MINUTES
November 13, 2024
Planning Commission/Land Use Authority
Kane County Commission Chambers
76 N. Main Street, Kanab, Utah

CHAIRMAN:	John Reese
MEMBERS PRESENT:	John Reese, Doug Heaton, Byard Kershaw, Gwen Brown, Jeremy Chamberlain, Matt Cox, Mason Haycock
MEMBERS ABSENT:	
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	John Reese
	Invocation	Jeremy Chamberlain
	Pledge of Allegiance	Mason Haycock

GENERAL BUSINESS

1. Update on Commission Decisions

Commissioner Wade Heaton reported that the commissioners approved a zone change to R-2 for Kanab 160 LLC. They also approved two zone changes on Highway 9.

He also informed the Planning Commission that the proposed solar farm west of Big Water is making some significant changes and the county has required they apply for new recommendations for SITLA. They will now include battery storage on site. The Commissioners are currently working to form their recommendations.

2. Approval of minutes
October 9, 2024

MOTION: Doug Heaton made a motion to **approve** the minutes of October 9, 2024. Jeremy Chamberlain seconded the motion.

VOTE: The **motion passed** unanimously.

Shannon recognized Byard Kershaw for 10 years of service on the Planning Commission.

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 Mason Haycock.

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VOTE: The **motion passed** unanimously.

3. Public Hearing - Zone Change/Ordinance 2024-27: Midnight Properties LLC
An application for a zone change from Agricultural (AG) to Rural 10 (RU-10) for parcel 1-9-12-2A containing 11.54 acres, located on Highway 9 approximately one mile east of the Peaches Planned Unit Development. Submitted by Tom Avant, Iron Rock Group, holding power of attorney.

Tom Avant explained that this is south of the "roller coaster" on Highway 9. They are requesting RU-10 zoning. The family has owned the property since the 1950's. They would like to put nightly rentals on this parcel and continue to run cattle on the larger parcel.

Shannon showed the uses table for the new zone and stated that everything is in order.

Chairman Reese called the commission into public hearing.

(No Comments)

Chairman Reese called the commission out of public hearing.

MOTION: Doug Heaton made a motion to **recommend approving** the zone change from AG to RU-10 for parcel 1-9-12-2A and Ordinance 2024-27 to the County Commission based on the facts and findings as documented in the staff report. Seconded by Mason Haycock.

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

FINDINGS:
- Parcel 1-9-12-2A meets the minimum acreage required to be zoned RU-10. The parcel is currently zoned AG.
- The developer requests RU-10 zoning which requires a zone change.
- If the zone change is approved all uses contained in the RU-10 uses table will be allowed.
- Surrounding parcels are zoned AG, RU-10 and RU-40.
- The parcel would gain access from Highway 9 and Thurston Road.
- All property owners within 500 ft. of this parcel have been mailed a public notice and a sign has been posted near the parcel.
- **9-5A-1: AG PURPOSE**: To preserve appropriate areas for permanent and temporary agricultural and open space areas as defined herein. Uses normally and necessarily related to agriculture are permitted as set forth in the use matrix below and uses adverse to the continuance of agricultural activity are discouraged in general and specifically prohibited only as set forth herein. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- **9-5B-1: RURAL PURPOSE:** Kane County continues to grow and increase in economic development. In areas of the county where there is a large amount of land that is zoned agricultural there is very low density and many lands that retain a rural feel along with

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many traditional agricultural uses. These lands are not suitable to be zoned commercial with the possibility of many varied commercial uses that are much higher in density and come with a much larger impact to the surrounding areas. However, to promote appropriate growth and economic development in these low density rural areas there is a need to allow additional uses beyond what is allowed in the Agricultural Zone. The purpose of the Rural Zone is to allow uses that are similar to the Agricultural Zone but also allow some additional uses for growth and economic development, such as recreation and tourism related uses that are better suited for these rural areas. (Ord. O-2020-14, 6-23-2020)

- **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.

4. Public Hearing – Road Dedication/Ordinance 2024-29: Dehban
An application to vacate and dedicate an easement, vacating (4) 25' ingress & egress and public utility easements and recording a 50' ingress & egress and public utility easement to align with the existing Spencer Towers Road on parcels 9-6-29-56, 9-6-29-57 & 9-6-29-58. Submitted by Tom Avant, Iron Rock Group, holding power of attorney.

Tom Avant explained that this is on Spencer's Bench on the way to the radio/TV tower on the hill. The easements currently run along the property lines. They would like to dedicated the easement for the existing road and vacate the easements south of the road. They are not vacating anything that is a constructed roadway.

Shannon stated that the existing road is actually a prescriptive easement. It will now be a county road and Bert will continue to maintain it. It was clarified that only the portion of the road across these three parcels is being dedicated today.

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** to the Kane County Commission, Ordinance 2024-29 for an EASEMENT DEDICATION and EASEMENT VACATION**.** Dedicating and vacating portions of the public ingress/egress and public utility easements through parcels 9-6-2-56, 9-6-29-57, and 9-6-29-58, consisting of 1.35 acres (more or less) based on the findings documented in the staff report. The easement maintenance will be

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accepted by Kane County since they are currently maintaining the road. Seconded by Byard Kershaw.

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

FACTS & FINDINGS: Dedicating and vacating portions of the prescriptive easement and public utility easements conforms to the standards in the Kane County Land Use Ordinance, 9-21F-1-6. Utah Code Sections §17-27a-201, 202, 206, 208, 308 & §17-27a-607 & 608 & 609 & 609.5 requirements have all been met. The project has been posted and noticed in the local newspaper, and on the county and state websites. Notices were mailed out to all property owners within 500 feet of the project and those properties that are accessed by the right-of-way, or easement. A sign was posted on or near the easement in a manner that is calculated to alert the public. Good cause exists for dedicating and vacating portions of the right-of-way; neither the public interest nor any person will be materially injured by the proposed dedication of the above right-of-way/easement. Dedicating and Vacating portions of the easement, right-of-way is in compliance with all state and local ordinances. Bert Harris, Kane County Roads Department, is in support of this easement dedication, vacation and realignment.

Bert Harris, Roads Department agreed that road maintenance will be accepted by Kane County since they have already been maintaining the easement**.**

5. Public Meeting – Compliance Review: Holms
An application for a compliance review of previously divided property, parcels 8-3-1-1B and 8-3-1-1C. Submitted by Landon Holms.

Shannon explained that this property was divided improperly. The property owner was required to join the two parcels back together before he could apply for a compliance review. Shannon explained that in 1986 the County grandfathered in all the illegal splits in the county. For properties divided after that year, Shannon researches what year the property was split and what state code required at that time. Shannon worked with Rob to come up with a way to help the property owners become compliant. It was decided to have the property owners complete any steps that were missed when the property was divided. There is no charge to go through the process.

These properties were split in 1997 and did not go through the Planning Commission for approval. They are now coming before the commission for approval of the split. This property is close to Kodachrome State Park.

Shannon recommends approval of this compliance review.

MOTION: Jeremy Chamberlain made a motion to **approve** the compliance review of previously divided property, on behalf of Landon Holm, for parcel 48-6-1B, based on the findings as documented in the staff report. Seconded by Gwen Brown.

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

FINDINGS: The following was considered and determined relating to subdivision compliance, as required by the Resolution:

1. Whether the County considers the real property that is the subject of this application to be illegally or improperly subdivided:
   FINDING: YES, the real property is considered to be illegally/improperly subdivided.
2. At the time this subdivision of property occurred, the following were the ***substantive requirements of Utah State Code*** to subdivide real property:
   a. Utah State Code 17-27-806-Exemptions from plat requirement. (See Attached)
   b. FINDING: Upon review, the Land Use Administrator has found that the Applicant was compliant with Utah State Code substantive requirements at the time of the subdivision. Except a record of survey was not filed, and they did not go through the Planning Commission.
3. At the time this subdivision of real property occurred, the following were the ***substantive requirements of the Kane County Ordinance*** to subdivide real property:
   a. See Attached
   b. FINDING: Upon review, the Land Use Administrator has found that the Applicant was compliant with County Ordinance substantive requirements at the time of the subdivision. A record of survey has been filed and the Planning Commission needs to recommend approval for the parcel to be compliant.
4. At the time this subdivision of property occurred, the following was ***procedurally required by Utah State Code*** to subdivide real property:
   a. See attached Utah State Code.
   b. FINDING: Upon review, the Land Use Administrator has found that the Applicant was compliant with Utah State Code substantive requirements at the time of the subdivision. The applicant has filed a record of survey and is asking for the Planning Commission's approval for recommendation to be in compliance with the 1997 requirements under the exemption to the plat.
5. At the time this subdivision of property occurred, the following was ***procedurally required by County Ordinance***:
   a. [*See attached County Code]*

"If all substantive requirements were met but not all procedural requirements were met at the time of the illegal division of land the Land Use Administrator shall present the application to the Planning Commission/Land Use Authority for review and approval. All of the land included in an application that has been approved by the Planning Commission/Land Use Authority shall be considered legally divided as of the time of the division."

FURTHER FINDINGS: No minutes were found showing the subdivision went before the Planning Commission as required per Utah State Code. Landon combined parcel 8-3-1-1C back into the parent parcel 8-3-1-1B to be compliant with the requirements.

6. Public Hearing – Lot Joinder: Gormley

An application to amend a subdivision plat for a lot joinder joining lots 48, 49 & 50 becoming new lot 49 containing 1.49 acres, Strawberry Valley Estates, Unit 2. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

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Shannon explained that this is a simple lot joinder. The project has been reviewed and she recommends approval.

Chairman Reese called the commission into public hearing.

(No Comments)

Chairman Reese called the commission out of public hearing.

MOTION: Gwen Brown made a motion to **approve** the amended subdivision plat for a lot joinder in the Strawberry Valley Estates, Unit No. 2 Subdivision, consisting of lots 48, 49 & 50 becoming new lot 49, based on the findings documented in the staff report. Seconded by Mason Haycock.

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 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-1/2 zone.

7. Public Hearing: Lot Joinder: Johnson
An application to amend a subdivision plat for a lot joinder joining lots 250 & 255, becoming new lot 250 containing 1.40 acres, Swains Creek Pines, Unit 1 Amended. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Shannon stated that this is another simple lot joinder. Everything has been reviewed and is in order.

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 **approve** the amended subdivision plat for a lot joinder in the Strawberry Valley Estates, Unit No. 2 Subdivision, consisting of lots 49 & 50 becoming new lot 49, based on the findings documented in the staff report. Seconded by Byard Kershaw.

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

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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-1/2 zone.
Matt Cox joined the meeting.

8. Public Hearing – Lot Joinder: Schroeder

An application to amend a subdivision plat for a lot joinder joining lots 253 & 254 becoming new lot 254 containing 1.11 acres, Swains Creek Pines, Unit 1 Amended. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Shannon stated that this is another simple lot joinder. The project has been reviewed and everything is in order.

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 in the Swains Creek Pines Subdivision, Unit 1, consisting of lots 253 & 254 becoming new lot 254, based on the findings documented in the staff report. Seconded by Gwen Brown.

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 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-1/2 zone.

9. Public Hearing – Lot Joinder: Bergevin
An application to amend a subdivision plat for a lot joinder joining lots 18 & 19, becoming new lot 18 containing 0.88 acres, and vacating (2) 5' walkway easements, Block 1, Movie Ranch South Estates, Plat "A". Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

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Shannon explained that this project is asking to vacate a walking easement. This walkway does not lead to the forest and Shannon has not received any opposition to vacating it. Shannon 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 approval** to the Kane County Commissioners the amendment of a subdivision plat for a lot joinder, on behalf of Duane Donald and Carol Ann Miller, combining lots 18 & 19 becoming new lot 18 and vacating two 5-foot public walking easements in the movie Ranch South Estates Subdivision, based on the findings as documented in the staff report. Seconded by Jeremy Chamberlain

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

FINDINGS: Amending (joining) lots 18 & 19 and vacating two (2) 5-foot public walking easements for the above-stated lots conforms to the standards in Kane County Land Use Ordinance, (Section 9-21E-9, A-F) and Utah Code (Sections §17-27a-201, 202, 206, 208 and §17-27a-608, 609 and 609.5). All submission requirements have been met, including:

1. Public notification: Posted in two public locations and on both the county and state websites.
2. Mailings: Notices were mailed out to all property owners within a 500-foot radius of the easement.
3. On-site posting: A sign was posted showing the vacating of two (2) 5-foot public walking easements.
4. Zoning: The new lot will retain the Residential ½ zoning (R-1/2). The original subdivision plat dedicated all easements to Kane County. The commissioners hold the legislative authority which allows for the vacating of the walking easements. This particular easement does not lead to forest land or other trails, making it eligible for vacation under the stated conditions.

10. Public Hearing – Lot Joinder: Speck
An application to amend a subdivision plat for a lot joinder joining lots 49 & 50, becoming new lot 49 containing 1.89 acres, Duck Creek Pines, Phase 3. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Shannon explained that this is standard lot joinder. Everything is in order and she recommends approval.

Chairman Reese called the commission into public hearing.

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(No Comments)

Chairman Reese called the commission out of public hearing.

MOTION: Jeremy Chamberlain made a motion to **approve** the amended subdivision plat for a lot joinder in the Duck Creek Pines Subdivision, Phase 3, consisting of lots 48 & 50, becoming new lot 49, based on the findings documented in the staff report. Seconded by Matt Cox.

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 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-1/2 zone.

11. Public Hearing – Lot Joinder: Felli
An application to amend a subdivision plat for a lot joinder joining lots 113 & 114, becoming new lot 114 containing 1.43 acres, and vacating (2) 7.5' public utility easements, Zion View Mountain Estates, Unit D. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Shannon explained that because this is vacating easements it must be recommended to the County Commissioners. 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 approval** to the Kane County Commissioners amending a subdivision plat for a lot joinder, on behalf of Sam & Shawna Felli, combining lots 113 & 114 becoming new lot 114 and vacating (2) 7.5' public utility easements, in the Zion View Mountain Estates, Unit D, based on the findings documented in the staff report. Seconded by Jeremy Chamberlain.

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

FINDINGS: Amending (joining) lots 113 & 114 and vacating two (2) 7.5-foot public utility easements for the above-stated lots conforms to the standards in Kane County Land Use Ordinance, 9-21E-9, (A-F) and Utah Code Sections §17-27a-201, 202, 206, 208 and §17-27a-608,

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609 and 609.5. 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. A sign was posted showing the vacating of two (2) 7.5-foot public utility easements. The new lot will retain the Residential ½ zoning (R-1/2).

12. Public Hearing – Amended Plat/Ordinance 2024-28: Jorgensen
An application to vacate, amend and extend a subdivision plat, by Ordinance 2024-28, vacating lot 183 out of Swains Creek Pines, Unit 1, and joining it with lot 268, Swains Creek Pines, Unit 2, becoming new lot 268 containing 1.37 acres, and vacating (2) 6' public utility easements. Submitted by Tom Avant, Iron Rock Group, holing power of attorney.

Tom explained that they are combining the lots and vacating the easements between the lots. It requires two plats because the lots are in different subdivisions.

Shannon recommends approval.

Jeremy noticed that one of the utility easements being vacated also states that it is an access easement. Tom clarified that on the original plat the access is specifically for the utilities and the access goes away with the utility easement.

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 approval** to the Kane County Commissioners to amend, extend and vacate a portion of the Swains Creek Pines Subdivision, Units 1 and 2 for a lot joinder, combining lots 183 and 268 becoming new lot 268, and vacating (2) 6' public utility easements by Ordinance 2024-28, in the Swains Creek Pines, Unit No. 1 and Unit No. 2 Amended, based on the findings documented in the staff report. Seconded by Matt Cox.

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

FINDINGS: Amending lots 183 & 268 and vacating lot 183 and joining lots 183 & 268 thereby extending lot 268 into Unit 2 with vacating two (2) 6-foot public utility easements for the above-stated lots, conforms to the standards in 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 and 609.5. 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. A sign was posted showing the vacating of two (2) 6-foot public utility easements. The new lot will retain the Residential ½ zoning (R-1/2).

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13. Public Hearing – Lot Joinder: Bedier
An application to amend a subdivision plat for a lot joinder joining lots 193 & 194, becoming new lot 193 containing 1.10 acres, Swains Creek Pines, Unit 1 Amended. Submitted by Tom Avant, Iron Rock Engineering, holding power of attorney.

Tom stated that this project is joining two lots together. No easements are involved.

Shannon stated that everything is in order and 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 **approve** the amended subdivision plat for lot joinder, on behalf of Jeremy and Aspen Bedier, in the Swains Creek Pines Subdivision, consisting of lots 193 and 194 becoming new lot 193, based on the findings documented in the staff report. Seconded by Gwen Brown.

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 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-1/2 zone.

14. Public Hearing – Lot Joinder: Soucy
An application to amend a subdivision plat for a lot joinder joining lots 162 & 163A, becoming amended lot 163A containing 0.69 acres, Zion View Mountain Estates, Unit 1. Submitted by Mike Stewart, Red Sands Geomatics, holding power of attorney.

Mike Stewart explained that this is a lot joinder that is adding a lot with a previously joined lot.

Shannon stated that everything has been reviewed and is in order and she recommends approval.

Chairman Reese called the commission into public hearing.

(No Comments)

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Chairman Reese called the commission out of public hearing.

MOTION: Gwen Brown made a motion to **approve** the amended subdivision plat for a Lot Joinder in the Zion View Mountain Estates Subdivision, Unit 1 Amended, consisting of lots 163A & 162 becoming new lot 163A, based on the findings documented in the staff report. Seconded by Matt Cox.

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 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-1/2 zone.

15. Public Hearing – Lot Joinder: Mosteller
An application to amend a subdivision plat for a lot joinder joining lots 74, 75, 76 & 77, becoming amended lot 74 containing 1.93 acres, and vacating (10) 7.5' public utility easements, Zion View Mountain Estates, Unit D. Submitted by Mike Stewart, Red Sands Geomatics, holding power of attorney.

Mike Stewart stated that they are joining the lots together and vacating the easements in between the lots.

Shannon has reviewed the appliction 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 **recommend approval** to the Kane County Commissioners amending a subdivision plat for a lot joinder, and vacating ten 7.5 -foot utility easements, in the Zion View Mountain Estates Subdivision, Unit D, lots 74, 75, 76, & 77 becoming new amended lot 77, on behalf of Christopher Robert Mosteller, based on the findings documented in the staff report. Seconded by Matt Cox.

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

FINDINGS: Amending (joining) the lots and vacating ten 7.5-foot public utility easements for the above-stated lots conforms to the standards in 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 and 609.5. All

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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. A sign was posted showing the vacating of ten 7.5-foot public utility easements. The new lot will retain the Residential ½ zoning (R-1/2).

16. Public Meeting – Subdivision: Roth
An application for a preliminary plat for the Chillville Subdivision, parcel 3-6-36-1B, creating two 5-acre lots, located east of Kanab and west of the Dark Sky RV Park. Submitted by Mike Stewart, Red Sands Geomatics.

Shannon explained that this is a two-lot subdivision. The develoment agreement is asking for an exception to the bonding. The second lot is a flag lot that allows them to make the access a driveway instead of a road. Rob stated that he still needs to make a few corrections to the development agreement. He explained that the development agreement allows them to move forward without a bond, however, if there are any issues with the subdivision within the first year of completion, the County will have the ability to asses a fine. After a discussion, it was determined that the water conservancy will warranty their own work on the water line and fire hydrant.

Matt asked for clarification on why they do not need a road to the second lot. Tom explained that there is a provision that allows for a flag lot. That allows them to extend a 50' part of the lot to the access road for a driveway. They will still need to meet WUI standards with their driveway.

MOTION: Mason Haycock made a motion to **recommend approval** to the Kane County Commissioners the preliminary plat for the two-lot Chillville Subdivision, on behalf of Britt Roth. Seconded by Byard Kershaw.

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

FINDINGS: The Chillville Subdivision, application and preliminary plat complies with Utah State Code unannotated §17-27a-601, 603, 604, 604.5, 606, 607and 608. The Chillville Subdivision preliminary plat complies with Kane County Land Use Ordinance, Title 9, Chapter 21E-I, Subdivision Regulations. All requirements for rights-of-way and easements conform to the standards in the Kane County Land Use Ordinance and the Kane County Construction and Design Standards. 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.

17. Discussion – Plat Requirements: Mike Stewart
Mike Stewart will respond to last month's discussion on the Radich/Williams plat.

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Shannon reminded the Planning Commission (P&Z) that Mike was unable to attend last month's meeting. He has listened to the minutes from the meeting and would like to tell his side of the story.

John clarified that this is in regards to doing survey work and going out on the ground and physically locating corners versus working only from the plat maps. The decision from last month was that the P&Z would like the surveyors to go out on the ground and verify the markers.

Mike gave the Planning Commission a copy of Utah Code 17-27a-608. Mike stated that as a surveyor he does record of surveys. A record of survey is not a conveying document. It is strictly a professional opinion. It is possible to hire three different surveyors and come up with three different opinions. However, a subdivision plat is a conveying document that requires approval and is signed by the owners. An amended plat and subdivision plat are basically the same and are recorded differently than a record of survey. In some counties, the record of survey is only filed with the County Surveyor's office and not the County Recorder's office. In our small county those office are combined. Property owners or a judge are the only ones that have the power to change property lines. A surveyor cannot change property lines. A surveyor shows where the property lines are located.

Mike reviewed Utah code 12-27a-608 (6) (b)(1-3) with the Planning Commission (attachment #1). He noted that code states "the surveyor preparing the amended plat". It does not say surveying the amended plat. Mike reference Utah code 17-27A-103(62) that defines a record of survey map. He feels that that definition states that a subdivision is considered a record of survey map for this code. Mike feels that "verifying the location of the boundaries" is where the confusion is coming from. Mike believes that this is a matter of professional discretion. He said that some property owners do not want a survey because they know where their corners are and they just want to eliminate a line on paper. Mike stated that he has done several lot joinders and doing it from the original recorded subdivision map eliminates the risk of more error.

Mike shared an example of a lot joinder project that resulted in an 18 foot overlap of properties because of a survey that was done and recorded. He stated that those problems do not arise when you join lots based solely on the recorded dimensions. He conceded that there are times when you need to do a survey. However, there are instances where you do not need to step foot on the ground. Mike noted that Garfield, Iron, Beaver and Carbon counties all accept the lot joinders drawn from the original subdivision plat.

John explained that the state code wording was the basis for a decision made last month. Shannon informed the P&Z that Travis Sanders, the county's alternate engineer, said that in Washington County he still goes out and verifies on the ground.

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Mike said he can justify not finding the location of the boundaries because he is referencing a subdivision map that has been surveyed by a surveyor that has signed and certified the map. That gives Mike the confidence that another professional and the land owner have already verified things. In the ombudsman's meeting it was brought up that it was better to not go on the ground because as soon as you do someone could argue that you just did a drive by survey. He said it is best to not go out on the ground unless you are going to do a full survey.

Mason stated that having someone go out on the ground may help alleviate future problems between neighbors. He also noted that the language in state code says the surveyor "shall" locate or place monuments. Mike agreed and reiterated that this not the best fit for everyone. Doug acknowledged that the state statute is vague and indicated that this needs to be changed by the state legislature. He feels that until that change is made the Planning Commission does not have the latitude to waive the requirement in statute. Matt Cox expressed the opinion that because the code is vague there is room for professional interpretation. He appreciates that Mike is trying to save his clients money. Matt was not aware that they were talking about specific instances last month. He would like to see things simplified.

Mike reminded the P&Z that there is a record of survey and an amended plat. The amended plat is amending an already recorded plat. He stated that some surveyors will do an amended plat on paper and then go out on the ground and do a record of survey to see where the issues are. Mike said that the less they rewrite the property descriptions the cleaner that title will be.

Commissioner Wade Heaton acknowledged that we do not want to go against state statute but he feels that there is enough grey area to allow Mike to amend the plat on paper only.

Tom agreed that the statute gives some ambiguity but it is what is recorded. Tom and Travis have changed the legal description requirement for an amended plat to only reference the lots and not include metes and bounds. By doing that they will not create any gap or overlap. Tom recommends going out on the ground to verify the location of the monuments. Jeremy questioned the survey requirement when metes and bounds are not referenced on the plat. He feels that it is redundant to require a survey.

Shannon pointed out that the call with the State Ombudsman it was brought to light that the code is different than what was originally written. There is a new bill going before the legislature this year to try to clarify this issue. The state ombudsman was not willing to give Shannon a written decision on the issue. Shannon stressed that this is not a case of right or wrong. The P&Z just needs to determine if they want to change their decision to require a surveyor to out on the ground to verify the locations of the markers.

John suggested the Planning Commission stick with their original decision on the matter and wait for the law to change. Matt feels that if lawyers can't figure it out then the P&Z should not be trying to interpret it and allow the surveyors do it how they choose. He would like to bring

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this back for a new decision. Gwen feels that state code is clear in what it says. Mason feels the same.

MOTION: Matt Cox made a motion to bring this back up in the next meeting. Jeremy Chamberlain seconded the motion.

VOTE: Matt and Jeremy voted aye. Byard, Mason, Gwen, Doug and John voted nay. The **motion failed.**

Matt Cox made a motion to adjourn. Mason Haycock seconded the motion.
Meeting was adjourned at 7:46 pm.

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

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17-27a-608

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

17-27a-103

(62) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

17-27a-603, is the subdivision code.

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