



Bruce C. Jenkins, Managing Partner, CCAL†+  
Carson B. Bagley, Partner+\*  
Quinn A. Sperry, Partner+  
Kimball A. Forbes, Partner+\*  
Russell Pietryga, Associate+  
[www.jenkinsbagleysperry.com](http://www.jenkinsbagleysperry.com)

[BCJ@jenkinsbagley.com](mailto:BCJ@jenkinsbagley.com)  
[CBB@jenkinsbagley.com](mailto:CBB@jenkinsbagley.com)  
[QAS@jenkinsbagley.com](mailto:QAS@jenkinsbagley.com)  
[KAF@jenkinsbagley.com](mailto:KAF@jenkinsbagley.com)  
[RSP@jenkinsbagley.com](mailto:RSP@jenkinsbagley.com)

†College of Community Association Lawyers  
+Licensed in Utah  
\*Licensed in Nevada

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*Sent via Email to: [zshaw@slco.org](mailto:zshaw@slco.org); [jmcnulty@msd.utah.gov](mailto:jmcnulty@msd.utah.gov)*

Zach D. Shaw  
Salt Lake County District Attorney  
35 East 500 South  
Salt Lake City, UT 84111

Jim McNulty  
Planning Manager  
Greater Salt Lake Municipal Services District  
2001 South State Street, #3-600  
Salt Lake City, UT 84190

***Re: Planning Commission Meeting - September 14, 2021  
Proposed FR Ordinance Amendment  
Concerns and Suggestions of Jean Crane (Resident of Hi-Country Estates  
Phase 1)***

Dear Mr. Shaw and Mr. McNulty:

This letter concerns the proposed amendments to the FR Zoning Ordinance<sup>1</sup> with regards to animals and their impact on adjoining properties within this zone which are being discussed during the Salt Lake County Planning Commission's meeting scheduled for Wednesday, September 15, 2021. I understand that these amendments are being considered because of issues raised concerning animals primarily in the Hi-Country Estates Phase I subdivisions ("HCE-I") located in the SW Quadrant of Salt Lake County. I write to you on behalf of my client, Jean Crane, who is a resident in HCE-I, which is zoned FR. Jean Crane is concerned about the

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<sup>1</sup> This letter focuses on issues concerning the FR zone ordinance and does not expressly address any implications to the FA zone

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*St George Office*

285 W. Tabernacle, Suite 301  
St George, UT 84770  
Tel: 435.656.8200  
Fax: 435.656.8201

*Salt Lake Office*

10757 S. River Front Parkway  
Suite 110  
South Jordan, UT 84095  
Tel: 801.613.2025

*Richfield Office, By appointment*

*Of Counsel Affiliation,  
Anderson, Matheson & Peshell*

proposed changes to the FR Zoning Ordinance and the impact that such changes will likely have on her HCE-I community.

The current FR ordinance allows residents to have horses on their property as a conditional use. The County staff report recognizes that there are 190 lots in the FR zone and nine (9) of these lots have conditional use permits for horses, but staff further recognizes that not all 190 lots have horses. The staff report fails to identify how many lots have horses in violation of the current ordinance, and simply notes a concern that enforcing the ordinance may create hostility between neighbors. Jean Crane disagrees with this assumption that enforcement will create hostility and it is her opinion that the hostility which has arisen recently is due, at least in part, due to the lack of enforcement which has taken place. Jean Crane believes that if enforcement occurs then there may be some short-term tensions but ultimately such tensions will be minimal in the long-term as residents comply with the applicable ordinances. To even minimize any short-term tensions, Jean Crane suggests that if nothing is passed to a permitted use or if everything stays the same with the existing conditional use, the County engage in greater efforts to educate the residents of the lots in the FR zone that horses are a conditional use, encourage residents to submit applications to legally have their horses on the lots in compliance with the ordinance,<sup>2</sup> and then, after a reasonable time for residents to come into compliance, increase enforcement efforts against those residents who fail to comply with the ordinances. Jean Crane's position is that the County should encourage compliance with the current ordinances (or slightly modified ordinance as addressed further herein) rather than overhauling the ordinance to capitulate to those residents who have violated the ordinance and do not want to go through the process to come into compliance.<sup>3</sup>

It appears permitted use would be less time-consuming and less-expensive for HCE-I residents, but Jean Crane does not feel that the permitted use process has been adequately explained by County staff to help residents understand how to comply with the other requirements which would apply. Continuing to allow horses as a conditional use in the FR zone rather than a permitted use might further supports the County's efforts to better protect the watershed and mitigate potential contamination. The staff report addresses the study of E. coli and the impact that horses and other animals have on the contamination levels.<sup>4</sup> Whether or not horses contribute to stream contamination, Crane supports the notion of amending the ordinance

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<sup>2</sup> If the County is concerned about the cost of a conditional use permit being a barrier for residents to come into compliance with the ordinance, the County may consider options to temporarily remove or reduce the cost of such permit to encourage and facilitate residents to apply for the permit and to come into compliance with the ordinance.

<sup>3</sup> Given the amount of public comment to the proposed amendments to the ordinance, it appears that the significant changes to the ordinance have created a high level of interest and contention from many residents; therefore, as set forth in this letter, Jean Crane is in support of County making minor revisions to clarify and improve the FR ordinance rather than significantly amending it.

<sup>4</sup> Crane recognizes that other residents dispute the results of the County's water study and conclusion that the horses contribute to the streams contamination, and Jean Crane defers to the expert opinions presented by the County and other residents regarding whether horses contribute to the contamination levels.

to expressly limit the number of horses to two (2) per usable acre (that portion of the property which excludes homes and accessory structures not housing the animals, driveways, etc.) in the FR zone. Limiting the number of horses while retaining the conditional use provision for horses in the FR zone provides a mechanism for the County to better account for the number of horses in the area and promotes the County's ability to better measure and track its efforts to protect the watershed.

The FR zone ordinance should be clarified to expressly limit animal uses to personal use. County staff recognizes that allowing commercial boarding of horses in the FR zone "would be a significant expansion of the current character of the zone, and such higher-intensity incompatible uses are likely to foster disputes, as have already taken place." Jean Crane agrees with this conclusion and that commercial boarding, and other commercial operations, should be expressly prohibited in the FR zone.

Jean Crane is concerned, however, with staff's statement that commercial horse trailing riding is consistent with a commercial recreation use in the FR zone. This position seems incongruent given the staff's reasoning for prohibiting commercial boarding. Both commercial trail riding, and commercial boarding, will result in a higher intensity use of the area which is incompatible with the current character of the FR zone. The current ordinance defines "commercial recreation" as "recreational facilities operated as a business and open to the general public for a fee, such as golf driving ranges and baseball batting ranges." *See* Salt Lake County Ordinance 19.04.448. The ordinance's examples suggest that "commercial recreation" is a type which takes place completely within the boundaries of the property owned or operated by the business (i.e.: the golf course or baseball facility), but a trail riding business would likely be using trails on other private property or public land and not contained solely within the property owned or controlled by the trail riding company (unless the County expressly provides in the ordinance that the trail riding take place on the business operators private property). A trail riding company is a different type of operation than the examples used in the ordinance and, thus, a trail riding company is distinguishable from the type of business permitted under the "commercial recreation" use of the ordinance. Such a trail riding business will further make it harder for the County to account for the number of horses in or using the area and likely more difficult to take or enforce measures to limit water contamination. Accordingly, Jean Crane supports amending the FR ordinance to expressly prohibit all commercial activities, including commercial trail riding

Moreover, allowing a commercial trail riding operation in the FR zone will most likely result in a greater number of disputes between neighbors – something the County is trying to minimize through any proposed amendment to the ordinance. For example, if commercial trail riding is allowed under the FR ordinance, then this will impact the residential character of a subdivision like HCE-I. The HCE-I subdivision is a gated community which was initially platted in January 1972. (*See* Subdivision Plat Map, enclosed herewith at Attachment 1). Allowing a commercial trail riding business within HCE-I will increase traffic, both vehicle and horse traffic because the horses would likely be traveling on the private roadways within the community, and

this is incompatible with nature of such a private and gated residential subdivision.<sup>5</sup> Given that the private roadways within the HCE-I community are owned and maintained by the homeowners association which operates HCE-I, if a customer of the trail riding business were to be injured on the homeowners association's common property then the injured party could potentially assert a claim against the homeowners association even though the homeowners association is not directly benefiting from the commercial activity being conducted by one of the residents. Such an incident will most likely result in increased tensions and disputes between neighbors if members of the homeowners association become collectively liable for the injuries suffered by a client of the commercial trail riding operation.

In addition, the protective covenants applicable to all lots within HCE-I, originally recorded in March 1974 and subsequently in June 1995, state in part: "No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats, and other household pets and *horses may be kept, provided that they are not kept, bred, or maintained for any commercial purpose*. No animal may be kept which constitutes an annoyance or nuisance to the area. *All animals shall be restricted to their owner's property.*" (See 1974 Protective Covenants and 1995 Protective Covenants, at ¶ 9, recorded with the Salt Lake County Recorder's office as Entry Nos. 2607748 and 6101426, respectively (emphasis added)).<sup>6</sup> Pursuant to plain language of these restrictive covenants, a resident in the HCE-I is not allowed to operate a commercial trail riding business; therefore, the County should not consider amending the FR ordinance to allow such an operation if it is doing to so at the request of anyone operating such a business within HCE-I. The County should enforce the current restrictions in the ordinance and/or encourage the HCE-I homeowners association and its members to enforce its protective covenants to restrict such commercial activities.<sup>7</sup> The HCE-I protective covenants further restrict signage within the community which may be inconsistent with the ordinance's signage requirements (as well as parking, lighting, etc.) applicable to businesses. Amending the FR ordinance to allow for such commercial trail riding will create greater uncertainty and likely increase the contention within HCE-I due to the conflict which will exist between the FR ordinance and the HCE-I protective covenants. Jean Crane's position is that it is better to clarify the FR ordinance to prohibit such commercial activity so that both the zoning ordinance and the HCE-I protective covenants are consistent because if a resident is out of compliance, then enforcement action may be taken by the homeowners association, any member of HCE-I, and/or the County. One would assume with such multiple layers of potential enforcement that

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<sup>5</sup> The trail riding operation is clearly not a "home business" which may be conducted entirely within the dwelling located on the property and incidental or secondary to the residential purpose of the property. (See Salt Lake County Ordinance 19.85.010 (defining "home business")).

<sup>6</sup> Upon request, Jean Crane will provide you with a copy of these protective covenants.

<sup>7</sup> Jean Crane is currently a plaintiff in a pending lawsuit involving claims concerning enforcement of HCE-I's protective covenants.

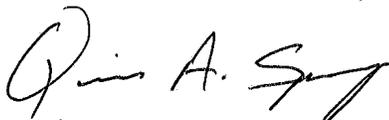
compliance with the applicable provisions and enforcement thereof will be more consistent and minimize any concerns of selective enforcement.<sup>8</sup>

In conclusion, Jean Crane is ***against*** any change to the FR zoning ordinance which will expand commercial activities in the FR zone. However, Jean Crane is ***in favor*** of the County amending the FR ordinance to: **(i)** expressly prohibit commercial activities (including horse trailing riding operations); **(ii)** limit the number of horses on usable acreage; **(iii)** promote efforts to mitigate contamination of the watershed; and **(iv)** clarify any currently ambiguous or vague requirements in the ordinance to promote compliance and improve enforcement. Jean Crane further encourages the County engage in additional efforts to better educate the residents in the FR zone concerning horses being allowed as a conditional use or permitted use and how residents may apply for and obtain such a conditional use permit or comply with requirements for permitted use for their horses. For those residents in the FR zone who fail, or otherwise refuse, after a reasonable time has been given, to obtain such permits to have their horses, the County should then take the necessary enforcement actions to bring such residents into compliance with the ordinance. As a means to minimize the burden on the County and to hopefully address neighbor disputes more quickly going forward, Jean Crane suggests that County encourage the homeowners association for HCE-I, and any other homeowners associations within the FR zone, to enforce the protective covenants applicable to their subdivision which restrict certain animals and land uses, especially when such restrictions are consistent with the County's FR ordinance.

Please feel free to contact me or Crane to further discuss these issues.<sup>9</sup>

Sincerely,

**JENKINS BAGLEY SPERRY, PLLC**



Quinn A. Sperry

Enclosure (HCE-I Plat Map)

cc: Jean Crane (via email)  
Wendy Gurr ([wgurr@msd.utah.gov](mailto:wgurr@msd.utah.gov))  
Jim Nakamura ([JNakamura@msd.utah.gov](mailto:JNakamura@msd.utah.gov))

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<sup>8</sup> Jean Crane further believes that if the County allows for commercial activities in the FR zone, then some residents in HCE-I will likely push to amend the protective covenants of HCE-I to defer to the County ordinances and potentially defer to the County for all enforcement efforts. (A previous attempt to change the protective covenants in this manner failed earlier this year.) If HCE-I's protective covenants were changed to reflect this, then it will place a greater enforcement burden on the County.

<sup>9</sup> County staff already has the contact information for Jean Crane given previous communications between her and County staff concerning the issues addressed in this letter

