



KANE COUNTY LAND USE AUTHORITY

SHANNON MCBRIDE
LAND USE AUTHORITY
ZONING ADMINISTRATOR

Staff Report

DATE: December 30, 2020

To: Planning Commission
From: Shannon McBride, Planning and Zoning Administrator
Subject: Project # 21001: Zone Change Application, AG to C-1, Ordinance O-2021-2
Parcel 3-4.5-31-1A, consisting of 11+/- acres.

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

PROPERTY PROJECT HISTORY	
Project Number	US Coast Guard acting by and through the United States of America (vacant property)
21001	Current zone is Agricultural

REQUEST: On December 14, 2020, Tom Avant, (holding power of attorney), submitted a zone change application on behalf of Boavida LLC, for the above stated parcel, located in the proximity of Johnson Canyon, Lazy J Rural Unimproved Subdivision area; requesting to rezone from Agricultural (AG) to Commercial 1 (C-1). The current Agricultural Zone does not allow Commercial 1 uses such as hotel/motel sites. The applicant would like to develop a nightly rental cabin development, consisting of a minimum of 11 acres.

BACKGROUND: Parcel 3-4.5-31-1A. The parcel is assigned Agricultural Zoning.

LEGAL DESCRIPTION:

Legal BEG AT THE NE COR OF SEC 31 T43S R4 1/2W SLB&M; TH S 0°24'34" W ALG THE E'LY BOUNDARY OF SAID SEC 31, 700.00 FT; TH S 89°22'51" W 700.0 FT; TH N 0°24'34" E 700.00 FT, SAID PT BEING ON THE N'LY BOUNDARY OF SAID SEC 31; TH N 89°22'51" E ALG SAID N'LY BOUNDARY LINE 700.00 FT TO THE PT OF BEG. CONT 11.2470 AC, M/L

FACTS & FINDINGS:

- Parcel meets the minimum acreage required to be zoned C-1. The parcel is currently zoned AG.
- The developer requests C-1 zoning which requires a zone change.
- Surrounding parcels are zoned AG and AG-FAA.
- All the parcels gain access from County Road 3205 and East Highway 89.
- 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: 9-7A-1: PURPOSE: The C-1 Zone is to provide for light commercial areas located in or near Residential Zones to meet the day to day needs of area residences. 9-7B-1: PURPOSE: The purpose of the C-2 Zone is to provide for heavy commercial areas not appropriate near or in Residential Zones to meet larger commercial uses. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- Kane County General Plan, Preamble: Given these basic premises, the Kane County Commission will use this Plan to guide land use decisions for the county. Where decisions regarding property rights versus property values are being made, deference shall be given to property rights. This Plan will assure that present and future residents and visitors to Kane County will be housed under safe, sanitary, and attractive conditions. Land uses in the unincorporated county will reflect the intent of the Commission to expect intensive, urban-scale uses and to provide self-supported basic services without county financial support.
- 9-7B-5: USES TABLE:

Hotel, motel, inn	C	P
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Conclusion: The Applicant's request to rezone parcel 3-4.5-31-1A from AG to C-1 would remain consistent with the Kane County General Plan and give private property rights deference. In the interest of growth, it would be beneficial to Kane County to allow properties to be utilized for the intended use if the use fits the qualifying zone; whether Commercial, Agricultural, or Residential. The Planning Commission should vote based on behalf of Kane County's best interest, including; future planning efforts, private property owner's rights, protecting existing zones, rights of surrounding property owners, and also maintaining the purposes of the Land Use Ordinance and General Plan.

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

If the zone change amendment is adopted, the regulations of the new zone of Commercial 1 (C-1) can be found in the Kane County Land Use Ordinance, Chapter 7: Commercial Zones.

MOTION: I move to recommend/deny approval to the County Commission for the zone change application from AG to C-1 & Ordinance O-2021-02, submitted by Tom Avant, holding power of Attorney, for the owners of Boavida, LLC, for parcel 3-4.5-31-1A.

Location	Owner	Value								
Parcel Number 3-4-5-31-1A	Name BOAVIDA LLC	Market (2020) \$0								
Tax District 08 - COUNTY OUTSIDE	205 N MAIN ST #278 STE D KANABVILLE, UT 84037	Taxable \$0								
Acres 11.25		Tax Area: 06 Tax Rate: 0.009282								
Situs Address		<table border="1"> <thead> <tr> <th>Type</th> <th>Actual</th> <th>Assessed</th> <th>Acres</th> </tr> </thead> <tbody> <tr> <td>EXEMPT</td> <td></td> <td></td> <td>0.000</td> </tr> </tbody> </table>	Type	Actual	Assessed	Acres	EXEMPT			0.000
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Child Accounts Child Parcels Parent Accounts Parent Parcels										

Transfers			
Recording Date	Book	Page	Doc Description
08/21/2020 09:26:13 PM	0538	0882	Quit Claim Deed

Tax		Images	
Tax Year	Taxes	Photo	GIS
2020	\$0.00		
2019	\$0.00		

(1 of 2)

Parcel: 3-4-5-31-1A

Account: 0146160

Zoning: AG

Address: 84741

Lat/Long: 37.0351, -112.3416

[View in Google Maps](#)

[View property records](#)

[View tax records](#)

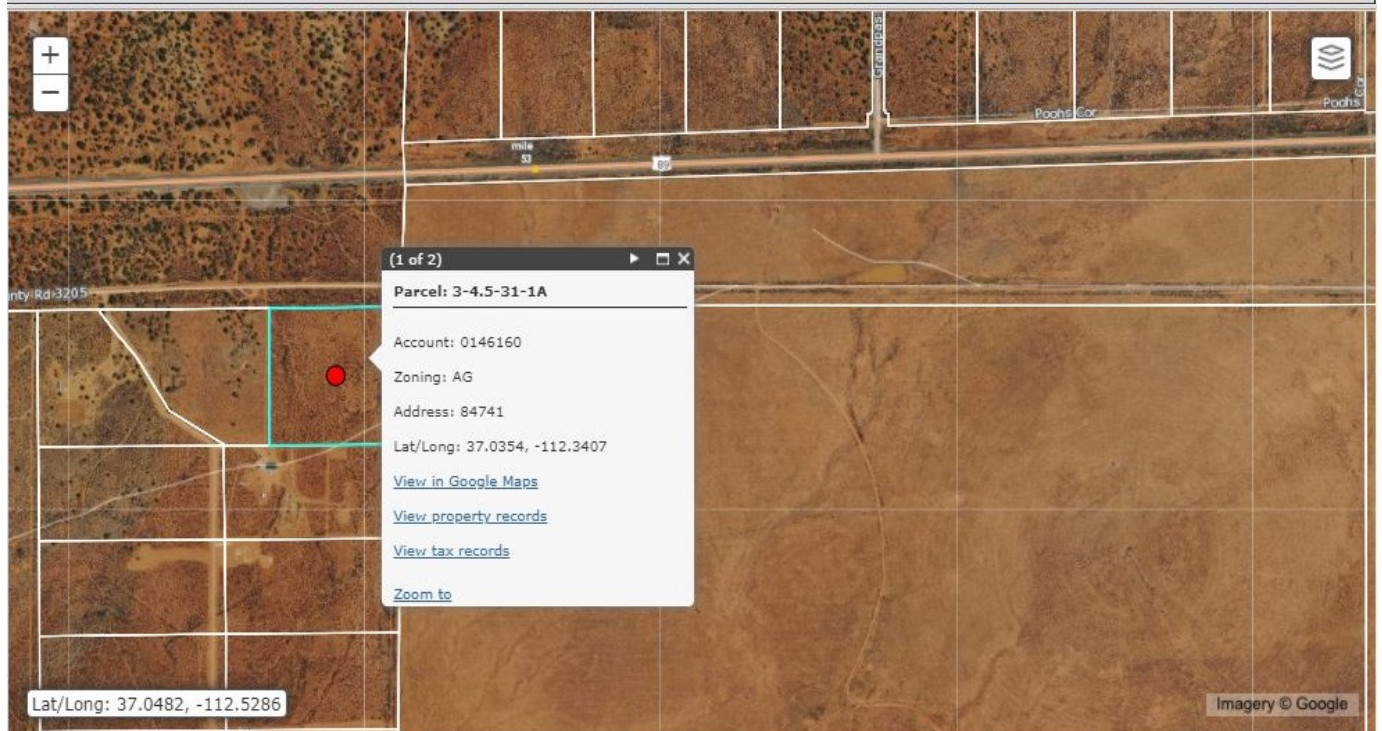
[Zoom to](#)

Lat/Long: 37.0482, -112.5286

Imagery © Google



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Shannon McBride | Zoning Administrator | e-mail: smcbride@kane.utah.gov



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KANE COUNTY ORDINANCE NO. O 2021-02

AN ORDINANCE AMENDING THE ZONING OF PARCEL 3-4.5-31-1A FROM AGRICULTURAL TO COMMERCIAL 1

WHEREAS, the purpose of this ordinance is to rezone parcel 3-4.5-31-1A from Agricultural to Commercial 1, on behalf of Boavida LLC., the recorded owner; consisting of a total of 11 +/- acres;

WHEREAS, the above parcels located in Township 43S, Section 31, Range 4.5W, SLB & M., UT meets the minimum acreage required to be zoned Commercial 1;

WHEREAS, the Kane County Board of Commissioners finds that said zone change is in accordance with the Kane County Land Use Ordinance which states the purposes of properties in the Commercial 1 Zone is to provide for light commercial areas located in or near Residential Zones to meet the day to day needs of area residences. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make the recommended zone change to parcel 3-4.5-31-1A from Agricultural to Commercial 1;

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

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

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

Parcel 3-4.5-31-1A, more fully described by the respective legal description as given below is hereby rezoned from Agricultural to Commercial 1 and shall from here forth be zoned Commercial 1.

LEGAL DESCRIPTION: Township 43, Section 31, Range 4.5W, SLB & M., PARCEL 3-4.5-34-1A. BEG AT THE NE COR OF SEC 31 T43S R4 1/2W SLB&M; TH S 0°24'34" W ALG THE E'LY BOUNDARY OF SAID SEC 31, 700.00 FT; TH S 89°22'51" W 700.0 FT; TH N 0°24'34" E 700.00 FT, SAID PT BEING ON THE N'LY BOUNDARY OF SAID SEC 31; TH N 89°22'51" E ALG SAID N'LY BOUNDARY LINE 700.00 FT TO THE PT OF BEG. CONT 11.2470 AC, M/L

---- 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. Utah State Code 17-53-208 (3) (a)

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 _____, 2021.

ATTEST:

KARLA JOHNSON
Kane County Clerk

Andy Gant, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted
Commissioner Gant voted
Commissioner Chamberlain voted

