



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
76 North Main, Kanab
November 13, 2019

CHAIRMAN: Tony Chelewski

MEMBERS PRESENT: Tony Chelewski, Doug Heaton, Byard Kershaw, Wade Heaton, Harold Hamblin, Pam Hill

MEMBERS ABSENT: Danny Brown

EX-OFFICIO MEMBER: Andy Gant - absent

STAFF PRESENT: Shannon McBride, Land Use Administrator; Rob Van Dyke, County Attorney; Wendy Allan, Land Use Administrative Assistant; Lou Pratt, GIS; Isis Smith, Deputy Recorder; JD Wright, Sheriff's Department

6:00 PM Meeting called to order by Tony Chelewski
Pledge of Allegiance Tony Chelewski
Prayer Doug Heaton

GENERAL BUSINESS

1. Approval of minutes October 9, 2019 meeting

MOTION: Byard Kershaw made a motion to approve the **October 09, 2019** minutes. Hal Hamblin seconded the motion. The Chair asked for any questions or comments. The motion passed unanimously.

MOTION: A motion was made by Wade Heaton to go in and out of public hearing at the call of the chair. The motion was seconded by Byard Kershaw. The Chair called for the question and the motion passed.

2. Public Comment

(There was no public comment.)

3. 2020 Meeting Schedule

Review of the Kane County Planning & Zoning Commission meeting schedule.

MOTION: A motion was made by Doug Heaton to move the November meeting to the 10th and approve the rest of the schedule. Wade Heaton seconded the motion. The chairman called for the question and the motion passed unanimously.

4. Reports

ADMINISTRATIVE ITEMS

5. Public Hearing - Lot Joinder: Palmer

An application to amend the subdivision plat for a lot joinder, on behalf of Ray Wm & Mary Helen Palmer, parcels 21-2, 21-2A & 21-2C, Ponderosa Villa Subdivision, Plat B, becoming new lots 2, containing 1.96 acres, and 2A, containing 1.46 acres, within the SW ¼ Section 16, Township 38 South, Range 7 West, Salt Lake Base and Meridian, Kane County, Utah. Submitted by Brent Carter.

Chairman Chelewski called the commission into public hearing.

Brent Carter, New Horizon Engineering, representing the Palmers, presented the project. He explained that the parcels being combined were split off the original parcel in the 70's. They are combining three lots and making two lots.

Shannon explained that our County engineer recommended a 28 foot access easement. In consulting with the recorder, Shannon recommends approval without requiring the 28 foot access easement. Brent indicated that there is currently a 15 foot easement and with the lot joinder only one lot will access from that easement. Shannon stated that the County has not required a land owner to come up to current standards on a lot joinder.

Chairman Chelewski called the commission out of public hearing.

MOTION: Byard Kershaw made a motion to **approve** Vacating and Amending a Subdivision Plat for a Lot Joinder, on behalf of Ray WM & Mary Helen Palmer in the Ponderosa Villa Subdivision Plat "B" making 3 parcels into 2 lots, consisting of parcels 21-2, 21-2A and 21-2C becoming new lots 21-2 and 21-2A, based on the findings documented in the staff report.

The motion was seconded by Doug Heaton. Chairman Chelewski called for the vote and the motion passed unanimously.

FINDINGS: Amending (joining) the above stated lots conforms to the standards in the Kane County Land Use Ordinance, 9-21E-9, (A-F). 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, 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. The new lots will retain the Residential ½ zoning (R-1/2). Combining these lots/parcels is in compliance with all state and local ordinances.

6. Public Hearing - Lot Joinder: Sterling

An application to amend the subdivision plat for a lot joinder, on behalf of Chris Sterling, vacating (2) 7.5 utility easements between lots 22 & 23 and combining lots 22 & 23, Mirror Lake Subdivision, Plat A, becoming new lot 23, containing .84 acres within the NE ¼ Section 8, Township 38 South, Range 7 West, Salt Lake Base and Meridian, Kane County, Utah. Submitted by Brent Carter.

Chairman Chelewski called the commission into public hearing.

Brent Carter, New Horizon Engineering, presented the project. He explained that there is a garage on one lot and a cabin on the other lot with an easement running in between. Shannon affirmed that everything is in order. Shannon and the County Engineer recommend approval.

Brent explained that most properties on Cedar Mountain have utility easements between the property lines however the utilities run along the streets. Shannon noted that when utility easements are vacated, we require that the utility companies sign a termination agreement.

Chairman Chelewski called the commission out of public hearing.

MOTION: Hal Hamblin made a motion to approve the application for Vacating and Amending a Subdivision Plat for a Lot Joinder, on behalf of Chris Sterling, in the Mirror Lake Subdivision, Plat A, lots 22 & 23, becoming new lot 23, the zone remaining R1/2, based on the findings documented in the staff report.

The motion was seconded by Wade Heaton. Chairman Chelewski called for the vote and the motion passed unanimously.

FINDINGS: Amending (joining) the above stated lots conforms to the standards in the Kane County Land Use Ordinance, 9-21E-9, A-F. Utah Code Sections §17-27a-201, 202, 206 & §17-27a-608 & 609 requirements have all been met. The project has been posted in two public places, 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. Combining these lots is in compliance with all state and local ordinances.

7. Public Hearing - Lot Joinder: Laing

An application to amend the subdivision plat for a lot joinder, on behalf of Lawrence W. & Lyla A. Laing, lots 378 and 379, Swains Creek Pines, Unit 3, becoming new lot 379, containing 1.27

acres, within the NW ¼ Section 34, Township 38 South, Range 7 West, Salt Lake Base and Meridian, Kane County, Utah. Submitted by Brent Carter.

Chairman Chelewski called the commission into public hearing.

Brent Carter, New Horizon Engineering, presented the project. This is a simple lot joinder. Shannon noted that this will improve front access to this property. Everything is in order.

Chairman Chelewski called the commission out of public hearing.

MOTION: Wade Heaton made a motion to approve the application for Vacating and Amending a Subdivision Plat for a Lot Joinder, on behalf of Lawrence W. and Lyla A. Laing, in the Swains Creek Pines Subdivision, Unit 3, lots 378 & 379, becoming new lot 379, the zone remaining R-1/2, based on the findings documented in the staff report.

The motion was seconded by Doug Heaton. Chairman Chelewski called for the vote and the motion passed unanimously.

FINDINGS: Amending (joining) the above stated lots conform to the standards in the Kane County Land Use Ordinance, 9-21E-9, A-F. Utah Code Sections §17-27a-201, 202, 206 & §17-27a-608 & 609 requirements have all been met. The project has been posted in two public places, 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. Combining these lots is in compliance with all state and local ordinances.

8. Public Hearing -Lot Joinder: Canny

An application to amend the subdivision plat for a lot joinder, on behalf of Thomas J. Canny, vacating (2) 7.5 utility easements between lots 199 & 200 and combining lots 199 & 200, Zion View Mountain Estates, Unit E, becoming new lot 200, containing 1.40 acres within the SE ¼ Section 2, Township 39 South, Range 7 West, Salt Lake Base and Meridian, Kane County, Utah. Submitted by Brent Carter.

Chairman Chelewski called the commission into public hearing.

Brent Carter, New Horizon Engineering, proposed the project. The owner would like to combine the properties to build a cabin. Shannon indicated everything is in order.

Chairman Chelewski called the commission out of public hearing.

MOTION: Hal Hamblin made a motion to recommend to the Kane County Commissioners approval for the application for Vacating and Amending a Subdivision Plat for a Lot Joinder, and vacating two, 7.5 foot public utility easements between lots 199 & 200 on behalf of Thomas J. Canny, in the Zion View Mtn. Estates Subdivision, Unit E, lots 199 & 200, becoming new lot 200, the zone remaining R-1/2, based on the findings documented in the staff report.

The motion was seconded by Doug Heaton. Chairman Chelewski called for the vote and the motion passed unanimously.

FINDINGS: Amending (joining) the above stated lots conform to the standards in the Kane County Land Use Ordinance, 9-21E-9, A-F. Utah Code Sections §17-27a-201, 202, 206 & §17-27a-608 & 609 requirements have all been met. The project has been posted in two public places, 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. Combining these lots is in compliance with all state and local ordinances.

LEGISLATIVE ITEMS

9. Public Hearing - Zone Change: Carter & Ordinance O 2019-30

An application for a zone change from Residential 5 to Residential 2, to subdivide land into 2 acre to 10 acre parcels; parcels 8-7-27-1, 8-7-27-2, 8-7-27-4, 8-7-27-5, and 8-7-27-6, 180.06 acres, located in the Swains Creek Area, Kane County, Utah. Submitted by Brent Carter.

Chairman Chelewski called the commission into public hearing.

There was an error on the agenda stating the zone change was from R-1 to R-5. It should read “a zone change from R-5 to R-2.” It was verified that the public notice and the notice mailed to the property owners was correct. It was also correct in the ordinance and the staff report.

Brent Carter showed the property included in this zone change. It is currently undeveloped land. Brent stated that the lot sizes will range from 2 to ten acres. There was a review of neighboring property zones. Shannon commented that there were no objections expressed. Shannon recommends this zone change.

Brent asked about including the tennis court in this zone change. It was determined that he would need to come back to rezone that parcel once it is in his name so that it can be noticed properly.

Wade reminded the P&Z to respect the vested rights of neighboring property owners.

Chairman Chelewski called the commission out of public hearing.

MOTION: Doug Heaton made a motion to recommend approval of the zone change application from R-5 to R-2 & Ordinance O-2019-30, submitted by owner Brent Carter, Swains Creek Heights, LLC for parcels 8-7-27-1, 8-7-27-2, 8-7-27-4, 8-7-27-5, and 8-7-27-6.

The motion was seconded by Hal Hamblin. Chairman Chelewski called for the vote and the motion passed unanimously.

FINDINGS:

- Parcels meet the minimum acreage required to be zoned R-2. The parcels are currently Zoned R-5.
- The developer requests the R-2 zoning which requires a zone change.
- Surrounding lots and parcels are zoned Residential 5 and Residential R 1/2.
- All the parcels gain access from Swains Creek Road.
- All property owners within 500 ft. of these parcels have been mailed a public notice, no concerns have been voiced by the public.
- Kane County Land Use Ordinance states: 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. (O)rd. 2013-5, 8-12-2013, eff. 8-27-2013)

10. Public Hearing - Ordinance 2019-29

Revisions to Kane County Land Use Ordinances; Chapter 5: Agricultural Zones, and Chapter 7: Commercial Zones.

Chairman Chelewski called the commission into public hearing.

Shannon explained that there are updates submitted by Attorney Van Dyke on the screen that are not in the packet (attachment #1). Shannon stressed the need for density limits in county. Kane County is one of the few counties in the state that does not have a density clause in their ordinances. Density limits were removed from the KC Land Use Ordinance in 2013.

Rob presented a solution based on the concept that we do not want to put restrictions on traditional agricultural/ranching uses. Prior to the zone change in 2018, the AG zone was more like a multiple use zone. Rob, Shannon and Ryan Maddux looked at what could be done to add density limits while not affecting agricultural uses. They proposed excluding the agricultural uses from the density requirement. They looked at the Utah Land Use Code, International Building Code and International Commercial Code to see what agricultural buildings were exempt from building permits to help define agricultural use.

Rob's reviewed his recommendation which reads:

"Density and Clustering: Each parcel regardless of total size may contain a maximum of the following: 1) two single family dwellings; 2) a total of five structures that are not exempt as described below; and 3) a total maximum coverage of 40% of the parcel for nonexempt structures. Additional density will require an approved zone change or PUD. Four temporary structures are the equivalent of one permanent structure. The following structures are exempt from the calculation of density: 1) Structures that are exempt from requiring a building permit under Utah Code 15A-1-204(11), namely, a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the sale of season crops during the harvest season; 2) one story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, less than 120 square feet in size; 3) water tanks less

than 5,000 gallons; 4) swimming pools less than 5,000 gallons; 4) swings and other playground equipment accessory to a single family dwelling; and 5) decks not exceeding 200 square feet.”

Shannon spoke of increased commercial growth in Kane County. Many developers are looking to the county to avoid impact fees in the city. The County does not have infrastructure in place on most of the AG parcels. Shannon pointed out the need to plan for the future.

Rob stressed the need for the county to have the ability to weigh in on new developments in the county. Shannon shared that Canyonlands/Amangiri and Buffalo Ridge were developed through a development agreement with the County. They developed community zones or planned unit development and established special service districts so the burden of their infrastructure was not placed on the rest of the county.

Doug acknowledged the need for some limits but prefers the density be attached to acreage instead of parcels.

Chairman Chelewski asked for public comment.

Derik Brinkerhoff: He owns property on the white plateaus. He is concerned about a well by Red Knoll and the possibility of his well drying up.

Jarad Brinkerhoff: He is concerned that the County is trying to regulate one property owner and that in the process it will affect all AG property owners. He feels that people need their freedoms.

Amy Outfield: She owns a glampground and is working toward having seven sites. She finds this density clause confusing. She is concerned about being compliant with a new ordinance. (Shannon explained that Amy will be held to the ordinance that was in place at the time she received her CUP. Any changes made now will not affect her current CUP.)

Bart Battista: Facilities Director at Best Friends. He read an email that was sent to the P&Z Commission earlier in the day (Attachment #2).

Rebecca Huss: Best Friends General Counsel. She continued reading where Bart left off.

Patricia Guerrero: Director of volunteers at Best Friends. She finished reading Bart’s email.

Rob reminded the P&Z that in our general plan we try to encourage growth into municipalities in the county. By refusing density requirements in the AG and Commercial zones, the County is permitting greater density than the cities allow therefore attracting growth outside the cities. Rob clarified that this is not an attack on Best Friends. It is a planning effort.

Shannon gave a timeline on efforts she has made to meet with Bart and others at Best Friends. She will extend another invite to have them come to a development meeting to continue to work towards a development agreement.

Hal talked about green belt (FAA) AG and the AG zone. He suggested a system that would require a schedule F profit/loss statement on any green belt (FAA) piece. Doug recommended changing the AG zone name so as to not confuse it with the FAA (green belt) status. Shannon reminded the P&Z that the state requires that all property owners must be notified prior to changing the name of the zone. Rob will look into the requirements involved in changing the name of the zone without changing any uses.

Wade would like to put a discussion of a zone name change on the December agenda.

Hal recommended density by parcels. If a property owner wants more structures than allowed they could subdivide their property to allow for more buildings.

There was concern expressed about limiting what people can do on their private property. It was noted that a property owner can come in for a zone change that would allow for different density and uses.

Wade reported that Commissioner Gant had asked him to be a liaison with Best Friends to help brain storm planning efforts and to help resolve some issues.

Chairman Chelewski called the commission out of public hearing.

Rob clarified that residential zones have a density of two single family dwellings per lot/parcel. Multi-residential uses have a density max of 50%.

Chairman Chelewski suggested the P&Z take more time on the density issue to allow for more discussion and problem solving.

MOTION: Doug Heaton made a motion to postpone a decision on Chapter 5 to the December 2019 meeting to allow for further consideration.

The motion was seconded by Byard Kershaw. Chairman Chelewski called for the vote and the motion passed unanimously.

Chairman Chelewski called the commission in to public hearing.

A discussion ensued on the Commercial Zones uses table. It was decided to change the following uses to conditional in the C-1 zone:

- Pest extermination operation
- Propane storage tanks for distribution (commercial)
- Recreational vehicle park
- Storage units: unattended self-storage, no sales office, no hazardous materials

Chairman Chelewski called the commission out of public hearing.

MOTION: Wade Heaton made a motion to recommend to the Commission the noted changes to the Commercial Uses table.

The motion was seconded by Doug Heaton. Chairman Chelewski called for the question and the motion passed unanimously.

FINDINGS: See Ordinance 2019-29 (attachment #1)

MOTION: Byard Kershaw made a motion to adjourn. The motion was seconded by Hal Hamblin. The motion passed unanimously.

Meeting was adjourned at 8:11 pm.


Land Use Authority Chairman,
Tony Chelewski


Administrative Assistant,
Wendy Allan

KANE COUNTY ORDINANCE NO. O 2019 - 29

**AN ORDINANCE AMENDING TITLE 9 CHAPTERS 1 and 7
OF THE KANE COUNTY LAND USE ORDINANCE**

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make recommended changes to specific sections of Chapters 5 & 7 of the Kane County Land Use Ordinance; and

WHEREAS, the purposes of amending these chapters are as follows; (9-5-5) Chapter 5, Agricultural Zone, Section 5, (J) Striking out SITLA regulation clause and replacing it with a Agriculture Density clause; Chapter 7, (9-7B-5) Commercial Zones (C-1), Uses Table in a Commercial Zone;; and

WHEREAS, the Kane County Planning Commission, after a duly noticed public hearing, recommended for approval amendments to the following Chapters: (9-5-5-J) Chapter 5, Agricultural Zone; (9-7B-5) Chapter 7, Commercial Zones; and

WHEREAS, the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended amendments for the sections listed below for Chapters 5 and 7 of the Kane County Land Use Ordinance; and desires to enact the recommendations; and

WHEREAS, the purpose of this ordinance is to update the Kane County Land Use Ordinance under the authority granted in Utah State Code, §17-27a-205, §17-27a-301-302, §17-27a-501-503, §17-27a-505.5 and § 17-27a-601-604.5, which authorizes the Kane County Commission to enact and amend land use ordinances upon recommendation by the Kane County Planning Commission;

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

Additions to the Ordinance are indicated with an underline, and deletions from the ordinance are indicated with a strike-through. Instructions to the codifiers are italicized and inside parenthesis.

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**Title 9
Land Use
Chapter 5
AGRICULTURAL ZONE**

9-5-5: Modifying Regulation

J. Density and Clustering: Maximum density will consist of 2 single family dwellings and/or five structures, which fall under the IBC code definition for commercial buildings. When the density of five commercial structures are built on a Agriculture zoned parcel, a zone change will be

required, changing from Ag to Commercial. Therefore protecting the true intent of the Agriculture Zone from over building without the proper infrastructure improvements that are required for commercial developments. For purposes of density and clustering, 4 temporary structures are the equivalent of 1 permanent structure. No more than 40% density for structures will be allowed on any parcel zoned Agriculture. While figuring density within an Agriculture Zone as an Agricultural use, Utah State Code 59-2-504 definitions of agricultural uses will be applied; including accessory to the use buildings. Structure exemptions will be in compliance with the IBC code definitions for AG exempt structures.

Attorney Van Dyke's ideas:

Visitor Center

Onsite guest attractions (other than recreational grounds and parks)

Restaurant

Cafeteria

Veterinary (public)

Add this as a clause in Ag:

Density and Clustering: Each parcel regardless of total size may contain a maximum of the following: 1) two single family dwellings; 2) a total of five structures which regardless of the use, are regulated as a commercial building under the International Building Code, as adopted by the State of Utah; 3) a total maximum coverage of 40% of the parcel. Additional density will require an approved zone change or PUD. Four temporary structures are the equivalent of one permanent structure. Agricultural structures that are exempt under the International Building Code, as adopted by the State of Utah, shall not be counted towards the density and clustering requirements of this section

Each parcel regardless of total size may contain a maximum of the following: 1) two single family dwellings; 2) a total of five structures that are not exempt as described below; and 3) a total maximum coverage of 40% of the parcel for non exempt structures. Additional density will require an approved zone change or PUD. Four temporary structures are the equivalent of one permanent structure. The following structures are exempt from the calculation of density: 1) Structures that are exempt from requiring a building permit under Utah Code 15A-1-204(11), namely, a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the sale of season crops during the harvest season; 2) one story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, less than 120 square feet in size; 3) water tanks less than 5,000 gallons; 4) swimming pools less than 5,000 gallons; 4) swings and other playground equipment accessory to a single family dwelling; and 5) decks not exceeding 200 square feet.

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**Title 9
Land Use
Chapter 7
ARTICLE B. COMMERCIAL C-2 ZONE**

9-7B-5: USES TABLE:

Uses	C-1	C-2
Accessory uses and buildings customarily incidental to conditional uses	C	C
Accessory uses and buildings customarily incidental to permitted uses	P	P
Airstrip, private	C	C
Animal shelter, commercial	C	C
Appliance sales and service	P	P
Archery shop/range, conducted in enclosed buildings	P	P
Art needlework shop; art shop; art supply	P	P
Athletic club	P	P
Auto parts sales (indoor)	P	P
Automatic car wash	C	P
Automobile fuel filling station	C	P
Automobile or recreation vehicle, ATVs, or side by side sales, lease, rental, service, new or used, conducted entirely within an enclosed building	C	P
Automobile or recreation vehicle sales	C	P
Awning sales/repair	P	P
Baby formula service; baby diaper service; sitter agency	P	P
Bakery, retail sales	P	P
Bank	P	P

Uses	C-1	C-2
Barbershop	P	P
Bath and massage (not part of medical or health spa)	C	C
Beauty shop	P	P
Beauty shop for pets, dog grooming	P	P
Bed and breakfast	P	P
Beer outlet, Class A, Class B	P	P
Bicycle shop	P	P
Billiards or pool hall	C	P
Bowling alley; commercial skating	C	P
Boxing arena	C	P
Building material sales	C	P
Bus terminal	C	C
Cafe, cafeteria, catering establishment, restaurant (not a drive-through)	P	P
Campground/glamp-ground	C	C
Candy, confectionery, nut shop	P	P
Carbonated and purified water sales	P	P
Carpet and/or rug cleaning	P	P
Cemeteries	C	C
China and/or silver shop	P	P
Churches	P	P
Clothes cleaning, dyeing, pressing, dry cleaners	P	P
Clothing store	P	P
Coal/fuel sales office	C	P
Construction equipment and supply trailer, temporary	C	C
Construction field office, temporary	C	C
Construction of buildings to be sold and moved off the premises	-	C

Uses	C-1	C-2
Contractors' equipment storage yard	C	P
Convenience store with gasoline sales	C	P
Copy store, blueprinting, photostatting, duplicating	P	P
Costume rental	C	P
Dams and reservoirs	-	C
Dance hall; dancing	C	P
Delicatessen	P	P
Department store	P	P
Dramatics school	P	P
Drapery-curtain store	P	P
Dressmaking	P	P
Drive-ins; refreshment stand, eating and/or drinking place (nonalcoholic)	P	P
Drive-it-yourself agency, car, equipment rental	C	P
Drugstore	P	P
Dry goods store	C	P
Egg candling, sales or processing	C	P
Electrical appliances and fixtures, electronic instruments sales, repair and/or service	P	P
Employment agency or employment office	P	P
Express office	P	P
Fix-it shop, repair shop, for household items	P	P
Flea market, or swap meet	C	C
Flooring, carpet, repair and sales	P	P
Florist shop	P	P
Fountain equipment supply, restaurant supply	C	P
Freight or trucking yard or terminal	-	C
Frozen food locker	C	P

Uses	C-1	C-2
Frozen food locker incidental to a main grocery store or food business	P	P
Fruit, fruit juice store; fruit and/or vegetable stand, or store; natural foods/health store	P	P
Fur sales, storage; repair	P	P
Furniture sales and/or repair	P	P
Garage; public	C	P
Gift shop; hobby	P	P
Golf courses	C	P
Greenhouse, nursery; plant materials; soil and lawn service	P	P
Grocery stores	P	P
Guest homes	P	P
Gunsmith	P	P
Hardware store, including the sale of lumber	P	P
Health food store	P	P
Heating, ventilating, air conditioning; (HVAC) equipment sales/repair	C	P
Helipad, private	C	C
Hospital supplies	C	C
Hotel, motel, inn	C	P
Household cleaning/repair, house equipment displays	P	P
Ice cream shop; ice sales	P	P
Ice manufacture, storage, and wholesale ice sales	P	P
Ice vendor units and/or reach-in ice merchandise units, electric icemakers; ice storage, not more than 5 tons' capacity	P	P
Indoor storage facility for boats, automobiles and RVs: minimum 1 acre lot, paved ingress and egress required	C	P
Insulation sales, wholesale	C	P
Interior decorating store	P	P
Jewelry store	P	P

Uses	C-1	C-2
Kennel	C	C
Laundry, automatic self-help - laundry agency	P	P
Liquor and beer sales; places for the drinking of liquor or beer	C	C
Lithographing, including engraving, photoengraving	P	P
Lodges	P	P
Lumberyard	P	P
Manufactured home sales and storage	C	P
Material sales yard, outside, with sale of rock, sand, gravel, and the like as an incidental part of the main business but excluding concrete mixing	C	C
Meat processing plant	C	C
Medical/chiropractic/dental clinic	P	P
Medical/dental laboratories	C	P
Military surplus store	C	P
Miniature golf course	C	P
Monument sales, retail	P	P
Mortuary	P	P
Motorboat and wave runner sales	C	P
Music store	P	P
Newsstand; magazine shop; bookstore	P	P
Nightclub/social club	C	C
Novelty shop, variety store (non-sexually oriented business)	P	P
Nurses' agency	P	P
Office, business or professional	P	P
Office supply; office machines sales, repair	C	P
Oil burner shop	C	P
Optometrist; oculist	P	P
Ornamental iron, sales only	P	P

Uses	C-1	C-2
Outdoor storage facility for boats, automobiles and RVs: minimum 1 acre lot, paved ingress and egress required, privacy fencing required	C	P
Package handling/shipping	C	P
Painter/paint store	P	P
Parking lot incidental to a use conducted on the premises	P	P
Parking lot not incidental to a use conducted on the premises	C	C
Parks and other recreational areas	C	P
Pawnshop	C	P
Pest extermination operation	C	C
Pet shop/enclosed building	C	P
Photographer or photography shop, sales and service	P	P
Plumbing shop/retail	P	P
Popcorn and/or nut shop	P	P
Printing and small paper reproduction service	P	P
Printing, including engraving, photoengraving	C	P
Private club	C	C
Private school	C	C
Propane storage tanks for distribution (commercial)	C	C
Public buildings	C	C
Public, quasi-public, and private service utility lines, pipelines, power lines, roads and etc.	P	P
Radio and television sales and repair	P	P
Radio and television station	C	C
Radio/television wireless transmitting towers	C	C
Real estate agency	P	P
Reception center and/or wedding chapel	C	P
Recreational center, recreational camp, facilities or area that is private and/or commercial	C	C

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Uses	C-1	C-2
Recreational vehicle park	C	C
Recreational vehicles, rentals, leases, sales and service, outdoor and indoor	C	P
Rental shops such as equipment, household appliances, etc.	C	P
Retail shops	C	P
Rock/souvenir shops	P	P
Roofing sales	P	P
Secondhand shop, antiques, conducted within a building or enclosure	P	P
Seed/feed store	C	P
Sewing machine shop	P	P
Shoe shop; shoeshine; shoe repair	P	P
Sign painting shop	C	P
Solar power panels producing over 25 kW	C	C
Solar power panels producing 25 kW or under	P	P
State liquor store	C	C
Stationery and greeting card sales	P	P
Storage unit sales office - not located on site of storage units	P	P
Storage units:		
Hazardous materials	-	-
Self-storage or services storage, attended with sales office, nonhazardous materials	C	C
Unattended self-storage, no sales office, nonhazardous materials	C	C
Substation	C	C
Swimming pool, not accessory use	C	C
Tailor shop	P	P
Taxi stand	P	P
Taxidermist	P	P

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Uses	C-1	C-2
Temporary buildings for uses incidental to construction work, including living quarters for a guard or night watchman, which buildings must be removed upon completion or abandonment of the construction work	P	P
Terminal, parking and maintenance facilities	C	C
Theater, indoor	P	P
Theater, outdoor, providing:	C	C
A solid fence or masonry wall with a minimum height of 6 feet shall be constructed on all sides;		
Driveways and parking areas shall be provided with properly maintained dustless surfaces;		
Automobile off street storage areas for automobiles awaiting entrance to theater shall have capacity of at least 15 percent of the number of auto parking spaces provided inside the theater;		
Minimum area for single screen theater shall be 10 acres and the minimum area for a 2 screen theater shall be 12 acres		
Tire shop, sales and repair	P	P
Tobacco shop	-	-
Tourist and tour guide companies or services	P	P
Towel and linen supply store	P	P
Transfer company	C	C
Travel bureau	P	P
Truck and heavy equipment, repair facility, truck stop, and truck wash	-	C
Used car lot	C	P
Variety store, notions	P	P
Veterinary	C	P
Veterinary providing operations are completely enclosed within an air conditioned and soundproof building	P	P
Wallpaper store	C	P
Warehouse	C	C
Wholesale business	C	P

Chapter 5

AGRICULTURAL ZONE (AG)

9-5-1: PURPOSE:

9-5-2: CODES AND SYMBOLS:

9-5-3: USES TABLE:

9-5-4: AREA, WIDTH, AND SETBACK REGULATIONS:

9-5-5: MODIFYING REGULATIONS:

9-5-1: 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)

9-5-2: CODES AND SYMBOLS:

- A. In this chapter are tables 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 Planning Commission are indicated by a "C" in the appropriate column. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- B. All uses listed in the residential uses table shall be allowed in the Agricultural Zone with the appropriate designated use of permitted, conditional or not allowed. If there is a conflict between the designated uses in the Agricultural Zone the most restrictive use shall apply. Exceptions include rural unimproved subdivisions that can only be used for agricultural purposes as defined in Utah State Code 59-2-502. (Ord. O-2019-2, 1-14-2019)
- C. If a use is not allowed in a given zone it is either not named in the use table or it is indicated in the appropriate column by a dash (-). 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 Planning Commission in a public hearing and approval of the County Commission. (Ord. O-2018-1, 1-12-2018)
- D. This chapter does not regulate the following:
1. Temporary events and activities lasting less than ten (10) days and no more than three (3) times a year on the same property.
 2. Non-commercial events and activities.

3. Events and activities on public lands. (Ord. O-2018-6, 7-9-2018)

The section below has been affected by a recently passed ordinance, 2019-25 - CANNABIS PRODUCTION ESTABLISHMENT. [Go to new ordinance.](#)

9-5-3: USES TABLE:

Uses	
Accessory buildings and uses customarily incidental to permitted uses	P
Agricultural industry or business including all livestock marketing, production, and wholesale	P
Apiary (beehives)	P
Automatic car wash	-
Automobile fuel filling station	-
Aviary	P
Bed and breakfast	P
Beer sales at public recreational facilities	C
Billiards or pool hall	-
Bowling alley; commercial skating	-
Boxing arena	-
Campground, glamp-ground, up to a maximum of 7 sites	C
Campground or glamp-ground more than 7 sites	-
Commercial dwelling or residential facilities for elderly or disabled persons	P
Construction equipment and supply trailer, temporary	P
Convenience store with gasoline sales	-
Cottage industry that may be permitted to employees that reside outside of the dwelling providing adequate off street parking can be made available on the property	C
Dams, reservoirs and hydroelectric facilities	C
Dude ranch, family vacation ranch	C

Dwelling	P
Electrical power substation	C
Farms devoted to raising of chickens, turkeys or other fowl or poultry, fish and frogs	P
Forestry	P
Guest homes	P
Home occupation	P
Hotel, motel, inn	-
Kennel and/or cattery commercial or private	P
Lodges	C
Logging and lumber harvesting	P
Nightclub/social club	-
Park model	P
Parks	P
Parks, public	P
Personal agriculture, including crop production, grazing and pasturing of animals	P
Plant materials nursery or greenhouse	P
Power generation for on site use under 50 kVA	P
Private airstrip	C
Private cemetery	C
Private roads	P
Processing and composting of State regulated Class A, B, and C biosolids and other acceptable organic waste such as chicken manure	C
Production agriculture, including crop and grazing and pasturing of animals	P
Public, quasi-public, and private service utility lines, pipelines, power lines, excluding overhead lines with base structure over 70 feet in height	P
Public recreational grounds and facilities	C

Public riding stable, riding academy or riding ring, horse show barns, or facilities	P
Public use, quasi-public use, essential services, including accredited private school, with a curriculum corresponding to a public school	C
Radio and television transmitting stations and towers and wireless communications towers	C
Recreational vehicle park	-
Reservoir and hydroelectric facilities	C
Residential facilities	P
Second family dwelling for the household of a hired man or seasonal laborer, or members of owner's family	P
Solar panels on a larger scale than residential producing 25 kW and above	C
Solar panels producing below 25 kW of energy	P
Solar power plant	C
Storage, placement, keeping, locating, parking, maintaining, and keeping of agricultural equipment	P
Surface mines, quarries and gravel pits	C
Tourist based companies	P
Truck stop and truck wash	-
Underground mining, including underground and surface for mining and transporting of minerals and for processing such minerals for sale or use	C

(Ord. 2013-5, 8-12-2013, eff. 8-27-2013; amd. Ord. 2015-11, 7-27-2015; Ord. 2016-16, 12-12-2016; Ord. O-2017-14, 10-16-2017; Ord. O-2018-1, 1-12-2018; Ord. O-2018-2, 4-9-2018; Ord. O-2018-5, 7-9-2018; Ord. O-2019-2, 1-14-2019; Ord. O-2019-09, 5-14-2019)

9-5-4: AREA, WIDTH, AND SETBACK REGULATIONS:

District	Area	Width	Yard Regulations		
			Front	Side	Rear
AG	10 acres	200 feet	30 feet	20 feet	30 feet

(Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-5-5: MODIFYING REGULATIONS:

- A. No building, structure or enclosure housing animals or fowl shall be constructed closer than fifty feet (50') to a dwelling on an adjacent lot.
- B. 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 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'). (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- D. A subdivision of land zoned Agricultural may be approved by the County Commission, upon recommendation from the Planning Commission, as a conforming aliquot parts parcel or lot less than ten (10) acres, but not less than 9.5 acres if necessary to compensate for the curvature of the earth or the convergence of Township lines as recognized in the public land survey system, or because of previous survey errors. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013; amd. Ord. 2013-11, 11-25-2013, eff. 12-10-2013)
- E. Dedicated and approved rights-of-way not located within a platted subdivision do not have to be improved at the time of dedication. A dedicated right-of-way will be required to be improved to the standards set forth by the Utah Wildland Urban Interface Code (current edition) prior to a building permit being issued to any parcel required to be served by an all weather surface right-of-way. The right-of-way will have to be improved to a minimum of twenty eight feet (28') wide improved all weather travel surface, prior to a second building permit being issued on a parcel being served by the right-of-way. The owner will be required to submit all invoices associated with the cost of building the road to the County. Any building permits issued within ten (10) years of the date of completion of improvements of the right-of-way will require the property owner to pay a proportionate share of the road construction cost to the property owner who paid the original cost of improvements. The road will be required to be asphalted prior to a development of five (5) acre density, or less, being approved or prior to a building permit being issued which will cause the average daily traffic (ADT) to be above four hundred (400) trips per day or then current standard for very low volume local roads as defined by the American Association of State Highway and Transportation Officials (AASHTO) standards. The improvements may be completed with the development construction.

AVERAGE DAILY TRAFFIC USAGE TABLE

Land Uses	Units	Daily (Weekday) Average Rate
Single family home	Dwelling units	9.52

Land Uses	Units	Daily (Weekday) Average Rate
Apartment	Dwelling units	6.65
Lodging/hotel	Dwelling units	8.92
Retail/shopping center	1,000 square feet	Non-linear rate
General office building	1,000 square feet	11.03
Superstore	1,000 square feet	50.75
Gasoline/service station	Vehicle fueling positions	168.56
Fast-food restaurant with drive- thru window	1,000 square feet	496.12
Restaurant (sit-down)	1,000 square feet	127.15
Industrial/general light	1,000 square feet	6.97
Charter schools/private (K - 12)	Students	2.48
Civic:		
Library	1,000 square feet	56.24
Government office building	1,000 square feet	68.93
State Motor Vehicle Department	1,000 square feet	166.02

(Ord. O-2018-2, 4-9-2018)

F. A conditional use permit shall regulate the size of the structure, not including the foundation; to be no larger than five hundred (500) square feet (such as, but not limited to: tents/covered wagons/tee-pees/tree houses/yurts).

G. All structures and amenities within the campground/glamp-ground are to have a minimum setback of one hundred feet (100') from all private property boundary lines or twenty five feet (25') from all public land boundaries.

H. The maximum campground/glamp-ground capacity in the AG Zone shall not exceed twenty four (24) persons.

I. Conditions for all campgrounds/glamp-grounds can be found in [chapter 15](#), "Conditional And Temporary Uses", of this title. (Ord. O-2018-5, 7-9-2018)

J. State Institutional Trust Lands Administration (SITLA) will be regulated under [chapter 7](#), "Commercial Zones", of this title. (Ord. O-2018-5, 7-9-2018; amd. Ord. O-2018-6, 7-9-2018)

//

End of Ordinance

This Ordinance shall be deposited in the Office of the County Clerk, and shall take effect fifteen (15) days after the date signed below.

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

ADOPTED this ____ day of _____ 2019.

ATTEST:
Kane County

Lamont Smith, Chair
Board of Commissioners

KARLA JOHNSON
Kane County Clerk

Commissioner Smith voted _____
Commissioner Gant voted _____
Commissioner Chamberlain voted _____

Add the following uses to the Ag table as - not permitted or conditional:



5001 Angel Canyon Road • Kanab, Utah 84741 5000 • (435) 644-2001 • www.bestfriends.org

13 Nov 2019

Subject: BFAS Objection to Kane County Ordinance 0-2019-29, Revisions to Kane County Land Use Ordinances; Chapter 5: Agricultural Zones

Attention: Shannon McBride, Kane County Land Use Administrator

Ms. McBride,

Best Friends Animal Society (BFAS) is opposed to revising density or clustering provisions on agricultural zoned land and requiring those agricultural lands to rezone as commercial land per the proposed ordinance revision (reference 1). We believe this proposed rule would be an ill-advised overreach by the County government and amounts to an infringement on our property rights and the property rights of all residents of the County. The County's own land use philosophy ordinance, Title 9-1-2 (reference 2), specifically calls out against the trend of increasing government control over private property rights and uses. This trend comes at the cost of overly restrictive laws and ordinances that effectively seize property rights from property owners. This ordinance would compromise our property rights and those of all Kane County ag land owners, whether by immediate impact or by prohibiting possible future private uses which are currently allowed and are an inherent part of the valuation of any parcel of agricultural land now and when it was purchased. In so doing, the county would be devaluing all such land in a single stroke.

Given the specific exclusions in the revised language of the proposed ordinance and public comments by county officials, it is evident that this proposal is directed with as much precision as possible at Best Friends and Best Friends alone in contradiction to well-established law applying to the legislative process.

Additionally, the pending minutes from the 9 October 2019 Kane County Planning and Zoning Commission meeting justify this ordinance with a full page and a half account of mostly erroneous and poorly informed claims of bad management and planning practices by Best Friends. Most of these claims are either completely unfounded or are management issues that can be easily resolved between the County and BFAS within existing enforcement protocols and without the need of a new County-wide ordinance, that will inevitably have unintended consequences.

I would like to take this opportunity to address the issues raised in the 9 October meeting minutes. The complaints generally fall into these general categories: overbuilding; wastewater infrastructure; and road usage. I will address each issue:

1. Overbuilding. Ms. McBride stated that there were problems with over build and buildings that have had the use changed. She was also concerned about the over 149 building permits in the BF development. Additionally, Ms. Barbara Hansen stated concerns about the installation of electricity without permitting.
 - a. Ms. McBride did meet with me, and we discussed the need to include three recently built residences in a new planned unit development (PUD; called PUD Phase 2).
 - b. PUD. I agreed with Ms. McBride on the PUD issue and told her that we would submit a new PUD application. On January 3, 2019, Best Friends hired Iron Rock Engineers to provide engineering and surveying services and submit all required documentation to Kane County for the updated PUD Phase 2. Due to the workload of both BFAS and Iron Rock Engineering, we have not yet finished this work, though it is on the agenda for both parties to complete in the near future.
 - c. Current BFAS buildings are within agricultural zone permitted uses of livestock grazing and pasturing, kennel and cattery operations, residences, guest homes, and accessory buildings and uses customarily incidental to those permitted uses. The new ordinance indicates that these permitted uses were not the “true intent” of agricultural zoning. On the contrary, the true intent is called out very specifically and we have observed these restrictions in good faith at every stage of our growth.
 - d. Ms. McBride is correct that there have been certain buildings that have had uses changed. Modifying and updating PUDs to reflect those changes are not reasons to implement a County ordinance.
 - e. Ms. Hansen talked about the moving of buildings and installation of electricity without proper permits. When my staff was made aware that electricity had been installed at new aviary structures without proper permitting, we immediately identified the root cause of the problem and corrected it. The new utilities manager had improperly assumed permits were in place. They were not. We changed our internal practices to prevent this from happening again and coordinated directly with the county to ensure inspections were conducted and permits were obtained. We are still working with County staff on some of the aviaries. As for moving of buildings. BFAS moved a modular movable office from one location to another. This modular office has a Utah Department of Motor Vehicle title and we were not aware that the county had jurisdiction over its moving. We did obtain an electrical permit before occupying the building. Again, these are not reasons to implement a County ordinance.
 - f. If the County would like BFAS to coordinate with relevant departments to update PUDs to include existing cattery and kenneling operations, we are more than willing to engage in such discussions. The County has not asked BFAS to do this and does not need to implement a new ordinance to try and force such discussions.

2. Wastewater. Ms. McBride stated in the minutes that because of our current septic issues, we had been turned over to the DEQ for regulation.
 - a. It is true that on September 10, 2019, we were informed by Sandra Thevenin that Southwest Utah Public Health Department (SWUPHD) has determined that Best Friends Animal Sanctuary should be regulated by the Utah Department of Environmental Quality's (DEQ) Division of Water Quality (DWQ). What was not said, was that BFAS has been in routine coordination with the DEQ for almost a year now on upgrading our wastewater systems to a Large Underground Waste Discharge System (LUWDS). We have completed a waste water feasibility study prepared by Sunrise Engineering in coordination with DEQ, and just this month finished resampling all waste water streams from our kennel buildings so we can determine whether pretreatment or holding tanks are necessary additions to the three LUWDS systems that we anticipate will be needed.
 - b. The County claimed in further correspondences that BFAS had septic systems leaking into Kanab Creek. In fact, what was assumed to be a septic leak is, in fact, spring water that we pipe into Kanab Creek to maintain required flow rates into the creek. Because we have animal, staff and volunteers in every area of the sanctuary, any septic failures are promptly identified, and the system switched to an alternate leach field. All our septic systems have alternate leach fields that allow us to switch fields if a problem arises, and we have two employees dedicated to maintaining our septic systems and ensuring all scheduled and emergency maintenance is performed.
3. Road Usage. Mr. Pratt stated that he had requested Best Friends help with the maintenance of the roads due to commercial type use. Best Friends was stated as not been responsive to that request. This statement is not correct. We regularly coordinate with the County and perform maintenance on the County roads that run through Best Friends' property.
 - a. BFAS has a permit to grade the county road as needed. We grade the road around 10 times a year. We don't grade the entire road but areas where it is needed most.
 - b. In the past, we have paid for the application of Magnesium Chloride on Kanab Canyon Road which suppressed dust and minimized the development of washboards on the County road.
 - c. In the past year, we fixed three sections along the county road that due to heavy rains had sloughed and eroded and were at risk of collapsing into the creek posing a possible hazard to traffic. We asked the county if they would repair it, but it was not high on their priority list, so we fixed all three sections. One area we worked on took substantial effort to fix requiring over thirty 10-wheeler truckloads of riprap/concrete from Fredonia. We performed all work internally and absorbed the cost within our operational budget.
 - d. Earlier this spring, we widened a hairpin turn on the lower part of Kanab Canyon Road where within the past few years some local youth had high centered their vehicle on the cliff edge and almost driven off the more than 100-foot escarpment. We performed this road widening at a cost of \$35k.

Subject: BFAS Objection to Kane County Ordinance 0-2019-29, Revisions to Kane County Land Use Ordinances; Chapter 5: Agricultural Zones

- e. Almost every spring and fall, BFAS performs repairs the County road going to Crocodile (Hidden Lake), which is a popular destination for local tour guides and non-Best Friends visitors. We have installed culverts to manage runoff and prevent the severe rutting that typically occurs on that section of County road. We do this work regularly and absorb all costs within our operational budget.
- f. Just last month, in coordination with the County, we installed culverts and laid road base on the road going up from the creek crossing into John R. Flat which cost us approximately \$5k in material cost alone.

Best Friends Animal Society has been a responsible landowner for over 35 years. We look forward to continuing our collaborative work with the County and hope to alleviate any concerns you may have. If you have questions, I can be reached at bartb@bestfriends.org or by phone at (435) 644-4731.

Sincerely,



Bart Battista, MS, PE

Director, Canyon Operations

Attachments

- 1. References

References

1. Title 9 Land Use Chapter 5 AGRICULTURAL ZONE 9-5-5: Modifying Regulation J. Density and Clustering: Maximum density will consist of 2 single family dwellings and/or five structures, which fall under the IBC code definition for commercial buildings. When the density of five commercial structures are built on a Agriculture zoned parcel, a zone change will be required, changing from Ag to Commercial. Therefore protecting the true intent of the Agriculture Zone from over building without the proper infrastructure improvements that are required for commercial developments. For purposes of density and clustering, 4 temporary structures are the equivalent of 1 permanent structure. No more than 40% density for structures will be allowed on any parcel zoned Agriculture. While figuring density within an Agriculture Zone as an Agricultural use, Utah State Code 59-2-504 definitions of agricultural uses will be applied; including accessory to the use buildings. Structure exemptions will be in compliance with the IBC code definitions for AG exempt structures.
2. Title 9 Chapter 1 Section 2 Kane County Land Use Philosophy. There has been, in the United States over the last several decades, a strong trend of increasing governmental control over private property rights and uses. This trend has resulted in the loss of property rights in favor of governmental oversight, regulation and planning concepts. The overall purpose of this trend is to increase orderly growth. However, this end is accomplished overwhelmingly by the use of restrictive laws and ordinances that effectively seize property rights from property owners. Kane County believes that this trend encroaches severely on the inalienable right of property ownership. This land use title and other county ordinances are purposefully kept in many ways as lenient as state statute will allow. Other tougher restrictions are kept as minimal as possible to ensure a balance between the individual's property rights and the property rights of the neighbors. To this end, property owners of Kane County should realize that by retaining as much of their rights as possible, they also retain the associated responsibilities.