



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
76 North Main, Kanab
February 10, 2021

Meeting held via telephone conference.

CHAIRMAN:	Doug Heaton	
MEMBERS PRESENT:	Doug Heaton, Byard Kershaw, Pam Hill, Gwen Brown, Danny Brown	
MEMBERS ABSENT:	Hal Hamblin, Jeremy Chamberlain	
EX-OFFICIO MEMBER:	Commissioner Wade Heaton (absent)	
STAFF PRESENT	Shannon McBride, Land Use Administrator; Wendy Allan, Assistant; Rob Van Dyke, Attorney; Isis Smith, Deputy County Recorder;	
6:00 PM	Meeting called to order Invocation Pledge of Allegiance	Doug Heaton Wendy Allan Gwen Brown

GENERAL BUSINESS

1. Approval of minutes January 13, 2021

MOTION: Byard Kershaw made a motion to **approve** the January 13, 2021 minutes. Pam Hill seconded the motion.

The Chair asked for any questions or comments.

VOTE: Chairman Heaton called for a vote. The **motion passed** unanimously.

2. Public Comment

(No comment)

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

VOTE: The Chair called for the question and the **motion passed** unanimously.

3. Public Meeting – Compliance Review: Krueger

Review of previously divided property, parcel 3-5-31-1A. Submitted by Julie Denise Krueger.

Shannon explained that there are hundreds of improperly subdivided properties in Kane County. Years ago Shannon worked with the County Attorney to find a way to legalize these parcels. A compliance review is one option available to make an improper split legal. It requires that Shannon go back to the time of the split and see what the ordinance required. There is no fee associated with this process.

In researching this particular parcel we discovered that the two neighboring properties had already been through the compliance review process. Shannon went back in the minutes and found that in 1993 Mr. Forrest Hill and Dan Thebeau appeared before the Planning Commission and talked about this subdivision. The easements and fire hydrants in place and the health department has records of the original septic system. Everything was in order at the time, but the subdivision was not recorded.

Shannon explained that a compliance review is about making the split compliant with today's ordinances. Shannon recommends that the planning commission approve this compliance review. The applicant will then be allowed to obtain a building permit.

Rob further explained that, when a compliance review application is turned in, Shannon looks to see if they were compliant with the substance of the ordinance at the time the property was divided and to determine if there was a procedural error. Often times the individual who split the property failed to get it approved by the planning commission. If a property owner does not meet the qualifications for a compliance review there are other means available. If the original owner no longer owns the property they can apply for a Platted Unimproved Subdivision. If the original owner is bringing the property into compliance they may do a Rural Unimproved Subdivision.

MOTION: Byard Kershaw made a motion to approve the compliance review of parcel 3-5-31-1A submitted by Julie Denise Krueger. Seconded by Danny Brown.

Tom Avant shared appreciation for Shannon and the work she has done to find a way to legalize these parcels. Shannon stated that if the properties were divided prior to 1982 they are grandfathered in. Pam questioned the ability to grandfather all of these properties in by ordinance and make them legal. Shannon reported that when she worked with the attorneys to solve these issues it was determined that it was not possible to grandfather them all in. Rob stated the county could not work around the State Code requiring planning commission approval, a record of survey or a plat. It was determined that allowing those procedures to happen years later still complied with State Code. Danny asked if this process helps property owners who are land locked. Shannon reported that during this process they can work to obtain an easement.

VOTE: Chairman Heaton called for the question. The vote was **unanimous to approve**.

4. Public Meeting – Conditional Use Permit: Insite Wireless

An application to amend a Conditional Use Application for a cell tower on parcel #8-7-7-1 located in Duck Creek, Utah. The original application was approved on February 13, 2019. Submitted by Debbie DePompei.

Debbie DePompei explained that they are seeking an extension of time on the original CUP. This CUP was originally approved in February 2019. Verizon put the tower on hold. InSite was going to start on this project again in 2020 and then COVID hit and affected the time line. They now would like to proceed with building this cell tower. This is a 100' tower designed to look like a pine tree.

Shannon explained that everything, including the lease and the fall zone, are still in place.

MOTION: Danny Brown made a motion to approve the extension of the Conditional Use Permit for a cell tower on parcel 8-7-7-1, located in Duck Creek. Submitted by Debbie DePompei. Seconded by Pam Hill.

VOTE: Chairman Heaton called for the motion. The motion was **unanimous to approve**.

5. Public Hearing – Lot Joinder: Cisneros

An application for a lot joinder, joining lots 45-18 & 45-19, Strawberry Valley Estates, Unit 4, becoming new lot 18, containing 0.99 acres, and vacating (2) 7.5' utility easements. Submitted by Kaysey Cisneros and Watson Engineering.

Kaysey Cisneros explained that they would like to join the two parcels to preserve the area and create a larger lot.

Shannon indicated that they are vacating two utility easements. Kaysey has obtained the termination agreements from the utility companies.

Chairman Heaton called the commission into public hearing.

(No Comments)

Chairman Heaton called the commission out of public hearing.

MOTION: Pam Hill made a motion to **recommend approval** to the Kane County Commissioners the Vacating and Amending a Subdivision Plat for a lot joinder, and vacating two 7.5 foot public utility easements, on behalf of the Cisneros Family Trust in the Strawberry Valley Estates Subdivision, unit 4, combining lots 45-18 and 45-19 becoming new lot 18, based on the findings documented in the staff report. Gwen Brown seconded the motion.

VOTE: Chairman Heaton called for the question. The vote was **unanimous to recommend approval** to the Kane County Commissioners.

FINDINGS: Amending (joining) the two lots and vacating two 7.5 foot public utility easements for the above stated lots conforms to the standards in the Kane County Land Use Ordinance, 9-21E-9, (A-F) and Utah Code Sections §17-27a-201, 202, 206, 208 and §17-27a-608, 609 and 609.5. 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. A sign was posted between the two lots showing the vacating of two 7.5 foot public utility easements. The new lot will retain the Residential ½ zoning (R-1/2). Combining these two lots is in compliance with all state and local ordinances.

6. Public Hearing - Zone Change/Ordinance 2021-03: Grinnell

An application for a zone change from C-1 to C-2, parcel I-64, containing 0.50 acres, located in Duck Creek Village. Submitted by Rolane Grinnell.

Rolane and Stacey explained that they have purchased the Aspen View Cottages in Movie Ranch. They have a history of operating an 80 acre property in Brian Head specializing in corporate retreats, family reunions and weddings. They have been upgrading this property and intend to host corporate retreats and weddings. They plan to expand onto the neighboring property (Mike Kenner's property) allowing for better access and more handicap accessible parking stalls.

Chairman Heaton called the commission into public hearing.

Peggy Stone questioned why this requires a zone change. It was clarified that this is permitted in the current zone with a conditional use permit. A zone change would simply streamline their efforts.

Chairman Heaton called the commission out of public hearing.

MOTION: Danny Brown made a motion to **recommend approval** to the County Commission for the zone change from C-1 to C-2 for lot I-64 & Ordinance O-2021-03 based on the facts and findings as documented in the staff report. Byard Kershaw seconded the motion.

VOTE: Chairman Heaton called for the question. The vote was **unanimous to recommend approval** to the Kane County Commissioners.

FACTS & FINDINGS:

- Lot I-64 meets the minimum acreage required to be zoned C-2. The lot is currently zoned C-1.
- The developer requests C-2 zoning which requires a zone change.
- Surrounding lots are zoned C-1, C-2 and R-1 at the rear of the property.
- All the lots gain access from Movie Ranch Road and Highway 14.

- All property owners within 500 ft. of these lots 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:**

Reception center and/or wedding chapel	C	P
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7. Public Hearing – Zone Change/Ordinance 2021-05: McAllister

An application for a zone change from AG to R-5, on behalf of Keith L. & Diana Kay McAllister, Oscar R. & Lolene M. Adams, and Lynn B. & Debra L. McAllister, parcel 4-5-6-3, containing 158.50 acres, located near Lost Springs Road. Submitted by Tom Avant, Iron Rock Engineering, holding power of attorney.

Tom Avant, Iron Rock Engineering, explained that this is 150 acres east of Lost Springs Road. Lost Springs Road is a county road. There are utilities along the road. Mr. Ray and Mr. Janes are purchasing the property. The purchase is contingent upon this zone change.

Tom showed the plat for the planned subdivision and explained that the zone change needs to happen prior to building the subdivision.

Danny disclosed that Doyle Ray just built his home. Danny will not recuse himself from voting.

Tom explained that the higher density acreage will be in the middle of the subdivision and will require a zone change to R-2 at a future date.

Chairman Heaton called the commission into public hearing.

(No Comments)

Chairman Heaton called the commission out of public hearing.

MOTION: Byard Kershaw made a motion to **recommend approval** to the County Commission for the zone change from AG to R-5 for parcel 4-5-6-3 & Ordinance O-2021-05 based on the facts and findings as documented in the staff report. Danny Brown seconded the motion.

VOTE: Chairman Heaton called for the question. The vote was **unanimous to recommend approval** to the Kane County Commissioners.

FACTS & FINDINGS:

- Parcel 4-5-6-3 meets the minimum acreage required to be zoned Residential 5. The parcel is currently zoned AG.
- The developer requests R-5 zoning which requires a zone change.
- Surrounding lots and acreage are zoned AG.
- All the lots gain access from Mountain View Drive/Old Highway 89 and Lost Springs Drive.
- All property owners within 500 ft. of this parcel have been mailed a public notice, no concerns have been voiced by the public.
- **9-5A-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)
- **9-6A-1: PURPOSE:** To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- Kane County General Plan, Preamble: Given these basic premises, the Kane County Commission will use this Plan to guide land use decisions for the county. Where decisions regarding property rights versus property values are being made, deference shall be given to property rights. This Plan will assure that present and future residents and visitors to Kane 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.

8. Public Hearing – Subdivision-Preliminary & Final Plat: Crimson Estates

An application for a subdivision, preliminary and final plat for the Crimson Estates Subdivision, Phase 1, on behalf of Doyle Ray, parcel 4-5-6-3, creating 12 lots. Submitted by Iron Rock Engineering, holding power of attorney.

Tom Avant, Iron Rock Engineering, presented the preliminary and final plat for Crimson Estates subdivision. They will be adding three fire hydrants. The water conservancy will install the water meter barrels at the time of construction.

Chairman Heaton called the commission into public hearing.

(No Comments)

Chairman Heaton called the commission out of public hearing.

MOTION: Danny Brown made a motion to **recommend approval** to the Kane County Commissioners the **Preliminary Plat** for Crimson Estates Subdivision, Phase 1, lots 1-12, on behalf of Doyle Ray. Seconded by Byard Kershaw.

VOTE: Chairman Heaton called for the question. The vote was **unanimous to recommend approval** to the Kane County Commissioners.

MOTION: Pam Hill made a motion to **recommend approval** to the Kane County Commissioners the Crimson Estates Subdivision, Phase 1 **Final Plat**, consisting of 12 new lots on behalf of Doyle Ray. Seconded by Danny Brown.

VOTE: Chairman Heaton called for the question. The vote was **unanimous to recommend approval** to the Kane County Commissioners.

Danny Brown made a motion to adjourn. Byard Kershaw seconded the motion. Meeting was adjourned at 6:48 pm.



Land Use Authority Vice-Chair
Danny Brown



Administrative Assistant
Wendy Allan

