



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
76 North Main, Kanab
April 14, 2021

Meeting held with a call-in option.

CHAIRMAN: Chairman Heaton

MEMBERS PRESENT: Doug Heaton, Byard Kershaw, Pam Hill, Gwen Brown, Danny Brown, Hal Hamblin, Jeremy Chamberlain

MEMBERS ABSENT:

EX-OFFICIO MEMBER: Commissioner Wade Heaton

STAFF PRESENT Shannon McBride, Land Use Administrator; Wendy Allan, Assistant; Charee Shepherd, Assistant; Rob Van Dyke, Attorney; Isis Smith, Deputy County Recorder; Taylor Glover, GIS

6:00 PM Meeting called to order Chairman Heaton
Invocation Jeremy Chamberlain
Pledge of Allegiance Gwen Brown

GENERAL BUSINESS

1. Approval of minutes March 10, 2021

MOTION: Pam made a motion to **approve** the March 10, 2021 minutes. Gwen 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

Peggy Stone stood and said that Wade and certain members of the P&Z board need to be more courteous to the people who are in attendance. She said that they have been very rude in prior meetings. Also she wanted to discuss that at one time there was a consideration of having the

minimum lot size be determined by the location of the lot. For example, the minimum lot size getting bigger the farther away from the city you get. She wants that to be considered again. That way people will be able to make a more educated decision when choosing what lot to buy and build on.

Chairman Heaton asked that this be noted.

Danny made a comment that he may be leaving early

After public comment, Shannon addressed Peggy's comment about the lot sizes. She said that when she first started as the P&Z Administrator the county did have an ordinance which was called a band. She said that the city has an annexation plan which the county never signed and the P&Z voted to take out the banding part of the ordinance and that made the minimum lot size ½ acre. It has been this way for about 9 years. She also said that the city is working on annexing and they will accept less than ½ acre, but the county has tried to stick with the ½ acre because of the health department. She said that we don't have sewer systems in most of the county and so most people are on septic. Chairman Heaton asked if we are bound on banding and Shannon said no, because the county never did sign the annexation plan with the city.

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

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

3. Public Hearing - Zone Change/Ordinance 2021-13: Crimson Cliffs Development, LLC An application for a zone change from AG to R-2 (Ordinance 2021-13), parcel 4-5-6-3 containing 117.54 and 3-5-31-2G, containing 4.26 acres. Submitted by Tom Avant, Iron Rock Engineering, holding power of attorney.

Tom Avant presented the project. He said that a month ago they did phase one for Crimson Cliffs Development which was eight, five acre lots along Lost Springs Drive. Now they want to proceed with the next phases and to start, they want to rezone to R-2 to allow for 2 acre lots. He indicated specific parcels on the plat. Hal asked for Tom to explain where this is for reference. Tom said it's on the old highway out by Lost Springs and by Garkane Power switching station. Pam verified that it was near Dark Sky.

Chairman Heaton called the commission into public hearing.

(No Comments)

Chairman Heaton called the commission out of public hearing

MOTION: Danny made a motion to approve the Zone Change for Crimson Cliffs Development for a zone change from AG to R-2 for parcels 4-5-6-3 containing 117.54 acres, and 3-5-31-2G

containing 4.26 acres, & Ordinance O-2021-05 to the County Commission based on the facts and findings as documented in the staff report. Seconded by Byard.

Danny asked if it was the same project that was approved last month and Tom said yes, but they are rezoning a part to R-2.

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

FINDINGS:

- Parcels 4-5-6-3 and 3-5-31-2G meet the minimum acreage required to be zoned Residential 2. The parcel is currently zoned AG.
- The developer requests R-2 zoning which requires a zone change.
- All surrounding lots and parcels are zoned AG and R-5.
- The majority 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.

4. Public Meeting - Compliance Review: Big Time Developers, LLC/John Ritter, Ritter Family Trust. An application for a compliance review of previously divided property; parcel #8-6-21-10, containing 10 acres. Submitted by Big Time Developers, LLC.

Shannon explained that this application was started by Big Time Developers, but that the property was sold and recorded on Monday and John is the new owner. He has filled out a new application in his name. Shannon explained that with parcels that have been illegally split, the county has set up a few different options to get this fixed. The original owners should have waited to sell this, but didn't. Shannon has talked with John about this. It's unique because it doesn't have an easement or access and because of that they are working with other property owners and the Recorder's Office to rectify this. Hwy 14 used to be used a lot as an access, but it is not recorded as an access easement. Shannon recommends to approve this since the procedure to bring this before the board was missed. John is aware that he has to get a minimum 28' access easement or he will not be granted a building permit. She clarified that it is by Tod's

Junction and it was split in '97 when there was an ordinance under the AG exempt that allowed these 10 acre splits, but they were still supposed to go through the planning commission and a lot of them didn't.

MOTION: Jeremy made a motion to approve the Compliance Review of Previously Divided Property on behalf of Ritter Family Trust for parcel number: 8-6-21-10. Danny seconded the motion.

John wanted to know if this will fix his neighbor's parcel as well and it was determined that his neighbor will have to go through the same process on his own.

VOTE: Chairman Heaton called for the question and the **motion passed** unanimously.

FACTS & FINDINGS:

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

[See attached County Code]

“If all substantive requirements were met but not all procedural requirements were met at the time of the illegal division of land the Land Use Administrator shall present the application to the Planning Commission/Land Use Authority for review and approval. All of the land included in

an application that has been approved by the Planning Commission/Land Use Authority shall be considered legally divided as of the time of the division.”

5. Public Hearing – Lot Joinder: Farney

An application for a lot joinder; joining lots 47 & 60, Strawberry Valley Estates, Unit 4, Amended Subdivision, becoming new lot 47 containing 4.28 acres. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter presented the project. He indicated on the map where they are combining, lots 47 & 60 make new lot 47. The easement will stay since there are utilities in it. Chairman Heaton asked if there were any questions for clarification. There were none.

Chairman Heaton called the commission into public hearing.

(No Comments)

Chairman Heaton called the commission out of public hearing

MOTION: Hal made a motion to recommend approving the amended subdivision plat for a Lot Joinder, on behalf of Judith E. Farney-Trustee of the Milton R. & Judith E. Farney Trust, Dated May 19, 2000, in the Strawberry Valley Estates, Unit 4, Amended Plat, consisting of lots 47 and 60, becoming new lot 47, based on the findings documented in the staff report. Byard seconded the motion.

VOTE: Chairman Heaton called for the question and the **motion passed** unanimously.

FINDINGS: Amending (joining) the above stated lot conforms to the standards in the Kane County Land Use Ordinance, 9-21E-9, (A-F) and Utah Code Sections §17-27a-201, 202, 206, 208 and §17-27a-608, 609. All requirements have been met. The project has been posted in two public places, 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 lot will retain the Residential 1/2 zoning, (R-1/2). Combining these lots is in compliance with all state and local ordinances.

6. Public Hearing – Lot Joinder: Dan Epple

An application for a lot joinder: joining lots 6, 7, 14, 15, 16, 84, 85 & 86 Little Ponderosa Ranch, Block D Amended Plat, becoming new lot 85 containing 11.01 acres. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter presented the project. This is joining 8 lots which are all contiguous. There is a cabin in the middle. There are no easements. The owner wants to make one big lot. Shannon highly recommends this because it is a dry subdivision.

Chairman Heaton called the commission into public hearing.

Hans Chamberlain, who owns a lot out there was on the phone and wanted to know what the purpose of the joinder is. He is concerned that with this big of a lot what would stop the owners from building a hotel or motel on it. Chairman Heaton guessed it's to save on taxes and Shannon verified that is the reason he listed on his application. That, and to make for a better building site. Shannon also stated that the zoning will remain the same and will not allow any commercial uses. The residential use will still be protected. Hans was relieved and wanted to know if the owner would only be able to build 1 cabin. Shannon said Residential-1 zones allow for one home and one guest home and with making all these lots become one big lot it helps the density stay less. Shannon brought up the email that was sent from someone who was worried about this joinder making the road busier, Shannon said that this joinder would actually probably make the road less busy. Tom concurred, because you are reducing the number of potential homes from 16 down to two. Chairman Heaton said the concern has been addressed.

Chairman Heaton called the commission out of public hearing.

MOTION: Gwen made a motion to recommend approving the amended subdivision plat for a Lot Joinder, on behalf of Dan Epple, as trustee of the "Under that Certain Declaration of Trust Deed 4/30/84", in the Little Ponderosa Ranch Subdivision, Block D, Amended Plat, consisting of lots 6, 7, 14, 15, 16, 84, 85 & 86 becoming new lot 85, based on the findings documented in the staff report. Hal seconded the motion.

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

FINDINGS: Amending (joining) the above stated lot conforms to the standards in the Kane County Land Use Ordinance, 9-21E-9, (A-F) and Utah Code Sections §17-27a-201, 202, 206, 208 and §17-27a-608, 609. All requirements have been met. The project has been posted in two public places, 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 lot will retain the Residential 1 zoning, (R-1). Combining these lots is in compliance with all state and local ordinances.

7. Public Hearing – Lot Joinder: Cichocki

An application for a lot joinder; joining lots 10 & 11, Ponderosa Villa, Plat G, becoming new lot 11, containing .92 acres, and vacating (2) 7.5' utility easements. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter presented the project. He explained that this is a simple Lot Joinder. There is an existing cabin in the middle. There are two easements to vacate. Shannon said that because of the vacating of easements this would need to be recommended to the commission. Chairman Heaton clarified that the owner doesn't have to vacate the easement and if they chose not to then it wouldn't have to go to the commission. Shannon indicated that the owners have cleared up the title and this is ready to be recommended to the County Commissioners. Chairman Heaton asked if there were any questions.

Hal asked if there needs to be anything put in the motion about the lien holders. Shannon said no.

Chairman Heaton called the commission into public hearing.

(No comments.)

Chairman Heaton called the commission out of public hearing

MOTION: Danny made a motion to recommend approval to the Kane County Commission to Vacate and Amend a Subdivision Plat for a Lot Joinder and vacating two (2) 7.5' public utility easements, on behalf of Gayle D. & Ruby A. Cichocki, in the Ponderosa Villa Subdivision, Plat G, consisting of lots 10 & 11 and becoming new lot 11, based on the findings documented in the staff report. Jeremy seconded the motion.

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

FACTS & FINDINGS: Amending (joining) the above stated lot 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. A sign was posted on the utility easement to notify the public. Notices were mailed out to all property owners within 500 feet of the project. The new lot will retain the (R-1/2) zoning. Combining these lots is in compliance with all state and local ordinances.

8. Public Hearing - Amended Subdivision: Hillegass Subdivision

An application for amending a subdivision; Hillegass Subdivision, preliminary plat, amending lots 1, 2 & 4, and creating lots 5, 6, 7 & 8. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter presented the project. He said it originally had four lots. They are taking three of those four because the SE corner is now owned by someone else. He wants to take the three and amend them to create eight. The lots are each over one acre. He is going to extend the cul-de-sac so there is access to all of the lots. He will be dedicating that cul-de-sac at the end of Evergreen drive. Shannon asked Tom if everything was in order, and he said for preliminary plat, yes.

Chairman Heaton asked if there was any other questions.

Chairman Heaton called the commission into public hearing.

(No Comments)

Chairman Heaton called the commission out of public hearing.

MOTION: Byard made a motion to recommend approving the amended subdivision plat for extending the Hillegass Subdivision plat, on behalf of Louis J. Jr. and Bonnie E. Hillegass,

Trustees of the Hillegass Family Trust, and Sandra A. Holmes, Trustee of the Holmes Family Trust, adding lots 4, 5, 6, 7, 8 and 9, based on the findings documented in the staff report. Danny seconded the motion.

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

FACTS & FINDINGS: Amending and extending a subdivision plat for the above stated subdivision conforms to the standards in the Kane County Land Use Ordinance, 9-21D-2 and 3, and Utah Code Sections §17-27a-201, 202, 206, 208 and §17-27a-608, 609. All requirements have been met. The project has been posted in two public places, 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 lot will retain the Residential 1/2 zoning, (R-1/2). Combining these lots is in compliance with all state and local ordinances.

9. Public Hearing – Sunflower Valley Estates

A complete application for the Sunflower Valley Estates Subdivision, Preliminary Plat, for parcel 4-5-5-1A, consisting of 165.35 acres, being subdivided into 69, two-acre lots, on behalf of 160 acres LLC, Colt Henderson, property owner, has been submitted by Tom Avant, Iron Rock Engineering, who holds power of attorney for this project.

Tom Avant presented the project. He clarified that this is the subdivision that they did the zone change on last month. He indicated some lots on the map and said they are waiting for more information on the soil tests in regards to clay in the area which will determine what the foundation requirements will be on those. Danny wanted to know how this would impact the traffic on 8 Mile Gap Rd. Tom said that most people won't be using the 8 Mile Gap Rd except for as an emergency egress, but the other road that is going in for the subdivision will be paved. Danny asked if it is the county's responsibility to put the Mag Chloride on the 8 Mile Gap Rd for dust control. Wade said, no, it is not the county's responsibility. Danny said there will be complaints from the lot owners of this subdivision because 8 Mile Gap is extremely dusty. Shannon said this is a very good point to bring up. She said if it gets to that point the property owners would have to form an SSD and they would have to pay for that to be paved. Danny then asked if this area is annexed into the city how are city and county relations, in other words, who would then pay for the pavement of 8 Mile Gap Rd, would it be the city or would it be those property owners? Chairman Heaton said he believes the county's policy is that infrastructure development rests on the shoulders of the property owners who have a vested interest, but if this area were to be annexed then the county loses all jurisdiction and the city would be the one to make the decision on whether or not to pave it and who would pay for that. Tom said that the county's policy right now is that after 400 ADT (Average Daily Traffic) then the road has to be oiled. Which is about 36 to 40 homes. Tom said that he estimated what the ADT would be on 8 Mile Gap Rd after this development goes in and he said it falls below 400 ADT. Pam asked if the dust issue is one of the conditions, but was told no. Hal asked, if 8 Mile Gap was ever paved would it be the residents of this new subdivision who would have to pay for that. He was told no. Tom said that if it was the current owners on 8 Mile Gap that wanted it paved, they would have to form an SSD and have it paved, but if it was a new developer that was coming in and increased the ADT to over 400 then the developer would have to have it paved.

Chairman Heaton called the commission into public hearing.

(No Comments)

Chairman Heaton called the commission out of public hearing.

Shannon said that during the development committee meeting different issues were looked at. She presented all the info in the staff report. She said that there is clay in this subdivision. Taylor is working on a system that would flag clay, so whenever someone comes in for a building permit we will see on our end that different measures might need to be taken. Shannon also said everything is in order.

MOTION: Jeremy made a motion to recommend conditional approval to the Kane County Commission for the Sunflower Valley Estates Subdivision, Preliminary Plat, parcel 4-5-5-1A, being subdivided into 69, two-acre lots, on behalf of 160 acres LLC, Colt Henderson. The preliminary plat can be placed on the Commission meeting agenda after the review and revisions have been received. Danny Seconded the motion

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

FACTS & FINDINGS: The Sunflower Valley Estates Subdivision, (SVES) application complies with State Code unannotated §17-27a-601, 603, 604, 604.5, 606, and 607. The SVES preliminary plat complies with Kane County Land Use Ordinance, Title 9, Chapter 21-Articles C-D Subdivision Regulations and Design Standards and 9-21H-1 (Article H) Construction Standards and 9-21I-(1-9) (Article I) Financial Responsibility. All requirements for rights-of-ways and easements conform to the standards in the Kane County Land Use Ordinance and the Kane County Standards Specifications and Drawing Details for Design and Construction. All notices are in conformance to all standards and notice requirements of §17-27a-201 & 202. A notice for the public hearing was posted in two public places; notices were mailed out to all affected entities and owners within 500 feet of the project and posted in the local newspaper and the County and Utah State web sites as a public hearing. The missing items are the following: Engineers estimate, deed restrictions and plat revisions.

10. Public Hearing - Platted Unimproved Subdivision: Dry Valley
An application for a platted unimproved subdivision; Dry Valley, parcel 8-2-12-1A, creating one lot consisting of 40.23 acres. Submitted by Tom Avant, Iron Rock Engineering, holding power of attorney.

Tom Avant presented the project. He said that this is out by Kodachrome. These lots were divided improperly and Iron rock is submitting a PLUS to make it proper. It does have health department approval. They also have the title 5 from the BLM which gives legal access to the property. Shannon said everything is in order. This is not a new subdivision, but they are approving an existing parcel. They had to clarify that with the health department because of the

hauling of water into a dry subdivision. Since we are just legalizing an existing parcel and not creating a new subdivision it was deemed permissible.

Chairman Heaton asked if there are any provisions with people who want to put in a private use residence and be responsible for their own family. Tom said that there are 2 requirements. 1) it can't have year round access and 2) it is for recreational and not full time use. Byard asked what constitutes full time use. Tom said there isn't a specified time limit, just not year round access. Tom said that this one doesn't have a built maintained road out there so it can't be year round access, so it fulfills the requirements.

Chairman Heaton called the commission into public hearing.

(No Comments)

Chairman Heaton called the commission out of public hearing.

MOTION: Byard made a motion to recommend approval to the Kane County Commissioners the Dry Valley Platted Unimproved Subdivision for parcel #8-2-12-1A becoming one properly subdivided parcel, based on the findings in the staff report. Pam seconded the motion.

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

FACTS & FINDINGS: The application for a Platted Unimproved Subdivision (PLUS) complies with Utah State Code unannotated §17-27a-605 (1), (ab)-(i)-(iv). Dry Valley, PLUS complies with Kane County Land Use Ordinance, Title 9, Chapter 21, Article K, 1-3. All requirements for rights-of-way and EXISTING easements conform to the standards in the Kane County Land Use Ordinance at the time of the application for the PLUS process. All notices are in conformance with all standards and notice requirements of §17-27a-202. A notice was posted that was visible to the public for 10 days prior, on two public notice boards at the Kane County courthouse, posted in the local newspaper, the Utah State website and the Kane County website. This PLUS contains one new 40 acre parcel.

- (1) A land use authority shall apply the plain language of land use regulations.
- (2) If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.
- (3) A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.

11. Public Meeting - Conditional Use Permit: ELOHI

An application for a conditional use permit for a glamping resort on parcel 1-8-10-1, occupying 27.74 acres. Submitted by Tom Avant, Iron Rock Engineering, holding power of attorney.

Tom Avant presented the project. He said this is up on Mineral where they did a Zone Change to Rural-40. It will be used for higher-end glamping. Currently they have 35 tents but Rural-40 allows up to 70. Tom said that it is about 1.25 miles up Mineral Road. He indicated on the maps

where the welcome center and other tents will be. Transportation for guests will be golf carts or walking. The focus group is hikers. There is onsite staff housing, and a restaurant for guests only. Tom showed the pictures of the tents and explained the construction of the tents. Chairman Heaton asked if there were any questions. Shannon asked Tom if the fire evacuation concerns had been addressed. Tom said, they will have two 15 passenger vans on site for evacuation purposes. Tom also said that they are finalizing the title 5 from the BLM for emergency egress. Chairman Heaton was concerned that because most of this was on RS2477 road it might jeopardize the lawsuit by taking a Title 5. Tom said that is not an issue with this property because they are not touching Mineral Road. Wade asked if this has been used by the public. And Tom said yes. Rob clarified that a private citizen can apply for title 5 and it doesn't jeopardize anything with the county. Danny wanted to know what the difference was between these tents and mini homes. Tom said that the frames are aluminum and everything else is canvas. Shannon said that this is our first project to be put through under the Rural 40 zone. People were concerned about other commercial uses but were okay with camping so that was when they zoned it Rural 40. Pam asked if this is being approved for 35 or 70. Tom said the ordinance is for up to 70, but the CUP is for 35. Richard corrected Tom and said it is actually 32 tents. It was then said that if ELOHI wants to do more tents in the future they would need to come back and go through the whole CUP again. Pam asked about a well. Tom said they went down to the 200' aquifer and got less than 1 gal/min, but went down to 1800' and now they are getting 40 gal/min. Shannon asked about the drains on the hot tub that were concerns brought up by the health department during the development meeting. Tom said he went through the whole list of conditions from the health department with his client and they were fine with the entire list. Tom said that the way it will work is the tenants will drive in and park on arrival, and then will go on shuttles to different locations. The traffic would be minimal.

MOTION: Pam made a motion to approve the Conditional Use Permit application, submitted by Elohi Camp Zion LLC, for 32 tents, a restaurant, and accessory structures, including employee housing structures, located on Parcel 1-8-10-1. Byard Seconded the motion.

Danny asked if this was going to be passed no matter what. It was determined that the reason for denial would have to be health, safety, and welfare. Danny expressed his concerns about this many septic systems and our current water supply. He doesn't want issues later on when it's too late. Chairman Heaton asked what kind of septic systems they are planning out there. Tom said it was silty sand but 1800' from the septic system to water, and also, because this is a LUD system they will have to do pre-treatment and pressure distribution. Hal asked if it is 1800' to *their* well or to the *nearest* well. Tom clarified that their well is 1800' deep not 1800' from the septic. Hal specified that he isn't concerned so much about them contaminating their own well, but rather them contaminating other water supply downstream. Tom said there is nothing downstream so that shouldn't be an issue. Hal wanted to know if there are any streams or seeps down that way. Chairman Heaton said that it really shouldn't be a problem. Jeremy agreed saying that all the other residences are uphill anyway. Tom said that with the system they are putting in, the water is considered treated about 4 feet below the septic. Chairman Heaton agreed saying that water cleans up really fast when it moves through the soil.

VOTE: Chairman Heaton called for the question. Gwen, Pam, Byard, Jeremy & Hal voted Aye, Danny voted nay.

FACTS & FINDINGS: Amending and extending a subdivision plat for the above stated subdivision conforms to the standards in the Kane County Land Use Ordinance, 9-21D-2 and 3, and Utah Code Sections §17-27a-201, 202, 206, 208 and §17-27a-608, 609. All requirements have been met. The project has been posted in two public places, 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 lot will retain the Residential 1/2 zoning, (R-1/2). Combining these lots is in compliance with all state and local ordinances.

12. Public Meeting - Conditional Use Permit: Boavida

An application for a conditional use permit for a motel, parcel 3-4.5-31-1A. Submitted by Tom Avant, Iron Rock Engineering, holding power of attorney.

Tom Avant presented the project. Tom clarified the location of the parcel on the map. It was brought up that this is the project that the P&Z had voted against being rezoned to commercial. It was clarified that this is tiny cabins but it is considered a motel by county standards. Byard said he remembered there being some concerns last time about travelers turning off the road right there. He wondered if that had been mitigated. Shannon said that they have gotten a letter of feasibility from UDOT saying that they are okay with it. Shannon stressed that before, when this was up for zone change it was okay to listen to the public and vote yes or no on opinion, but now that the zone is officially C-1 this use *is* permitted and the only reason they can deny it is because of health, safety, and welfare reasons that can't be mitigated. You cannot deny it on anything other than those things. The only thing you can do is implement conditions that the property owner must follow in order to proceed. Chairman Heaton asked if there were any other concerns.

Hal expressed his unhappiness with the commissioner's decision. He feels they should have brought that back to the P&Z and explained why they felt like it should be approved to C-1. He said the way it all went down rubbed everybody wrong. Hal said that he isn't so dead set against the project itself, however, he does want it done within boundaries. He is, however, dead set against the County Commission thinking they know better than the P&Z on what needs to happen.

MOTION: Hal made a motion to recommend denying the Conditional Use Permit application, submitted by Boavida, LLC, for a 7 unit motel located on parcel 3-4.5-31-1A.

Before anyone seconded the motion, Shannon asked to defer to the County Attorney because we have never denied a CUP. She asked Rob if the board can deny the CUP based on the zone change. Rob reiterated what Shannon said about only being able to deny based on adverse conditions that exist that cannot be mitigated. Chairman Heaton stated that the board doesn't have power to overturn the commission's decision. Rob said that you can impose conditions that you feel address adverse conditions. Chairman Heaton wanted clarification on whether it is okay if they vote against it because they don't agree with the zone change. Rob said that puts them in a precarious situation. Rob then said that they can continue to discuss this in open session, but

the board has the authority to go into closed session for administrative decision making. He said that would be done by making a motion.

Motion: Danny made a motion to go into closed session for administrative decision making. Hal seconded the motion.

Vote: The Chair called for the questions and the vote passed unanimously.

Closed Session:

MEMBERS PRESENT: Doug Heaton Heaton, Byard Kershaw, Pam Hill, Gwen Brown, Danny Brown, Hal Hamblin, Jeremy Chamberlain

MEMBERS ABSENT:

EX-OFFICIO MEMBER: Commissioner Wade Heaton

STAFF PRESENT Shannon McBride, Land Use Administrator; Wendy Allan, Assistant; Charee Shepherd, Assistant; Rob Van Dyke, Attorney; Isis Smith, Deputy County Recorder; Taylor Glover, GIS

Open Session:

Chairman Heaton made the announcement of coming out of closed session and made it clear that they had discussed what they can and cannot do with Conditional Use Permits.

Danny said that he is torn on whether to make a motion to add conditions or postponing for next month's meeting. Shannon discouraged postponing without stating the additional information on the record. Rob interjected that if the P&Z was going to postpone it they needed to state what the additional information is needed.

Motion: Danny made a motion to approve the Conditional Use Permit application, submitted by Boavida, LLC, for a 7 unit motel located on parcel 3-4.5-31-1A after we have discussed and added in conditions based on what we discuss after this point. Pam seconded the motion.

Hal stated that he wanted to make one of the conditions on this that the developer gravel the road from Lazy J where the gravel stops down to Alvey's property because of the dust factor He also wants the developer to put a privacy fence on 3 sides – east, west, & south. He also said he wants a full time manager on site at all times and if dust from tenants causes problems for animals or residents they may have to put Mag Chloride on the road, every year. Byard said that Mag Chloride tends to kill vegetation along the roadside, this was a concern. Taylor said there are different eco-friendly alternatives for dust control. Chairman Heaton suggested using the term "treatment" rather than Mag Chloride because of the other options available that might be better. It was determined to word the condition for road treatment as follows: that they comply

with a dust mitigation plan that is approved by Civil Science. Chairman Heaton asked if there were any other comments or thoughts on conditions to go into the motion.

Wade wanted to know what the lighting condition is. Shannon said it is down hooded to comply with the Dark Sky ordinance. Wade stressed for the board to think of any unreasonable impacts that this project might have on the residents so that they can come up with any other conditions that need to go into the CUP. Chairman Heaton asked who the fence is protecting. Hal said that the fence would protect the residents south of this project from the light, noise, and other commotion. It also protects the project itself from 13 hound dogs that are right next door. If the developer wants to keep cows out he may want to build it on the north side as well. Danny expressed the importance of the privacy fence because people go on vacation and can get out of control. Hal agreed with that, bringing up the Goodfellow rental which had a problem over spring break where the law was called out. Shannon said that if you drive to St. George you can see that most of these Tiny Cabin communities are fenced off and she doesn't feel like that is asking too much. It was established that because of the nuisance ordinance, already in place, there really doesn't need to be a condition in place regarding noise, and commotion, and the on-site manager should help with that issue.

Chairman Heaton stressed that the board needs to vote on this with the owners in mind, not because they are mad at the County Commissioners. He also felt that the conditions they had come up with are good ones. Jeremy asked if the light from the buildings had been addressed and Shannon confirmed that it had been. Chairman Heaton asked if there was anybody who had big concerns if they pass this with the conditions that had been discussed. Hal said he wanted to hear from the developer about the conditions they had put in place. Tom asked about graveling to Alvey's property. He said that the access to the property does not go that far and he asked if they can just gravel to the access. Hal asked how they were going to stop the tenants from accessing further up the road and Rob asked what is past the access. Tom said that it is Alvey's property with a closed gate. Rob asked if there were public lands further out on that road that might be accessed by people staying there. Tom doesn't think that the tenants will venture further down that road but Hal doesn't agree. He says that the people who will be staying here are not going to be the type of people who grew up around here—the kind of people who know how to open and close a gate. They will be going where they want when they want and doing what they want. However, he did say that he agrees with Tom in that the developer should probably not have to gravel past the access. Danny asked if we need to readdress the condition of graveling or keep it the same. Hal said he was okay with changing it to being graveled to the access of the motel site. Tom consulted the owner and asked if he had any concerns about the privacy fence. Jonathan Mitchell, the owner, who was in the audience said he thinks it should only be required to have the fence on the west and south, but he doesn't believe he needs to do it on the east side because it is just an open field. Hal said that Alvey's, who are the people who own the field on the east side, were very set against this whole development and nobody knows what they are planning on putting over there so Hal thinks they should put it on the east, but he won't ask that it be put in as a condition. Tom said that he isn't saying that the developer won't put it in, but he thinks that he shouldn't be required under the conditions to do it on the east. Rob clarified that Hal can include it if he wants to. It was decided to take out the condition of having a fence on the east side of the fence.

Danny called the previous question.

VOTE: Chairman Heaton called for the question. The vote was unanimous to end discussion.

Motion: Danny Made the motion to approve the Conditional Use Permit application, submitted by Boavida, LLC, for a 7 unit motel located on parcel 3-4.5-31-1A, with the conditions that a fence be put on the west and south side of the development, with the condition to require gravel to the access point of the motel site and that their dust mitigation plan is approved by Civil Science. Pam seconded the motion.

Tom wanted to clarify if the owner could fence just around the development instead of going around the property perimeter. It was decided yes that would be fine as long as the separation is there.

VOTE: Chairman Heaton called for the question. Pam, Danny, Byard, Jeremy, and Hal voted aye, and Gwen abstained.

FACTS & FINDINGS: The above application complies with the Kane County Land Use Ordinance, 9-15A-1-6: Conditional Uses and the Kane County Land Use Ordinance 9-5-3 (F-1) Agricultural Zone (Uses Table) which allows the use of glamp-grounds through a conditional use permit. The CUP has the conditions to mitigate safety issues and must be implemented at the time of the building permit application. **This motel is accessed off a Class B County road.**

Danny left the meeting at 8:17

**13. Public Hearing - Ordinance 2021-12: Reducing the right-of-way size
An ordinance revising KCLUO Chapter 21: Subdivision Regulations and Kane County Standard Specifications Details & Drawing Details for Design and Construction; reducing the 66 foot right-of-way requirement to 50 feet.**

Shannon asked to table this item.

MOTION: Hal made a motion to table the item. Jeremy seconded the motion.

VOTE: Chariman Heaton called for the question. The vote was unanimous.

**14. Public Hearing - Ordinance 2021-11: Well Source Protection Areas
An ordinance revising KCLUO Chapter 26: Well Source Protection Areas.**

Shannon asked for the board to make a motion to postpone this item to next month because they were unable to meet with the health department.

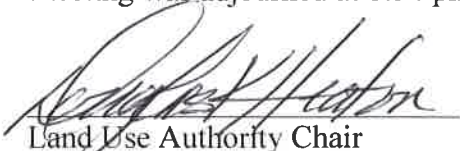
MOTION: Jeremy made a motion to postpone definitely to next month. Hal seconded the motion.

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

15. Public Meeting - Board Training
Board training presented by Commissioner Heaton.

Commissioner Heaton gave a training on the different roles between the County Commissioner's, the Planning and Zoning Board of Commissioners, and the Planning and Zoning staff.

Hal made a motion to adjourn the meeting. Jeremy seconded the motion.
Meeting was adjourned at 8:54 pm.


Land Use Authority Chair
Chairman Heaton Heaton


Administrative Assistant
Charee Shepherd