot.
- The lot would gain access from Ruger Lane and Browning Road.
- **9-6A-1: PURPOSE:** To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- **KCLUO 9-11-2: A.** The size of the guest home shall be as follows:

Zone	Size
R-1	50% of the principal dwelling
R-2	75% of the principal dwelling
R-5	The square footage shall be not greater than the principal dwelling

- **Kane County General Plan, Preamble:** Given these basic premises, the Kane County Commission will use this Plan to guide land use decisions for the county. Where decisions regarding property rights versus property values are being made, deference shall be given to property rights. This Plan will ensure that present and future residents and visitors to Kane County will be housed under safe, sanitary, and attractive conditions. Land uses in the unincorporated county will reflect the intent of the Commission to expect intensive, urban-scale uses and to provide self-supported basic services without county financial support.
- **Kane County General Plan, Pg. 6 Land Use Goals** Unincorporated land uses will remain at densities which can be adequately serviced and which retain the qualities of a rural, open setting with uses not typically found in a town or city. Residential Land Uses Goal #1: To provide for residential areas that support and complement the unique rural quality and character of Kane County. Objective: Minimum allowable densities in unincorporated zoning districts will be determined by the land use ordinance.
- If the zone change is approved the uses contained in the R-1 uses table will be allowed.

9-6A-4: MODIFYING REGULATIONS:

A. Animals And Fowl: No building, structure or enclosure housing animals or fowl shall be constructed closer to a dwelling on adjacent lots closer than twenty five feet (25').

B. Accessory Building Side Yard: Accessory buildings located at least ten feet (10') behind the main building may have a three foot (3') side yard requirement except that the street side of a corner lot shall be a minimum of thirty feet (30') for all buildings.

C. Accessory Building Rear Yard: Accessory building located at least ten feet (10') behind the main building may have a rear yard of three feet (3') provided that a corner lot rearing on a side yard of another lot, the minimum rear yard for all buildings shall be eight feet (8').

D. Water And Sewer: Individual water supply and/or sewage disposal systems shall be subject to the approval of the department of health.

E. Manufactured Homes: A manufactured home shall meet all county snow loads at the time of siting and less than ten (10) years old shall meet all snow loads and energy codes at the time of siting. If older than ten (10) years, manufactured home must be inspected and approved by the Kane County building department.

F. Allowable Numbers Of Household Pets: Private holding and ownership of up to a maximum number of animals in a given land use (zoning) area as shown below; without a conditional use permit.

1. R- $\frac{1}{2}$ may house a maximum of six (6) household pets. (Please note: As of February 22, 2022 Kane County will no longer accept new lots designated with the R- $\frac{1}{2}$ Zone. The R- $\frac{1}{2}$ will remain in Modifying Regulations for administrative purposes only.)

2. R-1 may house a maximum of six (6) household pets.

3. R-2 may house a maximum of twelve (12) household pets.

4. R-5 may house a maximum of fifteen (15) household pets.

G. Livestock: The keeping of livestock for personal use is permitted, except that no more than one large animal, or no more than ten (10) small farm animals weighing fifty (50) pounds each or less, may be kept for each six thousand two hundred fifty (6,250) square feet of area dedicated for each animal not to exceed a maximum of ten (10) large animals on any lot.

H. Number of Dwellings Allowed per Lot or Parcel: No more than two single-family dwellings allowed per lot or parcel in Residential 1, 2 and 5 zones. Only 1 single-family dwelling is allowed in the Residential $\frac{1}{2}$ zone.

I. Short Term Or Vacation Rental: In the event that there is more than one dwelling on a single lot that may be considered a short term rental or vacation rental as defined in section [9-1-7](#) of this title only one

renting of those dwellings may be used as a short term rental or vacation rental, except in the R-2 and R-5 Zones where a conditional use permit can be applied for to allow a second nightly/short term rental.

J. Private Cemeteries within a subdivision shall have a sealed concrete vault. A permanent marker will be placed on each individual grave site. The cemetery shall be 50 feet from any property line. The cemetery's legal description shall be recorded in the Recorder's Office. No green burials are allowed within platted subdivisions. Green burials will only be allowed on 10-acre or larger parcels. No more than two burial plots will be allowed on each individual lot within a platted subdivision, except in the R-5 zone which allows a maximum of five plots. No plots will be sold commercially. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013; amd. Ord. 2014-15, 7-28-2014; Ord. O-2019-5, 4-22-2019; amd. Ord. O-2022-06, 3-22-2022; Ord. O-2022-18, 4-26-2022; Ord. O-2022-60, 11-22-2022; Ord. O-2023-31, 9-26-2023)

9-6A-5: CODES AND SYMBOLS:

(Please note: As of February 22, 2022 Kane County will no longer accept new lots designated with the R-½ Zone. The R-½ will remain in the uses table for administrative purposes only.)

A. In section [9-6A-6](#) of this article is a table describing uses of land or buildings that are allowed in the zone as shown. Permitted uses are indicated by a "P" in the appropriate column. Uses that may be permitted by a conditional use permit issued by the Land Use Authority are indicated by a "C" in the appropriate column. If a use is not allowed in a given zone, it is either not named in the use list or it is indicated in the appropriate column by a dash, "-".

B. Any use not named in this table which may be considered harmonious with the zone and current allowed uses can be considered for proposed inclusion into this chapter by the Kane County Land Use Authority in a public hearing and approval of the County Commission. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013; amd. Ord. 2014-16, 8-25-2014; amd. Ord. O-2022-06, 3-22-2022)

9-6A-6: USES TABLE:

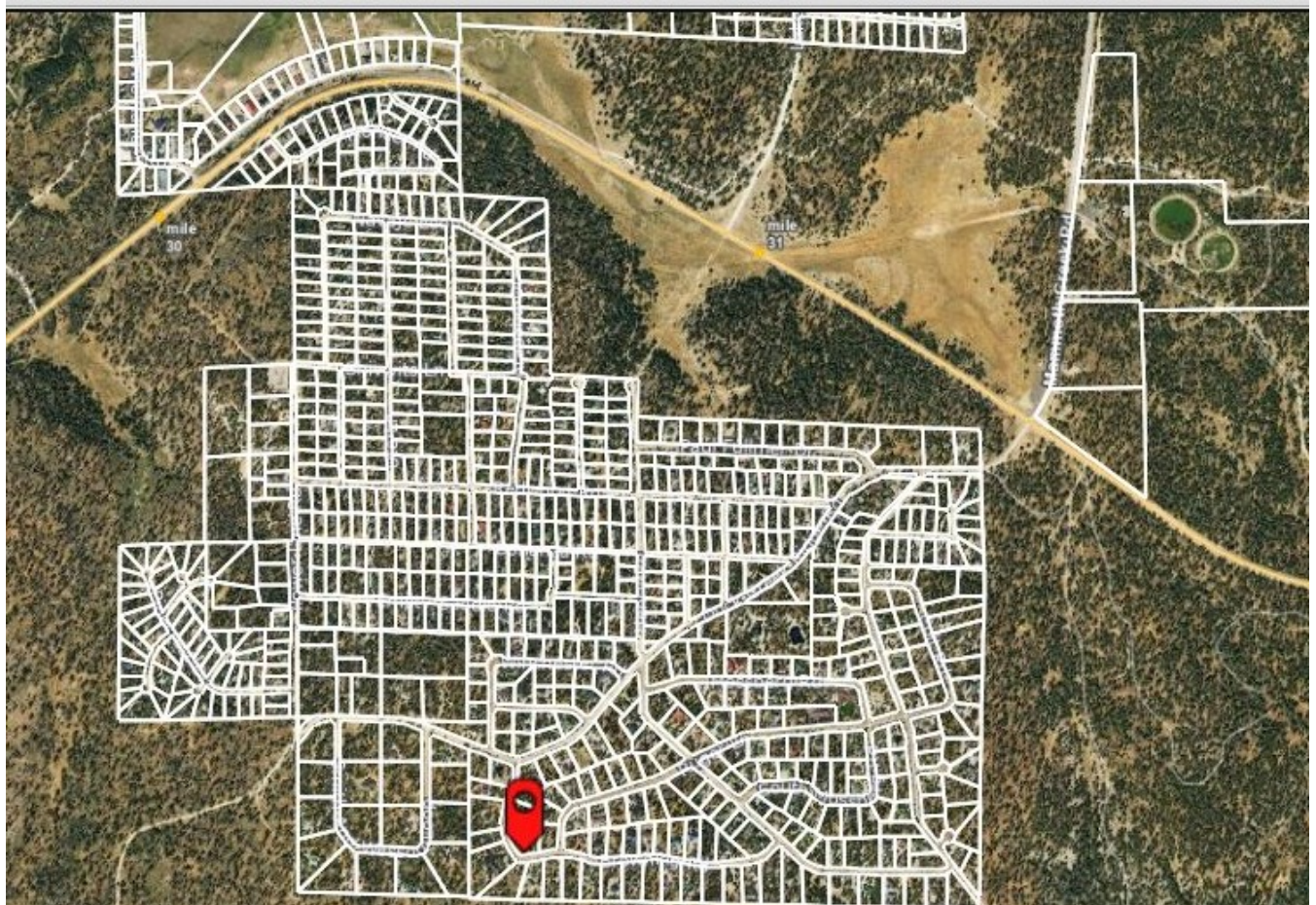
Use	R-½	R-1	R-2	R-5			
Use	R-½	R-1	R-2	R-5	R-5	R-5	R-5
Accessory buildings and uses customarily incidental to conditional uses	C	C	C	C	C	C	C
Accessory buildings and uses customarily incidental to permitted uses	P	P	P	P	P	P	P
Accredited private educational institution having a curriculum similar to that ordinarily given in public schools	C	C	C	C	C	C	C
Animal shelter, commercial	-	-	C	C	C	C	C
Animal shelter, private	P	P	P	P	P	P	P
Apartments	-	-	-	-	-	-	-
Assisted living buildings	C	P	P	P	P	P	P
Barndominium	-	P	P	P	P	P	P
Bed and breakfast	-	-	C	C	C	C	C
Building with a height greater than 35 feet	C	C	C	C	C	C	C
Campground/glamp-ground	-	-	-	-	-	-	-
Cemetery private	C	C	C	C	C	C	C
Child daycare or nursery	C	C	C	C	C	C	C
Church	C	C	C	C	C	C	C
Commercial construction, storage yard	-	-	-	C	C	C	C
Condos	-	-	-	-	-	-	-
Construction equipment and supply trailer, temporary	C	C	C	C	C	C	C

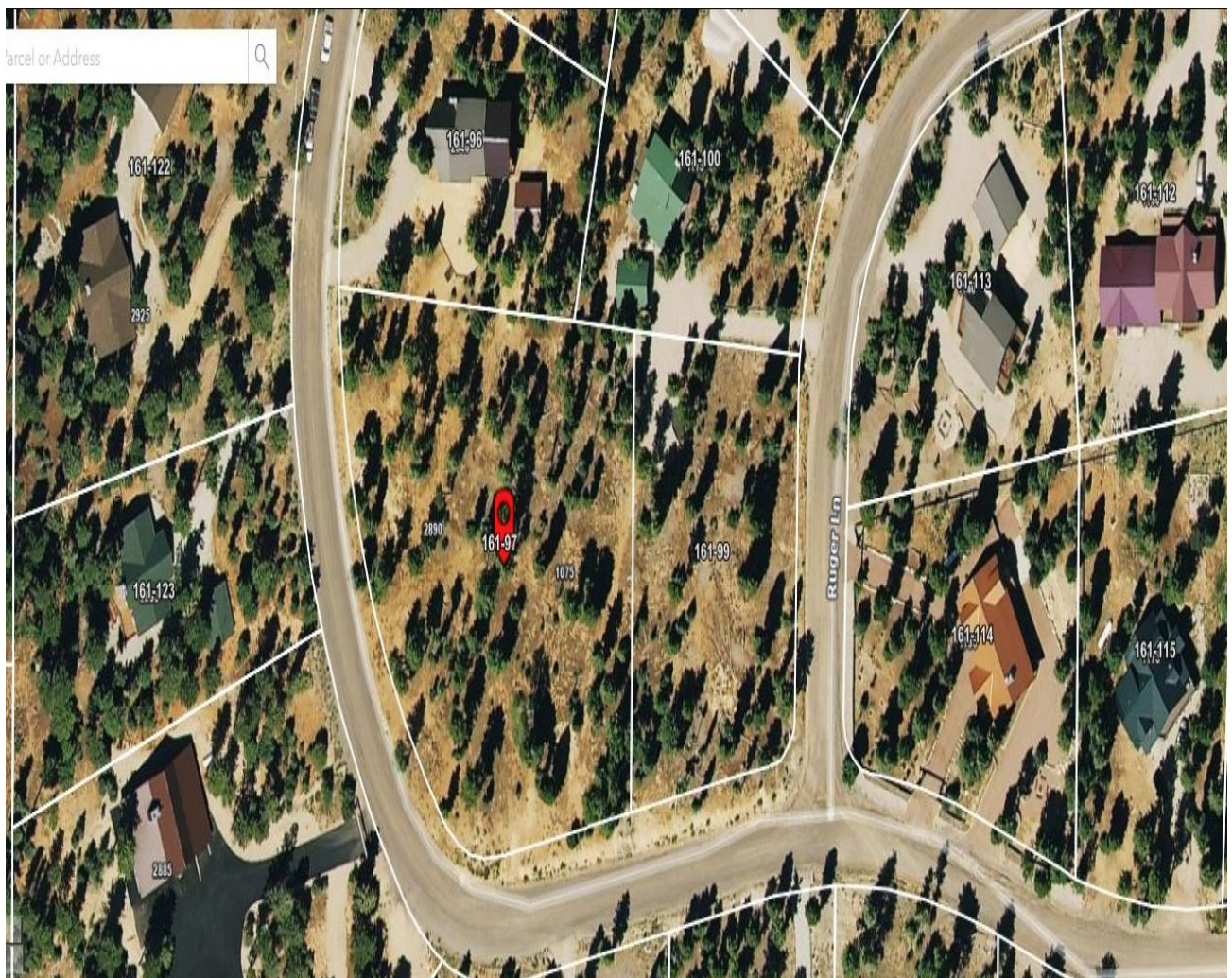
Construction field office, temporary	C	C	C	C
Duplex (one per lot or parcel)	-	C	P	P
Electrical power substation or overhead lines with base structure greater than 70 feet in height	C	C	C	C
Group home ¹	P	P	P	P
Guest home	-	P	P	P
Home occupation	P	P	P	P
Internal Accessory Dwelling Unit (IADU)	P	P	P	P
Kennel and/or catteries (private)	P	P	P	P
Livestock	P	P	P	P
Lodges, residential	-	-	-	C
Park models	-	-	-	-
Personal agriculture, the tilling of the soil, the raising of crops, horticulture, and gardening, personal	P	P	P	P
Planned unit developments	C	C	C	C
Private road	P	P	P	P
Public parks and playground	P	P	P	P
Public, quasi-public, and private service utility lines, pipelines, power lines overhead lines with base structure over 70 feet	P	P	P	P
Recreational vehicle park	-	-	-	-
Residential facilities	P	P	P	P
Residential facilities for persons with disabilities ¹	P	P	P	P
Residential facilities for the elderly ¹	P	P	P	P
Single family dwelling (1 per lot or parcel)	P	P	P	P
Solar panels attached to a residential home producing less than 25 kW of energy	P	P	P	P
Temporary buildings for uses incidental to construction work, including living quarters for a guard, night watchman or family, which buildings must be removed upon completion or abandonment of the construction work	P	P	P	P
Townhomes	-	-	-	-
Vacation rental and/or short term rental (one per lot or parcel)	P	P	P	P
Vacation rental and/or short term rental (two per lot or parcel)	-	-	C	C

Conclusion: The applicant's request to rezone lot 97 from R-1/2 to R-1, would remain consistent with the Kane County General Plan and give private property rights deference. In the interest of growth, it would be beneficial to Kane County to allow properties to be utilized for the intended use if the use fits the qualifying zone; whether Commercial, Agricultural, Rural, or Residential. The Planning Commission should vote based on behalf of Kane County's best interest, including; future planning efforts, private property owner's rights, protecting existing zones, rights of surrounding property owners, and also maintaining the purposes of the Land Use Ordinance and General Plan.

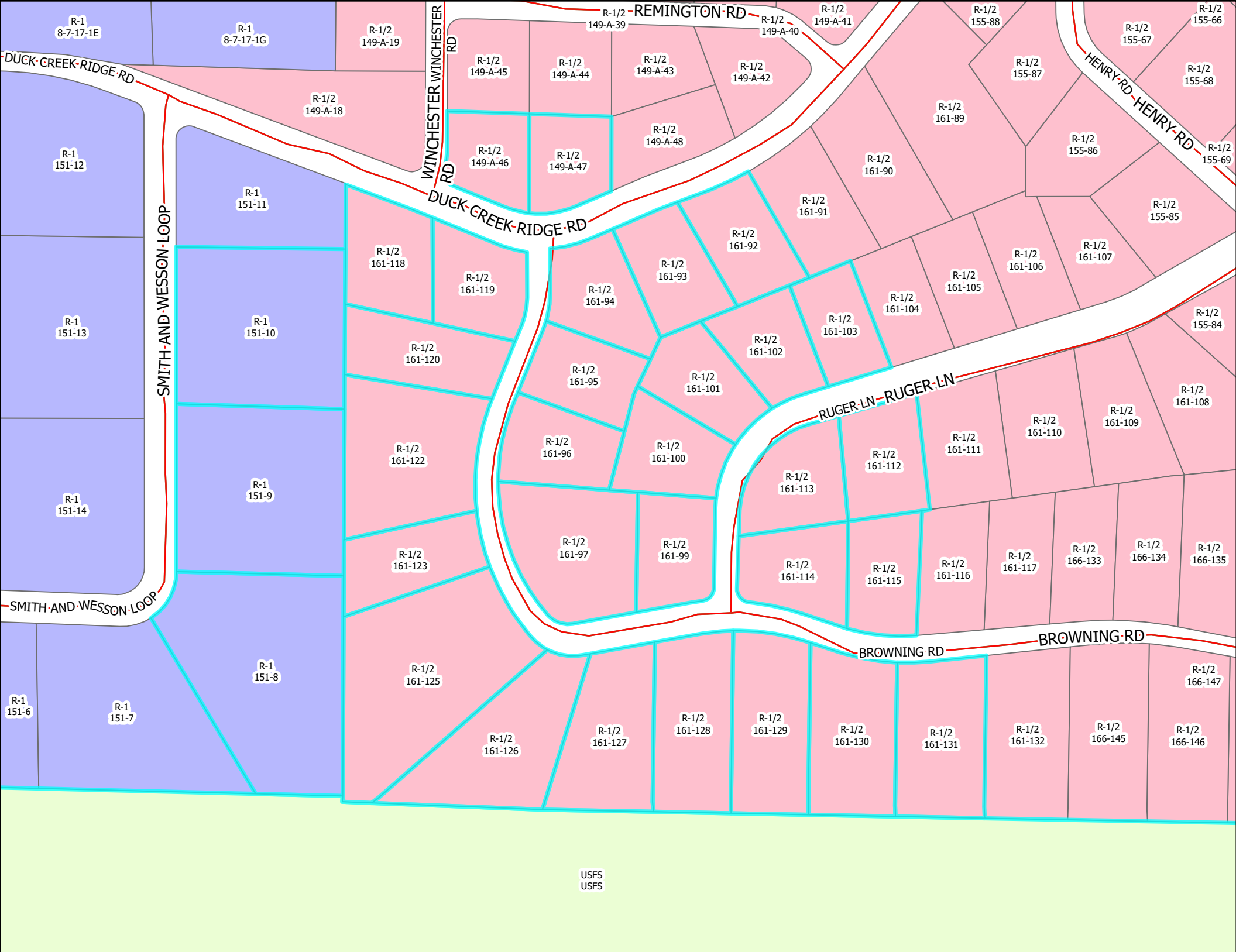
Because zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner; *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (UT App 1995)

MOTION: I move to recommend denying/approving the zone change for lot 97 from R-1/2 to R-1 & Ordinance O-2024-17 to the County Commission based on the facts and findings as documented in the staff report.





76 North Main Street | Kanab, Utah 84741 | p: (435) 644-4966 | www.kane.utah.gov
 Shannon McBride | Land Use Administrator | e-mail: smcbride@kane.utah.gov



KANE COUNTY ORDINANCE NO. O 2024-17

**AN ORDINANCE AMENDING THE ZONING OF LOT 161-97
IN THE DUCK CREEK PINES SUBDIVISION PHASE 4 FROM RESIDENTIAL 1/2 TO
RESIDENTIAL 1**

WHEREAS, the Kane County Board of Commissioners finds that said zone change is in accordance with the Kane County Land Use Ordinance 9-6A-1: PURPOSE: To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

WHEREAS, the Kane County Board of Commissioners desires to implement the recommended zone change; and the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended zone change and desires to enact the following recommendations;

WHEREAS, the statutory authority for enacting this ordinance is Utah State Code Sections 17-27a-201- 205, 17-27a-308, and 17-27a-505;

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make the recommended zone change to lot 161-97, from Residential 1/2 to Residential 1;

**NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY,
STATE OF UTAH, ORDAINS AS FOLLOWS:**

**LEGAL DESCRIPTION: ALL of new lot 97 amended Plat of lots 97 & 98 Duck Dreek
Pines, Phase 4.**

Is hereby rezoned from Residential 1/2 to Residential 1 and shall from here forth be zoned Residential 1.

Section 1. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 2. Effective Date

This ordinance is effective fifteen (15) days after adoption, and after publication and notice are completed as set forth below.

Section 3. Publication and Notice.

This Ordinance shall be deposited in the Office of the Kane County Clerk. The Kane County Clerk is directed to publish a short summary of this Ordinance with the name of the members

voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the Kane County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

End of Ordinance.

ADOPTED this ____ day of _____, 2024.

ATTEST:

Chameill Lamb
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Kubeja voted _____
Commissioner Meyeres voted _____

Public Hearing

10. Ordinance 2024-17: KCLUO Chapter 6

An ordinance revising Kane County Land Use Ordinance Chapter 6 Residential zones; requiring a lodge to have a fire suppression system to comply with Utah State Code and the International Building Code.

KANE COUNTY ORDINANCE NO. O 2024-17

**AN ORDINANCE AMENDING TITLE 9 CHAPTER 6 RESIDENTIAL ZONES
ARTICLE D. SHORT TERM RENTAL AND LODGE REGULATIONS WITHIN
RESIDENTIAL ZONES, SECTION 3 TERMS OF USE IN THE KANE COUNTY LAND
USE ORDINANCE**

WHEREAS the Kane County Planning Commission recommended changes to Kane County Land Use Ordinance Chapter 6, Residential Zones, Article D., Short Term Rental and Lodge Regulations within Residential Zones, Section 3, C-H adding additional International Building Code (IBC) 310.2 Residential group R-1 terminology to the Kane County Land Use Ordinance Short Term Rental portion for consistency; and

WHEREAS, this ordinance will add additional IBC standards to Article D in Chapter 6, and

WHEREAS, the Kane County Planning Commission, after a duly noticed public hearing, recommended the approval of the amendments; and

WHEREAS, the Kane County Board of Commissioners desires to implement the recommendations of the Planning Commission and amend the Ordinance; and

WHEREAS, the authority for this ordinance is found in Utah Code §17-27a-101 et. al., and §17-53-201;

**NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY,
STATE OF UTAH, ORDAINS AS FOLLOWS:**

Section 1. Ordinance Amendment.

Kane County Code Title 9 Chapter 6 Article D Section 3 C-H of the Kane County Land Use Ordinance is amended to read as follows. Additions to the Ordinance are indicated with an underline, and deletions from the ordinance are indicated with a strike-through. Instructions to the codifiers are italicized and inside parenthesis.

9-6D-3: TERMS OF USE:

Short term rental and lodge use of a single family dwelling shall be an allowed use in Residential Zones if the following terms are complied with:

C. Short term rental or lodge shall comply with all applicable rules and regulations set forth by the local Health Department, ~~including the~~ County Building Department, and Kane County Land Use Authority.

F. Lodges shall not exceed the maximum occupancy of twenty four (24) individuals, if the property is serviced by Municipal scale water and sewer, an additional eleven (11) individuals may be permitted for a maximum occupancy of thirty five (35) through the conditional use application.

G. In the R-5 zone a conditional use permit is required for all lodges.

H. If a CUP is obtained for a lodge a fire suppression system shall be installed.

I. ~~G.~~ Short term rentals and lodges shall provide a minimum of four (4) off street parking spaces. (Ord. 2019-09, 5-14-2019; Ord. O-2022-60, 11-22-2022)

Section 2. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date

This ordinance is effective fifteen (15) days after adoption, and after publication and notice are completed as set forth below.

Section 4. Publication and Notice.

This Ordinance shall be deposited in the Office of the Kane County Clerk. The Kane County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the Kane County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

End of Ordinance.

ADOPTED this 14th day of May 2024.

ATTEST:

Patty Kubeja, Chair
Board of Commissioners
Kane County

CHAMEILL LAMB
Kane County Clerk

Commissioner Heaton voted _____
Commissioner Meyeres voted _____
Commissioner Kubeja voted _____

Public Hearing

11. Ordinance 2024-17: KCLUO Chapter 21

An ordinance revising Kane County Land Use Ordinance Chapter 21 Subdivisions to become compliant with Utah code 12-27a-604.1 and changing the name of the Kane County Standard Specifications and Drawing Details for Design and Construction.

CHAPTER 21 SUBDIVISION REGULATIONS

ARTICLE A. GENERAL PROVISIONS

9-21A-5: DEFINITIONS:

//

Administrative Land Use Authority: The administrative land use authority in Kane County, Utah is the Land Use Administrator.

Kane County ~~Infrastructure-Construction~~ Design Standards: Subdivision and improvement design standard guidelines for Kane County.

//

ARTICLE B. SUBDIVISION CREATION AND ENFORCEMENT

9-21B-4: BUILDING PERMITS:

A

2. The Preliminary Plat and Kane County Infrastructure Design Standards Construction Plans shall be approved by the Administrative Land Use Authority and Kane County Engineer, respectively.

4. The developer provides a "hold harmless" agreement, acceptable by Kane County, that the developer takes all liability in connection with the building of two (2) homes which may not be used or occupied for any reason prior to the completion and approval of the infrastructure and the developer shall: a) not seek to obtain a certificate of occupancy until the infrastructure is completed and approved by the Kane County Engineer; b) not sell, transfer or take a reservation on the property until the infrastructure is completed and approved by the Kane County Engineer; and c) will not hold Kane County liable for any costs or damages resulting in connection with the developer starting construction on the building regardless of the final outcome of the overall project. The Kane County Land Use Administrator and County Engineer have the authority to hold off signing a building permit if they have concerns for public safety or the safety of Kane County employees or equipment. If there are safety concerns Kane County staff must release a report to the developer stating the reasons why the permit cannot be obtained at the time of the request, and the Kane County Commission notified. (Ord. O-2017-11, 7-17-2017)

ARTICLE D. PRELIMINARY PLAT

SECTION:

9-21D-2: Required General Submission Items; Administrative

9-21D-3: Submitted Drawing Requirements

9-21D-4: Review Procedure

9-21D-5: Administrative Land Use Authority Approval

9-21D-6: Site Construction

9-21D-1: GENERAL REQUIREMENTS:

A complete application for preliminary plat review containing all required materials as stated in 9-21D-2 for preliminary plat review shall be submitted to the Kane County Land Use Authority Administrator by the developer/subdivider or their authorized representative, a minimum of twenty one (21) days prior to the Kane County Land Use Authority's meeting date at which the preliminary plat is to be reviewed. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21D-2: REQUIRED GENERAL SUBMISSION ITEMS; ADMINISTRATIVE:

Submittal Item:

Eng. Cty.

- ☐ ☐ (1) 24" X 36" & (2) 11" X 17" Copies of Preliminary Plat
- ☐ ☐ Digital copy of Preliminary Plat
- ☐ ☐ (1) Copy of on-lot disposal report
- ☐ ☐ Kane County/Developer Agreement
- ☐ ☐ Application for PUD Subdivision
- ☐ ☐ Location and vicinity map
- ☐ ☐ Conceptual Site Plat
- ☐ ☐ Draft Development Agreement (as applicable)
- ☐ ☐ Soils maps & reports
- ☐ ☐ Statement of taxes due
- ☐ ☐ Lender's Consent
- ☐ ☐ Signed proposed deed restrictions
- ☐ ☐ Summary statement
- ☐ ☐ Letters of feasibility
- ☐ ☐ Affidavit that applicant is the owner or authorized by the owner, in writing to make application for the land proposed to be subdivided
- ☐ ☐ Articles of Incorporation (LLC, Partnership or Corp.)

- ☐ ☐ Title Report
- ☐ ☐ Engineer's Cost Estimate
- ☐ ☐ Electronic Version of plat (PDF)

Drawing Requirements:

- ☐ ☐ Area map showing area + ½ mile
- ☐ ☐ Traverse map of subdivision
- ☐ ☐ Lot and Street Layout
- ☐ ☐ Dimensions of all lots
- ☐ ☐ Total acreage and legal description
- ☐ ☐ Lots numbered consecutively- include PUD zoning label
- ☐ ☐ Locations & names of existing & proposed easements
- ☐ ☐ Existing & proposed street names
- ☐ ☐ Drainage direction for existing & proposed streets
- ☐ ☐ Drawn to scale not less than one inch equals fifty feet (1" = 50'), indicate the basis of bearings, true north point, name of subdivision, name of county, township, range, section and quarter section, block and lot number of the proposed subdivision, keyed to USGS survey monuments.
- ☐ ☐ All fence lines
- ☐ ☐ Heavily-wooded areas located
- ☐ ☐ Site to be reserved or dedicated for open space
- ☐ ☐ Dedicated Public Space
- ☐ ☐ Signature blocks

Overall Site Plan Requirements:

- ☐ ☐ Future Street layout for area not being subdivided
- ☐ ☐ Water courses and proposed drainage systems
- ☐ ☐ 100 year flood boundaries

- ☐ ☐ Existing buildings, easements or utilities within 200 feet
- ☐ ☐ Location and size of proposed utilities
- ☐ ☐ Any other covenants, easements or restrictions
- ☐ ☐ Location and spacing of proposed fire hydrants
- ☐ ☐ Location of postal cluster box

Summary Statement Proposal

- ☐ ☐ Total development area
- ☐ ☐ Number of proposed dwelling units
- ☐ ☐ Number of proposed multi-residential units
- ☐ ☐ Total number of square feet in non-residential floor space
- ☐ ☐ Amount of water per lot
- ☐ ☐ Estimated gallons per day of sewage
- ☐ ☐ Survey notes of perimeter survey

Letters of feasibility, as applicable

- ☐ ☐ Water System SWPHD or UDEQ
- ☐ ☐ Sewage Treatment from SWPHD or UDEQ
- ☐ ☐ Telephone
- ☐ ☐ Electrical
- ☐ ☐ Solid Waste Disposal
- ☐ ☐ Access from UDOT or Kane County
- ☐ ☐ Addressing & Roads - Kane County GIS
- ☐ ☐ Postmaster
- ☐ ☐ Others (as applicable)
- ☐ Acknowledge by signing below that you have reviewed the preliminary plat and all checklist items.

Prepared by: _____ **Date:** _____

Professional Engineer Stamp, Signature, Date

Kane County Review by: _____ Date: _____

☐ Accepted for review. See attached review for comments and items to address.

☐ Incomplete application. Missing or deficient items noted below.

- ~~—A. One copy of application for subdivision and planned unit development.~~
- ~~—B. Subdivisions and planned unit development deposit. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)~~
- ~~—C. Agreement - subdivision and planned unit development.~~
- ~~—D. Statement of taxes and assessments paid.~~
- ~~—E. Certificate of title insurance.~~
- ~~—F. Articles of incorporation (LLC, partnership or corporation).~~
- ~~—G. Notarized affidavit that applicant is the owner or authorized by the owner to make application for the proposed land to be subdivided.~~
- ~~—H. Signed proposed deed restrictions. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2016-4, 10-15-2018)~~
- ~~—I. Development agreement draft (as applicable). (Ord. 2014-1, 1-27-2014, eff. 2-11-2014; amd. Ord. O-2016-4, 10-15-2018)~~
- ~~—J. Engineer's cost estimate.~~

—K. Soils and maps report. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2016-4, 10-15-2018)

—L. Three (3) copies of on-lot disposal report. (Ord. 2014-1, 1-27-2014, eff. 2-11-2014; amd. Ord. O-2016-4, 10-15-2018)

—M. Letters of feasibility/will serve letters (as applicable):

—1. Water system (Southwest Utah Public Health Department, Utah Department of Environmental Quality or Kane County Water Conservancy District, etc.);

—2. Sewage treatment from Southwest Utah Public Health Department or Utah Department of Environmental Quality;

—3. Telephone;

—4. Garkane Energy;

—5. Solid waste disposal;

—6. Access—Utah Department of Transportation and/or Kane County; (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2016-4, 10-15-2018)

—7. United States Kanab Post Master for the location of mail delivery cluster boxes; (Ord. O-2018-2, 4-9-2018)

—8. Other (as requested). (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2016-4, 10-15-2018; Ord. O-2018-2, 4-9-2018)

9-21D-3: SUBMITTED DRAWING REQUIREMENTS:

—A. Three (3) copies of preliminary plat map (24 inches x 36 inches).

—B. The accuracy of location of alignments, boundaries and monuments shall be keyed to USGS monuments and certified by a registered land surveyor licensed to do such work in the State of Utah. The plat map shall be done in a professional manner with all of the requirements clearly shown. Poorly drawn, illegible or incomplete plat maps are sufficient cause for rejection.

—C. The plat map shall be drawn to a scale not less than one inch equals fifty feet (1" = 50'), if feasible, and shall indicate the basis of bearings, true north point, name of subdivision, name of county, township, range, section and quarter section, block and lot number of the proposed subdivision, keyed to USGS survey monuments.

—D. Location and vicinity map (on plat).

—E. Drawing requirements:

—1. Area map showing area plus one-half ($\frac{1}{2}$) mile;

—2. Traverse map of subdivision;

—3. Lot and street layout;

—4. Dimensions of all lots;

- 5. Total acreage and legal description;
- 6. Lots numbered consecutively;
- 7. Location and names of existing and proposed easements;
- 8. Existing and proposed street names;
- 9. Drainage direction for existing and proposed streets;
- 10. All fence lines;
- 11. Heavily wooded areas located;
- 12. Site to be reserved or dedicated for public use;
- 13. Sites listed to be used for nonsingle-family dwellings;
- 14. Dedicated public space;
- 15. Signature blocks.
- F. Overall site plan requirements:
 - 1. Future street layout for area not being subdivided (phased subdivisions and planned unit development);
 - 2. Watercourses and proposed drainage systems;
 - 3. 100-year flood boundaries;
 - 4. Existing buildings, easements or utilities within two hundred feet (200');
 - 5. Location and size of proposed utilities; (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)
 - 6. Location and size of mail delivery collection box units or simply cluster box units. (Ord. O-2018-2, 4-9-2018)
 - 7. Any other covenants, easements or restrictions. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2018-2, 4-9-2018)
- G. Summary statement (on plat):
 - 1. Total development area;
 - 2. Number of proposed dwelling units;
 - 3. Total number of square feet in nonresidential floor space;
 - 4. Total number of off-street parking spaces;
 - 5. Amount of water per lot;
 - 6. Estimated gallons per day of sewage;
 - 7. Survey notes of perimeter survey. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21D-4: REVIEW PROCEDURE:

When the preliminary plat application and all documentation will be reviewed has been received, reviewed and approved by the Land Use Authority Administrator and Kane County Engineer, it shall be placed on the Kane County Land Use Authority's agenda for review within forty five (45) days. **17-27a-509.5. Review for application completeness -- Substantive application review.**

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A. Kane County Administrative Land Use Authority shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.

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B. After a reasonable period of time to allow the county diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the county provide a written determination either that the application is:

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1. complete for the purposes of allowing subsequent, substantive land use authority review; or

2. deficient with respect to a specific, objective, ordinance-based application requirement.

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C. Within 30 days of receipt of an applicant's request under this section, the county shall either:

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1. mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application must be supplemented by specific additional information identified in the notice; or

2. accept the application as complete for the purposes of further substantive processing by the land use authority.

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D. If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

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E. Each land use authority shall substantively review a complete application and an application considered complete and shall approve or deny each application with reasonable diligence.

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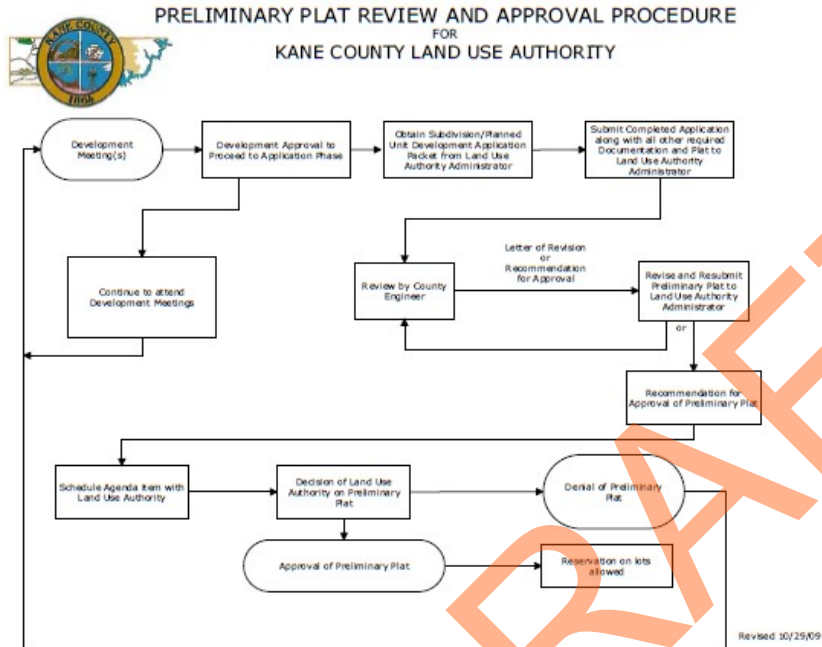
F. After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

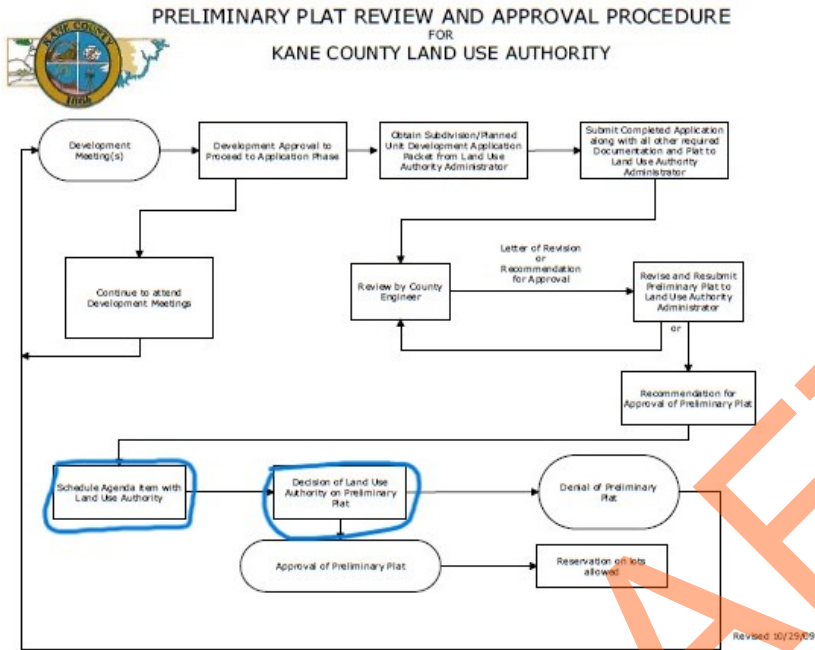
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(Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21D-5: LAND USE AUTHORITY APPROVAL:

A. The Kane County Administrative Land Use Authority shall review all completed applications for preliminary plat approval and shall forward to the Land Use Authority only those preliminary plats which he/she finds have been developed in accordance with the standards and criteria specified in this chapter and all other ordinances and laws of Kane County and the State of Utah; including, but not limited to, land use ordinances, general plan and transportation plan.

B. At a public meeting the Land Use Authority may recommend approval to the County Commission, with or without conditions, table until additional information has been provided or disapprove the preliminary plat. In the event that the Kane County Administrative Land Use Authority disapproves a preliminary plat, it shall be stated, in writing, within thirty (30) days to the developer/subdivider the reason for disapproval via certified mail, return receipt requested.

—C. If recommended for approval to the County Commission, the County Commission shall review the application for approval, approval with conditions, or denial at the next regularly scheduled County Commission meeting. (Ord. O-2016-4, 10-15-2018)

2013, eff. 11-19-2013)

9-21D-6: SITE CONSTRUCTION:

- A. ~~A.~~ No infrastructure site work may be started, even with preliminary plat approval, until infrastructure design construction drawings are submitted and approved by the Kane County Engineer.

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9-21E-9: VACATING OR AMENDING A SUBDIVISION OR PLANNED UNIT DEVELOPMENT PLAT:

3. If the application for an amended plat includes a request to further subdivide or to create any additional lots, the application may only be approved if:

- c. The amended plat is not a lot joinder which shall remain one lot once joined together.

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ARTICLE E. FINAL PLAT

SECTION:

9-21E-1: General

9-21E-2: Phased Subdivision And Planned Unit Developments

9-21E-3: Acceptance Of Streets And Other Public Land Dedication

9-21E-4: Required General Submission Items

9-21E-5: Administrative Land Use Authority Review

9-21E-6: County Commission Review

9-21E-7: Final Plat Recording

9-21E-8 7: Final Plat Distribution

9-21E-98: Vacating Or Amending A Subdivision Or Planned Unit Development Plat

9-21E-10:9 Final Plat Approval Procedure

9-21E-1: GENERAL:

A. A final plat may be submitted once all provisions of article D, "Preliminary Plat", of this chapter have been met. The final plat of the subdivision or planned unit development may encompass all or part (see phased development) of the preliminary plat. The final plat shall be presented to the Kane County Administrative land use authority for review within one year after preliminary plat approval, otherwise preliminary plat approval shall be withdrawn and reapplication will be required.

B. The submitted final plat shall conform in all major respects to the preliminary plat as previously approved and/or modified by the Kane County Administrative land use authority.

9-21E-2: PHASED SUBDIVISION AND PLANNED UNIT DEVELOPMENTS:

~~A. —A.—~~ The final platting of subdivisions can be done in phases. ~~Pand P~~planned unit developments can be done in phases. Each phase in a planned unit development shall consist of a minimum of twenty five percent (25%) of the total number of lots in the subdivision or twenty five percent (25%) of the area of a planned unit development.

9-21E-3: ACCEPTANCE OF STREETS AND OTHER PUBLIC LAND DEDICATION:

Acceptance of dedication of proposed public lands or street right of way in an approved plat can be made only by the Kane County commissioners. Plat approval will be deemed as acceptance of dedication unless streets and other public spaces are shown as "not intended for dedication". (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21E-4: REQUIRED GENERAL SUBMISSION ITEMS:

A. Administrative:

1. Mylar copy of approved final plat (for signatures);
2. ~~Four~~One (1) copies of approved and signed final plat;
3. ~~Four (4)~~ One (1) copies of approved construction drawings and documents;
4. Stormwater pollution prevention plan;
5. ~~Three (3)~~ One Copy (1) copies of executed development agreement;
6. One copy CC&Rs;
7. Payment and performance bond, escrow deposit or letter of credit.

B. Drawing requirements:

1. Boundary bearings and distances data outside boundary;
2. Lots numbered consecutively;
 - a. All lot zones must be marked clearly on each numbered lot;
3. Curve data: radius, angle, long chord, bearings and distance, length;
4. Excluded parcels marked as such;
5. All streets to be named;
6. Bearings and distances of all streets;
7. Parcels not included marked NAPOTS;
8. Adjacent streets shown and dimensioned;
9. Adjacent fences shown;
10. All easements to be labeled and dimensioned;
11. All land with boundaries to be accounted for;

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12. All dimensions to be to 0.01' and 0'000'00;
13. Location of perc test trenches;
14. Name of subdivision;
15. North arrow;
16. Basis of bearing;
17. Name and address of owners of record;
18. Total acreage of subdivision;
19. Total number of lots;
20. Legal description of entire subdivision;
21. Township, range, section and quarter section;
22. Graphic scale;
23. Required monuments;
24. County Engineer's signature block;
25. County surveyor's signature block;
26. County Attorney's signature block;
27. Administrative Land Use Authority's signature block;
- ~~28. County Commission's signature block;~~
29. Signature(s) of owner(s) (notarized) block;
30. County Recorder's recording block;
31. Lender's signature block (or "consent to plat" form);
32. Surveyor's certificate;
33. Culinary water authority signature block;
34. Sanitary sewer authority signature block;
35. Kane County GIS/Addressing Administrator signature block;
- ~~36. Kane County Addressing Administrator signature block;~~
37. An electronic digital version of the subdivision plat (PDF of the final plat).
38. Electronic versions of all submitted items on the above checklist.

C. Digital data submittal:

1. AutoCAD DWG file or GIS SHPE file;
2. File to contain all parcel lines and reference monuments;

3. Data file to be GEO referenced to Utah State plane south grid coordinate system or ground coordinate system including ground scale factor.

4. Shape files for the County GIS system North American datum (NAD) 1983 Zone 12 format. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. 2014-1, 1-27-2014, eff. 2-11-2014; Ord. O-2015-12, 7-27-2015, eff. 8-11-2015; Ord. O-2018-2, 4-9-2018; Ord. O-2016-4, 10-15-2018; Ord. 2020-22, 10-27-2020)

9-21E-5: ADMINISTRATIVE LAND USE AUTHORITY REVIEW:

A. After review and approval of the final plat drawing and receipt of required documents by the Administrator and County Engineer, the Kane County land use authority will review the final plat, at a regularly scheduled, publicly noticed public meeting. If approved, the land use authority shall recommend approval of the final plat to the Kane County commissioners to be reviewed at the next available work meeting, and then for final approval at the next regularly scheduled commission meeting. (Ord. O-2015-12, 7-27-2015, eff. 8-11-2015)

9-21E-6: COUNTY COMMISSION REVIEW:

The Kane County commission shall review the final plat within thirty (30) days of notification of review by the Kane County land use authority at a regularly scheduled public meeting. If the Kane County commission determines that the final plat drawing and documentation meets with the Kane County land use ordinance, subdivision ordinance and "Kane County Standard Specifications And Drawing Details For Design And Construction", they may grant approval. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21E-7: FINAL PLAT RECORDING:

A. The developer/subdivider or his agent shall record the approved final plat within one year of approval by the Kane County commission. The Kane County land use authority administrator shall maintain custody of the final plat mylar until all signatures have been obtained (with exception of the recorder), at which time he/she will notify the developer/subdivider that the plat is ready to be recorded. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2015-12, 7-27-2015, eff. 8-11-2015)

B. No building permits will be issued until the infrastructure is completed unless otherwise agreed to in the development agreement and approved by the Kane County engineer in writing. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21E-9: VACATING OR AMENDING A SUBDIVISION OR PLANNED UNIT DEVELOPMENT PLAT:

A. General Requirements:

1. A subdivision plat or planned unit development plat may be amended or vacated by complying with the requirements of this section and Utah Code 17-27a-608 and 609.

2. A complete application shall be submitted a minimum of twenty one (21) days prior to the Kane County Land Use Authority's meeting date at which the action is to be reviewed by the owner's) of by the property or person having power of attorney to act in behalf of the owner.

3. If the application for an amended plat includes a request to further subdivide or to create any additional lots, the application may only be approved if:

a. Eighty percent (80%) of the owners, or persons having legal authority to act on behalf of the owner, for any portion of property contained in the plat consents to the proposed amendment; and

b. The administrative land use authority, ~~or county commission where required~~, makes a finding of good cause for the amendment.

B. Submission Items:

1. Application and fees;

2. Notarized affidavit that applicant is owner or authorized by the owner to make application for proposed plat amendment or abandonment;

3. Provide names and addresses of all property owners within 500 feet of the affected property;

4. One copy of the plat and electronic submission. Three (3) copies of plat map:

a. Amended plat map requirements (re: subsections 9-21E-4B1 through B32 of this article);

b. Vacated plat map requirement (re: subsections 9-21E-4B1 through B32 of this article).

C. Administrative Land Use Authority Review And Approval:

1. After review and approval of the abandonment or amended plat drawing and receipt of required documents by the land use authority administrator and county engineer, the Kane County land use authority will review the application at a regularly scheduled, publicly noticed public hearing within forty five (45) days unless Utah state code provides an exception to the public hearing requirement. In which case the land use authority may review the application at a regularly scheduled public meeting.

2. If the application does not propose to amend, abandon or vacate any county road or public right of way, the administrative land use authority may give final approval so long as the application meets the requirements of state code and any applicable county ordinance. If the application includes a proposal to amend, abandon or vacate any county road or public right of way, the Kane County land use authority will forward a written notification of its review to the Kane County commission.

D. County Commission Review And Approval:

1. If the application contains a proposal to amend, abandon or vacate any county road or public right of way, the Kane County commission shall review the abandonment or amended plat within thirty (30) days of notification of review by the Kane County land use authority at a regularly scheduled public meeting. If the Kane County commission determines that the plat drawing and documentation meets with the Kane County land

use ordinance, subdivision ordinance and "Kane County Standard Specifications And Drawing Details For Design And Construction", they may grant approval.

E. Final Plat Recording:

1. The owner or his agent shall record the approved vacated or amended plat within one year of approval **by the Kane County commission**. The Kane County land use authority administrator shall maintain custody of the amended plat mylar until all signatures have been obtained (with exception of the recorder), at which time he will notify the owner or agent that the plat is ready to be recorded.

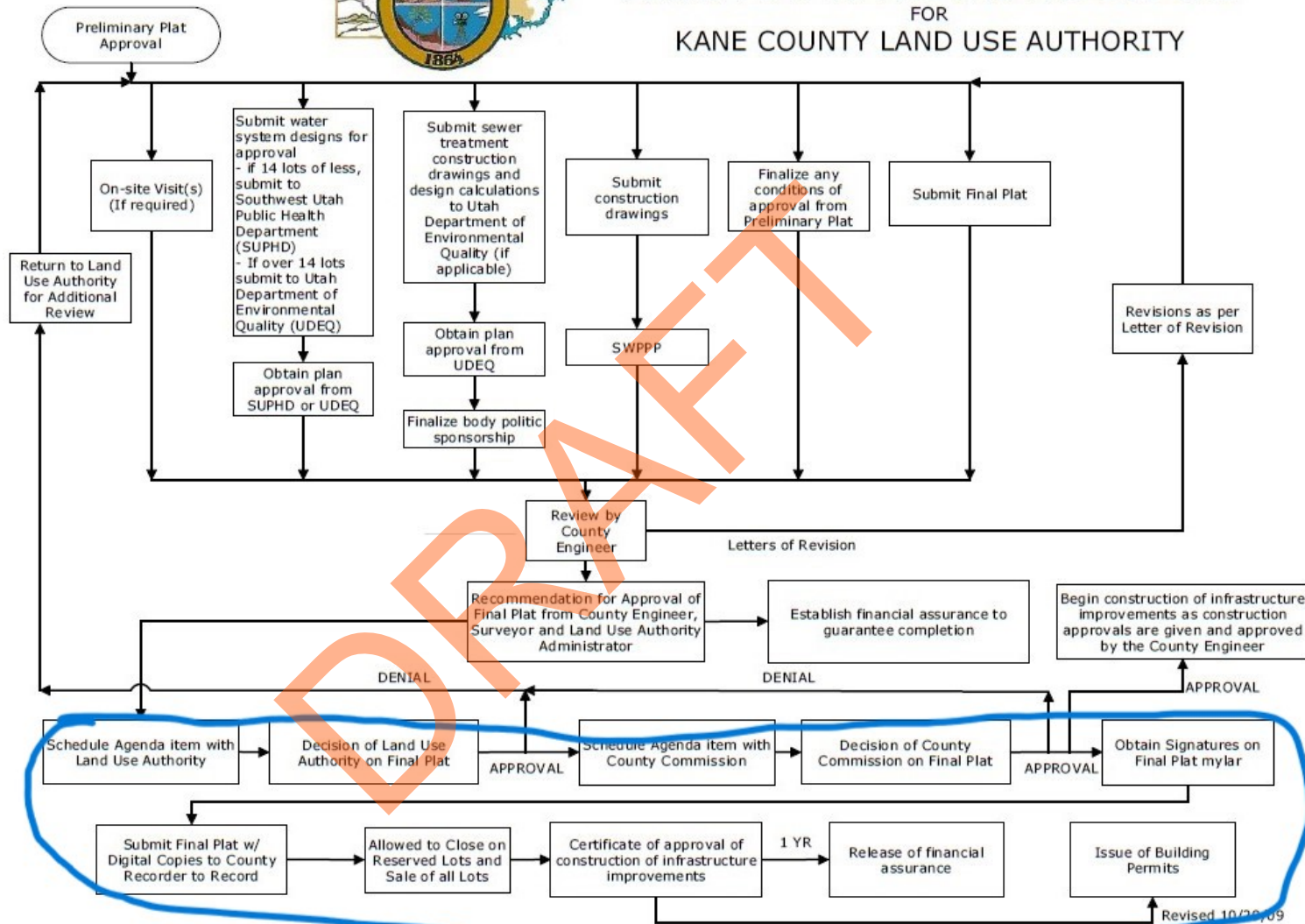
9-21E-10: 11 FINAL PLAT APPROVAL PROCEDURE:

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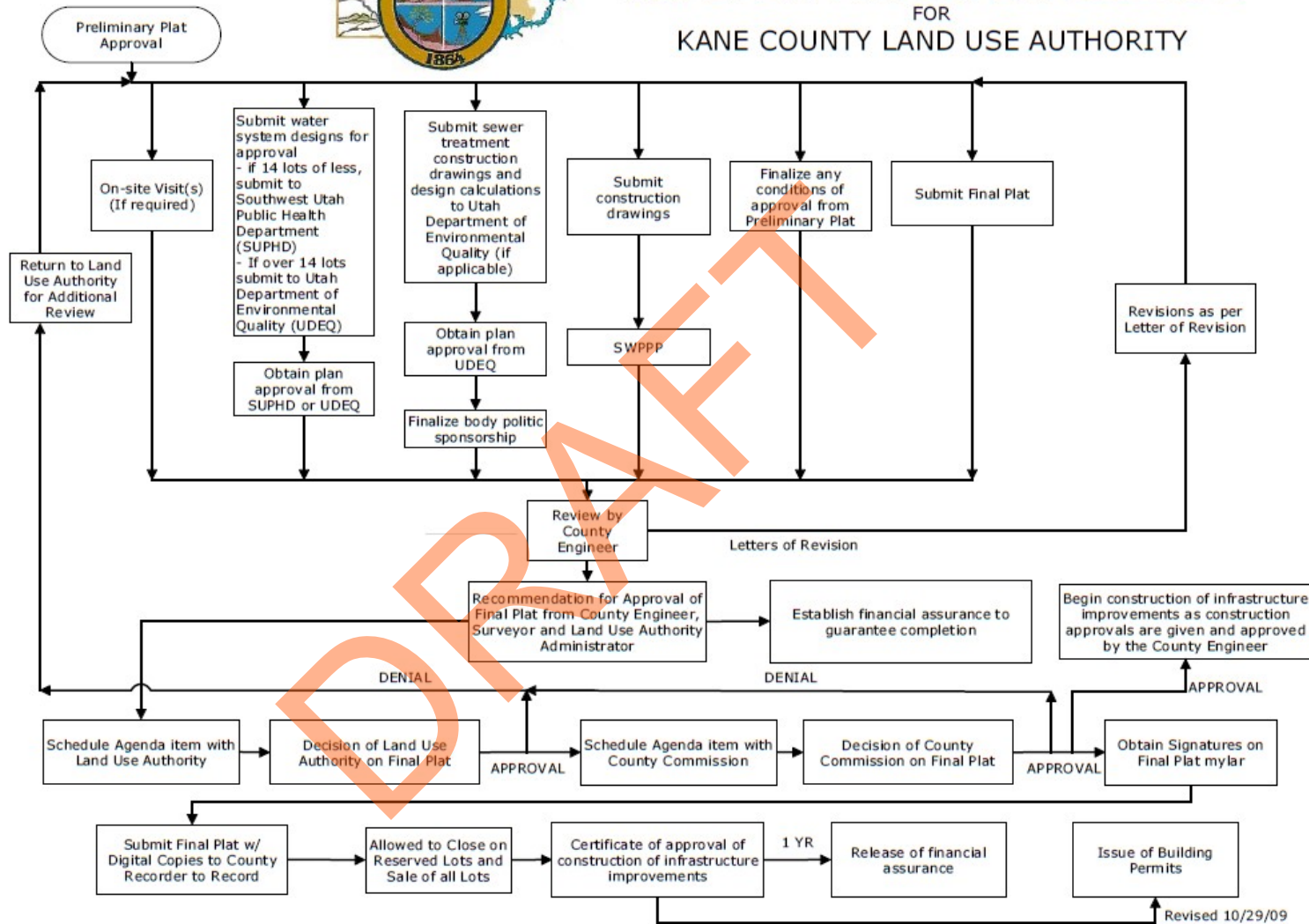


FINAL PLAT APPROVAL PROCEDURE FOR KANE COUNTY LAND USE AUTHORITY





FINAL PLAT APPROVAL PROCEDURE FOR KANE COUNTY LAND USE AUTHORITY



(Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

ARTICLE F. DEDICATION AND ACCEPTANCE OF STREETS AND PUBLIC IMPROVEMENTS

SECTION:

9-21F-1: Dedication Of Improvements And County Ownership Of Subdivision Roads

9-21F-2: Timeliness For Acting On Acceptance

9-21F-3: Dedication Of Nonsubdivision Rights-Of-Way And Roadways

9-21F-4: Required Right-Of-Way And Roadway Widths

9-21F-5: Roadways Dividing A Parcel

9-21F-6: Right-Of-Way And Roadway Improvements

9-21F-7: Right-Of-Way Improvements For Commercial Developments

9-21F-1: DEDICATION OF IMPROVEMENTS AND COUNTY OWNERSHIP OF SUBDIVISION ROADS:

A. Subdividers are put on notice that the majority of roads (if not all) internal to a subdivision are typically to remain private. At the time the final plat is approved, the subdivider may dedicate the roads, easements and other public improvements to Kane County and the Kane County Commission will determine which improvements to preliminarily accept. All subdivision roads must adhere to county standards, including a minimum 28 foot width comprised of 24 feet of travel lanes (two twelve foot travel lanes) with two foot shoulders on each side of the travel lanes.

B. In determining which roads to preliminarily accept, the Kane County Commission may look at the following factors:

1. If the road could eventually be a Collector or Arterial Road;
2. How the road fits into the overall transportation system of the County;
3. Whether the road is internal to the subdivision, meaning that it only allows access to residents within the subdivision;
4. Whether the road has historically been open to the public, or allows access to public areas;
5. The overall traffic expected by both residents, visitors, and those just passing through.

C. The subdivider shall notify the administrative land use authority County in writing once all improvements are completed, at which time the Kane County Engineer will perform a final improvement inspection. Any dedicated improvements shall be deemed an offer by the subdivider which shall be irrevocable until one year after all of the improvements are completed. After one year, a final inspection will take place before officially accepting any preliminarily accepted improvements, and before releasing any bonds from any improvements. The County Commission may, at its option, accept the offer of dedication only if it finds that the subdivider has constructed, installed and maintained the public improvements required by this chapter and that the improvements comply with the minimum standards and requirements of this chapter and the "Kane

County Standard Specifications and Drawing Details for Design and Construction" at the time of acceptance.

(Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2022-15, 3-22-2022)

9-21F-2: TIMELINESS FOR ACTING ON ACCEPTANCE:

Unless the Kane County Land Use Authority Administrator extends the time for making a decision as to whether or not Kane County will accept dedicated public improvements, the dedication may be acted upon within one year following the completion of the public improvements in accordance with the "Kane County Standard Specifications and Drawing Details for Design and Construction", but in no event shall such approval occur without the approval of the Kane County Engineer. In the event the Kane County Engineer does not approve the dedicated public improvements, the subdivider shall be so advised in writing and of the reason for the nonapproval. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21F-3: DEDICATION OF NONSUBDIVISION RIGHTS-OF-WAY AND ROADWAYS:

The Kane County Commission, on recommendation from the Kane County Land Use Authority, may accept Master Transportation Plans for areas in Kane County. Once a Master Transportation Plan is in place for an area the property owner(s) within the Master Transportation Plan area may dedicate the planned road(s) to Kane County. Kane County Land Use Authority and Kane County Commission may accept the dedicated roads by the recording of a road dedication plat. (Ord. O-2019-2, 1-14-2019)

ARTICLE G. DESIGN STANDARDS

SECTION:

9-21G-1: General Provisions

9-21G-2: Lots

9-21G-3: Streets

9-21G-4: Curvature And Alignment

9-21G-5: Block And Cul-De-Sac Standards

9-21G-6: Pedestrian Crosswalks

9-21G-7: Easement Standards

9-21G-8: Exterior Perimeters

9-21G-9: Alleys

9-21G-10: Sanitary Sewage Disposal

9-21G-11: Water Supply

9-21G-12: Sanitation Collection Sites

J. All residential lots in subdivisions shall front on a public street or on a private street or court approved by the Kane County land use authority and the Kane County commission, except as may be approved for planned unit developments or other special

9-21G-7: EASEMENT STANDARDS:

D. All power lines, telephone lines, and other normally overhead utility lines shall be placed underground by the subdivider unless the Kane County engineer determines it is not feasible to do so. This determination would be based upon application by a subdivider, supported by recommendation of the county engineer, and approved by the Kane County Administrative Land Use Authority and Kane County Commission. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21G-10: SANITARY SEWAGE DISPOSAL:

C. Where the Kane County General Plan or other plans indicate that construction or extension of sanitary sewers may serve the subdivision area within a reasonable time, the Kane County Administrative Land Use Authority may require the installation and capping of sanitary sewer mains and house connections by the subdivider. Whenever individual on-lot sanitary sewage disposal systems are proposed, they shall be installed at the time the principal building is constructed, and no building permit shall be issued until such installation is completed. In all other cases, sanitary sewage disposal facilities shall be provided for every lot or parcel by a complete community or public sanitary

ARTICLE I. FINANCIAL RESPONSIBILITY

SECTION:

9-21I-1: Guarantee; Improvement Completion Assurance

9-21I-2: Payment And Performance Bonds

9-21I-3: Escrow Deposit

9-21I-4: Irrevocable Letter Of Credit

9-21I-5: Default

9-21I-6: Improvement Guarantee; Warranty

9-21I-7: Covenant

9-21I-8: Acceptance And Release Of Surety

9-21I-9: Definitions

9-21I-1: GUARANTEE; IMPROVEMENT COMPLETION ASSURANCE:

Before approval of the final plat, the developer/subdivider shall provide an improvement completion assurance, guaranteeing the installation of the required subdivision improvements, by one of the methods as described in section 9-21I-2, 9-21I-3 or 9-21I-4 of this article, prior to recording a subdivision plat or beginning development activity.

The guarantee method employed shall be approved by the Kane County commission in

the development agreement. This requirement is applicable to individual phases of a development. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-3: ESCROW DEPOSIT:

The developer/subdivider shall deposit in an interest bearing escrow account an amount of money equal to one hundred ten percent (110%) of the engineer's estimated cost of improvements as approved by the county engineer. The additional inflation percentage shall be determined in the development agreement and added to the one hundred ten percent (110%) figure. The escrow account shall be used solely for securing the subdivisions improvements. The escrow account holder must be approved by Kane County prior to deposit being made. The terms of the escrow account shall only require that the county present the issuer with a signed draft and a certificate signed by an authorized representative of the county certifying to the county's right to draw funds on the account to complete the required improvements. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-4: IRREVOCABLE LETTER OF CREDIT:

The developer/subdivider shall file with Kane County an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution in an amount equal to one hundred ten percent (110%) of the engineer's estimated cost of improvements as approved by the Kane County engineer. The additional inflation percentage shall be determined in the development agreement and added to the one hundred ten percent (110%) figure. Said letter of credit shall:

9-21I-5: DEFAULT:

In the event the developer/subdivider fails to complete the required improvements as stipulated in the development agreement, within two (2) years after final plat acceptance, Kane County shall pursue action against whichever method of guarantee was provided (section 9-21I-2, 9-21I-3, or 9-21I-4 of this article) to complete the improvements as described.

Kane County may assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which required development improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the tract.

Kane County may exercise any other rights available under the law, upon default. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-6: IMPROVEMENT GUARANTEE; WARRANTY:

Should the developer/subdivider fail or refuse to affect said repairs or maintenance, the county shall have such work done at the developer/subdivider's expense. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-8: ACCEPTANCE AND RELEASE OF SURETY:

A. Request for conditional acceptance of the subdivision improvements and reduction in surety must be in writing from the developer/subdivider to the land use

authority administrator. When installation of the subdivision improvements are seventy five percent (75%) complete, fifty percent (50%) of the estimated cost of the improvements will be released after inspection and written verification by the county engineer. After final completion of all work, an additional fifty percent (50%) of the estimated cost will be released after inspection and written verification by the county engineer. This leaves ten percent (10%) of the estimated cost to be held as the improvement warranty for the improvement warranty period, being one year from final completion and acceptance of the improvements, or a lengthier improvement warranty period as may be permitted, pursuant to this section, or Utah Code Annotated section 17-27a-604.5, as amended. The schedule for release of surety may be modified by the specific development agreement.

In many cases, the improvement warranty will be on the same document as the improvement completion assurance/performance bond. However, the county may require a separate document containing the improvement warranty.

B. Final inspection by the Kane County engineer shall be made one year after all improvement work has been completed. Any and all defects must be repaired and maintenance must be completed prior to final approval.

C. Upon written approval by the Kane County engineer, the land use administrator shall, in writing, accept all improvements and release remaining improvement warranty. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-9: DEFINITIONS:

The following definitions apply to this article:

IMPROVEMENT COMPLETION ASSURANCE: A surety bond, letter of credit, cash, or other security required by Kane County to guaranty the proper completion of landscaping or infrastructure that the land use authority has required as a condition precedent to:

- A. Recording a subdivision plat; or
- B. Beginning development activity.

IMPROVEMENT WARRANTY: An applicant's unconditional warranty that the accepted landscaping or infrastructure:

- A. Complies with Kane County's written standards for design, materials, and workmanship; and
- B. Will not fail in material respect, as a result of poor workmanship or materials, within the improvement warranty period.

IMPROVEMENT WARRANTY PERIOD: A period:

- A. No later than one year after Kane County's acceptance of required infrastructure, unless the county:

1. Determines for good cause that the one year period is inadequate to protect the public health, safety, and welfare; and
2. Has substantial evidence, on record:
 - a. Of prior poor performance by the applicant; or
 - b. That the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

ARTICLE J. RURAL, MOUNTAIN AND DESERT SUBDIVISION

SECTION:

9-21J-1: Scope

9-21J-2: Application

9-21J-3: Additional Provisions

9-21J-1: SCOPE:

The Kane County Administrative land use authority and ~~Kane County commission~~ may make special requirements for the regulation of subdivisions in rural, mountainous or desert areas for prevention or erosion, pollution and excessive costs to the public; protection of existing social, physical or economic values; and protection from fire and other hazards. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21J-2: APPLICATION:

Before applying special requirements to rural, mountain or desert subdivisions that are more restrictive than those otherwise applicable by this chapter, the Kane County land use authority administrator shall cause copies of the proposed subdivision to be issued to the staff (i.e., building official, county engineer, GIS/transportation department and any other entities deemed appropriate) for review and comment. Based on information supplied by the staff, the Kane County Administrative land use authority shall make its recommendation to the Kane County commission who shall determine what special requirements shall apply, if any. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

ARTICLE K. AG RURAL UNIMPROVED SPLIT

SECTION:

9-21K-1: Intent

9-21K-2: Modifying Regulations

9-21K-3: AG Rural Unimproved Split Application

9-21K-4: Approval

9-21K-1: INTENT:

Kane County desires to create a simplified, less restrictive process for the dividing of land located within the unincorporated areas of Kane County when the project is small and the main purpose and general intent of the division is not property development. This simplified process does not require all of the same improvements and regulations that are required under this chapter when applying for the division of land and approval of a subdivision plat. Under Utah State Code and Kane County ordinance almost any division of land is defined as a subdivision even though the common and ordinary use of the word subdivision refers to denser residential areas that include roads, utilities, and other improvements.

Furthermore, for decades many individuals have subdivided their property without first complying with State law and County ordinance in effect at the time of the illegal subdivision. Many individuals may desire to use this article to bring their land into compliance. If an applicant under this article otherwise complies with the requirements of this article, they may obtain approval for a AG rural unimproved split if, and only if, the application includes all portions of the original land (sometimes referred to as parent parcel) as it legally existed prior to being subdivided illegally, and the application is joined by all of the current property owners. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. 2014-18, 9-22-2014; Ord. O-2022-43, 8-23-2022)

9-21K-2: MODIFYING REGULATIONS:

Any improvements to be made within a AG rural unimproved split such as, but not limited to: roads, water, fire suppression water, power, septic/sewer, and drainage system shall first be approved by the Land Use Authority before any work can begin. The owner and/or owner's agent will be required to submit a Developers Subdivision Application and complete the subdivision approval process. All subdivision requirements and standards can be found in articles A through I of this chapter. Any owner and/or owner's agent found in violation of this section shall be guilty of a Class C misdemeanor upon conviction, punishable by a fine, injunction, mandamus, abatement, merger of title, civil penalty, or any other remedy provided by law. (Ord. O-2019-13, 6-11-2019; amd. Ord. O-2022-43, 8-23-2022)

9-21K-3: AG RURAL UNIMPROVED SPLIT APPLICATION:

Notwithstanding articles A through J of this chapter, the Administrative Land Use Authority may approve an application for an AG rural unimproved split, if the following criteria and requirements are met:

A. The applicant shall complete, sign, and submit an official application together with any other required documentation, the form of the application having been prepared by the Land Use Administrator, and pay the associated fee.

B. The proposed split:

1. Is for ten (10) lots or less, all of which are at least ten (10) acres as a conforming aliquot parts parcel or less than ten (10) acres, but not less than 9.5 acres if necessary to compensate for the curvature of the earth or the convergence of Township lines as recognized in the public land survey system, or because of previous survey errors;

2. Is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;

3. Has been approved by the culinary water authority and the sanitary sewer authority, if a culinary water system or sewer system is included in the plans of the subdivision (Note: Under Kane County ordinance and Utah State Code a building permit will not be issued for lots that do not first contain an approved culinary water and sewer system.);

4. Is located in a zoned area; upon completion and approval of application, land will then comply with FAA agricultural land use and will be zoned AG-FAA. The AG-FAA zoning must remain in place for a minimum of five (5) years from the time of the split.

5. Conforms to all applicable Land Use Ordinances or has properly received a variance from requirements of an otherwise conflicting and applicable Land Use Ordinance;

6. Is graphically illustrated on a record of survey map completed by a licensed surveyor who certifies that he or she is a licensed surveyor and has verified all measurements and placed monuments as represented on the map. The record of survey map must be signed by the applicant and the surveyor, and shall contain the following notes on the record of survey:

a. Roads are not constructed or maintained by Kane County or any local government entities and are the responsibility of the owner(s) or developers;

b. No utilities (e.g., power, water, sewer, phones) are provided by Kane County. Kane County does not bear the responsibility now or in the future for any improvements. Improvements are the responsibility of the owner or developer;

c. If and when the developer/landowner has met County standards and specifications for infrastructure and they have been formally accepted by the County these notations should be removed from the plat;

d. County acceptance of infrastructure does not infer that the County will upgrade that accepted infrastructure beyond the standard of its acceptance;

7. Provides each newly created parcel with: a) legal recorded access to the utility and access easements and other rights of access that the parent parcel holds at the time of the subdivision application; b) a recorded public access and public utility easement(s) with a minimum of a sixty six foot (66') width across the parent parcel for any roads that provide access beyond the development or are planned to provide access beyond the development or a minimum of fifty foot (50') width for roads that terminate within the development to provide access and utility easement(s) from the original point of access of the parent parcel to the newly created parcels. Roads that terminate within the development may be recorded as private easements rather than a public easement at the discretion of the applicant; c) a recorded utility easement across the parent parcel necessary to allow each newly created parcel access to the same utilities currently available to the parent parcel and planned future access for power,

water, and other utilities, to be available to all the parcel(s) in the future; and d) to provide access and utility easement(s) from the original point of access of the parent parcel to the newly created parcel(s) to any public right-of-way. If a recorded access does not exist at the time of the application, the width of the newly created access across private property shall be listed in subsection B7c of this section.

a. A public right-of-way shall be any right-of-way claimed by UDOT, the County, or a municipality as a Class B, C, or D road which is established or claimed through a recorded deed easement, RS-2477 assertion, or title V easement on BLM lands recorded access across State trust lands, recorded access across Forest Service lands, or a public prescriptive easement as determined by the Kane County GIS Department.

b. The recorded legal access may be any of the following:

(1) On BLM Lands: Access across public lands shall be accepted in the form of any valid, private, public or County title V or RS-2477 rights-of-way. RS-2477 right-of-way or title V access across land managed by the Bureau of Land Management (BLM) with any width approved by the BLM deemed acceptable.

(2) On Private Lands: Existing recorded legal access easement with a minimum of twenty eight feet (28'). Prescriptive easements do not satisfy the access requirements of this section. The subservient land owner must sign a recordable document acknowledging the easement and allow use for all of the new lots in the proposed subdivision as a public or private easement as outlined in this subsection B7.

c. Width of a newly created easement may be any of the following:

(1) Any new recorded easement across private land, with a minimum width of sixty six feet (66') or fifty feet (50') as outlined in this subsection B8; and

8. Has a name for each existing and newly created access road or easement distinct from other road or easement names located in Kane County for address purposes, designated on the record of survey.

C. The applicant shall submit an agreement of understanding with the Kane County Commission that in unincorporated areas of the County, dedicated roads will not be accepted, paved or maintained by the County, until the subdivision complies with articles A through J of this chapter.

D. The proposed split does not include land previously divided under this article.

E. If the applicant so desires a plat may be submitted instead of the record of survey map. The form of the plat must conform with all the requirements of this chapter.

F. The application is signed and submitted by each and every property owner of the land included in the application.

G. If any land contained in the application is the result of land that was previously divided without first complying with State law and County ordinances, the application must include all of the lots or parcels that together represent the entire original parent parcel before it was subdivided illegally.

H. If the proposed split contains agricultural land that qualifies as land in agricultural use as defined by Utah State Code section 59-2-502 (FAA) the applicant must also submit:

1. A signed statement that the land is not used and will not be used for any nonagricultural purpose;
2. A signed notice that the County shall require the parcel to comply with articles A through J of this chapter if it is later used for a nonagricultural purpose.
 - I. If fencing, gates or cattle guards exist they must remain in place. However they may be moved to conform to new lot lines.
 - J. If any roads exist at the time of applying for the rural unimproved split they must continue to remain at the existing or improved condition.
 - K. It is not necessary to improve any existing roads to the full width of the dedicated easement at the time of application.
 - L. If any proposed lot has access to any major highway system, the applicant shall give notice to the Utah Department of Transportation for the newly created lots or parcels. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. 2013-11, 11-25-2013, eff. 12-10-2013; Ord. 2014-18, 9-22-2014; Ord. O-2015-12, 7-27-2015, eff. 8-11-2015; Ord. O-2016-4, 10-15-2018; Ord. O-2018-6, 7-9-2018; Ord. O-2019-4, 3-25-2019; Ord. O-2019-13, 6-11-2019; Ord. O-2022-43, 8-23-2022)

9-21K-4: APPROVAL:

A. If an applicant meets the requirements of section [9-21K-3](#) of this article the **Administrative** Land Use Authority after hearing the application in a public meeting shall recommend approval of the application to the County Commission or deny the application.

~~B. If recommended for approval the application shall be forwarded to the County Commission for final approval.~~

~~C. Upon final approval of the County Commission, the appropriate official of the County Commission and the Land Use Authority shall sign the plat or issue a letter of written approval in the case of a record of survey or the record of survey may have all the signature blocks required for a plat in place of a written letter.~~

D. A rural unimproved split with a recorded approved plat or a letter of written approval recorded with a record of survey shall be considered in compliance with this chapter as of the date of recording.

E. A building permit shall not be denied on the basis that a lot or parcel is part of a rural unimproved split, approved under this article.

F. A lot or parcel approved under this article shall not be restricted from being sold or offered for sale under sections [9-21A-6](#) and [9-21B-4](#) of this chapter.

G. A plat may not be recorded without all the appropriate signatures and a record of survey map may not be recorded without the letter of written approval or signature. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2019-4, 3-25-2019; Ord. O-2019-13, 6-11-2019; Ord. O-2022-43, 8-23-2022)

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