

**COMMISSION MEETING
PACKET**

DATE:

April 28, 2026

NOTICE AND AGENDA OF A MEETING OF THE KANE COUNTY COMMISSION

PUBLIC NOTICE IS HEREBY GIVEN that the Commissioners of Kane County, State of Utah, will hold a **Commission Meeting** in the Commission Chambers at the Kane County Courthouse, 76 N. Main Street, Kanab, Utah on **Tuesday, April 28, 2026** at the hour of **10:00 A.M.**

*The Commission Chair, in her discretion, may accept public comment on any listed agenda item unless more notice is required by the Open and Public Meetings Act.

View Online www.kane.utah.gov/publicmeetings or Dial: (US) +1 240-394-8436 – PIN: 821 151 844#

CALL MEETING TO ORDER
WELCOME
INVOCATION
PLEDGE OF ALLEGIANCE

PUBLIC COMMENT:

CONSENT AGENDA:

Check Edit Report: April 15, 2026-\$800,632.92 and April 22, 2026-\$107,832.22

Approval of: Commission Meeting Minutes for April 14, 2026

REGULAR SESSION:

- 1. Review of Proposed Development Agreement Regarding the Old Fort Ranch Property at Parcels 4-7-2-1 and 4-7-3-1A / Commissioner Brown**
- 2. Kane County Ordinance No. O 2026-12 An Ordinance Revising Kane County Land Use Ordinance Title 9 Chapter 15 Conditional and Temporary Uses Section 5 Article A: Time Limit in the Kane County Land Use Ordinance / Commissioner Brown**

Closed Session:

- Discussing an individual's character, professional competence, or physical or mental health.
- Strategy sessions to discuss collective bargaining, pending or reasonably imminent litigation, or the purchase, exchange lease or sale of real property.
- Discussions regarding security personnel, devices or systems.
- Investigative proceedings regarding allegations of criminal misconduct.

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Chameill Lamb at (435) 644-2458. Agenda items may be accelerated or taken out of order without notice as the Administration deems appropriate. All items to be placed on the agenda must be submitted to the Clerk's office by noon Thursday, prior to the meeting.

CONSENT AGENDA

Approval of:

Check Edit Report: April 15, 2026-\$800,632.92, and April
22, 2026-\$107,832.22

Commission Meeting Minutes for April 14, 2026

**MINUTES
OF THE KANE COUNTY
BOARD OF COMMISSIONERS' MEETING
April 14, 2026 at 10:00 AM
IN THE KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH**

Commissioner Attendance: Chair Gwen Brown, Commissioner Patty Kubeja, and Commissioner Celeste Meyeres

Other County Officials in Attendance: Attorney Jeff Stott, Clerk/Auditor Chameill Lamb, Shannon McBride, Alan Alldredge, and Taylor Glover

CALL MEETING TO ORDER: Commissioner Brown

WELCOME: Commissioner Brown

INVOCATION: Attorney Stott

PLEDGE OF ALLEGIANCE: Commissioner Brown

PUBLIC COMMENT:

Gary Webster with Senator Lee's Office gave an update on what Senator Lee has been up to in regards to the federal government.

CONSENT AGENDA:

Check Edit Report: March 25, 2026-\$891,267.52, April 1, 2026-\$60,671.37 and April 9, 2026-\$239,646.32

Approval of: Commission Meeting Minutes for March 24, 2026

Motion to approve the Check Edit Report from March 25, 2026-\$891,267.52, April 1, 2026-\$60,671.37 and April 9, 2026-\$239,646.32 and the Commission Meeting Minutes for March 24, 2026 made by Commissioner Brown and motion carried with all commissioners present voting in favor.

REGULAR SESSION:

1. Payment In Lieu of Taxes (PILT) Payment from Utah Division of Wildlife / Commissioner Meyeres

Dax Mangus delivered a Payment In Lieu of Taxes (PILT) payment in the amount of \$2.41.

Dan Keller from the Utah Division of Wildlife gave an update on the new boat check station out east of Kanab and the water levels at Lake Powell.

2. Discussion/Vote on UDOT Utah Trail Network - SR-9; Mt. Carmel Junction to Zion National Park East Gate (Study) Project / Commissioner Kubeja

Commissioner Kubeja stated that UDOT has funded over \$350K on a study to do a multi-use trail (biking/walking) from Mt. Carmel Jct. up to the east side of Zion National Park.

Motion to approve the UDOT Utah Trail Network on State Route 9 from Mt. Carmel up into east Zion roundabout, a study project funded by UDOT made by Commissioner Kubeja and motion carried with all commissioners present voting in favor.

Commissioner Brown-aye
Commissioner Kubeja-aye
Commissioner Meyeres-aye

3. Kane County Ordinance No. O 2026-09 An Ordinance Revising Kane County Land Use Ordinance Title 9 Chapter 7 Commercial Roof Heights and Amending References from Utah Code Title 17, Chapter 27A to Title 17, Chapter 79, Within Chapter 1 of the Kane County Land Use Ordinance / Commissioner Brown

This item will come back to a future meeting.

4. Kane County Ordinance No. O 2026-10 An Ordinance Amending the Kane County General Plan Acknowledgments and Chapter 1 / Commissioner Brown

Commissioner Brown stated that this is something she has wanted to change just to make it clear that everyone has rights including the current residents.

Shannon went over the changes that have been made to the General Plan.

Commissioner Kubeja and Commissioner Meyeres went over some suggested changes they had and would like to be made to the plan, so this will come back to a future meeting.

5. Kane County Ordinance No. O 2026-11 An Ordinance Amending the Zoning of Parcel 2-1-33-2 in the New Paria Area Abutting Highway 89 from Commercial 1 to Commercial 2 / Commissioner Brown

Shannon stated that the applicant is wanting to change the zoning to Commercial 2 so he can do an RV park.

Motion to approve Kane County Ordinance 2026-11 an Ordinance amending the zoning of parcel 2-1-33-2 in the New Paria area abutting Highway 89 from Commercial 1 to Commercial 2 made by Commissioner Kubeja and motion carried with all commissioners present voting in favor.

Commissioner Brown-aye
Commissioner Kubeja-aye
Commissioner Meyeres-aye

6. Kane County Ordinance No. O 2026-12 An Ordinance Revising Kane County Land Use Ordinance Title 9 Chapter 15 Conditional and Temporary Uses Section 5 Article A Time Limit in the Kane County Land Use Ordinance / Commissioner Brown

Shannon stated that P&Z would like to up the time limit for a Conditional Use Permit to two years instead of one so that the applicants have time to get up and going.

There was further talk with the commission and they decided to make a few additional changes to the ordinance.

Motion to adopt Ordinance 2026-12 revising Kane County Land Use Ordinance Title 9 Chapter 15 regarding Conditional and Temporary Uses Section 5 Article A in reference to the time limit in the Kane County Land Use Ordinance and regarding 9-15A-5 Time Limit, that the last sentence will now read “The Planning Commission shall grant extensions in increments of up to one year for good cause.” made by Commissioner Meyeres and motion carried with all commissioners present voting in favor.

Commissioner Brown-aye
Commissioner Kubeja-aye
Commissioner Meyeres-aye

Note: After the vote on this item the commission decided to bring it back to the April 28, 2026 meeting.

7. Discussion/Vote on a Policy Regarding Children in the Workplace for County Employees (R 2026-10) / Full Commission

The commission reviewed a new policy drafted by Attorney Stott concerning children in the workplace for county employees. The policy aimed to balance being a family-friendly county while also protecting the county from liability.

Motion to approve Resolution 2026-10 a policy regarding children in the workplace for county employees made by Commissioner Brown and motion carried with all commissioners present voting in favor.

Commissioner Brown-aye
Commissioner Kubeja-aye
Commissioner Meyeres-aye

8. Financial Update-Chameill Lamb / Full Commission

Chameill presented a financial update detailing revenues and expenditures for each fund.

9. Review of Legislative Issues / Full Commission

No legislative issues at this time.

10. Commissioner Report on Assignments / Full Commission

Commissioner Brown

- Hospital waiting to see if they will get a grant to do a clinic in Valley
- Utah Association of Counties (UAC) Conference end of this month

Commissioner Kubeja

- We were awarded an OHV grant for education for around \$32K
- The commission attended a Farm Bureau meeting last night
- Pro-rodeo at the end of May

Commissioner Meyeres

- Taylor and his department are working on getting signage for county roads and routes
- Been saving TRT, other funds, and a grant to work on the worst parts of Johnson Canyon Road as well as culverts on Mountain View Road. Also, big win where the courts decided that Skutumpah Road would be important and necessary to do some improvements on
- Next Wednesday at 9am is the County Resource Board Meeting 9am
- Kelly Stowell is applying for a Your Land Your Plan Grant in the amount of \$35K
- Had a meeting with Nathan Naidu with the Department of the Interior (DOI)

Motion to adjourn at 11:50 AM made by Commissioner Meyeres and motion carried with all commissioners present voting in favor.

WHERE UPON MEETING WAS ADJOURNED

Gwen Brown Chair

Chameill Lamb Clerk/Auditor

AGENDA ITEMS

ITEM # 1

Review of Proposed Development Agreement Regarding
the Old Fort Ranch Property at Parcels 4-7-2-1 and 4-7-3-
1A

WHEN RECORDED RETURN TO:

Zach Harding
Fier Law Group, LLC
1148 W. Legacy Crossing Blvd., Suite 350
Centerville, Utah 84014

**DEVELOPMENT AGREEMENT
FOR
OLD FORT RANCH
*A Planned Unit Development***

This DEVELOPMENT AGREEMENT FOR OLD FORT RANCH (this "Agreement") is entered into on this ____ day of _____, 2026 (the "Effective Date"), by Whales Tail Villas LLC ("Developer"), and Kane County, a political subdivision of the State of Utah (the "County"). Together, County and Developer are the "Parties" to this Agreement, and individually each is a "Party" hereto.

RECITALS

- A. Developer is in the process of acquiring certain property located in Kane County, Utah, legally described on the attached and incorporated Exhibit A (the "Property"), known by the following Kane County Tax ID numbers: 4-7-2-1 and 4-7-3-1A.
- B. The Property is currently zoned Agricultural ("Ag"). Developer, as owner of the Property, intends to develop a hotel and resort project on the Property, consisting of a hotel/resort with associated amenities, residential units, accessory uses, employee housing, and common areas (the "Project"), which shall be known as "Old Fort Ranch," as generally depicted on the indicative commercial development area (the "Commercial Development Area") attached hereto as Exhibit B. The location of the hotel development in this exhibit is for illustrative purposes only; the final layout shall be determined through the PUD application process described in Section 6 of this Agreement.
- C. The Property will remain zoned Agricultural. Pursuant to Utah Code § 17-79-508(2)(a)(iii), this Agreement authorizes specific uses on the Property that the Agricultural zoning designation would not otherwise permit. Because this Agreement authorizes such uses, the legislative body is approving this Agreement in accordance with the procedures for enacting a land use regulation under Utah Code § 17-79-502, including review and recommendation from the Planning Commission and a public hearing.
- D. This Agreement is provided in connection with Section 9-20-3 of the Land Use Ordinance of Kane County, Utah (the "Code"), which contemplates development agreements in connection with planned unit developments.
- E. Pursuant to its authority under Utah Code Title 17, Chapter 79, the County, in the exercise of its legislative discretion, has determined that entering into this Agreement furthers the purposes of the County Land Use, Development, and Management Act, the County's General Plan, and the Code.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals (which are incorporated into this Agreement) and the covenants set forth below, the sufficiency of which the Parties acknowledge, the Parties agree as follows:

1. Interpretation

1.1 The foregoing Recitals and all Exhibits are incorporated into this Agreement.

1.2 Whenever in this Agreement:

- (a) there is a reference to "days," such reference shall be deemed to be to "calendar days" unless the phrase "business days" is expressly stated;
- (b) the date on which any payment or performance is due under this Agreement is not a business day, such payment or performance shall be due on the immediately following business day; and
- (c) wherever there appears a reference to a consent, approval, notice, request, demand, response, or other communication, such reference shall be deemed to require the same to be in writing, unless otherwise expressly stated.

2. Authorized Uses

Notwithstanding the Agricultural zoning designation of the Property, the following uses are authorized on the Property pursuant to this Agreement, in accordance with how such uses are authorized in C2 zones. All uses not expressly authorized below are prohibited. This is not a blanket commercial rezoning; the use authorization is limited exclusively to the specific uses listed in this Section 2. Each use must still follow the designation and process (either permitted or conditional) in accordance with a C2 designation.

2.1 **Land Uses** within the 5-acre commercial development area to be located within the 100-acre area depicted on **Exhibit B**:

2.1a **Primary Land Use**

Hotel or motel, including gym and spa facilities.

2.1b **Secondary Land Uses** (accessible to non-overnight guests, subject to availability):

- (a) Restaurants;
- (b) Public park, playground, or recreation facilities; and
- (c) Parking lot for approved principal uses.

2.1c **Uses Available to Overnight Guests Only:**

- (a) Tour companies (without ATV/OHV rentals);
- (b) ATV/UTV rentals;
- (c) Conference rooms; and
- (d) Electric vehicle charging.

2.1d **Internal Hotel Uses** (accessory uses and buildings, customarily incidental and subordinate to an approved use):

- (a) Accessory uses and buildings customarily incidental and subordinate to an approved permitted conditional use;
- (b) Public utility service and maintenance facilities; and
- (c) Solar panels, limited to the consumption needs of the Property, with no exporting of power.

2.1c Uses for Employees and Overnight Guests:

Child daycare or preschool center meeting all applicable state and local regulations.

2.2 Residential Development Area Uses (within the area depicted on Exhibit C):

- 2.2a Detached residential units, each constituting a separate unit.
- 2.2b Public park, playground, or recreation facilities

2.3 Uses Subject to PUD Approval (within the areas depicted on Exhibit C). The following uses may be approved as part of the PUD application process. The approving entity's discretion to approve or deny these uses shall be exercised in accordance with applicable land use standards and shall not extend beyond the authority granted by the Code.

- (a) Theaters (small outdoor theater); and
- (b) Reception center and/or wedding chapel.

3. Project Development

3.1 Maximum Unit Count. The Project shall contain no more than sixty-five (65) total units, allocated as follows:

- (a) Up to sixty (60) revenue generating units; and
- (b) Up to five (5) units for use by owners and key staff, which shall not serve as the primary residences of any persons. These shall not be eligible for short-term rentals.

3.2 Unit Breakdown. The sixty (60) units listed in 3.1(a) shall be comprised of:

- (a) Up to forty (40) hotel rooms all located within the five-acre hotel development area described in Section 2.1; and
- (b) Up to twenty-five (25) "residences" each of which may, in Developer's discretion, be (i) used as short-term rentals (as defined below), or (ii) sold as to occupancy rights only, with ownership of the underlying land retained by Developer, its successors, or assigns; the sold "residences" may also be rented to third parties on a short-term basis by their purchasers. For purposes of this Section, a "short-term rental" means any rental with a continuous occupancy period not exceeding thirty (30) consecutive days. The residences are planned to include units of up to six bedrooms, with one unit being significantly larger (approximately twelve bedrooms) with capacity for up to twenty (25) persons. The residences

Commented [GW1]: The other uses are necessary for the project. These ones are nice-to-haves for which we don't yet have a very specific vision. I wanted to give the county flexibility to approve or deny these uses at the moment that we can present a full PUD

shall be located within the residential development area described in Section 3.4(b).

(c) The 60 units may therefore be 40 hotel rooms and 20 residences, 35 hotel rooms and 25 residences, or some other combination. However, the total 60 revenue generating units cannot be exceeded.

3.3 Building Footprint. The maximum footprint of the hotel and its associated facilities (including rooms, restaurant, pool area, spa, outdoor patios, water features, back-of-house facilities) shall not exceed five (5) contiguous acres. Improvements related to access (both for pedestrian and vehicle traffic) and parking may exceed the five-acre footprint. Exceptions to the contiguous nature of the five acres will be made for buildings that for technical or operational reasons need to be located outside of the contiguous five acres (for example a guard-house that needs to be located near an entrance to the property), while keeping the total footprint within five acres. The final location of the building footprint and its associated facilities shall depend primarily on engineering studies and architectural design; an indicative location is provided in **Exhibit B**.

3.4 Authorized Development Areas. As depicted on the map attached as **Exhibit C**:

(a) The Property shall remain zoned Agricultural; provided, however, that the Agricultural zone restrictions shall not limit, restrict, or impair any use, density, or development activity authorized by this Agreement. To the extent of any conflict between the Agricultural zone and this Agreement, this Agreement shall control. All areas of the Property not designated as an authorized development area on Exhibit C shall remain subject to the use restrictions and development standards of the Agricultural zone.

(b) The Property is divided into two authorized development areas for purposes of this Agreement. Approximately five (5) acres (being the same five-acre footprint described in Section 3.3) shall be authorized for the commercial uses set forth in Section 2.1. The precise location of the five-acre commercial area within the designated approximately one-hundred (100) acre area depicted on Exhibit B is at the Developer's discretion and will be finalized at the time of the PUD application. ~~The remainder of the Property outside the five-acre commercial area~~ All of the area in Exhibit C shall be authorized for the residential uses set forth in Section 2.2.

3.5 Conservation Easement; Deed Restriction. Upon recording of this Agreement pursuant to Section 10.8, the obligation set forth in this Section 3.5 shall constitute a deed restriction encumbering the Property and running with the land, enforceable by the County against Developer and all successors, assigns, and future owners of the Property. Within one hundred eighty (180) days after issuance of a certificate of occupancy for the sixty-fifth (65th) unit within the Project, Developer shall record a conservation easement encumbering all undeveloped areas of the Property in favor of a qualified holder (as defined by Utah Code § 57-18-2) selected by Developer with the County's reasonable approval. The conservation easement shall prohibit further development of the encumbered areas beyond what is authorized in this Agreement, ~~shall have a term of fifty~~

~~(50) years,~~ and shall be in a form reasonably acceptable to the County and the qualified holder.

3.6 **Private Roads.** All roads within the boundaries of the Project shall be private and not dedicated to the County or to public use. Roads shall be owned, operated, and maintained by the owner of the Property.

3.7 **Road Width Exceptions.** Subject to review and approval by the County Engineer and the Fire Commissioner, the following exceptions to county construction and design standards for road widths are authorized within the Project:

(a) Road width may be reduced to twenty-foot (20') traveled width for two-way roads and twelve-foot (12') width for one-way roads;

(b) Right-of-way, easements, and other widths may be reduced to fifty feet (50') in width to accommodate a more rural character and lighter development impact; and

All other design standards must be met.

3.8 **Phasing.** The Project may be developed in one or more phases, with one or more units developed as part of a specific phase. Phasing shall depend on market conditions, infrastructure planning, and other factors. Planning for each phase will include planning for infrastructure and improvements to be installed with each phase. Developer anticipates that the hotel will be developed as part of the first development phase. Phasing shall be at the sole discretion of Developer. Developer may temporarily suspend development of one or more phases upon written notice to the County if market conditions, financing, or other factors make continued development commercially impractical. Such suspension shall not constitute a default under this Agreement, and the time periods in Section 6.7 shall be tolled during any period of suspension.

3.9 **Infrastructure.** Developer shall provide reasonable verification of adequate water supply, sanitary sewer capacity, storm drainage, and fire protection prior to the issuance of building permits for each phase. The County shall not require Developer to construct or fund infrastructure capacity in excess of what is needed to serve the Project unless the County reimburses Developer for the incremental cost through impact fee credits, reimbursement agreements, or other mechanisms. No third party shall be permitted to connect to infrastructure constructed by Developer without Developer's written consent and reimbursement for the capacity consumed.

~~3.10.~~

4. **Reversion**

4.1 **Failure to Proceed.** If the Developer fails to submit a PUD application to the County within five (5) years of the Effective Date, the County may provide written notice to Developer stating that the five-year period has elapsed. Developer shall then have one hundred eighty (180) days from receipt of such notice to submit a PUD application. If Developer fails to submit a PUD application within that one-hundred-eighty-day cure period, the authorized uses under this Agreement shall terminate and the Property shall revert to standard Agricultural zoning restrictions. The five-year period shall be tolled during any period in which Developer is prevented from submitting, or the County is

Commented [GW2]: I think that the Development Agreement should contain simple language saying that the County will act reasonably to facilitate the development actually happening in practice. This would include taking reasonable steps to allow the delivery of services to the development. We will propose language on Monday

prevented from accepting or processing, a PUD application due to force majeure, government moratorium, or delay caused by the County.

4.2 **Transfer of Property.** Prior to the issuance of a certificate of occupancy for any building within the Project, Developer may transfer all or substantially all of the Property to any third party; provided, however, that the County may elect to terminate this Agreement within forty-five (45) days of written notice of the proposed transfer if the County, in its discretion, determines that the transferee lacks the qualifications to carry out the obligations of this Agreement. The County's termination right is limited to this Agreement and shall not prevent, restrict, or delay the property transfer itself. However, the property would be resold in Agriculture zoning with any PUD approval withdrawn and this Development Agreement terminated if the transfer is done without the consent of the County. No consent is required for transfers to affiliates of Developer or Greg Wyatt, estate planning transfers, investor admissions, sales of individual occupancy rights, financing encumbrances (including foreclosure), or any transfer after a certificate of occupancy has been issued. Any transferee shall assume in writing all obligations of this Agreement. A default by any transferee or successor developer shall not be attributed to Developer or to any other transferee, and shall not affect the rights of Developer or any other transferee under this Agreement. Similarly, a default by Developer shall not be attributed to any transferee.

5. **Public Access**

5.1 **Trail Access to BLM Land.** Developer shall build and maintain trails for non-motorized forms of transportation (pedestrian, horse, and bicycle) to cross the Property to access Bureau of Land Management ("BLM") land north and west of the Property. The trails shall accommodate a minimum of thirty (30) persons daily, though Developer may limit daily access to approximately that number to maintain the undisturbed character of the Property and surrounding area.

5.2 **Terms of Public Trail Use.** Public access to the trails is subject to the following conditions:

- (a) Developer may erect signs that warn Users that access to the trails is at their own risk, and that Developer is not liable for any injury, loss, or damage arising from public use of the trails, except to the extent caused by Developer's malicious or willful misconduct;
- (b) Developer may require Users to stay on designated routes on the Property and adhere to leave-no-trace principles. Violations may result in removal;
- (c) Developer may require Users to reasonably minimize disruption while on the Property, including limiting noise to conversational levels;
- (d) Developer may take reasonable measures to prevent the creation of a prescriptive easement, including charging a nominal fee;
- (e) Developer may restrict users from using the trails to reach property that such person uses for commercial purposes or for hunting on BLM land.

5.3 **BLM and Fredonia Consultation.** Developer shall consult with the Bureau of Land Management regarding the trail access plan, and any further restrictions required by

BLM shall be incorporated into the trail use terms. Developer shall also consult with the Town of Fredonia regarding access to BLM land through the property, and reasonable concerns shall be evaluated in collaboration with the County and BLM, placing further restrictions on access if warranted.

6. **Future PUD Application and Vesting**

6.1 **PUD Application.** Developer is required to submit a PUD application for the Property consistent with the terms of this Agreement, as well as any required Conditional Use Permits, before building permits are issued. While the property will remain zoned Agricultural, a PUD application and approval is still required as part of this agreement. The County agrees that a PUD application which is consistent with this Agreement shall be entitled to approval, subject only to compliance with applicable engineering, safety, and infrastructure standards in effect at the time of the PUD application. The maximum density authorized by this Agreement (sixty-five (65) units as set forth in Section 3.1) shall govern for purposes of any PUD application, notwithstanding any density limitation that would otherwise apply under the Agricultural zone, the General Plan, or any other provision of the Code.

6.2 **Conformance Standard.** A PUD application shall be deemed "consistent with this Agreement" if: (a) it does not exceed the maximum unit count established in Section 3.1; (b) it does not include uses not authorized by Section 2; (c) it ~~does not exceed the building footprint or height restrictions in Sections 3.3 and 3.5~~ complies with the standards set out in Exhibit D; (d) it follows all other relevant county and state code development requirements, including the PUD application requirements; and (e) it otherwise conforms to the material terms of this Agreement. The specific placement of the commercial development area within the designated area described in Section 3.4(b) is a matter for the PUD application and shall not constitute a basis for finding that the PUD application is inconsistent with this Agreement.

6.3 **Material Term.** The County's obligation to approve a conforming PUD application is a material term of this Agreement. Failure to approve a conforming PUD application that meets the conformance standards in Section 6.2 shall constitute a breach of this Agreement, for which specific performance is an available remedy as set forth in Section 7.4.

6.4 **Vested Rights.** Upon execution and recording of this Agreement, the Developer's rights to develop the Project in accordance with the terms of this Agreement are vested contractual rights. To the maximum extent permissible under the statutory and common laws of Utah and the United States and at equity, this Agreement also independently vests Developer with all rights to develop the Project consistent with Utah Code § 17-79-803(1)(a)(ii).

6.5 **Limitation on PUD Conditions.** In connection with any PUD application for the Project, the County may impose reasonable conditions relating to engineering, infrastructure, grading, drainage, and life-safety matters. However, the County shall not impose conditions that conflict with, diminish, or impose requirements beyond the terms of this Agreement. The County may impose conditions during the PUD process regarding architectural, landscaping, or design matters, provided that such conditions are limited to

Commented [J53]: I still prefer to rely on state code through reference, rather than try to put it into words in the agreement. I don't like to add any contractual rights that go beyond what state code allows, unless that specific right is outlined and there is a good reason to go beyond state code.

Commented [GW4R3]: I don't understand this comment. It just seems to rely on code, which I thought is what you wanted?

ensuring compliance with the design standards set forth in Exhibit D and do not impose requirements beyond those standards. The County shall not modify a conforming PUD application in any manner that conflicts with the material terms of this Agreement.

6.6 Pre-Approved Development Standards. The development standards set forth in this Agreement, including the road width exceptions in Section 3.11, constitute pre-approved variations from the standards of Chapter 20 of the Code for purposes of any PUD application. No additional variance application, burden of persuasion, or separate approval under Section 9-20-3(L) of the Code shall be required for any development standard expressly authorized by this Agreement.

6.7 Phased Development; Time Limitations. The County acknowledges that the Project will be developed in phases as set forth in Section 3.12. The time limitations set forth in Sections 9-20-8(G), 9-20-9(J), and 9-20-10(C) of the Code shall apply on a per-phase basis, with the time period for each phase commencing upon approval of that phase's site plan or building permit application. The phased development schedule in this Agreement shall control over any conflicting time limitation in Chapter 20 of the Code, and no approval for any phase shall be deemed null and void solely because construction of a subsequent phase has not yet commenced.

6.8 Minor Modifications. Non-material modifications to an approved PUD plan that do not increase the total unit count, add uses not authorized by Section 2, ~~or exceed the height or footprint limitations in Sections 3.3, and 3.5 or contradict the standards set out in Exhibit D~~ may be approved administratively by planning staff without requiring a public hearing or action by the County Commission. Examples of non-material modifications include adjustments to building pad locations, parking configurations, landscaping plans, and internal road alignments.

6.9 Deed Restrictions. If required by the PUD approval, Developer shall submit a draft form of covenants, conditions, and restrictions with the PUD application and shall record the final CC&Rs against the Property prior to the issuance of the first building permit within the Project. The CC&Rs shall include provisions consistent with the development standards of this Agreement. No owners' association shall be required.

6.10 Estoppel Certificates. Upon twenty (20) days' written request by Developer, the County shall execute and deliver a certificate stating whether this Agreement is in full force and effect, whether Developer is in default, and such other information as Developer may reasonably request. The certificate may be relied upon by lenders, investors, and prospective purchasers of the Property or any interest therein.

6.11 County Review of Applications. The County shall review all applications submitted in connection with the Project consistent with its adopted review timelines.

7. Default and Remedies

7.1 Notice of Default. If either Party fails to perform its obligations under this Agreement, the non-defaulting Party shall provide written notice to the defaulting Party. The notice shall: (a) specify the claimed event of default; (b) identify the provisions of this Agreement claimed to be in default; (c) explain why the default is claimed to be material; and (d) optionally, propose a method and time for curing the default, which shall be no less than sixty (60) days.

7.2 Cure Period. The defaulting Party shall have sixty (60) days from receipt of the notice to cure the default. If the default cannot reasonably be cured within sixty (60) days, the cure period shall be extended so long as the defaulting Party demonstrates that it is pursuing a cure with reasonable diligence.

7.3 Dispute Resolution. Before exercising any remedy under this Agreement, the Parties shall first attempt to resolve any dispute through the following process: (a) Meet and Confer. Within fifteen (15) business days of receipt of a notice of default, the Parties shall meet in person or by video conference to discuss the dispute in good faith. (b) Mediation. If the dispute is not resolved through the meet-and-confer process within thirty (30) days, either Party may initiate non-binding mediation before a mediator mutually selected by the Parties. The costs of mediation shall be shared equally. (c) Litigation. If the dispute is not resolved through mediation within sixty (60) days of the mediator's appointment, either Party may pursue remedies as set forth in Section 7.4.

7.4 Remedies. If the default is not cured within the applicable cure period, the non-defaulting Party shall have the following remedies:

- (a) Legal remedies at law and in equity, including injunctive relief and specific performance, and monetary damages;
- (b) The right to draw on any security posted or provided in connection with the Project and relating to the particular default; and
- (c) In the case of a default by the Developer, the County's right to withhold further reviews, approvals, licenses, building permits, and other permits for the defaulting party's portion of the Project until the default is cured. In no event shall the County withhold permits for any portion of the Project owned or controlled by a party that is not in default.

8. Term

Unless terminated earlier by written amendment between the Parties, the term of this Agreement shall be until December 31, 2050, unless an extension is agreed upon by both Parties. The term shall be automatically extended for five (5) additional years if a building permit has been issued within the twenty-four (24) months preceding the expiration date. The term shall also be automatically extended for successive five-year periods so long as any unit authorized by this Agreement remains in active use or operation. The term shall also be tolled during any period of force majeure, government moratorium, or litigation that materially prevents Developer from proceeding with development. The County shall provide written notice sixty (60) days prior to the expiration of the term. If the term expires without extension, new building permits and new occupancy approvals shall be suspended until the Parties execute a written amendment. Notwithstanding the foregoing, any use authorized by this Agreement for which a certificate of occupancy has been issued shall be deemed a lawfully established use and shall not be rendered nonconforming by expiration or termination of this Agreement.

9. Notices

All notices required or permitted under this Agreement shall be given in writing by certified mail and regular mail to the following addresses:

Commented [GW5]: Could we agree to just give notifications by e-mail?

To the Developer:

Gregory Wyatt
Whales Tail Villas LLC
2132 Gad Way
Sandy, UT, 84093

With a copy to:

Zach Harding
Fier Law Group, LLC
1148 W. Legacy Crossing Blvd., Suite 350
Centerville, Utah 84014

To the County:

76 North Main Street
Kanab UT 84741
Care of the Land Use Department

With a copy to:

Kane County Attorney
76 N Main
Kanab UT 84741

Except as otherwise provided in this Agreement, each notice shall be effective and deemed delivered on the earlier of: (a) its actual receipt, if delivered personally or by courier service; (b) its actual receipt, if delivered electronically by email, provided that a physical copy is mailed or personally delivered on the same day; or (c) on the day the notice is postmarked, if mailed by First Class or Certified United States Mail, postage prepaid. Any Party may change its address for notice under this Agreement by giving written notice to the other Party.

10. General Provisions

10.1 **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

10.2 **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Utah.

10.3 Severability. If any term, covenant, condition, or provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.

10.4 Waiver and Amendment. No breach of any provision of this Agreement may be waived unless in writing. Waiver of any one breach shall not be deemed a waiver of any other breach. This Agreement may be extended, modified, or amended only with the express written consent of the Parties.

10.5 Captions and Interpretation. Headings are for convenience only and shall not affect interpretation. No provision shall be construed for or against either Party because that Party drafted it. Nothing in this Agreement creates a partnership, joint venture, or agency relationship between the Parties.

10.6 Binding Effect; Covenants Run With the Land; Annexation. All terms and provisions of this Agreement constitute covenants running with the land, binding upon, inuring to the benefit of, and enforceable by the Parties and their respective successors and assigns, including any successor governmental entity or municipality that annexes all or part of the Property. In the event of an annexation of all or part of the Property into a municipality, Developer and the annexing municipality may enter into a development agreement with mutually agreed modifications to reflect the municipality's regulatory framework and new agreements between the Developer and the annexing municipality. Upon execution and recording of such municipal development agreement, this Agreement shall terminate as to the annexed portion and the County shall have no further obligations to Developer with respect to that portion.

10.7 No Dedication. The easements and agreements contained in this Agreement are not intended and shall not be construed as a dedication of any portion of the Project for public use.

10.8 Recording. This Agreement shall be recorded with the Kane County Recorder's Office upon execution.

10.9 Attorneys' Fees. In any action or proceeding to enforce or interpret this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing Party.

10.10 Entire Agreement. This Agreement, including all Exhibits, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, warranties, commitments, offers, and agreements (whether oral or written) with respect to the subject matter hereof.

10.11 Force Majeure. As used in this Agreement, "force majeure" means any event beyond the reasonable control of the affected Party, including strikes, labor disputes, inability to obtain materials or equipment, acts of God, floods, earthquakes, fires, landslides, pandemics, government restrictions or moratoria, judicial orders, enemy actions, civil disturbances, and other causes beyond the Party's reasonable control. The duration of any force majeure event shall toll all applicable deadlines under this Agreement for an equal period.

10.12 Periodic Review. The Parties shall meet every two (2) years following the Effective Date in a work session to discuss implementation of this Agreement, the status

Development Agreement for Old Fort Ranch

of Project development, and any issues of mutual concern. Neither Party shall be required to agree to any modifications as a result of such review, but either Party may propose amendments for consideration.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first above written.

KANE COUNTY:

Kane County Commission Chair

ATTEST:

County Clerk

WHALES TAIL VILLAS LLC
Wyoming

By: Greg Wyatt
Its: Manager

ACKNOWLEDGMENT

STATE OF UTAH)
 : ss
COUNTY OF KANE)

The foregoing instrument was acknowledged before me on the ____ day of _____, 2026, by _____, the _____ of Kane County.

Notary Public

STATE OF UTAH)
 : ss
COUNTY OF [COUNTY])

The foregoing instrument was acknowledged before me on the ____ day of _____, 2026, by Greg Wyatt, the Manager of WHALES TAIL VILLAS LLC.

Notary Public

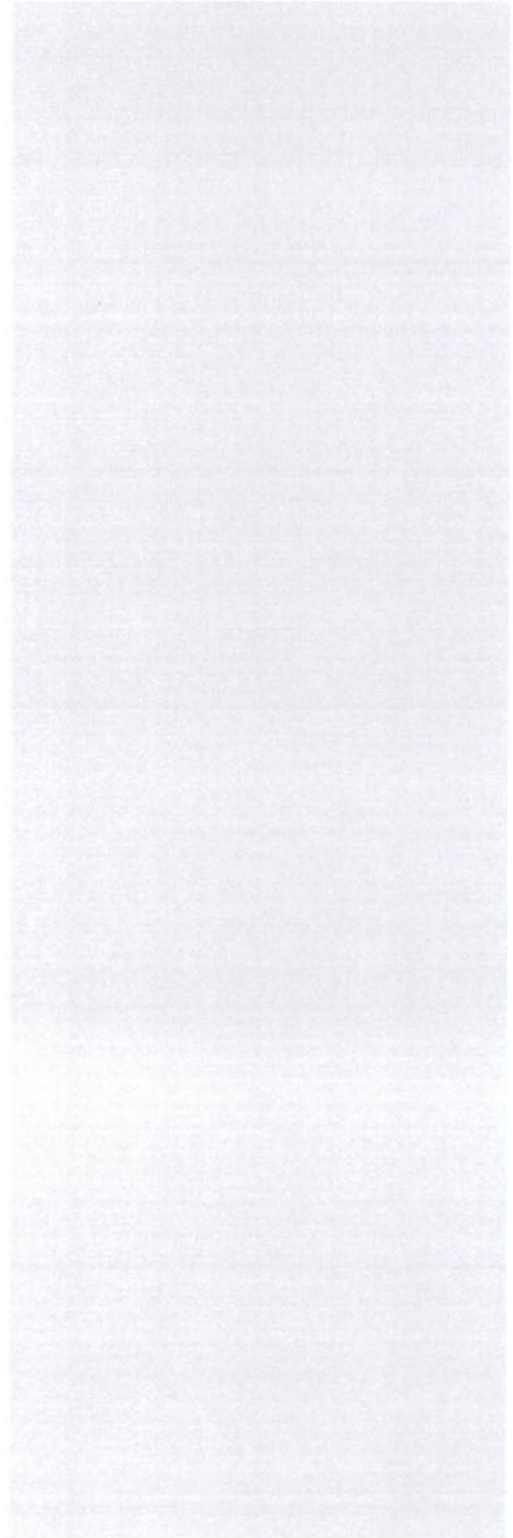


EXHIBIT A

Legal Description of the Property

4-7-2-1: The Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 1, Township 44 South, Range 7 West, Salt Lake Base and Meridian.

4-7-3-1A: The West Half of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$); the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) and the Southwest Quarter (SW $\frac{1}{4}$) of Section 3, Township 44 South, Range 7 West, Salt Lake Base and Meridian.

EXHIBIT B

Commercial Development Area

5 acres for hotel development must be within the 100 acres identified in the below exhibit. 5 acres of Proposed Hotel Area are indicative and may be moved within the 100 acre area at developer's discretion

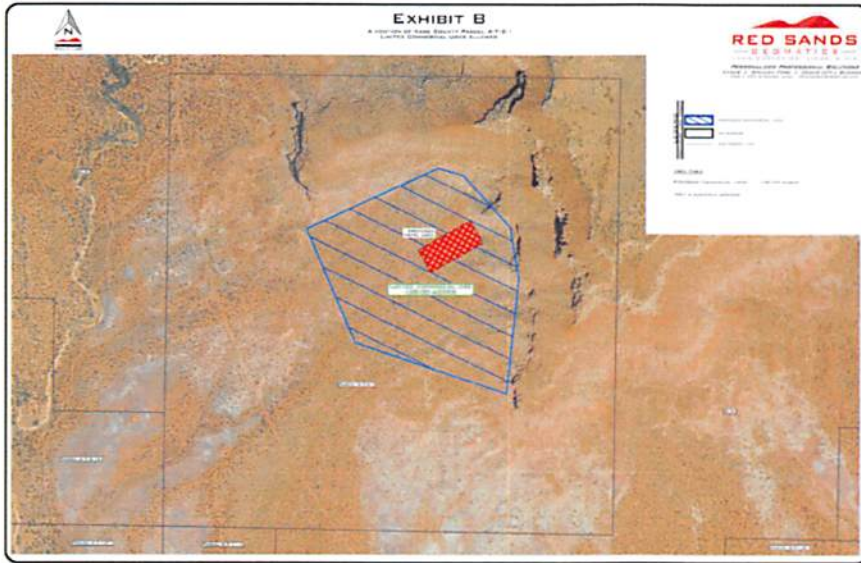


EXHIBIT C
Residential Development Area (max 25 units)

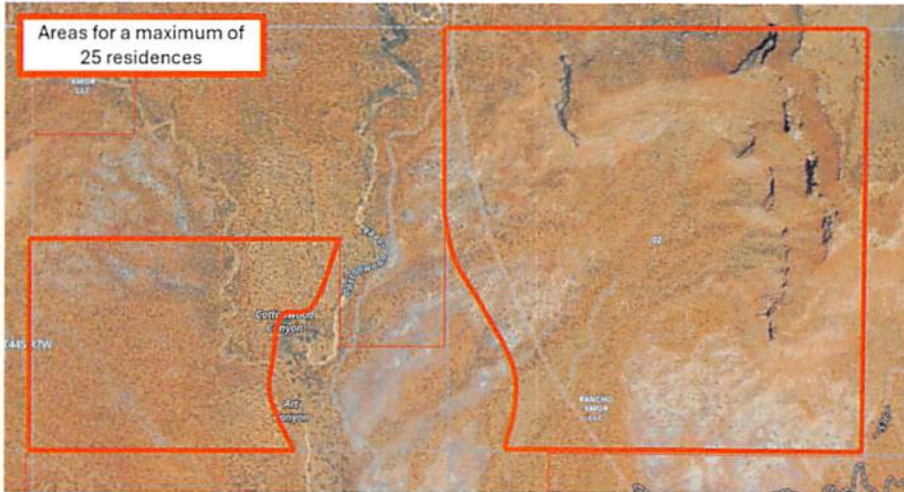


EXHIBIT D

Design standards to mitigate visual impact of development, applying to all buildings on the Property

1. **Building Height.** No building on the Property shall exceed a maximum roof height of thirty-five (35) feet above ground level, with a maximum of two (2) above-ground stories.
2. **Dark Skies.** All exterior lighting on the Property shall substantially comply with dark sky principles, including downward-directed, shielded fixtures that minimize light pollution.
3. **Exterior Finishes.** Exterior finishes shall predominantly be matte, in colors that blend with the natural scenery.
4. **Architectural features.** In order to reduce visual impact of the buildings and ensure they blend with surrounding rock formations, the buildings will avoid continuous facades and single-height roof lines larger than for a residential home.
5. **Views:** No building on the property-Property shall be visible from Kanab at ground level.
6. **Decorative elements:** No large non-functional elements shall be placed on the exterior of buildings. This excludes large statues, fountains, arches, etc. However, it does not exclude a small water feature invisible from a distance.



ITEM # 2

Kane County Ordinance No. O 2026-12 An Ordinance
Revising Kane County Land Use Ordinance Title 9 Chapter
15 Conditional and Temporary Uses Section 5 Article A:
Time Limit in the Kane County Land Use Ordinance

KANE COUNTY COMMISSION AGENDA REQUEST

Date of Commission Meeting Requested: 4/28/2026

Dept. /Business Name: Land Use

Topic/Re: Ordinance 2026-12

Public Hearing: No

Description: Recommend approval or denial of Ordinance 2026-12. An Ordinance Revising Kane County Land Use Ordinance Title 9, Chapter 15: Conditional and Temporary Uses, Section 5, Article A: Time Limit, in the Kane County Land Use Ordinance.

P&Z voted unanimously to recommend approval of this ordinance

Attachments: O-2026-12,

Dept. Head/Owner: Shannon McBride

Contact Information: Shannon McBride x4966

Meeting Requested by: Kresta Blomquist X4364

Internal Notes:

KANE COUNTY ORDINANCE NO. O 2026-12

**AN ORDINANCE REVISING KANE COUNTY LAND USE ORDINANCE
TITLE 9 CHAPTER 15 CONDITIONAL AND TEMPORARY USES SECTION 5
ARTICLE A TIME LIMIT IN THE KANE COUNTY LAND USE ORDINANCE**

WHEREAS, the Kane County Planning Commission recommended changes to Kane County Land Use Ordinance Chapter 15 Article A Section 5 Time Limit; and

WHEREAS, it is the intent of this Ordinance to maintain consistency with other administrative acts throughout state and local codes; and

WHEREAS, the Kane County Board of Commissioners desires to implement the recommendations of the Planning Commission and amend the Kane County Land Use Ordinance with additional changes and other modifications; and

WHEREAS, the Kane County Commission desires to stay in compliance with Utah State Code regulations in particular with Utah Code §17-79-501 and 506; and

WHEREAS, the authority for this ordinance is found in Utah Code §17-79-101 et. al., and §17-79-201 & 205; and

WHEREAS, the reference of Land Use Authority for extending a conditional use permit can be approved by the Administrative Land Use Authority.

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

Section 1. Ordinance Amendment.

Kane County Code Title 9 Chapter 15 Conditional and Temporary Uses, Article A Section 5 Time Limit is amended to read as follows and Additions to the Ordinance are indicated with an underline, and deletions from the ordinance are indicated with a strike-through. Instructions to the codifiers are italicized and inside parenthesis.

//

9-15A-5: TIME LIMIT:

Action authorized by a conditional use permit must commence within two years ~~one~~ year of the time the permit is issued. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit. The Planning Commission Land Use Authority ~~may~~ shall grant an extensions of up to one year ~~of up to one year~~ increments for good cause. ~~which would require~~

~~amending the original conditional use permit and going before the Planning Commission for approval. (Ord. O-2016-4, 10-15-2018)~~

//

Section 2. Severability.

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

Section 3. Effective Date

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

Section 4. Publication and Notice.

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

End of Ordinance.

ADOPTED this 14th day of April 2026.

Commissioner Brown voted: _____

Commissioner Meyeres voted: _____

Commissioner Kubeja voted: _____

COUNTY:

Kane County, a political subdivision of the State of Utah

By: _____

Gwen Brown

Chair, Kane County Commission

Corporate Acknowledgment

State of Utah

§

County of _____)

On this _____ day of _____, in the year 20____, personally appeared before me
Date Month Year

_____, whose identity is personally known to me (or proven on
Name of document signer
the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the
chair of the Kane County Commission and that said document was signed by him/her in behalf
of said Corporation by Authority of its Bylaws, or (Resolution of its Board of Directors), and
also acknowledged to me that said Corporation executed the same.

Witness my hand and official seal.

(Notary signature)

(Notary Seal)

Notary Printed Name _____

My Commission Expires _____

Residing in _____, County