MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
Kane County Commission Chambers
76 N. Main Street, Kanab, UT
May 8, 2024

CHAIRMAN:	John Reese
MEMBERS PRESENT:	Doug Heaton, Byard Kershaw, Gwen Brown, John Reese, Matt Cox, Mason Haycock
MEMBERS ABSENT:	Jeremy Chamberlain
EX-OFFICIO MEMBER:	Commissioner Wade Heaton
STAFF PRESENT	Shannon McBride, Land Use Administrator; Wendy Allan, Assistant P&Z Administrator; Rob Van Dyke, Attorney-via phone

6:00 PM	Meeting called to order	John Reese
	Invocation	Matt Cox
	Pledge of Allegiance	Mason Haycock

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GENERAL BUSINESS

1. Update on Commission Decisions
Commissioner Wade Heaton reported that the Willow Estates preliminary plat has yet to be on the commissioner's agenda. He anticipates that the commissioners will hold them to the recommendations from the Planning Commission. The two lot subdivision near Meadow View was approved. The commission also approved the recommendation to appoint the Land Use Authority Administrator as the Administrative Land Use Authority.

2. Approval of minutes
April 10, 2024

MOTION: Doug Heaton made a motion to **approve** the April 10, 2024 minutes. Byard Kershaw seconded the motion.

VOTE: The **motion passed** unanimously.

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

VOTE: The **motion passed** unanimously.

3. Public Meeting – Temporary Use Permit: Brown
An application for a conditional 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 Safley for Angela Brown.

Shannon reviewed the history of prior requests regarding this property. She reminded the Planning Commission that the family came in after their event last year to apply for a temporary use permit. That request was denied. She read Kane County Land Use Ordinance 9-15B-9 regarding resubmittals which reads, "An application for a temporary use which has been denied may be resubmitted only if there has been a substantial change in circumstances as determined by the land use administrator. Appeals to all final land use administrator and planning commission decisions shall be made to the appeal authority within thirty (30) days of denial of the temporary use permit." (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Shannon explained that Angela submitted an application for a temporary use permit but did not provide many details. Shannon noted that several neighboring property owners called and emailed expressing concern over the amount of people and the impact on the area. Shannon stressed that if this request is denied the applicant has 30 days to apply for a variance through the Appeal Authority. Shannon informed the Planning Commission that the family is planning to apply for an additional permit for another reunion in July.

Shannon reported that the family feels that things have changed but phone calls from the neighbors still expressed much concern. Shannon read a portion of a letter from Angela Brown (attachment #1). Shannon reported that several years ago she suggested the property owners ask for a zone change. Now that is not the best option.

MOTION: Matt Cox made a motion to **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 Safley, as trustee manager, based on the findings documented in the staff report. Gwen Brown seconded the motion.

Gwen feels that nothing has changed since last year and that a reunion of that size does not belong in a residential subdivision with ½ acres lots. Doug Heaton stated that gathering family on 5 acres once or twice a year should not be shut down.

VOTE: Gwen Brown, John Reese, Mason Haycock, and Matt Cox voted aye. Doug Heaton and Byard Kershaw voted nay. The motion to **deny** the conditional use permit **passed.**

FACTS & 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)

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4. Public Meeting – 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. Submitted by Jonathon Mitchell.

Shannon explained that the property owner is requesting an extension to their conditional use permit. She shared a brief from the property owner explaining the delay with this project (attachment #2). Nothing has changed in the project and the property owner will need to comply with all of the original conditions. This was originally approved in 2021.

MOTION: Mason Haycock made a motion to **approve** 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. Byard Kershaw seconded the motion.

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

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.

5. Public Hearing – 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.

Tom Avant, Iron Rock Group, explained that this is in the Clark Bench area. They owner would like to combine the lots to include both buildings on a single parcel.

Shannon has reviewed all documentation and recommends approval.

Chairman Reese called the commission into public hearing.

(No Comments)

Chairman Reese called the commission out of public hearing.

MOTION: Byard Kershaw made a motion to **approve** 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. Matt Cox seconded the motion.

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

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

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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.

6. Public Hearing – 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.

Rick Kessell, Britt Roth's father, spoke on behalf of Britt explaining that they have 40 acres with 30 acres being developed into the Dark Sky RV Park. There are 10 acres of the parcel that is divided off by a wash. They are asking to rezone those 10 acres to build two homes.

Shannon stated that she has not received any objections to this project. They plan to do a two lot subdivision if this zone change is approved. She noted that banks do not want to loan on homes that are connected with a commercial venture. Shannon stressed that they are asking for a much more restrictive zone.

Chairman Reese called the commission into public hearing.

(No Comments)

Chairman Reese called the commission out of public hearing.

MOTION: Matt Cox made a motion to **recommend 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. Mason Haycock seconded the motion.

VOTE: The vote was unanimous to recommend approval.

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

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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.

7. Public Hearing – 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, 86-22-3A and 86-22-3B 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.

Brent Carter, New Horizon Engineering, explained that they realigned some of their parcel lines to make them better fit their overall plan. They are reducing the Commercial zoning from 15 acres to 8 acres. It was clarified that they adjusted several of the lot lines and they want to make the zoning clear on the new parcels.

Shannon has not received any objections to the zone change. She recommends approval.

Chairman Reese called the commission into public hearing.

(No Comments)

Chairman Reese called the commission out of public hearing.

MOTION: Matt Cox made a motion to **recommend approving** the zone change to C-1 for parcels 8-6-22-2, 8-6-22-3A and 8-6-22-3B totaling 8.0 acres and parcels 8-6-27-4 and 8-6-22-4 to R-1 totaling 175.77 acres and Ordinance 2024-18 to the County Commission based on the facts and findings as documented in the staff report. Doug Heaton seconded the motion.

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

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)
- **9-7B-1: PURPOSE:**
  The purpose of the Commercial 1 zone is to provide for the sale of goods and the performance of services and other activities for which the market extends beyond the immediate area. (Ord. O-2022-42, 7-26-2022; amd. Ord. O-2022-60, 11-22-2022)

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9-7B-2: USE REGULATIONS:

Development of any parcel of land for any of the uses listed in this section exceeding fifteen thousand (15,000) square feet of total building floor area are not permitted in this zone.

A. Permitted Uses: The following uses are permitted in the C-1 zone:

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

Any permitted uses listed in the light commercial (L-C) zone.

Restaurants.

Retail sale and/or rental of goods, merchandise and equipment conducted wholly within an enclosed building.

Tour Companies without ATV/UHV rentals.

B. Multi-Residential, Residential And Agricultural Uses: All uses listed in the multi-residential, residential and agricultural uses table are allowed in the C-1 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.

Automobile car wash, not to exceed four (4) bays.

Automobile sales

Automobile fuel stations.

Cell towers.

Child daycare or preschool center which meets all state and local regulations.

Commercial recreation and entertainment facilities, not to include sexually oriented businesses.

Heli pad private.

Private business and technical schools.

Reception center and/or wedding chapel.

D. Any uses not set forth in this section or L-C are not allowed.

E. Other: Any use not named which may be considered harmonious with the zone and current 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

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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.

8. Public Hearing – 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 Subdivision. Submitted by Jordan & Ashleah Pope.

Ashleah Pope explained that they are building a primary building and an ADU [accessory dwelling unit]. They would like to be able to short term rent both units.

Shannon explained that the area does not have water and so the health department will not approve short term rentals. She pointed out that if the R-2 zone is approved the property owner can build a secondary home of 75% of the square footage of the main home.With a conditional use permit they could have two short term rentals.

Ashleah explained that property owners in the area as well as the owners of the Ponderosa Ranch are working on a water system and plan to break ground later this month.

Chairman Reese called the commission into public hearing.

(No Comments)

Chairman Reese called the commission out of public hearing.

MOTION: Mason Haycock made a motion to **recommend approving** the zone change for lot 8A-F-42 from R-1 to R-2 & Ordinance 2024-16 to the County Commission based on the facts and findings as documented in the staff report. Byard Kershaw seconded the motion.

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

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

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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-2 uses table will be allowed.

9. Public Hearing – 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.

Linzey Harris, representing Mr. Conrad, explained that the applicant needs to go from R-1/2 to R-1 to allow for a larger second home. She said the rec room on the property has a dwelling in it.

Shannon explained that the property owner applied for a building permit. Because the rec room has a bathroom and kitchen in it, it is considered a dwelling. Shannon received several calls as well as a letter from the Homed Owner's Association (HOA) informing her that the CC&Rs do not allow for a second dwelling. The HOA has been working with the property owner to rectify the situation. Shannon showed the surrounding zones.

Linzey explained that they property owner will live in the rec room while the primary residence is being built. After the home is completed they plan to remove the kitchen from the rec room.

Chairman Reese called the commission into public hearing.

(No Comments)

Chairman Reese called the commission out of public hearing.

MOTION: Matt Cox made a motion to **recommend approving** the zone change for lot 161-97 from R-1/2 to R-1 & Ordinance 2024-17 to the county Commission based on the facts and findings as documented in the staff report. Gwen Brown seconded the motion.

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

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.

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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-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-½ Zone. The R-½ 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 ½ 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, "-".

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

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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

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10. Public Hearing – Ordinance 2024-19: 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.

Shannon stated that her office regularly takes calls regarding lodges. The Zion Ridge Subdivision [east of Zion National Park] has R-5 zoning and there are many very large homes that are rented out as a lodge. The building code [IBC] requires a fire suppression system in homes rented to more than 10 individuals. Shannon would like to insert the IBC code in the Land Use Code. She stressed that she is not adding any new regulation, simply making it easier for the public to find.

Chairman Reese called the commission into public hearing.

(No Comments)

Chairman Reese called the commission out of public hearing.

Shannon explained that when a property owner applies for a conditional use permit for a lodge she will require sprinklers. It was stressed that if it is just a large home it does not require sprinklers.

Tom Avant, Kane County Engineer, explained the IRC and IBC require sprinklers in all buildings. The state of Utah has exempted R-3 class buildings (single family homes) from this

requirement. However, when you rent it the class changes from R-3 to R-1, which is transient lodging, and it does not qualify for the exemption. Shannon noted that County code allows a maximum of 10 individuals in a short term rental unless they are classified as a lodge in an R-5 zone.

MOTION: Matt Cox made a motion to **recommend approving O-2024-19 to the County Commissioners.** Mason Haycock seconded the motion.

VOTE: Matt Cox, Mason Haycock, Byard, Kershaw, John Reese and Gwen Brown vote aye. Doug Heaton voted nay. The motion to recommend **approval passed.**

11. Public Hearing – Ordinance 2024-14: KCLUO Chapter 21
An ordinance revising Kane County Land Use Ordinance Chapter 21 Subdivisions to become complaint with Utah code 12-27a-604.1 and changing the name of the Kane County Standard Specifications and Drawing Details for Design and Construction.

Shannon explained that this is the start of revising our subdivision ordinance to comply with state code. She stressed that when state code says "shall" we must comply. The county can be more restrictive than state code but not less. When state code specifies "may" the county can determine how they want to proceed. Shannon reviewed the recommended change (attachment #3).

Shannon asked the Planning Commission's opinion on holding a public hearing and receiving public comment on preliminary plats and if they want to permit concurrent processing of the final subdivision plat application with the preliminary subdivision plat application. Shannon requested that the county require preliminary plat be approved prior to proceeding to final plat. Tom Avant explained that when you move from preliminary plat to construction drawings there are adjustments that need to be made to the final plat.

Doug Heaton expressed the opinion that a public hearing would be a waste of time as the Planning Commission and County Commissioners do not have any decision making authority.

Commissioner Wade Heaton stressed that this is about the implementation of the ordinance. He reminded the Planning Commission that the public can reach out at any time to Shannon, the Planning Commission or the County Commissioners to try to affect change but allowing a public hearing when they cannot affect change is not helpful.

John Reese agrees with separating preliminary plat from the final plat. The Planning Commission all agreed with that. Tom stated that even with keeping preliminary and final plat separated the overall process will be quicker.

Commissioner Wade Heaton feels that holding a public meeting with public comment undermines the purpose of changes that are being made. Doug Heaton indicated it is deceptive to the public.

DRAFT

MOTION: Byard Kershaw made a **motion to allow county staff to review and approve preliminary subdivision applications**. Doug Heaton seconded the motion.

Gwen is concerned that we are not listening to the public. She feels that they should have the opportunity to stated their opinions and be heard. Mason acknowledged Gwen's concern but feels that in this case it would be a placebo effect. Doug suggested that we would be deceiving the public to tell them they can be heard when they cannot affect the decision. Commissioner Wade Heaton stressed that at this point there is no decision to be made. It is simply a matter of applying ordinance.

VOTE: The vote was **unanimous** to allow staff to review and approve preliminary plats.

Chairman Reese called the commission into public hearing.

(No Comments)

Chairman Reese called the commission out of public hearing.

MOTION: Mason Haycock made a motion to **postpone** Ordinance 2024-14 KCLUO Chapter 21 Subdivision Regulations to June 12, 2024 Planning Commission meeting to work on final plat procedures for subdivisions. Matt Cox seconded the motion.

VOTE: The vote was **unanimous to postpone** final decision on this item.

John reminded the P&Z to let the group know if they will not be to Planning Commission meeting.

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

DRAFT

_____	_____
Land Use Authority Chair	Assistant Planning & Zoning Administrator
John Reese	Wendy Allan

Attachment #1

05/06/2024

Angela Brown for Heritage Acres on Bach Dr.

Dear Kane County,

I am writing this letter in hopes of obtaining a conditional user permit for a family reunion to be held on my property named Heritage Acres on Bach dr.

I reside in Rexburg Idaho and am unable to come to the meeting. I am wanting to have a family reunion that will have approx. five to ten RV's and anywhere from 30 – 80 people attending. We will have some games and volleyball, swings, horseshoes, and a lot of visiting, depending on the fire restrictions we will sit around the campfire, that is in an approved fire pit, in the evenings. We are generally not a loud bunch and know that we must keep the noise down or eliminated by 10:00pm. There may be a couple of people that have ATVs, that have been made aware of the speed limits.

We know that our neighbors have complained in the past, we really want to be good neighbors, so we have asked neighbors what their concerns are, here is some of them: 1. Too much dust on our west side access road on our property, to address this we have asked everyone to drive slowly and we will water down the road to help alleviate some of the dust, we are working on adding some road base on our property. 2. Blocking driveway: the neighbor said it was only about 30 seconds and the driver was waiting in his vehicle waiting to pull onto the property, we have just asked people to pull right in or wait up the hill until they can directly pull in. 3: Speeding ATVs, again we have asked that they go slow around the residences and follow all speed laws and not drive them at night. 4: lights shining into their home at night, not sure how to address this, accept encourage all to stay put after dark if possible.

We have been using this property for 46 years, we have been good neighbors. We love the area and I have a grandson named Kane because this property means so much to my children and always knew we were in Kane County. Please consider this permit and feel free to call me with any clarification.

Thank you for your consideration, Angela Brown, (208) 419-1439

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.

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

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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.	
□	□	Drawings comply with Utah Code 17-23-17
□	□	(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 holds power of attorney~~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 ($^1/_2$) 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~~ T~~h~~e 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.**

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.

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:

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.

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

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.

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.

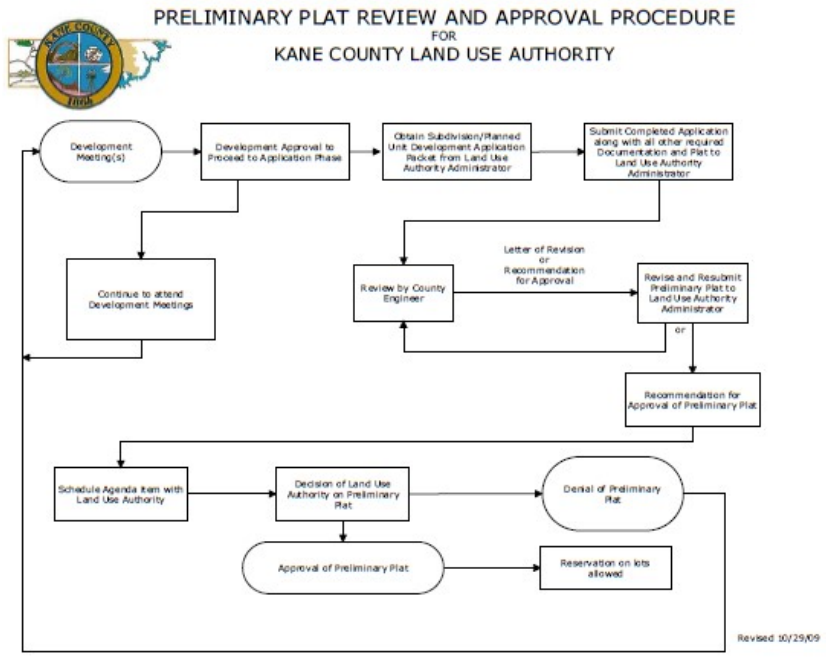
E. Each land use authority shall substantively review a complete application and an application considered complete and shall approve or deny each application with reasonable diligence.

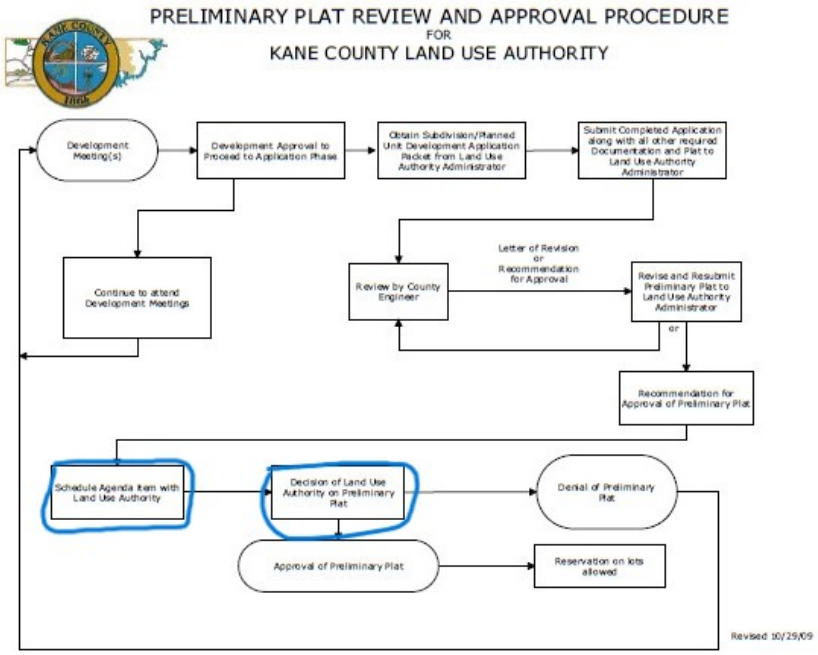
F. After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

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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.

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 ~~joinded~~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-~~6~~7: Final Plat Recording

9-21E-~~8~~ 7: Final Plat Distribution

9-21E-~~9~~8: 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: