



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
Kanab Center Board Room
20 N. 100 East, Kanab, UT
November 16, 2022

CHAIRMAN: Doug Heaton

MEMBERS PRESENT: Gwen Brown, Jeremy Chamberlain, John Reese, Aaron Bonham, Byard Kershaw (via phone), Doug Heaton (via phone)

MEMBERS ABSENT: Hal Hamblin

EX-OFFICIO MEMBER: Commissioner Wade Heaton

STAFF PRESENT Shannon McBride, Land Use Administrator; Wendy Allan, Administrative Assistant; Kelvin Smith, County Engineer; Rob Van Dyke, Attorney (via phone);

6:00 PM Meeting called to order John Reese
Invocation Wade Heaton
Pledge of Allegiance Gwen Brown

GENERAL BUSINESS

1. Update on Commission Decisions

Commissioner Wade Heaton reported that the commission concurred with the P&Z on the lot joiners and land use ordinance revisions. He stated that the Spirit Mountain zone change applicant submitted a deed restriction on the property that limited the commercial zone uses to about 10 uses and the commission approved that zone change.

2. Approval of minutes October 12, 2022

MOTION: Aaron Bonham made a motion to **approve** the October 12, 2022 minutes. Jeremy Chamberlain seconded the motion.

John Reese (acting as chair) asked for any questions or comments.

VOTE: The **motion passed** unanimously.

MOTION: A motion was made by Jeremy Chamberlain to go in and out of public hearing at the call of the chair. The motion was seconded by Gwen Brown.

VOTE: The **motion passed** unanimously.

3. Public Meeting – Conditional Use Permit: Hardman

An application for a Conditional Use Permit for a second short term rental on parcel 258-5, located in the Oak Ridge Estates Rural Unimproved Subdivision. Submitted by Jeremy Hardman.

Shannon explained that this property is across the highway from Elk Ridge Estates, by the Lutherwood Campground. They are asking for a 2nd short term rental and have agreed to all conditions.

MOTION: Aaron Bonham made a motion to **approve** a conditional use permit for Jeremy Hardman, Antony Tippets Jr., Blake Helquist, and Clint Helquist for a second short term rental in the Oak Ridge Estates Rural Unimproved Subdivision, lot 258-5, based on the findings as found in this staff report. Seconded by Jeremy Chamberlain.

VOTE: The motion **passed unanimously**.

FINDINGS: Kane County Land Use Ordinance (KCLUO) Title 9-6A-4(I), 9-6D, 9-5A-2 and 9-15A-1-7 requires a conditional use permit, subject to the Planning Commission's approval, for a second short-term/vacation rental in a Residential or AG Zone. All uses listed in the Residential Zone are allowed in the AG-FAA Zone Uses Table with their appropriate designation of permitted or conditional use permit. 9-5A-2: 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)

9-6A-4: I. Short Term Or Vacation Rental: In the event that there is more than one dwelling on a single lot that may be considered a short term rental or vacation rental as defined in section [9-1-7](#) of this title only one renting of those dwellings may be used as a short term rental or vacation rental, except in the R-2 and R-5 Zones where a conditional use permit can be applied for to allow a second nightly/short term rental. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013; amd. Ord. 2014-15, 7-28-2014; Ord. O-2019-5, 4-22-2019; amd. Ord. O-2022-06, 3-22-2022; Ord. O-2022-18, 4-26-2022)

Utah State Code 17-27a-506.

Effective 5/5/2021

17-27a-506. Conditional uses.

- (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed in accordance with applicable standards.

- (ii) The requirement described in Subsection [\(2\)\(a\)\(i\)](#) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

4. Public Meeting – Conditional Use Permit Woodbury

An application for a Conditional Use Permit for a second short term rental on lot 42, Sunflower Valley Estates. Submitted by Karen Woodbury.

Shannon suggested addressing agenda items 4, 5, 6 & 7 as one project. The applicant is asking for a conditional use permit for a second short term rental on lots 42, 43, 48 & 49 in the Sunflower Valley Estates subdivision. The CC&Rs allow a second short term rental. Shannon is requiring that each lot be individually fenced. The applicant has agreed to the conditions.

MOTION: Jeremy Chamberlain made a motion to consider all four items together. Aaron Bonham seconded the motion.

VOTE: The vote was unanimous to combine agenda items 4, 5, 6 & 7 into one vote.

Shannon stressed that a second short term rental is a permitted use that requires a conditional use permit.

MOTION: Aaron Bonham made a motion to **approve** a conditional use permit for Karen Woodbury, to operate a second short-term vacation rental located on lots 42, 43, 48 & 49 in the Sunflower Valley Estates Subdivision, zoned Residential 2, based on the findings as found in the staff report. Seconded by Jeremy Chamberlain.

VOTE: The motion was **unanimous to approve**.

FACTS & FINDINGS: Kane County Land Use Ordinance (KCLUO) Title 9-6A-6 and 9-15A-1-7 requires a conditional use permit, subject to the Planning Commission's approval, for a second short-term vacation rental in a Residential 2 Zone. All uses listed in the Residential Zone are allowed in the R-2 Zone Uses Table with their appropriate designation of permitted or conditional use permit. Utah State Code 17-27a-506.

Effective 5/5/2021

17-27a-506. Conditional uses.

- (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

- (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

5. Public Meeting – Conditional Use Permit: Woodbury
An application for a Conditional Use Permit for a second short term rental on lot 43, Sunflower Valley Estates. Submitted by Karen Woodbury.

See agenda item #4.

FINDINGS: Kane County Land Use Ordinance (KCLUO) Title 9-6A-6 and 9-15A-1-7 requires a conditional use permit, subject to the Planning Commission's approval, for a second short-term vacation rental in a Residential 2 Zone. All uses listed in the Residential Zone are allowed in the R-2 Zone Uses Table with their appropriate designation of permitted or conditional use permit.
Utah State Code 17-27a-506.

Effective 5/5/2021

17-27a-506. Conditional uses.

- (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

6. Public Meeting – Conditional Use Permit: Woodbury

An application to for a Conditional Use Permit for a second short term rental on lot 48, Sunflower Valley Estates. Submitted by Karen Woodbury.

See agenda item #4.

FINDINGS: Kane County Land Use Ordinance (KCLUO) Title 9-6A-6 and 9-15A-1-7 requires a conditional use permit, subject to the Planning Commission's approval, for a second short-term vacation rental in a Residential 2 Zone. All uses listed in the Residential Zone Uses Table are allowed with their appropriate designation of permitted or conditional use permit.
Utah State Code 17-27a-506.

Effective 5/5/2021

17-27a-506. Conditional uses.

- (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

7. Public Meeting – Conditional Use Permit: Woodbury

An application for a Conditional Use Permit for a second short term rental on lot 48, Sunflower Valley Estates. Submitted by Karen Woodbury.

See agenda item #4.

FACTS & FINDINGS: Kane County Land Use Ordinance (KCLUO) Title 9-6A-6 and 9-15A-1-7 requires a conditional use permit, subject to the Planning Commission's approval, for a second short-term vacation rental in a Residential 2 Zone. All uses listed in the Residential Zone are allowed in the R-2 Zone Uses Table with their appropriate designation of permitted or conditional use permit.
Utah State Code 17-27a-506.

Effective 5/5/2021

17-27a-506. Conditional uses.

- (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

8. Public Hearing – Lot Line Adjustment: De La Paz/Blackburn

An application to amend a subdivision plat for a lot line adjustment, lots 439 & 441, Swains Creek Pines, Unit 3. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter, New Horizon Engineering, presented the project. The two property owners want to move the lot line to create equal size lots.

Engineering and staff have reviewed the project and everything is in order.

The Chair called the commission into public hearing.

(No Comments)

The Chair called the commission out of public hearing

MOTION: Gwen Brown made a motion to **approve** the amended subdivision plat for a Lot Line Adjustment, on behalf of Ruldolf R. De La Paz and Diane De La Paz and Steven J. Blackburn and Gina Marie Blackburn in the Swains Creek Pines Subdivision, Unit 3, lots 439 and 441, based on the findings documented in the staff report. Seconded by Jeremy Chamberlain.

VOTE: The motion was **unanimous to approve.**

FINDINGS: Amending (lot line adjustment) 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. All requirements have been met. The project has been posted in two public places, and on the county and state websites. Notices were mailed out to all property owners within 500 feet of the project.

9. Public Hearing - Lot Joinder: Webster

An application to amend a subdivision plat for a lot joinder; joining lots 21 & 22, becoming new lot 22, Movie Ranch South Estates, Plat "A", Block 3. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter, New Horizon Engineering, stated that the applicant wants to join his lots together to make one lot.

Staff has reviewed the project and everything is in order.

The Chair called the commission into public hearing.

(No Comments)

The Chair called the commission out of public hearing

MOTION: Jeremy Chamberlain made a motion to **approve** the amended subdivision plat for a Lot Joinder, on behalf of Dawn C. and Shaun C. Webster in the Movie Ranch South Estates Subdivision, Block 3, Plat "A", consisting of lots 21 and 22, becoming new lot 22, based on the findings documented in the staff report. Seconded by Aaron Bonham.

VOTE: The motion was **unanimous to approve**.

FINDINGS: Amending (joining) 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. All requirements have been met. The project has been posted in two public places, 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 R-1/2 zone.

10. Public Hearing - Lot Joinder: Cardenas/Murphy/Johnston

An application to amend a subdivision plat for a lot joinder; joining lot 707 and a portion of lot 708, becoming new lot 707, and joining a portion of 708 and lot 709, becoming new lot 709, Swains Creek Pines, Unit 3. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter, New Horizon Engineering, presented the project. The applicants want to split the middle lot and share it between them.

Shannon explained that staff is waiting to receive a lender's consent regarding a lien on the property and recommends conditional approval.

The Chair called the commission into public hearing.

Will Derring: He questioned what they would like to do with the additional property.

Shannon explained that they will retain the residential zoning and will be allowed residential uses.

The Chair called the commission out of public hearing

MOTION: Gwen Brown made a motion to **recommend approval**, to the County Commissioners, the amended subdivision plat for a Lot Joinder, on behalf of Rodolfo Cardenas and Charles Joseph Murphy and Michele Denise Johnson, in the Swains Creek Pines, Unit 3, Subdivision, Amended plat, consisting of lots 707, 708 and 709, becoming new lots 707 and 709, on the conditional they get the letter from the lien holder, based on the findings documented in the staff report. Seconded by Jeremy Chamberlain.

VOTE: The motion was **unanimous to approve**.

FINDINGS: Amending (joining) the above 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. All requirements have been met. The project has been posted in two public places, 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 R-1/2 zone.

11. Public Hearing - Lot Joinder: Gann

An application to amend a subdivision plat for a lot joinder; joining lots 23 & 24, Mirror Lake, Plat B, and vacating (2) 7.5' public utility easements. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter, New Horizon Engineering, presented the project. He explained that there is a house built over the property line. The applicant would like to combine the lots and vacate the utility easements.

Shannon explained that everything is in order. Staff has received the vacation of easement letters.

The Chair called the commission into public hearing.

(No Comments)

The Chair called the commission out of public hearing

MOTION: Aaron Bonham made a motion to **recommend approval** to the Kane County Commissioner, Vacating and Amending a Subdivision Plat for a lot joinder, and vacating two 7.5 foot public utility easements, on behalf of Lisa M. Gann, in the Mirror Lake Subdivision, Plat "B", lots 23 and 24, becoming new lot 23, based on the findings documented in the staff report. Seconded by Jeremy Chamberlain.

VOTE: The motion was **unanimous to approve.**

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 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.

12. Public Hearing - Lot Joinder: Cook

An application to amend a subdivision plat for a lot joinder; joining lots 4 & 5, Meadow View Estates, Unit C, and vacating (2) 7.5' public utility easements. Submitted by Brent Carter, New Horizon Engineering, holding power of attorney.

Brent Carter, New Horizon Engineering, presented the project. The applicant is asking to vacate the lot line and utility easements to create one lot.

Shannon stated that everything is in order. She asked that it be passed conditionally as she is still waiting on a lien holder approval.

The Chair called the commission into public hearing.

(No Comments)

The Chair called the commission out of public hearing

MOTION: Jeremy Chamberlain made a motion to **recommend approval** to the Kane County Commissioners Vacating and Amending a Subdivision Plat for a lot joinder, and vacating two 7.5 foot public utility easements, on behalf of Robert W. Cook and Linda N. Cook, in the Meadow View Estates Subdivision, Plat "C", lots 4 & 5 becoming new lot 4, based on the findings documented in the staff report. Seconded by Gwen Brown.

VOTE: The motion was unanimous to approve.

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 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 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.

13. Public Hearing – Amended Plat/Ordinance 2022-58: Harris

An ordinance to accompany the amended plats vacating a portion of lot 235, Color Country Subdivision, Plat “T” and adding it to lot 37, Movie Ranch South Estates, Plat A, becoming new lots 63-235 & 12-1-37.

Shannon explained that Utah State Code requires an ordinance to vacate a lot out of a subdivision. This project was approved in September and this describes that project in ordinance form.

The Chair called the commission into public hearing.

(No Comments)

The Chair called the commission out of public hearing

MOTION: Aaron Bonham made a motion to **recommend** approval of Ordinance 2022-58 to the County Commission. Jeremy Chamberlain seconded the motion.

VOTE: The motion **passed unanimously**.

FINDINGS: Amending 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. All requirements have been met. The project has been posted in two public places, 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 R-1/2 zone.

14. Public Hearing – Amended Plat/Ordinance 2022-59: Morely/Bean

An application for an amended plat; adjusting the parcel lines between parcels 297-1, 317-1, 317-2, and 317-3 and vacating a portion of 317-1 out of the Johnson Canyon Estates Platted Unimproved Subdivision and adding it to parcel 297-1 in the Square One Rural Unimproved Subdivision. Submitted by Tom Avant, Iron Rock Group, holding power of attorney.

Chandler Mowbray, New Horizon Engineering, presented the project. They are adjusting the property lines on 4 lots in the Johnson Canyon Estates Platted Unimproved Subdivision and extending Mr. Bean’s property to create a 20 acre lot.

Shannon asked that this be passed conditionally. There are still some corrections that need to be made on the plat.

The Chair called the commission into public hearing.

(No Comments)

The Chair called the commission out of public hearing

MOTION: Jeremy Chamberlain made a motion to **recommend approval** of Ordinance 2022-59 to the Kane County Commissioners, Vacating and Amending a Subdivision Plat with the conditions stated by staff. Gwen Brown seconded the motion.

VOTE: The motion was **unanimous to recommend approval**.

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 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 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.

15. Public Hearing – Zone Change/Ordinance 2022-53: Gateway Land Holdings LLC
An application for a zone change from Commercial 1 (C-1) to Commercial 2 (C-2), parcel 1-9-21-1A, containing 61.40 acres, located east of the Zion National Park boundary.
Submitted by Kevin McLaws.

Kevin McLaws explained this area has been a campground for the last 20-30 years. At the time, the zoning allowed for a hotel. Current zoning requires Commercial 2 zoning for a hotel. He has put 37 acres of the parcel into a conservation easement along the park boundary.

Shannon explained that there are already tiny cabins, horseback rides and other commercial uses in the area. Across the highway is Commercial 2 zoning. He needs Commercial 2 zoning to become compliant with current ordinances.

The Chair called the commission into public hearing.

Matthew Fisher: He is opposed to this zone change. He is concerned about water and wants the P&Z to wait for the geological survey reports before making a decision. He asked to see the overall vision of the project.

Robert Horton: He lives in the East Zion area. He feels that this zone change is acceptable as it is already a developed area. He is opposed to the other zone change requests in the area.

The Chair called the commission out of public hearing

Kevin stated that he has developed his own water sources. They have 3 deep wells and three public water systems that are monitored monthly by the state.

Shannon stated that this property is accessed off of Highway 9 and there are already commercial uses in the area.

MOTION: Aaron Bonham made a motion to **recommend approving** the zone change for parcel 1-9-21-1A from C-1 to C-2 & Ordinance O-2022-53, to the County Commission, based on the facts and findings as documented in the staff report. Gwen Brown seconded the motion.

VOTE: The vote was unanimous to recommend approval.

FACTS & FINDINGS:

- Parcel 1-9-21-1A meets the requirements to be zoned C-2. The parcel is currently zoned C-1.
- The applicant requests the parcel be zoned C-2 which requires a zone change.
- If the zone change is approved all uses contained in the C-2 Uses will be allowed.
- Surrounding parcels are zoned AG, Commercial and Zion National Park.
- Utah State Code 17-27a-308. Land use authority requirements -- Nature of land use decision.
 - (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.

Effective 5/12/2015

17-27a-505. Zoning districts.

- (1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.
 - (b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.
 - (c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:
 - (i) protect life; and
 - (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.
- (2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.
- (3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

- **Kane County Land Use Ordinance 9-1-2:** It is Kane County policy to refuse to participate in spot infrastructure improvements which benefit only a localized area yet burden the taxpayers at large.
- The parcel would gain access from Highway 9.
- All property owners within 500 ft. of this parcel have been mailed a public notice. Notices are posted on the state and county websites.
- **9-7C-1: PURPOSE:** The purpose of the commercial 2 zone is to provide for heavy commercial areas not appropriate near or in Residential Zones to meet larger commercial uses. (Ord. O-2022-42, 7-26-2022)
- **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.
- **Kane County General Plan:** Industrial and commercial land uses are usually located at major highway intersections and near established communities. Much of the existing commercial and industrial activity has been annexed into adjacent communities. However, there are exceptions to this trend. For example: Best Friends Animal Sanctuary is located approximately 10 miles north of Kanab in Angel Canyon, an unincorporated section of Kane County; Canyon Lands Resort Community Zone (Amangiri) is located at the eastern boundary of Kane County; and Buffalo Ridge is located at the boundary of Zion National Park. They are all Planned Unit Developments and Kane County encourages this trend to continue. Kane County will allow development within the perimeters of county land use and zoning ordinances with the understanding that infrastructure improvement, development and maintenance will be at the expense of the subdivider and/or land owners who enjoy the benefits of such improvements. Kane County will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain services without expecting or receiving county-provided services. The installation of water systems and fire hydrants does not imply or require county provided road maintenance or snow removal.

Commercial Land Uses Goal #1: Encourage and provide for commercial uses in locations with infrastructure in place to serve the public. Objective: Develop commercial uses compatibly with the use and character of the surrounding area. Policy: The Land Use Ordinance and associated zoning map will determine the standards for commercial uses at appropriate locations. (Pg.18)

1. Kane County will not become a provider of municipal-scale services, but will assist in such development if serviced by a special service district. Kane County's unincorporated areas cannot be expected to provide municipal-scale services. Residential or commercial zones which require large investments in infrastructure such as roads, water, waste disposal, schools, etc. cannot occur on a land base where such services are not available. Kane County recognizes this distinction, and will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain their own services. Kane County will discourage development in unincorporated areas unless such development is serviced by a special district established for that purpose. (Pg. 31)

- Surrounding parcels are zoned AG, C-2 and Zion National Park.

16. Public Hearing – Zone Change/Ordinance 2022-54: Zion High Ground LLC
An application for a zone change from Residential 5 (R-5) to Commercial 2 (C-2), parcel 1-9-16-1, containing 581.92 acres, located east of the Zion National Park Boundary.
Submitted by Kevin McLaws.

Kevin McLaws explained that this parcel was originally planned for 100 homes on 600 acres. That plat was never recorded. Now they would like to develop an ecofriendly hotel concept with small units camouflaged into the landscape. That requires C-2 zoning. They are planning to put a deed restriction on the land with view shed and night sky restrictions and also limiting the allowed commercial uses. He noted that the East Zion area is designated a resort area in the Kane County General Plan. He is anticipating 75-85 units on the 580+ acres.

Shannon stated that she started with Kevin on this project in 2013. She noted that it is accessed off of the North Fork Road and End of the Road. She reminded the P&Z that in 2018 the ordinance changed the AG zone into more of an AG protection zone. This change affected Kevin's initial plan.

The Chair called the commission into public hearing.

Bill Thurston: He is an adjacent land owner. He recognizes that development is going to happen but feels that the development should be along Highway 9 rather than up North Fork Road.

Claire Gemmill: She stated that there are Indian artifacts on the property. She would like to see those sites protected. She does not see the need for more development in the area. She would like to keep this area pristine.

Robert Gemmill: He has witnessed Native American artifacts and a Native American burial site on the property.

Robert Horton: He is against this development. He stated that North Fork Road is a two lane road and not suitable for heavy traffic. He is also concerned about the safety of bike traffic on the road.

Todd McLaws: He is in favor of this zone change. He has been involved in the planning and process of this development. They have gone to great lengths to make it environmentally friendly.

Greg Whitehead: He stressed that no one cares about this area more than Kevin McLaws.

Lynette Foster: She has facilitated several SITLA land sales. She stated that SITLA requires archeological digs and preservation.

Dixie McCorvey: She is a land owner in the area. She is worried about increased traffic on North Fork Road. She said that she is cut off from the new North Fork Road. She is also concerned about power, water and sewer to the area.

The Chair called the commission out of public hearing

Kevin stated that SITLA did an archeological study and found 3 sites on the property that must be preserved. He said that in addition to their own water systems they are developing their own vertical flow wetland water reclamation facility which will recycle 37 million gallons of water annually.

Kevin indicated they could access the property off of Highway 9 by building a road up the canyon but it would be a very steep grade. He stated that the North Fork Road has been moved twice. The current change to the North Fork Road will be a safer route with less curves and grade.

Rob stressed that that the P&Z's decision should not be based on a condition or request that there is a deed restriction in place. The deed restriction is something being offered by the applicant and the P&Z can look at that as basic information. Commissioner Heaton noted that the deed restrictions state that the county would have a say on any changes to the deed restrictions. Rob clarified that the only way the deed restrictions could be amended would be if the zoning was changed on the parcel.

Kevin stated that there is nothing in the deed restriction relating to density but they would be willing to add a cap on the number of allowed units. Shannon reminded the P&Z that the deed restrictions have not yet been recorded and cannot be a part of the motion.

Aaron asked if he could make a motion to approve the zone change with a density limit of 100 units. Rob indicated that the county commission will approve or deny the zone change. The P&Z can recommend approval based on the deed restrictions, including a density limit, being in placed.

Doug expressed that trying to modify this zone change is not appropriate. It is not the role of the P&Z to make the plans. It is best to clearly recommend approval or denial of the zone change.

MOTION: Jeremy Chamberlain made a motion to **recommend approving** the zone change for parcel 1-9-16-1 from R-5 to C-2 & Ordinance O-2022-54, to the County Commission, based on the facts and findings as documented in the staff report. Aaron Bonham seconded the motion.

VOTE: John, Byard, John, Aaron, and Jeremy voted aye. Gwen voted nay. The motion to **recommend approval passed.**

FACTS & FINDINGS:

- Parcel 1-9-16-1 meets the requirements to be zoned C-2. The parcel is currently zoned R-5.
- The applicant requests the parcel be zoned C-2 which requires a zone change.
- If the zone change is approved all uses contained in the C-2 Uses will be allowed. in a public hearing and approval of the County Commission. (Ord. O-2022-42, 7-26-2022)
- Surrounding parcels are zoned AG, Commercial 2 and Zion National Park.
- Utah State Code 17-27a-308. Land use authority requirements -- Nature of land use decision.
 - (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.

Effective 5/12/2015

17-27a-505. Zoning districts.

- (1)
 - (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.
 - (b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.
 - (c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:
 - (i) protect life; and
 - (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.
- (2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.
- (3)
 - (a) There is no minimum area or diversity of ownership requirement for a zone designation.

- (b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

- **Kane County Land Use Ordinance 9-1-2:** It is Kane County policy to refuse to participate in spot infrastructure improvements which benefit only a localized area yet burden the taxpayers at large.
- The parcel would gain access from Highway 9, North Fork Road and End of the Road.
- All property owners within 500 ft. of this parcel have been mailed a public notice. Notices are posted on the state and county websites.
- **9-7C-1: PURPOSE:** The purpose of the commercial 2 zone is to provide for heavy commercial areas not appropriate near or in Residential Zones to meet larger commercial uses. (Ord. O-2022-42, 7-26-2022)
- **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.
- **Kane County General Plan:** Industrial and commercial land uses are usually located at major highway intersections and near established communities. Much of the existing commercial and industrial activity has been annexed into adjacent communities. However, there are exceptions to this trend. For example: Best Friends Animal Sanctuary is located approximately 10 miles north of Kanab in Angel Canyon, an unincorporated section of Kane County; Canyon Lands Resort Community Zone (Amangiri) is located at the eastern boundary of Kane County; and Buffalo Ridge is located at the boundary of Zion National Park. They are all Planned Unit Developments and Kane County encourages this trend to continue. Kane County will allow development within the perimeters of county land use and zoning ordinances with the understanding that infrastructure improvement, development and maintenance will be at the expense of the subdivider and/or land owners who enjoy the benefits of such improvements. Kane County will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain services without expecting or receiving county-provided services. The installation of water systems and fire hydrants does not imply or require county provided road maintenance or snow removal.

Commercial Land Uses Goal #1: Encourage and provide for commercial uses in locations with infrastructure in place to serve the public. Objective: Develop commercial uses compatibly with the use and character of the surrounding area. Policy: The Land Use Ordinance and associated zoning map will determine the standards for commercial uses at appropriate locations. (Pg.18)

1. Kane County will not become a provider of municipal-scale services, but will assist in such development if serviced by a special service district. Kane County's unincorporated areas cannot be expected to provide municipal-scale services. Residential or commercial zones which require large investments in infrastructure such as roads, water, waste disposal, schools, etc. cannot occur on a land base where such services are not available. Kane County recognizes this distinction, and will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain their own services. Kane County will discourage development in unincorporated areas unless such development is serviced by a special district established for that purpose. (Pg. 31)

17. Public Hearing – Zone Change/Ordinance 2022-55: Chamberlain Ranch Holdings LLC & The Ranch at Zion LLC

An application for a zone change from Agricultural (AG) to Commercial 2 (C-2), parcels 1-9-15-2, 1-9-15-6, 1-9-15-2D, 1-9-15-3, 1-9-15-2D2, and 1-9-15-2D3, totaling 203.04 acres, located east of the Zion National Park boundary. Submitted by Kevin McLaws.

Kevin stated that this is basically the same as the previous project. There is a trail system in this area. He is proposing 40 nightly rentals units with some staff housing. They have the same deed restrictions prepared for these parcels. He stated that the majority of the area is a canyon and undevelopable.

Shannon stated that everything complies with ordinance. These properties were also affected by the 2018 ordinance change.

The Chair called the commission into public hearing.

Bill Thurston: He is against this zone change. He does not believe that visitors to the park will want to travel up North Fork Road. He feels that it would be better to keep development along Highway 9.

Rob Horton: He hasn't seen a plan for the area and he is scared of what is going to be developed. He stated that water shares do not mean there is actually water in the area.

Dixie McCorvey: She wonders why he needs commercial zoning on this parcel when he just got approval for the previous parcel. She would like Kevin to condense his development and leave some of the land in agricultural zoning.

Sandralena Horton: She strongly objects to this projects. She is scared they will be overrun with tourists. She does not want to become Springdale.

Todd McLaws: He stated that Kevin has set aside the Buffalo Preserve as a conservation easement. He also has intentions to do more preserves along the highway. Kevin has an agreement for a conservation easement across from Mr. Thurston's property and he is making a conscious effort to preserve the view shed.

Lee Moffit: He feels that Kevin has a good vision for low density housing. He wants the deed restrictions in place so that the area does not look like Springdale. He feels that a lodge or resort is a good idea in that area.

The Chair called the commission out of public hearing

Kevin shared the history of the Buffalo preserve and the loss of property value in establishing that conservation easement. He also talked about other conservation easements in the area. He stressed that they have made a conscious effort to not have a Springdale type community. Kevin indicated that while he is asking for zone changes on multiple parcels it is one master plan.

MOTION: Jeremy Chamberlain made a motion to **recommend approving** the zone change for parcels 1-9-15-2, 1-9-15-6, 1-9-15-2D, 1-9-15-3, 1-9-1-2D2, and 1-9-15-2D3 from AG to C-2 & Ordinance O-2022-55, to the County Commission, based on the facts and findings as documented in the staff report. Aaron Bonham seconded the motion.

Jeremy clarified that he is not associated with the property owner, Chamberlain Ranch Holdings, LLC.

VOTE: Aaron, Jeremy, Byard, Doug voted aye. Gwen abstained from voting. The motion to **recommend approval passed.**

FACTS & FINDINGS:

- Parcels 1-9-15-2, 1-9-15-6, 1-9-15-2D, 1-9-15-3, 1-9-15-2D2, and 1-9-15-2D3 meet the requirements to be zoned C-2. The parcels are currently zoned AG.
- The AG zoning before 2018 allowed all the uses that the applicant is planning on developing.
- The applicant requests the parcel be zoned C-2 which requires a zone change.
- If the zone change is approved all uses contained in the C-2 Uses will be allowed.
- Surrounding parcels are zoned AG, Commercial 2 and Zions National Park.
- Utah State Code 17-27a-308. Land use authority requirements -- Nature of land use decision.
 - (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.

Effective 5/12/2015

17-27a-505. Zoning districts.

- (1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.
 - (b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.
 - (c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:
 - (i) protect life; and
 - (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.
- (2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.
- (3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.
 - (b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

- **Kane County Land Use Ordinance 9-1-2:** It is Kane County policy to refuse to participate in spot infrastructure improvements which benefit only a localized area yet burden the taxpayers at large.
- The parcel would gain access from Highway 9, North Fork Road and End of the Road.
- All property owners within 500 ft. of this parcel have been mailed a public notice. Notices are posted on the state and county websites.
- **9-7C-1: PURPOSE:** The purpose of the commercial 2 zone is to provide for heavy commercial areas not appropriate near or in Residential Zones to meet larger commercial uses. (Ord. O-2022-42, 7-26-2022)
- **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.

- **Kane County General Plan:** Industrial and commercial land uses are usually located at major highway intersections and near established communities. Much of the existing commercial and industrial activity has been annexed into adjacent communities. However, there are exceptions to this trend. For example: Best Friends Animal Sanctuary is located approximately 10 miles north of Kanab in Angel Canyon, an unincorporated section of Kane County; Canyon Lands Resort Community Zone (Amangiri) is located at the eastern boundary of Kane County; and Buffalo Ridge is located at the boundary of Zion National Park. They are all Planned Unit Developments and Kane County encourages this trend to continue. Kane County will allow development within the perimeters of county land use and zoning ordinances with the understanding that infrastructure improvement, development and maintenance will be at the expense of the subdivider and/or land owners who enjoy the benefits of such improvements. Kane County will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain services without expecting or receiving county-provided services. The installation of water systems and fire hydrants does not imply or require county provided road maintenance or snow removal.

Commercial Land Uses Goal #1: Encourage and provide for commercial uses in locations with infrastructure in place to serve the public. Objective: Develop commercial uses compatibly with the use and character of the surrounding area. Policy: The Land Use Ordinance and associated zoning map will determine the standards for commercial uses at appropriate locations. (Pg.18)

1. Kane County will not become a provider of municipal-scale services, but will assist in such development if serviced by a special service district. Kane County's unincorporated areas cannot be expected to provide municipal-scale services. Residential or commercial zones which require large investments in infrastructure such as roads, water, waste disposal, schools, etc. cannot occur on a land base where such services are not available. Kane County recognizes this distinction, and will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain their own services. Kane County will discourage development in unincorporated areas unless such development is serviced by a special district established for that purpose. (Pg. 31)

**18. Public Hearing – Zone Change/Ordinance 2022-56: The Ranch at Zion LLC
An application for a zone change from Agricultural (AG) to Commercial 2 (C-2), parcel 1-9-10-1, located east of the Clear Creek Ranch Resort. Submitted by Kevin McLaws.**

Kevin McLaws stated that this area has been used as a hospitality area for over 20 years. However, that use is no longer available in the AG zone. They plan to turn the area into a little village with blacksmithing, horse riding, and a bakery. They want this to be the heart of the area.

Shannon reinforced that this area has been used for a resort for quite a while.

The Chair called the commission into public hearing.

Matt Fisher: He is opposed to this zone change because of the amount of acreage. He questioned what is prompting the change at this time. He asked if a PUD is in the works.

Rob Horton: He stated the East Zion Initiative was to alleviate overcrowding in the park. He questioned what will happen to the area if Zion National Park limits the amount of visitors to the park. He is concerned about trespassing on his property, increased crime and vandalism.

Dixie McCorvey: She asked how many more buildings/units will be added to this area.

Sandralena Horton: She said that a bike path crosses the easement to her property. She has requested warning signs that have never materialized. She also talked about the property owner cleaning out an area leaving a waste pile near the road.

Bill Thurston: He is against commercial activity on the east side of Zion. He thinks the intent is good. He stated that Kevin is backed by professional investors that will expect a certain standard.

Keith Thurston: He questioned if there would be any restrictions on this parcel.

Todd McLaws: He stated that the bike crossing and the pile of waste issues are his fault. He feels that tourism is a positive thing.

The Chair called the commission out of public hearing.

Kevin reiterated that they would prefer something other than Commercial 2 zoning, however, Kane County does not have a resort zone. He stressed that currently the only plan for this area is a community village. He mentioned that they plan to put the fields into a conservation easement.

MOTION: Aaron Bonham made a motion to **recommend approving** the zone change for parcel 1-9-10-1 from AG to C-2 & Ordinance O-2022-56, to the County Commission, based on the facts and findings as documented in the staff report. Jeremy Chamberlain seconded the motion.

VOTE: Aaron, Jeremy, Doug & Byard voted aye. Gwen abstained. The motion to **recommend approval passed**.

FACTS & FINDINGS:

- Parcels 1-9-15-2, 1-9-15-6, 1-9-15-2D, 1-9-15-3, 1-9-15-2D2, and 1-9-15-2D3 meet the requirements to be zoned C-2. The parcels are currently zoned AG.
- The AG zoning before 2018 allowed all the uses that the applicant is planning on developing.
- The applicant requests the parcel be zoned C-2 which requires a zone change.
- If the zone change is approved all uses contained in the C-2 Uses will be allowed.
- Surrounding parcels are zoned AG, Commercial 2 and Zions National Park.
- Utah State Code 17-27a-308. Land use authority requirements -- Nature of land use decision.

- (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.

Effective 5/12/2015

17-27a-505. Zoning districts.

- (1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.
- (b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.
- (c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:
 - (i) protect life; and
 - (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.
- (2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.
- (3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.
- (b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

- **Kane County Land Use Ordinance 9-1-2:** It is Kane County policy to refuse to participate in spot infrastructure improvements which benefit only a localized area yet burden the taxpayers at large.
- The parcel would gain access from Highway 9, North Fork Road and End of the Road.
- All property owners within 500 ft. of this parcel have been mailed a public notice. Notices are posted on the state and county websites.
- **9-7C-1: PURPOSE:** The purpose of the commercial 2 zone is to provide for heavy commercial areas not appropriate near or in Residential Zones to meet larger commercial uses. (Ord. O-2022-42, 7-26-2022)

- **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.
- **Kane County General Plan:** Industrial and commercial land uses are usually located at major highway intersections and near established communities. Much of the existing commercial and industrial activity has been annexed into adjacent communities. However, there are exceptions to this trend. For example: Best Friends Animal Sanctuary is located approximately 10 miles north of Kanab in Angel Canyon, an unincorporated section of Kane County; Canyon Lands Resort Community Zone (Amangiri) is located at the eastern boundary of Kane County; and Buffalo Ridge is located at the boundary of Zion National Park. They are all Planned Unit Developments and Kane County encourages this trend to continue. Kane County will allow development within the perimeters of county land use and zoning ordinances with the understanding that infrastructure improvement, development and maintenance will be at the expense of the subdivider and/or land owners who enjoy the benefits of such improvements. Kane County will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain services without expecting or receiving county-provided services. The installation of water systems and fire hydrants does not imply or require county provided road maintenance or snow removal.

Commercial Land Uses Goal #1: Encourage and provide for commercial uses in locations with infrastructure in place to serve the public. Objective: Develop commercial uses compatibly with the use and character of the surrounding area. Policy: The Land Use Ordinance and associated zoning map will determine the standards for commercial uses at appropriate locations. (Pg.18)

1. Kane County will not become a provider of municipal-scale services, but will assist in such development if serviced by a special service district. Kane County's unincorporated areas cannot be expected to provide municipal-scale services. Residential or commercial zones which require large investments in infrastructure such as roads, water, waste disposal, schools, etc. cannot occur on a land base where such services are not available. Kane County recognizes this distinction, and will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain their own services. Kane County will discourage development in unincorporated areas unless such development is serviced by a special district established for that purpose. (Pg. 31)

**19. Public Hearing – Planned Unit Development/Ordinance 2022-57: Kanab 600 LLC
An application for a Planned Unit Development (PUD), Willow Reserves Estates, including a zone change application, preliminary concept plan, and draft development agreement.**

The applicant is requesting to rezone from Residential 1 (R-1) to PUD Residential 1 (PUD R-1), PUD Multi-Residential (PUD MR) and PUD Commercial 2 (PUD C-2). Submitted by Kanab 600 LLC.

Greg Whitehead presented the project. He feels that Kane County needs more housing. They rezoned this property to R-1 and designed a subdivision. He asked to have it redesigned into more of a community. Their design includes green/open space, trails, curb, gutter, sidewalks, equestrian areas, affordable housing and will cut down on traffic by bringing commercial to the area. They isolated vacation rentals to one area with vacation amenities. They have 6 ½ miles of trail system that is 60 feet wide, 10 feet of paved with 50 feet of dirt for ATVs and horses. He wants to have a hitch-n-post at the convenience store. This will be a 20 year project. He feels that the area will still be rural due to the amount of public lands in the county. He stated that there are currently cows on the property and it is in FAA status, so once the property is developed it will generate much more in property taxes.

Greg talked about the PID (Public Infrastructure District) explaining that it is a nonprofit board that oversees the public utilities of the area; roads, trails, open space, utilities etc.

They are looking at doing a LUDS wastewater system which would alleviate the need for individual septic tanks. They hope to be able to reuse the water for irrigation.

Shannon stated that the development agreement now has language requesting 15 phases. She asked the P&Z to take notice of the requested uses in the commercial zone. She informed the P&Z that UDOT is requiring the developer to put in a deceleration lane on Highway 89. She also stated that the roads department has concerns about increased traffic on Mountain View Drive.

Shannon noted that they have received all of their feasibility letters.

Shannon stated that they are asking for multi residential zoning along the edge of the property. Their CC&Rs restrict them to one dwelling per lot.

Kelvin stated that the proposed plan meets all UDOT standards and all state and county engineering and code standards for water, sewer, transportation and best practices with layout and planning.

Gwen questioned why the MR is not in the center of the development. Greg stated that keeping MR units closer to Mountain View Drive and Highway 89 would be better for a reduction of traffic within the community.

John asked about the availability of water. Amanda Buhler, Kane County Water Conservancy District, stated that they have received a draft of the hydrology report and are in the process of reviewing it. She stated that they currently have 512 connections on the system. The district has enough storage capacity for 1615 connections and the current well capacity is 3703 connections.

John asked about a storm drainage plan. Greg stated that large drainage ditches will gather the water and carry it to the low points on the property. Kelly Chappell, project engineer, stated that the drainage plan is designed for a 100 year storm event, including off site water.

John asked about increased costs to the county in the way of fire, EMS, and other services. Greg indicated they would be willing to work with the county for those services. Commissioner Heaton reminded the P&Z that the county does not provide fire and EMS services. Special Service Districts provide those services. The county is working on establishing a SSD in that area and each parcel in that district would be assessed a fee to address those services. Greg stated that there is a MUO between Kanab City and Kane County for fire services.

The Chair called the commission into public hearing.

Rick Kessel: He is an owner of Dark Sky RV Campground. He has a reverence for the land and does not like it to be disturbed. He does not like a lot of noise. He likes to see the stars. He feels that this development will ruin the dark sky. He feels this project is hideous.

Matt Fisher: He asked about the flag of property to the west. He stated that the 4000+ traffic is trips mentioned in the staff report are per day. He is concerned about fire safety. He is concerned about the overall impact to the area. He urged the P&Z to vote no.

Jeff Roth: He is an owner of Dark Sky RV Park. He does not want another development that will negatively impact the dark sky. He feels that larger lots of about 3 acres would be better. He stated that Mountain View Drive is not large enough to accommodate 600 more homes. The road floods every time it rains.

Caroline Shelton: She is opposed to this project as there is no fire protection in the county. Water is limited. She said there was a time when the Johnson Canyon wells went dry. She expressed concern that this development will alter the dark sky. She stated that there is nothing with this kind of density in the city and questioned why are we considering it in the county.

Anson Clarkson: He is representing the Water District. The hydrological study states that ground water is available to develop. The developer will pay their own way to build out their water system.

Lee Moffit: Mike Noel has stated for years that there is not enough water. He has stated that we need another storage tank in Johnson Canyon and that will take a minimum of 5 years to develop because it is on BLM land. He also said that the well at the Mansard trail head is kept at 50% capacity. Water pressure is low in the area and requires a booster to run the shower. There is not fire service in the county. This development will disturb the migration of wildlife. He also stated that this development will not provide affordable housing. He reminded the developer that Kane County is not a municipality.

Dave Jones: He moved to Palomar Estates because it was a rural area. He does not want apartment buildings and commerce in his back yard. The road is too small for increased traffic.

There is not enough water pressure for fire suppression. He asked if the sewer system has been approved by the health department.

Will Gearing: He is concerned about the amount of development in recent years. He feels that this design is absurd. He is concerned about infrastructure in the area.

Sujatha Ramakrishna: She reminded the P&Z that the zone change to R-1 was controversial. In the previous meeting, Mr. Whitehead stated they intended to have larger lots along the borders. He also said he would be a good steward of the land and they would be good neighbors. She does not believe that MR units is appropriate in that area. She also feel that the road is a safety hazard.

Kim Beck: She is opposed to this development. She finds it distressing that the developer did not know that there is no fire protection in the county. She asked if the developer was willing to put a firehouse in the development.

Doug Llewellyn: He stated that this will completely change Kanab. It is something that belongs in St. George. He feels it is a disgrace

Karl Husa: He is opposed to this plan. He stated that putting high density in the middle of low density will ruin the area. The General plan talks of stabilizing and improving property values. He feels that the proposed Chevron sign is an indication of what will happen to the neighborhood. This will contribute to congestion in the area and this does not promote a more attractive and wholesome environment, as stated in the general plan. He stressed that the dark sky is a limited resource as valuable as water.

Kristy Bundrick: She is against this. This may not be illegal but it is immoral. She stated the people who have horses are not going to live in a high density community.

The Chair called the commission out of public hearing.

Mr. Whitehead stated they are not changing it from AG land but from R-1 zoning to a Planned Unit Development. Currently they could have 600 lots each with an accessory dwelling unit. They are trying to avoid the density of the R-1 zone. He indicated he would welcome a fire house and schools in the area.

Kelvin stated that during the review process the developer, in the development agreement, asked for exception to code. Some of those exceptions were extended block lengths, and smaller phases. Kelvin reviewed their water study to make sure that they met minimum fire flow throughout the development. He also reviewed their storm water study showing the capacity of off-site, pass-thru and storage. The developer asked for the multi residential to be on the outside of the development. The commercial uses allow for public buildings and offices which would allow for a firehouse. Kelvin recommends more parking in the MR area and the resort area. He feels that while two parking spaces per unit are required it is usually not adequate.

Jeremy questioned if the addition of this development would reduce water pressure in the area. Kelvin said theoretically yes, but there are many factors to that determination. Greg said that they will pull another line from the tank. Amanda stated that their model of three separate loops will help with water pressure. She stressed that they will be required to follow state code.

Gwen suggested that MR housing does not belong in a rural area. She reminded the P&Z that there is already 100 acres of Commercial zoning in the area. She feels that they should be held to the 1 acre lot size. She petitioned the P&Z to look at all property rights not just the developer's rights.

Aaron stated that while it is a good project it does not fit in this area.

Jeremy feels that it would fit the area better if they moved the commercial and high density residential. He suggested the owner go back to the drawing board to create larger lots and more open space.

John reminded the P&Z that, a few months ago, they voted to have the smallest lot be 2 acres. The commissioners decided to make 1 acre lots the smallest allowable acreage. He feels that the P&Z needs to be careful about opening the door to large scale developments in the county.

Doug stated that 93% of the county is open space (public lands). He said that this area is moving toward a municipality. He expressed concern about the density of the project but would encourage the commissioners to encourage this kind of activity.

Aaron asked if requiring one acre lots would help the P&Z feel better about this development. Gwen stressed that a zone change is not a constitutional right. Gwen stated that high density belongs in the city. John stated that it is the P&Z's job to protect the way of life in Kane County. John suggested implementing a time frame on how frequently they can change the zone.

MOTION: Gwen Brown made a motion to **recommend denial** to the Kane County Commissioners of the Willow Reserve Estates Planned Unit Development application along with the preliminary concept plan and Ordinance O-2022-57 establishing the underlying zoning, and the DRAFT development agreement, based on the findings documented in the staff report. Aaron Bonham seconded the motion.

Jeremy is concerned about the density of the project, especially the multi-residential area. Shannon reminded the P&Z that they can request changes to the plan. Jeremy suggested they revisit the multi residential and the ½ acre lots. John stressed the need to follow the general plan and if the P&Z does not want to follow the general plan they need to look at changing it.

Doug argued that the P&Z should strictly approve or deny the PUD and let the commissioners and the developer work things out.

Shannon reiterated to the P&Z that a PUD allows them to negotiate with the developer. She stressed that if the P&Z wants the developer to come back with a revised plan they need to let the current motion die and make a new motion.

VOTE: The board voted on the motion to recommend denial of the zone change. Aaron, Jeremy, and Gwen voted aye. Byard and Doug voted nay. The motion to **recommend denial passed**.

Shannon clarified that if the P&Z wants the developer to come back they need to make another motion. Otherwise, the motion to recommend denial will go forward to the commission.

Rob stated the P&Z can have further discussion and make additional motions.

MOTION: Aaron Bonham made a motion to ask the developer to come back with one acre parcels in lieu of ½ acre parcels, no multi residential, and more open space on the borders. Jeremy Chamberlain seconded the motion.

VOTE: The vote was **unanimous** to ask the developer come back with a revised plan.

FACTS & FINDINGS: The Willow Reserve Estates Planned Unit Development application conforms to the standards in the Kane County Land Use Ordinance and may be heard by the Land Use Authority. If approved with the conditions listed at the end of this staff report, the application conforms in all material respects with the Kane County Land Use Ordinance and relevant state law. The WRE PUD is asking for zoning approval through Ordinance 2022-57, Preliminary Concept Plan and the DRAFT Development Agreement as required in Kane County Land Use Ordinance (KCLUO) 9-20-3M conforms to the standards in the KCLUO 9-20-1-7 and 9-21-A-I, and Utah Code Sections §17-27a-201, 202, 206, 208 and §17-27a-608, 609. Utah State Code §17-27a-102 gives Kane County authority to hold public hearings in its legislative discretion which furthers the purposes of the Utah State Code, Kane County General Plan and Kane County Land Use Ordinance.

20. Ordinance 2022-60: Revising KCLUO Chapters 1, 6, 7 & 15

An ordinance revising the definition of a short term rental to allow for a maximum occupancy of 10 individuals, clarifying that only one single family dwelling is allowed in the R-1/2 zone, revising the purpose of the Commercial 1 zone and allowing the Land Use Administrator to approve residential conditional use permits.

Shannon explained the thought process behind the requested ordinance changes.

The Chair called the commission into public hearing.

Matt Fisher: He expressed concerned about not having the CUP go through the planning board. He is concerned about removing the verbiage about neighboring zones.

The Chair called the commission out of public hearing

MOTION: Aaron Bonham made a motion **recommend approval** of Ordinance 2022-60 to the Commissioners. Jeremy Chamberlain seconded the motion.

VOTE: The vote was unanimous to **recommend approval passed**.

MOTION: Aaron Bonham made a motion to adjourn. Jeremy Chamberlain seconded the motion.

Meeting was adjourned at 10:57 pm.

Land Use Authority Chair
Doug Heaton

Administrative Assistant
Wendy Allan