

**COMMISSION MEETING
PACKET**

DATE:

March 14, 2023



NOTICE AND AGENDA OF A MEETING OF THE KANE COUNTY COMMISSION

PUBLIC NOTICE IS HEREBY GIVEN that the Commissioners of Kane County, State of Utah, will hold a **Commission Meeting** in the School Board Room at the Kanab Center, 20 N 100 E., Kanab Utah on **Tuesday March 14, 2023** at the hour of **2:00 P.M.**

*The Commission Chair, in his discretion, may accept public comment on any listed agenda item unless more notice is required by the Open and Public Meetings Act.

WE WELCOME EVERYONE TO ATTEND ELECTRONICALLY BY PHONE.

CALL IN INFORMATION: Meeting call in # 435-676-9000 participant code 168030#
(This is a local call within the South Central service area)

CALL MEETING TO ORDER

WELCOME

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT:

CONSENT AGENDA:

Check Edit Report:

Approval of: Commission Meeting Minutes for February 28, 2023

REGULAR SESSION:

- 1. Discussion/Possible Action with the SITLA Easement Packet-Taylor Glover/Commissioner Heaton**
- 2. Kane County Farm Bureau Partner Funding Request/Commission Heaton**
- 3. Discussion/Action: Kane County Resolution No. R-2023-9 a Resolution to Appoint New Members to the Kane County Economic Development Board: Kevin Barnes,**

**Mitch Stadtlander, Boyd Corry, Joseph Sorensen, and David W. Schmuker with
Terms Ending 12/31/24/Commissioner Meyeres**

- 4. Discussion/Action: Letters of Support for Community Project Funding Requests
from Throughout the County/Commissioner Meyeres**
- 5. Ordinance 2023-07: An Ordinance Revising Kane County Land Use Ordinance
Chapter 4 Zones and Chapter 7 Article D State Lands-Shannon
McBride/Commissioner Heaton**
- 6. Discussion on the Kane County General Plan and Review of Recommendations
from the Planning Commission Regarding the Acknowledgement Page-Shannon
McBride/Commissioner Heaton**
- 7. Zone Change/Ordinance 2023-09: Zion Mountain Development-Shannon
McBride/Commissioner Heaton**
- 8. Zone Change/Ordinance 2023-10: Carter-Shannon McBride/Commissioner Heaton**
- 9. Discussion/Action: Kane County Resolution No. R-2023-10 a Resolution
Authorizing the Temporary Closure of Certain County Roads to Heavy Vehicle
Traffic Due to High Snow Pack and Kane County Ordinance No. O-2023-11 The
Temporary Road Closure Ordinance/Commissioner Heaton**
- 10. Discussion/Possible Action on Adding Contract with Greg Hughes as Policy
Advisor/Commissioner Meyeres**
- 11. Discussion/Possible Action for the Commission Chamber Remodel Parking
Issue/Commissioner Kubeja**
- 12. Discussion/Possible Action on the Courthouse Remodel-Lease
Renewal/Commissioner Kubeja**
- 13. Discussion on Active Living Center Meals/Commissioner Kubeja**
- 14. Discussion/Possible Action on an Interagency Agreement for Transferring Funds to
the BLM/Commissioner Kubeja**
- 15. Review of 2023 Legislative Session/All Commissioners**
- 16. Commissioner Report on Assignments/All Commissioners**

Closed Session:

- Discussing an individual's character, professional competence, or physical or mental health.
- Strategy sessions to discuss collective bargaining, pending or reasonably imminent litigation, or the purchase, exchange lease or sale of real property.
- Discussions regarding security personnel, devices or systems.
- Investigative proceedings regarding allegations of criminal misconduct.

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Chameill Lamb at (435) 644-2458. Agenda items may be accelerated or taken out of order without notice as the Administration deems appropriate. All items to be placed on the agenda must be submitted to the Clerk's office by noon Thursday, prior to the meeting.

CONSENT AGENDA

Minutes of:

Commission Meeting Minutes for February 28, 2023

**MINUTES
OF THE KANE COUNTY
BOARD OF COMMISSIONERS' MEETING
February 28, 2023
IN THE KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH**

Present: Chairman Wade Heaton, Commissioner Celeste Meyeres, Commissioner Patty Kubeja, Attorney Van Dyke, Sheriff Tracy Glover, Clerk/Auditor Chameill Lamb (Absent), Deputy Clerk/Auditor Candice Brown

Also Present: Rhonda Gant, Shannon McBride, Ryan Maddux, Bert Harris, Kelly Stowell

CALL MEETING TO ORDER: Commissioner Heaton

INVOCATION: Human Resource Director Rhonda Gant

PLEDGE OF ALLEGIANCE: Commissioner Heaton

WELCOME: Commissioner Heaton

PUBLIC COMMENT:

Bruce Davis stated if the Kanab 600 Willow Reserve goes through as a PUD, why the highest density housing is going to be a part of the first phase development. In his opinion, this PUD is not compatible with Kane County's rural environment. Bruce also asked why this desirable area is even acceptable given the limit of county services.

Patrick Moran referenced the Commission meeting minutes dated March 22, 2022 specifically item #15 about the senior center. He said that in the minutes it indicated the Summit proposal had been received and a contract negotiation was in place. The minutes also reflect from the sheriff's comments that there is little to no savings for contracting Summit, but it references

consistency. He thinks that the “consistency” is not well worn out on what it means in the minutes, so he thinks it needs some clarification as to what the comment was referring to.

Sue Johnson thanked the Commissioners on the work meeting they made available to the public on the Willow Reserve. It was obvious to her that they were listening to the public and she hopes that the Commissioners will keep listening to the public on this. One thing that she didn't hear was anything about fire protection and what that will involve in the area.

Gwen Brown thinks that the PUD is still not a good idea to have out there. It doesn't fit in with the county plan and it doesn't fit in with the rural area. She asks that the Commission really listen to what the people want.

Anna Davis said that she agrees with Gwen. One thing she would like to bring up is if there is anywhere in the world that your quality of life has ever been improved by packing people close together.

Lynn Dolan asked if we voted the development down.

CONSENT AGENDA:

Check Edit Report:

Motion to approve the Consent Agenda made by Commissioner Meyeres and motion carried with all Commissioners present voting in favor.

REGULAR SESSION:

1. Discussion/Adoption: Feasibility Study for SR 9 and Highway 89 Active Transportation Plan/Commissioner Kubeja

Kelly Stowell thanked the Commission for having him on the agenda for this important project that involves an active transportation plan for SR-9 and Highway 89. He introduced Chris Hall that was here from UDOT. Kelly said this project with the feasibility study goes back about 20 months. We got a grant from UDOT to do the study, with a small match from Kane County. He said with the funding they were able to look at the whole corridor from Kanab to Glendale and from Mt. Carmel to East Zion. They have

been working with Sunrise Engineering on the actual alignment in the feasibility study portion of this plan.

Chris said when they usually do studies they have been leaning toward a GIS story map, so they are easily accessible by the public. He said overall the story map really breaks down feasible areas to start with the trail and build on it slowly, as funding becomes available.

Kelly stated they would really like to get that out in the public and let people see it and know what they are working on. He said it is really good timing right now. It seems like there is a lot of support and resources available at the state level for active transportation projects and trails just like this. Kelly said that they need the County Commission to approve the feasibility study that enables them to take the next steps in making this project happen.

Motion to adopt the Feasibility Study that has been completed for State Route 9 and Highway 89 to become the Active Transportation Plan for Kane County made by Commissioner Kubeja and motion carried with all Commissioners present voting in favor.

2. Discussion/Approval: Purchase of a Double Vault Toilet for the Tilted Mesa Trail/Commissioner Kubeja

Kelly Stowell for the trails capacity, Dan Gunn outdoor recreation planner for the BLM, and Allen Bate assistant field office manager for the BLM. They have been working on some mountain bike trails east of Kanab on BLM land. Kelly said they got a grant from the State of Utah, Office of Outdoor Recreation almost two years ago.

Dan Gunn said the Tilted Mesa mountain biking trails network is 9-1/2 miles east of Kanab. The completed system will be between 13-15 miles, open to hiking, mountain biking, and Class 1 electric bikes. They expect to be completed with the project before the grant-spending deadline of May 17, 2023. The parking lot and toilet installs are the next thing coming up as far as implementation goes. They have the contract for the toilets currently out for bid. When the bid process is over there is a technical evaluation of the people who bid on the project and then a determination made by contract. They will need a significant dollar-funding amount soon in order to award the contracts. That is the

reason they are here, to get Commission approval to disburse county matching funds for the grant in the amount of \$50,000.

Motion to approve the purchase of a Double Vault Toilet and the required infrastructure for the Tilted Mesa Trail in Kane County with the BLM made by Commissioner Kubeja and motion carried with all Commissioners present voting in favor.

**3. Approval/Ratification of Kane County Road Shed Construction
Contract/Commissioner Kubeja**

Motion to approve items #3, #4, and #5, which are construction contracts for the Road Shed, County remodel, and the Building B Civic Center to include that the bonding will be paid by the contractor as per the RFP made by Commissioner Kubeja and motion carried with all Commissioners present voting in favor.

**4. Approval/Ratification of the Kane County Building Construction
Contract/Commissioner Kubeja**

Refer to motion on item #3.

**5. Approval/Ratification of the Kanab Civic Center Construction
Contract/Commissioner Kubeja**

Refer to motion on item #3.

**6. Discussion/Approval: Quit Claim Deed to UDOT for a New Roundabout on
Highway 9-Shannon McBride/Commissioner Heaton**

Tom Avant said this is for the Apple Cross Visitors Center and that UDOT's plan is to build a roundabout. UDOT is requesting that a small portion of the County North Fork

road be deeded to UDOT. They said that they would accept a Quit Claim Warranty Deed on it.

Attorney Van Dyke said he was concerned about the process they were proposing and his questions about that haven't been fully resolved. The most recent thing they sent us was the process that they use when they condemn property. He said it is probably in the County's best interest to do the Quit Claim because then it is no longer our property. Attorney Van Dyke said they have proposed a property purchase agreement that he recommends we don't sign.

Motion to approve the Quit Claim Deed to UDOT for the property on Highway 9 and North Fork road contingent on Kelvin Smith's review of the exact property description made by Commissioner Kubeja and motion carried with all Commissioners present voting in favor.

7. Discussion and Action to Determine a Response to Kanab City Regarding the Mountain West Subdivision Access-Shannon McBride/Commissioner Heaton

Commissioner Heaton asked Sheriff Glover to share how the County came to own the road going out to the jail.

Sheriff Glover said typically a county could own a couple of roads within a municipality and this road is one of them that the county owns, we developed it and maintain it. Up until the first major development out there, the road was a gravel county road. Tom Avant and Sheriff Glover did a lot of work securing easements, getting funding, and various other things. They had to loop the water line in from Country Estates and they built the utilities to mesh with the Kanab City master plan.

Commissioner Heaton said Kanab City has a proposed development going in out there on the south side of this road and they have asked for input from the county with regard to that roadway.

Janae said the development is in the city and as part of their process, they wanted to get the county involved early on. They have found that there is a deeded county 66-foot wide deeded area from the highway to the SITLA property. At the SITLA property, it is a 100-foot easement that had some stipulations between the arrangement with SITLA and the

county. Janae said that if they owned the road, they would do the improvement review themselves but because they don't own it they are asking the county for that.

Attorney Burggraaf said often times when they are doing a new development they have them bring certain roads to a certain standard that meets Kanab City ordinances. This is a county road so whatever standard the county wants the road brought up to, it would be their road for maintaining. He said it has been brought up the potential of desiring a separate traffic study to be done. They would recommend if the county wants to do that, to do it quickly based on the timeline they have.

Shannon was able to get Kelvin to do a traffic analysis.

There was further conversation on the road and they decided to have Commissioner Heaton work with Attorney Van Dyke on a response to provide input for Kanab City.

Motion to designate Commissioner Heaton to head up a response and discussions with Kanab City, Kanab City Land Use Dept., Kane County Land Use Dept., county engineers, city engineers, and anyone else necessary regarding the Votana Resort Village including attorneys recommendations made by Commissioner Meyeres and motion carried with all Commissioners present voting in favor.

8. Discussion/Possible Action on the Travel Council Recommended Priority List for 2023/Commissioner Heaton

Commissioner Heaton said the Tourism Board meets once a year and looks at a project list for funding from TRT. They then recommend a priority list to the Commission.

1. Kanab Rec Center
2. Downtown 3rd space park
3. Multi-event Center at the Kaneplex
4. Duck Creek Visitor Center/Community Center
5. Visitor Center Complex
6. Trails
7. Mountain Bike Trails at Jackson flat reservoir
8. Jackson flat reservoir

Attorney Van Dyke stated the law was upgraded last year to specifically require the Commission to review the list it in a Commission meeting at least once a year. That is the only legal requirement they have.

Kyler, Kanab City manager stated the list was not in priority order.

This is just a list of things that the council thought at the time was important.

9. Utah Legislature 2023 Legislative Session-Kane County Position and Action on Pending Bills

The Commission talked about the following bills.

[SB175](#) Rural Transportation Infrastructure Fund

[SB114](#) County Correctional Facility Contracting Amendments

[HB210](#) Justice Court Changes

10. Commissioner Report on Assignments/All Commissioners

Attorney Van Dyke said he is interested to hear if there are plans regarding the Office of Tourism with the change.

Commissioner Heaton said there has been a lot of discussions on lots of different things. He said there is nothing to report right now but that the discussions are happening.

Commissioner Meyeres said that the Commission is working with the various cities and entities to ask for funding through Representative Chris Stewart's office to help with Community Project Funding. She said the money can't be used for buildings, it can only be for basic infrastructure.

Commissioner Kubeja mentioned East Zion will be having an open house for their fire station on Saturday, March 11th. She also said on April 11th the Utah County Library Bookmobile representative is going to be coming to present to the Commission. Zion Mountain is getting close to starting on the visitors center.

**11. Update and Discussion on RS2477 Litigation and Other Pending Civil Litigation-
Attorney Shawn Welch/Commissioner Heaton (Closed Session)**

Motion to go into closed session for the Commission on 28 February 2023 for the purpose of RS2477 litigation and other pending litigation made by Commissioner Kubeja and motion carried with all Commissioners present voting in favor.

Motion to adjourn made by Commissioner Meyeres and motion carried with all Commissioners present voting in favor.

WHERE UPON MEETING WAS ADJOURNED

Wade Heaton Chairman

Chameill Lamb Clerk/Auditor

AGENDA ITEMS

ITEM # 1

Discussion/Possible Action with the SITLA Easement
Packet

ITEM # 2

Kane County Farm Bureau Partner Funding Request

ITEM # 3

**Discussion/Action: Kane County Resolution R-2023-9
a Resolution to Appoint New Members to the Kane
County Economic Development Board: Kevin Barnes,
Mitch Stadtlander, Boyd Corry, Joseph Sorensen, and
David Schmuker with Terms Ending 12/31/24**

KANE COUNTY RESOLUTION NO. R 2023 – 9

**A RESOLUTION APPOINTING NEW MEMBERS TO THE
KANE COUNTY ECONOMIC DEVELOPEMNT BOARD**

WHEREAS, under Utah Code §17-54-104, which has been recodified to Utah Code §63N-4-803, and under Kane County Resolution No. R 2020-14, the County created the Kane County Economic Development Board, “CED Board” (which is now referred to in state code as a County Economic Opportunity Board) in order to be eligible for the rural county grant program established in Utah Code §63N-4-802; and

WHEREAS, the County Commission desires to reaffirm the current terms of existing board members and to appoint additional board members as set forth below; and

WHEREAS, the CED Board shall be composed at a minimum of: a County representative, a representative of a municipality in the County, a workforce development representative, a private-sector representative, and a member of the public that lives in the county; and

WHEREAS, the purpose of the CED Board is to assist the County Commission on applying for Rural County Grants, advise the County Commission on what projects should be funded by grant money, and preparing reporting requirements under authorized grants; and

WHEREAS, the authorization for this resolution is found in Utah Code §63N-4-803 and Utah Code §17-53-201 et. seq.;

NOW THEREFORE BE IT HEREBY RESOLVED BY THE KANE COUNTY BOARD OF COMMISSIONERS, IN AND FOR KANE COUNTY, STATE OF UTAH, AS FOLLOWS:

1. The following individuals are appointed to the Kane County CED Board, for a term of two years ending December 31, 2024:
 - a. Kevin Barnes
 - b. Mitch Stadtlander
 - c. Boyd Corry
 - d. Joseph Sorensen
 - e. David W. Schmucker
2. The following individuals are reaffirmed as current board members with a term ending December 31, 2023:
 - a. Scott Leavitt
 - b. Kevin Blomquist
 - c. Kelly Stowell

3. After the initial term, any board member may be reappointed for additional terms. Each subsequent term shall be for two years.
 4. Board Members shall serve until a replacement is appointed.
 5. Additional members may be appointed at the discretion of the Kane County Commission.
 6. Board members serve at the pleasure of the Kane County Commission.
- End of Resolution--

ADOPTED this 14th day of March 2023.

ATTEST:

CHAMEILL LAMB
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Meyeres voted _____
Commissioner Kubeja voted _____

ITEM # 4

Discussion/Action: Letters of Support for Community
Project Funding Requests from Throughout the County



Kane County Commission
Wade Heaton
Patty Kubeja
Celeste Meyeres
435-644-2458

March 14, 2023

The Kane County Commission would like to express our support for the Kanab Creek Drive reconstruction project. We believe that this project is critical to improving the safety and mobility of the residents and visitors of Kanab and to connecting the City of Kanab to US-89A, which is a major transportation artery in the region.

As you may know, the City of Kanab made a significant investment in 2022 to realign the intersection at Kanab Creek Drive and US-89A. The reconstruction of Kanab Creek Drive project will build upon this investment and provide additional improvements to the transportation infrastructure in the area.

Kanab Creek Drive is a vital access route for a housing area with approximately 1/3 of City residents.

The Kane County Commission recognizes the importance of this project to the economic development, housing needs, and prosperity of the City of Kanab and the region. We urge you to support the grant funding for this project.

We look forward to working with you to support the reconstruction of Kanab Creek Drive project and to continue to improve the transportation infrastructure in Kane County.

Sincerely,

Wade Heaton-Kane County Commission Chair

Celeste Meyeres- Kane County Commissioner

Patty Kubeja- Kane County Commissioner



Kane County Commission
Wade Heaton
Patty Kubeja
Celeste Meyeres
435-644-2458

March 14, 2023

We strongly support the proposed redevelopment of Kanab City's Springs near Cave Lakes and the development of Kanab City's West Fork Well #5. As County Commissioners, we understand the critical importance of reliable water infrastructure for our region.

The proposed projects will not only provide a reliable water supply for Kanab City, but also for other communities and industries in the region. We would like to see both these projects be completed this year, as they help to diversify and fortify water resources within our County.

As a County Commission, we are committed to supporting projects that provide critical infrastructure for our County. The proposed project to rehabilitate Kanab City's Springs near Cave Lakes and the development of West Fork Well #5 are important steps toward achieving these goals.

We urge funding of our joint efforts to ensure that our region has the water resources needed to support continued and prosperity and water security.

Thank you for your attention to this matter.

Sincerely,

Wade Heaton-Kane County Commission Chair

Celeste Meyeres- Kane County Commissioner

Patty Kubeja- Kane County Commissioner



Kane County Commission
Wade Heaton
Patty Kubeja
Celeste Meyeres
435-644-2458

Kane County
76 North Main Street
Kanab, UT 84741

3/9/2023

Chris Stewart
166 Cannon House Office Building
Washington, DC 20515.

Dear Congressman Stewart,

As the Kane County Commission, we write in support of the proposed, time-sensitive, \$1.3 million ask from Church Wells, Utah. This project will bring essential roads up to passable status, remediate flooding issues, and provide access to economically essential hiking trails from town.

The reason that this request is particularly urgent now, is that Church Wells' Special Service District volunteers secured ARPA funding to implement critically needed, water infrastructure repairs in 2023. The hope is that the roads can be remedied in conjunction with the groundwork for the water system.

Church Wells is isolated from services, and the many families who call the area home work hard to care for one another. Unfortunately, their roads are in dire need of repair. The narrow and deeply sanded, class D roads hinder emergency response vehicles from reaching residents quickly during emergencies. This issue is compounded by the isolated location. The proposed project will enable first responders to reach citizens in need in a more timely and efficient manner, which would increase the safety of everyone living there.

Additionally, Church Wells has been struggling with flooding issues for years, especially during heavy rains. This problem causes damage to roads and properties, necessitating expensive repairs. The proposed project will help mitigate these issues, ultimately reducing the insurmountable, financial and practical burden to the community.

Moreover, Church Wells is located near a feature called "Chimney Rock" on the Grand Staircase monument, which is a beautiful area and could become an economy-boosting hiking destination, with attention from this grant. However, the current road access and trailhead is inadequate, and needs improvement. Improving the road would facilitate safe and easy access for hikers while reducing the risk of accidents on this road.

Therefore, we support this project as essential for improving the quality of life in Church Wells. It will enhance safety, protect homes and property, and increase recreational and economic opportunities. We wholeheartedly support this project, and we urge you to do the same.

Sincerely,

Wade Heaton-Kane County Commission Chair

Celeste Meyeres- Kane County Commissioner

Patty Kubeja- Kane County Commissioner

ITEM # 5

**Ordinance 2023-07: an Ordinance Revising Kane County
Land Use Ordinance Chapter 4 Zones and Chapter 7
Article D State Lands**

KANE COUNTY COMMISSION AGENDA REQUEST

Date of Commission Meeting Requested: March 14, 2023

Dept. /Business Name: Land Use

Topic/Re: Ordinance 2023-07: KCLUO Chapters 4 & 7

Description: An ordinance revising Kane County Land Use Ordinance Chapter 4 Zones and Chapter 7 Article D State Lands.

Attachments: Ordinance 2023-07

Dept. Head/Owner: Wade Heaton

Contact Information: Shannon McBride x4966

Meeting Requested by: Wendy Allan X4364

Internal Notes: P&Z recommended APPROVAL.

KANE COUNTY ORDINANCE NO. O 2023-07

**AN ORDINANCE AMENDING TITLE 9 CHAPTER 4 ZONES SECTION 4 AND
CHAPTER 7, ARTICLE D, SECTION 3 SITLA LANDS OF THE KANE COUNTY
LAND USE ORDINANCE**

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make recommended changes to specific sections of Chapter 4, Section 4 and to Chapter 7 Article D SITLA Lands of the Kane County Land Use Ordinance; and

WHEREAS, the purpose of amending Chapter 4, is as follows: 9-4-4D Rules For Locating: D: Disapproval of a zoning amendment application shall prohibit the filing of another application to rezone the same parcel of property, or any portion thereof to the same zone classification within one year of the date of the final disapproval of the application, unless the Planning Commission finds that there has been a substantial change in the circumstances or sufficient new evidence since the disapproval of the application to merit consideration of a second application within a one-year time period; and

WHEREAS, the purpose of amending Chapter 7 Article D. State Lands (SITLA); revising Section 3, 2b, is to clarify the purposes, reviewing process and procedure for SITLA Recommendations as follows: “ For purposes of determining "compliance with applicable land use ordinances," the Land Use Administrator may review any of the requirements of Title 9 in developing the report. For land owned by SITLA, the Land Use Administrator shall develop recommendations as if zoned Agriculture, based on Chapter 15 Conditional Uses. Specifically ~~review the requirements of land that is zoned Agricultural (AG).~~ For land owned by other agencies of the State, the Land Use Administrator shall review the requirements of the zone or zones of similarly situated land near the proposed development. Nothing in this section shall be construed as an attempt to impose a zone on any state owned land as prohibited by Utah Code 63A-5-206(6). State land that is transferred to private ownership shall automatically be zoned Agricultural (AG) as set forth in Section 9-7D-4(A).”

WHEREAS, the Kane County Planning Commission, after a duly noticed public hearing, recommended for approval amendments to Chapter 4, Section 4 and Chapter 7 Article D of the Kane County Land Use Ordinance; and

WHEREAS, the Kane County Board of Commissioners desires to implement the recommended amendments; and

WHEREAS, the authority for this ordinance is found in Utah Code §17-27a-102, 501, and §17-53-201;

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

Chapter 4 and Chapter 7 of the Kane County Land Use Ordinance are amended as set forth below. Additions to the Ordinance are indicated with an underline, and deletions from the ordinance are indicated with a strike-through. Instructions to the codifiers are italicized and inside parenthesis.

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(9-4-4D) RULES FOR LOCATING: Disapproval of a zoning amendment application shall prohibit the filing of another application to rezone the same parcel of property, or any portion thereof to the same zone classification within one year of the date of the final disapproval of the application, unless the Planning Commission finds that there has been a substantial change in the circumstances or sufficient new evidence since the disapproval of the application to merit consideration of a second application within a one-year time period.

//

//

9-7-D-3-2b

“For purposes of determining “compliance with applicable land use ordinances,” the Land Use Administrator may review any of the requirements of Title 9 in developing the report. For land owned by SITLA, the Land Use Administrator shall develop recommendations as if zoned Agriculture, based on Chapter 15 Conditional Uses. ~~Specifically review the requirements of land that is zoned Agricultural (AG).~~ For land owned by other agencies of the State, the Land Use Administrator shall review the requirements of the zone or zones of similarly situated land near the proposed development. Nothing in this section shall be construed as an attempt to impose a zone on any state owned land as prohibited by Utah Code 63A-5-206(6). State land that is transferred to private ownership shall automatically be zoned Agricultural (AG) as set forth in Section 9-7D-4(A).”

//

End of Ordinance

This Ordinance shall be deposited in the Office of the County Clerk, and shall take effect fifteen (15) days after the date signed below.

The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this 14th day of March, 2023.

ATTEST:

Chameill Lamb
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Kubeja voted _____
Commissioner Meyeres voted _____

ITEM # 6

Discussion on the Kane County General Plan and Review
of Recommendations from the Planning Commission
Regarding the Acknowledgement Page

KANE COUNTY COMMISSION AGENDA REQUEST

Date of Commission Meeting Requested: March 14, 2023

Dept. /Business Name: Land Use

Topic/Re: Ordinance 2023-08: General Plan

Description: An ordinance revising the acknowledgement page of the General Plan.

Attachments: Ordinance 2023-08

Dept. Head/Owner: Wade Heaton

Contact Information: Shannon McBride x4966

Meeting Requested by: Wendy Allan X4364

Internal Notes:

KANE COUNTY ORDINANCE NO. O 2023-08

**AN ORDINANCE AMENDING THE KANE COUNTY GENERAL PLAN
ACKNOWLEDGMENT, PREAMBLE AND VISIONS STATEMENT SECTIONS**

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make recommended changes to the Acknowledgement , Preamble and Visions Statement sections of the Kane County General Plan; and

WHEREAS, the purpose of amending the above sections of the General Plan is to update new staff and elected officials and condense language; and

WHEREAS, the Kane County Planning Commission, after a duly noticed public hearing, recommended for approval amendments to the above sections of the General Plan; and

WHEREAS, the Kane County Board of Commissioners desires to implement the recommended amendments; and

WHEREAS, the authority for this ordinance is found in Utah Code §17-27a-102, 201 and 401-408;

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

See attachments.

End of Ordinance

This Ordinance shall be deposited in the Office of the County Clerk, and shall take effect fifteen (15) days after the date signed below.

The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this 14th day of March, 2023.

ATTEST:

Chameill Lamb
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Kubeja voted _____
Commissioner Meyeres voted _____



KANE COUNTY, UTAH GENERAL PLAN

For the Physical Development of the Unincorporated Area
Pursuant to Section 17-27a-403 of Utah State Code

Amended ~~August 2018~~ March 2023

Should any part of the Kane County General Plan be determined invalid, no longer applicable or need modification, those changes shall affect only those parts of the Plan that are deleted, invalidated or modified and shall have no effect on the remainder of the General Plan.

This document was prepared under the guidance and direction of the ~~Kane County Resource Development Committee~~, Kane County Land Use Authority, Planning & Zoning Commission and the Board of County Commissioners.

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Kane County General Plan Maps:

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Map Two – Kane County Regions

Map Three – New Boundary Map for Grand Staircase

Preamble

In order to provide for the health, safety and general welfare of both residents and visitors of Kane County, the Kane County Board of Commissioners hereby adopts the following General Plan which outlines goals and policies for unincorporated land use, transportation and access management, conservation of natural resources, protection against natural and human-caused hazards, provision of public services, preservation of historic resources, development of the economic base, accommodation of affordable housing, and partnering with federal and state land management agencies.

Acknowledgments

Every effective planning process includes a multitude of individuals if it is to be successful. This effort is no different. Many individuals have had an impact on the preparation and adoption of this Plan. However, most important are the residents of Kane County, who have responded to surveys, interviews, and attended public meetings and hearings. All who did so should be commended for their desire to be a participant in determining the future of the county. Some specific individuals and groups have had intensive involvement in the Kane County planning process, and are acknowledged below:

Kane County Commission

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Jim Matson
Lamont Smith
Wade Heaton, Chairman
Patty Kubeja
Celeste Meyeres

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Kane County Water Conservancy District

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Lance Jackson — Danny Little
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Kane County Office of Tourism

Camille Johnson, Executive Director

Kane County GIS

Lou Pratt, Director

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Preamble

In order to provide for the health, safety and general welfare of both residents and visitors of Kane County, the Kane County Board of Commissioners hereby adopts the following General Plan which outlines goals and policies for unincorporated land use, transportation and access management, conservation of natural resources, protection against natural and human-caused hazards, provision of public services, preservation of historic resources, development of the economic base, accommodation of affordable housing, and partnering with federal and state land management agencies.

Vision Statement

Kane County, Utah is a land of contrasts. It has 3,992 square miles of land and 138 sq. miles of water¹ extending from the sandstone deserts of Glen Canyon and Lake Powell to the 10,000 foot high alpine meadows of the Paunsaugunt Plateau. Lack of precipitation and difficulty of access has resulted in a land use pattern which is dominated by public lands surrounding a small base of private lands located primarily along perennial water courses. ~~Original villages were established to take advantage of arable lands along streams. Many homesteads were established in the late 19th century, and have become the basis of extensive ranching operations using both private and public lands. The construction of Glen Canyon Dam created settlements originally designed to house construction workers but have evolved into permanent communities. A substantial amount of higher elevation forest lands have been developed for recreation homes and cabins, some of which are now being used year-round. Extensive deposits of coal and other natural resources have been the subject of numerous explorations, with coal deposits near Alton now being actively mined. Each of these land uses presents different challenges and opportunities to county officials.~~

It is the desire of the Kane County Commission to keep the scope of county government in harmony with our nation's founding principles by providing adequate protection without unduly restricting the liberties of residents and visitors. It is the responsibility of the Kane County Commission to facilitate a land use pattern which honors the rights of private unincorporated land owners to make reasonable use of their lands within the constraints presented by the land itself, as well as traditional uses, customs, culture and available public services. Responsibility for private land use decisions properly rests with those land owners who make them. Kane County will not unduly regulate private land use nor will public funds be used to bail out those who make unwise land use decisions.

¹ Total 4,110 sq. mi. Utah Geological and Mineral Survey, "The Geology of Kane County", H. Doelling, F. Davis, C. Brandt, 1989, Division of Utah Dept. of Natural Resources, Bulletin 124, pgs. 1,7. And, Bureau of Economic and Business Research, "An Analysis of Long-Term Economic Growth in Southwestern Utah: Past and Future Conditions" University of Utah.

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Kane County's private land base is approximately 10 percent² of the 4,100 combined square miles found inside its boundaries. Owners of this limited private land base will be provided with a wide array of opportunities to use their property without undue constraints employing the guise of concepts such as *sustainable development*. County land use legislation will protect people from each other and refrain from trying to protect people from themselves; and only protect the government from private interests where absolutely necessary. Zoning districts have been established to provide fundamental fairness in land use regulation and to protect property values, not the interests of those who intrude on the zone. Zone changes will be made only after those interests for which the zone was created have expired or there is no interest left to protect.

The limited base of private property will not be condemned for public use unless absolutely necessary. When it is necessary, the owner will be compensated at or above market value. All wealth and resources used by society are generated in the private sector. Private sector solutions are consistently more efficient than public sector solutions. Kane County will maintain a land use environment that allows individuals and businesses to succeed. Private sector enterprises will not be subsidized with county funds. For governments to do so interrupts the delicate balance of supply and demand. If the free market system will not support an enterprise, there is either too much of that enterprise or it is not a need. Kane County will not compete with private enterprise. Kane County will employ private resources rather than compete with them. Over regulation is highly discouraging to the private sector. Kane County will regulate only as is necessary to protect the general population from real hazards.

A basic premise of this General Plan (hereinafter, "Plan") is that land uses in unincorporated areas cannot be supported by county operated and financed municipal-scale services. Landowners who require such services will be expected to finance, install and maintain such services. Tax impacts will be kept low by resisting the temptation to solve private problems with public funds. County funds will be expended to maintain a limited base of county approved and accepted infrastructure (primarily roads), and will not be used to improve infrastructure.

Federal land managers have recognized that to be most effective, they must coordinate with state and local governments as equal partners in the public lands planning process. Congressional policy requires that federal planners coordinate with state and local governments,³ and that federal plans be consistent with adjacent jurisdictions within the constraints of federal law. The Kane County Commission is a proactive equal partner in all public lands planning processes, which impact the county land base. Kane County requires coordination in all efforts pertaining to federal and state lands. Kane County will resist by all legal means the encroachment of federal planning and implementation which interrupts our citizen's access to state and federally managed lands. Federal lands will be managed for multiple-use access. Placing public lands into a vacuum where they cannot be utilized and enjoyed is contrary to wise management practices which should employ natural resources for the public social and economic benefit.

² Utah Association of Counties, "2015 Utah Counties Fact Book", <uacnet.org/members/uac_research>, (Their data from SITLA statewide GIS mapping).

³ Federal Land Policy & Management Act (FLPMA), See 43 U.S.C. §1711.

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. The Commission will be an active partner with other governments to foster a sustainable, broad-based economy which allows traditional economic uses to remain vibrant, while fostering new economic activities that expand economic opportunity and protect important scenic and social qualities. Federal land managers will coordinate with Kane County as an active, equal, on-going partner to be consistent with county goals and policies when not constrained by federal law.

Plan Update

Kane County, in order to be consistent with its goals to update the General Plan every five years, is implementing a plan revision as of March 8th, 2023. County staff and legislators realize this process will take several workshops, community surveys and public hearings to gather information and obtain public input. Each section will be revised as time allows the planning staff.

Due to another surge in growth in the unincorporated areas of the County during the years of 2020, 2021, and 2022 the need to update the General Plan, herein known as the "Plan" is much needed. Several new, large subdivisions and Planned Unit Developments, along with an increase in zone changes, and building permits throughout the County has changed the dynamics of Kane County land use.

The public survey results will be implemented and added as an Appendix at a later date in the revision process.

The Plan will serve as a blueprint for both short and long-range goals for growth and development in the County.

Utah State Code 17-27a-401 requires each county:

- (1) To accomplish the purposes of this chapter, a county shall prepare and adopt a comprehensive, long-range general plan:
 - (a) for present and future needs of the county;
 - (b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county;
 - (c) as a basis for communicating and coordinating with the federal government on land and resource management issues.
- (2) To promote health, safety, and welfare, the general plan may provide for:
 - (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

- (b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
 - (c) the efficient and economical use, conservation, and production of the supply of:
 - (i) food and water; and
 - (ii) drainage, sanitary, and other facilities and resources;
 - (d) the use of energy conservation and solar and renewable energy resources;
 - (e) the protection of urban development;
 - (f) the protection and promotion of air quality;
 - (g) historic preservation;
 - (h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and
 - (i) an official map.
-

Chapter 1 - Land Use

Kane County's policy on land use addresses: 1) the general distribution of land; and 2) standards of population density and building intensity of lands used for housing, business, industry, agriculture, recreation, public buildings and grounds, open space, and other categories of public and private uses of land, as appropriate.

Introduction

Kane County, Utah encompasses approximately 2.6 million acres (2,630,400 acres)⁴ of some of the most remote and rugged land in the continental United States. Much of the county was among the last lands systematically explored and surveyed by the federal government. The county is a land of extremes in elevation, vegetation, precipitation and landscapes.

Climate, elevation, and the presence of adequate water have determined the present-day land ownership and use patterns of Kane County. Most of the land base (85.5 percent)⁵ is managed by federal agencies: Bureau of Land Management, National Park Service and U.S. Forest Service. This encompasses the Grand Staircase-Escalante National Monument, Zion National Park, Dixie National Forest, Glen Canyon National Recreation Area, BLM-Kanab Field Office, and Bryce Canyon National Park. The State of Utah manages Coral Pink Sand Dunes State Park and Kodachrome State Park, along with a small state wildlife preserve. The privately owned land base is located along perennial water courses and at the base of high elevation forests where precipitation allows enough vegetation growth to support raising livestock, yet not isolated by heavy snowpack.

⁴ <extension.usu.edu/files/publications/publication/AG_Econ_county-2005-2016.pdf>

⁵ Utah Association of Counties, "2015 Utah Counties Fact Book", <uacnet.org/members/uac_research>, (Their data from SITLA statewide GIS mapping).

An additional 4.2 percent⁶ of the land base is controlled by the (Utah) State Institutional and Trust Lands Administration (SITLA). These *surface and mineral* lands were granted to Utah at the time of statehood (1894) for the purpose of generating revenue for schools and other public institutions. The state received four sections in each township, which created a checkerboard scattered throughout the county. These lands are reserved for generating the maximum amount of revenue possible for the purposes of the trust. They are not a public lands base reserved for general public interests such as recreation or wildlife habitat. They must be considered part of the developable land base of the county, with more similarity to private lands than public lands. SITLA delineates between surface and mineral ownership of its trust lands because a portion of the acreage lies beneath privately owned and leased land. SITLA's surface land amounts to 99,605 acres, but the state trust owns partial or all the mineral rights on a total of 143,527 acres in Kane County. (See enlarged map)⁷

Agricultural Land Use

While agriculture has been an important base of economic activity in Kane County, the total amount of land devoted to agricultural pursuits is minor. Use of federal and state lands in Kane County is essential to protecting and preserving the economic and cultural aspects of the agricultural industry. According to the 2012 Census of Agriculture, Kane County listed 181 farms with a total of 125,441 acres. Although farms and acreage increased since the 2007 Census of Agriculture (145 farms and 113,417 acres, respectively)⁸, the numbers still indicate a 40% reduction of total farmland since the 1992 Census. In 1992, the average farm was 1,500 acres, whereas the 2012 Census indicates the average is 685 acres.

Of the 125,441 acres, 4,456 acres is cropland (a 49% drop from 2007), and approximately 3,953 acres are irrigated (an 8% drop). Most of the irrigated cropland is devoted to hay production, which is an increase of 61% (from 1,658 to 2,673 acres)⁸. The 2012 Census of Agriculture illustrates that land in orchards decreased again from 12 farms to 10. That represents an 83% drop from orchards listed in the 1992 Census of Agriculture.

The majority of BLM and National Forest land has been included in livestock grazing allotments. According to the 2012 Census of Agriculture, Kane County listed 116 cattle/calf operations running 8,213 head of cattle.⁹ This represents an increase of 21% in total head of cattle and a 27% increase in cattle/calf operations since the previous census. However, ranchers are still running 14% less (heads) than what they ran in 1992. There were fewer operations (106), but each operation ran more head of cattle. There was an increase in sheep/lamb operations (from 9 to 17) running 1,069 head, but it was still a dramatic reduction in total inventory (-83%) since 1992~~8888~~. While many of these operations were not the sole source of income for the operators, they are a vital tie to the traditional lifestyle valued by county residents and visitors. Furthermore, the dramatic

⁶ <trustlands.utah.gov/download/financial/TrustAcreage_County_02212014.pdf> AND "Utah Land Status and Areas of Responsibility", June 2015, <trustlands.utah.gov/resources/maps/gis-data-and-maps/surface-and-mineral-maps>

⁷ "Utah Land Status and Areas of Responsibility", June 2015, <trustlands.utah.gov/resources/maps/gis-data-and-maps/surface-and-mineral-maps>, Enlarged map of Kane County (from original).

⁸ Data used from the 2012, 2007 and 1992 Census of Agriculture; USDA, National Agriculture Statistics Service, <www.agcensus.usda.gov/Publications/> county level data, Utah.

⁹ 2012 Census of Agriculture; 2014 UT Ag Stats & UT Dept. of Ag & Food Annual Report, County Estimates, Selected Items & Years, Utah; U.S. Department of Agriculture and National Agricultural Statistics Service, <www.nass.usda.gov>

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decreases in agricultural activity are unsustainable in terms of economic and environmental factors. The 2014 Utah Agricultural Statistics/Utah Department of Agriculture and Food Annual Report (combined reports)¹⁰ showed Kane County farms operating at a loss. The Farm Income and Expenses summary indicates Gross Farm Income to be \$11.1 million, but Farm Production Expenses are \$13 million (for a net loss of \$1.9 million).

Historically, agricultural pursuits have been a vital base of economic activity in Kane County (as well as throughout the State of Utah). According to LuAnn Adams, Utah Commissioner of Agriculture and Food, "...Utah State University reports that our industry's production and processing segments contribute more than \$17 billion to our economy and generate 78,000 jobs..."¹¹ And though agricultural pursuits are not as pronounced in the 21st century, they still provide valuable opportunities for supplemental income and open space preservation.

The cowboy lifestyle has helped develop the character of Kane County, and this has been represented in multiple western movies filmed in the area. It is surprising how many people visit the county just to see where the movies were filmed, and take pictures of livestock and cowboys. The local festival and tradition called *Western Legends* depends on the cowboy icon and is centered on that historical figure. In essence, ranching and livestock grazing has a direct link to the local tourism industry.

Residential Land Use

The private land base in Kane County is approximately 10% or 263,040 acres.¹² Kane County ranks fifth in the scarcity of privately owned land (first is Wayne County 3.7%, then Grand 4.3%, Garfield 5.1% and Emery 8.1%) and ranks third in the abundance of federal lands (Garfield is first at 90%, and Wayne is second at 85.7%).¹²

The total number of occupied units that had been projected by the *American Community Survey-5 Year Estimates* was 3,077 between 2009 and 2014; 649 of these units were rentals. Over one-third of the total units in the county were seasonal or recreational units *at that time*. This indicates the large presence of seasonal dwelling units found primarily on Cedar Mountain and in the Deer Springs region below Bryce Canyon National Park. The U.S. Census Bureau estimated there were 5,861 total housing units in Kane County as of July 1, 2016.¹³ However, in 2017, the Kane County Assessor's Office counted 6,008¹⁴ housing units, reflecting a 3.9% increase.

Other important unincorporated communities include the Vermillion Cliffs, Palomar Estates and Church Wells/Paria area in eastern Kane County; Johnson Canyon and Deer Springs in North-

¹⁰ Utah Department of Agriculture and Food, News and Publications, 2014 UDAF Annual Report & USDA-NASS Statistics, Utah. Last updated May 30, 2014, Accessed 6 June 2015. <www.ag.utah.gov>

¹¹ 2014 Utah Department of Agriculture and Food Annual Report, Commissioner's Letter of Greeting, page 5.

¹² Utah Association of Counties, "2015 Utah Counties Fact Book", <uacnet.org/members/uac_research>, (Their data from SITLA statewide GIS mapping). By county: Emery pg. 15, Garfield pg. 17, Grand pg. 19, Kane pg. 25, San Juan pg. 37, and Wayne pg. 55.

¹³ U.S. Census Bureau, Quick Facts <www.census.gov/quickfacts/fact/table/kanecountyutah.US#viewtop>

¹⁴ Ryan Maddux, Kane County Deputy Assessor, June 22, 2017; figures represent stick built, mobile and manufactured homes, both primary and secondary residential.

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ITEM # 7

Zone Change/Ordinance 2023-09: Zion Mountain
Development

KANE COUNTY COMMISSION AGENDA REQUEST

Date of Commission Meeting Requested: March 14, 2023

Dept. /Business Name: Land Use

Topic/Re: Zone Change/Ordinance 2023-09: Zion Mountain Development

Description: An application for a zone change from Residential 5 (R-5) to Commercial 2 (C-2), parcel 1-9-15-2D1, located at the junction of Highway 9 and North Fork Road.

Attachments: Info Packet

Ordinance 2023-09

Dept. Head/Owner: Wade Heaton

Contact Information: Shannon McBride x4966

Meeting Requested by: Wendy Allan X4364

Internal Notes: P&Z recommended APPROVAL.



KANE COUNTY LAND USE AUTHORITY

Shannon McBride
LAND USE AUTHORITY
ADMINISTRATOR

Staff Report

DATE: February 15, 2023

To: Planning Commission
From: Shannon McBride, Land Use Administrator
Subject: Project # 23011: Zone Change Application, R-5 to C-2, Ordinance O-2023-09
Parcel 1-9-15-2D1 consisting of 17.82 +/- acres.

HEARING NOTICE: *This item has been noticed to property owners within 500 feet of the subject area. A public notice was posted in two public locations on the state and county web sites.*

REQUEST: On February 15, 2023, Zion Mountain Development Inc., Kevin McLaws, submitted a zone change application, for parcel 1-9-15-2D1, located east of the Zion National Park boundary and right off the North Fork Road at the entrance to the North Fork area. He is requesting to rezone from Residential 5, (R-5) to Commercial 2 (C-2). He intends on building a Gateway Community. Currently the parcel is undeveloped.

Legal Description Parcel 1-9-15-2D1: Commencing at the South $\frac{1}{4}$ Corner of Section 15, Township 41 South, Range 9 West, Salt Lake Base and Meridian; thence, along the North-South $\frac{1}{4}$ Line, North $00^{\circ} 45' 16''$ East 1320.80 feet, to the Center-South $\frac{1}{16}$ Corner; thence, along the South $\frac{1}{16}$ Line, South $89^{\circ} 17' 30''$ East 723.15 feet, to the POINT OF BEGINNING, and running; thence North $36^{\circ} 47' 41''$ East 215.77 feet; thence North $10^{\circ} 57' 53''$ East 113.26 feet, to the beginning of a curve; thence, along the curve to the right, 198.98 feet, having a radius of 140.00 feet, a central angle of $81^{\circ} 25' 58''$ and whose long chord bears North $51^{\circ} 40' 52''$ East 182.65 feet; thence South $87^{\circ} 36' 09''$ East 41.91 feet; thence North $40^{\circ} 33' 31''$ East 502.37 feet; thence South $48^{\circ} 38' 50''$ East 375.70 feet; thence South $44^{\circ} 14' 24''$ West 152.91 feet, to the beginning of a curve; thence, along the curve to the left, 170.99 feet, having a radius of 433.00 feet, a central angle of $22^{\circ} 37' 35''$ and whose long chord bears South $32^{\circ} 55' 37''$ West 169.88 feet; thence South $21^{\circ} 36' 50''$ West 66.45 feet, to the beginning of a curve; thence, along the curve to the right, 212.24 feet, having a radius of 467.00 feet, a central angle of $26^{\circ} 02' 21''$ and whose long chord bears South $34^{\circ} 38' 00''$ West 210.42 feet; thence South $47^{\circ} 39' 11''$ West 179.42 feet, to the beginning of a curve; thence, along the curve to the left, 380.35 feet, having a radius of 383.00 feet, a central angle of $56^{\circ} 53' 56''$ and whose long chord bears South $19^{\circ} 12' 13''$ West 364.91 feet; thence South $09^{\circ} 14' 45''$ East 26.37 feet, to the beginning of a non-tangential curve; thence, along the curve to the right, 60.45 feet, having a radius of 95.67 feet, a central angle of $36^{\circ} 12' 17''$ and whose long chord bears North $68^{\circ} 45' 09''$ West 59.45 feet; thence North $50^{\circ} 39' 00''$ West 206.66 feet; thence South $39^{\circ} 21' 01''$ West 142.73 feet; thence South $50^{\circ} 39' 00''$ East 265.06 feet, to the beginning of a curve; thence, along the curve to the left, 131.87 feet, having a radius of 121.76 feet, a central angle of $62^{\circ} 02' 56''$ and whose long chord bears South $81^{\circ} 40' 28''$ East 125.52 feet; thence South $09^{\circ} 14' 45''$ East 127.03 feet, to the beginning of a curve; thence, along the curve to the right, 153.38 feet, having a radius of 100.00 feet, a central angle of $87^{\circ} 52' 49''$ and whose long chord bears South $34^{\circ} 41' 40''$ West 138.78 feet, to the Northerly right-of-way of U.S. Highway 9; thence, along said right-of-way, South $78^{\circ} 38' 04''$ West 407.20 feet; thence North $16^{\circ} 44' 09''$

West 417.85 feet, to the beginning of a curve; thence, along the curve to the right, 336.34 feet, having a radius of 360.00 feet, a central angle of 53° 31' 50" and whose long chord bears North 10° 01' 46" East 324.24 feet; thence North 36° 47' 41" East 242.19 feet, to the POINT OF BEGINNING; containing 17.82 acres (more or less).

FACTS & FINDINGS:

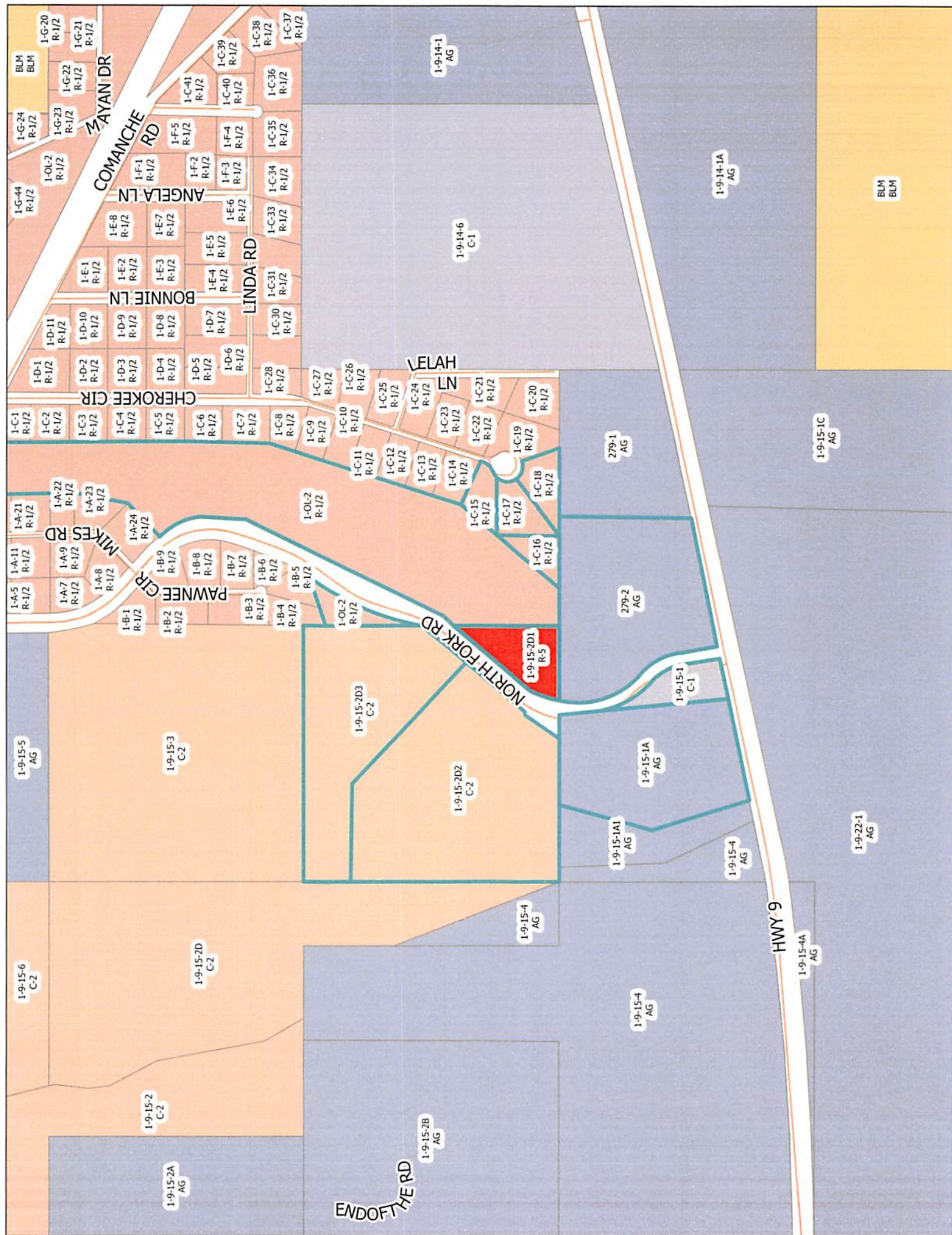
- Parcel 1-9-15-2D1 meets the requirements to be zoned C-2. The parcel is currently zoned R-5.
- The applicant requests the parcel be zoned C-2 which requires a zone change.
- If the zone change is approved all uses contained in the C-2 Uses will be allowed.
- **9-7C-2: USE REGULATIONS:**
 - A. Permitted Uses: The following uses are permitted in the C-2 zone:
Any permitted use listed in the L-C and C-1 zones.
Accessory uses and buildings, customarily incidental and subordinate to an approved permitted use.
Auditoriums, conference rooms, museums, theaters, libraries and community social centers.
Car wash (large).
Freight or trucking yard or terminal.
Heli pad commercial.
Propane storage tanks.
Repairing, renovating, painting and cleaning of goods, merchandise and equipment.
Retail and/or wholesale sale and/or rental of goods, merchandise and equipment, which may include storage and display outside an enclosed building.
 - B. Conditional Uses: The following uses are subject to the conditional use approval process outlined in chapter 15 of this title.
Accessory uses and buildings, customarily incidental and subordinate to an approved conditional use.
ATV's/UTV's rentals.
Dams and Reservoirs.
Hospital.
Hotel or motel.
Motor vehicle, trailer, camper and recreational vehicle sales agency.
Recreational Vehicle Parks.
Storage units.
Solar Power panels producing over 25 KW.
Substation.
 - C. Any combination of the above uses which meets all other provisions of this title.
 - D. Other: Any use not named which may be considered harmonious with the zone and current allowed uses can be considered for proposed inclusion into the chapter by the Kane County Planning Commission in a public hearing and approval of the County Commission. (Ord. O-2022-42, 7-26-2022)
- Surrounding parcels are zoned AG, Commercial 1 and 2.
- 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 and North Fork 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, (KCGP) Vision Statement, Pg. 3:** 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.
- **KCGP, Pg. 7 Industrial and Commercial Land Use:** 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 (Amingiri) 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.

- **KCGP Pg. 15 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.
- **KCGP Pg. 28 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.

Conclusion: The Planning Commission should vote based on behalf of Kane County's best interest, including; future planning efforts, private property owner's rights, protecting existing zones, rights of surrounding property owners, and also maintaining the purposes of the Land Use Ordinance and General Plan. This zone change request maintains the purpose of the General Plan for commercial land use. If the zone change amendment is adopted, the regulations of the new zone of C-2 can be found in the Kane County Land Use Ordinance, Chapter 7: Commercial 2 Zone.

MOTION: I move to recommend denying/approving the zone change for parcel 1-9-15-2D1 from R-5 to C-2 & Ordinance O-2023-09, to the County Commission, based on the facts and findings as documented in the staff report.

KANE COUNTY ORDINANCE NO. O 2023-09

**AN ORDINANCE AMENDING THE ZONING OF PARCEL 1-9-15-2D1 FROM
RESIDENTIAL 5 TO COMMERCIAL 2**

WHEREAS, the Kane County Board of Commissioners finds that said zone change is in accordance with the Kane County Land Use Ordinance 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)

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

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

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make the recommended zone change to parcel 1-9-15-2D1, from Residential 5 (R-5) to Commercial 2 (C-2);

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

Legal Description Parcel 1-9-15-2D1: Commencing at the South ¼ Corner of Section 15, Township 41 South, Range 9 West, Salt Lake Base and Meridian; thence, along the North-South ¼ Line, North 00° 45' 16" East 1320.80 feet, to the Center-South 1/16 Corner; thence, along the South 1/16 Line, South 89° 17' 30" East 723.15 feet, to the POINT OF BEGINNING, and running; thence North 36° 47' 41" East 215.77 feet; thence North 10° 57' 53" East 113.26 feet, to the beginning of a curve; thence, along the curve to the right, 198.98 feet, having a radius of 140.00 feet, a central angle of 81° 25' 58" and whose long chord bears North 51° 40' 52" East 182.65 feet; thence South 87° 36' 09" East 41.91 feet; thence North 40° 33' 31" East 502.37 feet; thence South 48° 38' 50" East 375.70 feet; thence South 44° 14' 24" West 152.91 feet, to the beginning of a curve; thence, along the curve to the left, 170.99 feet, having a radius of 433.00 feet, a central angle of 22° 37' 35" and whose long chord bears South 32° 55' 37" West 169.88 feet; thence South 21° 36' 50" West 66.45 feet, to the beginning of a curve; thence, along the curve to the right, 212.24 feet, having a radius of 467.00 feet, a central angle of 26° 02' 21" and whose long chord bears South 34° 38' 00" West 210.42 feet; thence South 47° 39' 11" West 179.42 feet, to the beginning of a curve; thence, along the curve to the left, 380.35 feet, having a radius of 383.00 feet, a central angle of 56° 53' 56" and whose long chord bears South 19° 12' 13" West 364.91 feet; thence South 09° 14' 45" East 26.37 feet, to the beginning of a non-tangential curve; thence, along the curve to the right, 60.45 feet, having a radius of 95.67 feet, a central angle of 36° 12' 17" and whose long chord bears North 68° 45' 09" West 59.45 feet; thence North 50° 39' 00" West 206.66 feet; thence South 39° 21' 01" West 142.73 feet; thence South 50° 39' 00" East 265.06 feet, to the beginning of a curve; thence, along the curve to the left, 131.87 feet, having a radius of 121.76 feet, a central angle of 62° 02' 56" and whose long chord bears South 81° 40' 28" East 125.52 feet; thence South 09° 14' 45" East 127.03 feet, to the beginning of a curve; thence, along the curve to the right, 153.38 feet, having a radius of 100.00 feet, a central angle of 87° 52' 49" and whose long chord bears South 34° 41' 40" West 138.78

feet, to the Northerly right-of-way of U.S. Highway 9; thence, along said right-of-way, South 78° 38' 04" West 407.20 feet; thence North 16° 44' 09" West 417.85 feet, to the beginning of a curve; thence, along the curve to the right, 336.34 feet, having a radius of 360.00 feet, a central angle of 53° 31' 50" and whose long chord bears North 10° 01' 46" East 324.24 feet; thence North 36° 47' 41" East 242.19 feet, to the POINT OF BEGINNING; containing 17.82 acres (more or less).

Acres 17.82+/- more or less

Is hereby rezoned from R-5 to C-2 and shall from here forth be zoned C-2.

---- END OF ORDINANCE ----

This Ordinance shall be deposited in the Office of the County Clerk, and recorded in the Kane County Recorder's Office and shall take effect fifteen (15) days after the date signed below. Utah State Code 17-53-208 (3) (a).

The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this ____ day of _____, 2023.

ATTEST:

Chameill Lamb
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Kubeja voted _____
Commissioner Meyeres voted _____

ITEM # 8

Zone Change/Ordinance 2023-10: Carter

KANE COUNTY COMMISSION AGENDA REQUEST

Date of Commission Meeting Requested: March 14, 2023

Dept. /Business Name: Land Use

Topic/Re: Zone Change/Ordinance 2023-10: Carter

Description: An application for a zone change from Residential 1 (R-1) to Commercial 1 (C-1), parcel 8-6-22-1, located on Highway 89 north of Tod's Junction.

Attachments: Info Packet

Ordinance 2023-10

Dept. Head/Owner: Wade Heaton

Contact Information: Shannon McBride x4966

Meeting Requested by: Wendy Allan X4364

Internal Notes: P&Z recommended APPROVAL.



KANE COUNTY LAND USE AUTHORITY

Shannon McBride
LAND USE AUTHORITY
ADMINISTRATOR

Staff Report

DATE: February 16, 2023

To: Planning Commission
From: Shannon McBride, Land Use Administrator
Subject: Project # 23012: Zone Change Application, R-1 to C-1, Ordinance O-2023-10
Parcel 8-6-22-1 consisting of a total of 2.32 acres

HEARING NOTICE: *This item has been noticed to property owners within 500 feet of the subject area. A public notice was posted in two public locations, on the state and county web sites. A sign was posted near the parcel.*

REQUEST: On February 15, 2023, Swains Creek Heights LLC, Brent Carter, submitted a zone change application, for parcel 8-6-22-1, located off of Highway 89 north of Tod's Junction; requesting to rezone from Residential 1 (R-1) to Commercial 1 (C-1).

LEGAL DESCRIPTION: PARCEL 8-6-22-1 (SURVEYED & REVISED DESCRIPTION): BEGINNING AT A POINT S00°19'00"W 1320.22 FEET AND N88°53'12"W 1294.81 FEET FROM THE NE CORNER OF SECTION 22, T38S-R6W, S.L.B.&M. SAID POINT BEING THE NW CORNER OF THE SE1/4 NE1/4 SAID SECTION; SAID POINT ALSO BEING ON THE SOUTH RIGHT-OF-WAY LINE OF RANCH DRIVE; THENCE S88°53'12"E ALONG SAID SOUTH RIGHT-OF-WAY LINE 226.12 FEET TO THE PC OF A CURVE TO THE RIGHT, CURVE DATA: DELTA=06°50'20"E, RADIUS=259.60', CHORD= S85°28'02"E 30.97', THENCE ALONG THE ARC OF SAID CURVE 30.99 FEET TO BEGINNING OF A CURVE TO THE RIGHT, CURVE DATA: DELTA=114°23'12"E, RADIUS=50.00', CHORD= S24°51'16"E 84.05', THENCE ALONG THE ARC OF SAID CURVE 99.82 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF US HIGHWAY 89, SAID POINT BEING ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT, CURVE DATA: DELTA=05°43'19", RADIUS=2870.36', CHORD= S29°28'41"W 286.53', THENCE ALONG THE ARC OF SAID CURVE AND RIGHT-OF-WAY 286.65 FEET; THENCE S27°01'22"W ALONG SAID RIGHT-OF-WAY 327.95 FEET TO A POINT ON THE WEST LINE OF THE SE1/4 NE1/4 SAID SECTION; THENCE N00°12'29"W ALONG SAID WEST LINE 624.69 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.32 ACRES.

FACTS & FINDINGS:

- Parcel 8-6-22-1 meets the requirements to be zoned C-1. The parcel is currently zoned R-1.
- The applicant requests the parcel be zoned C-1 which requires a zone change.
- If the zone change is approved all uses contained in the C-1 uses table will be allowed.
- Surrounding parcels are zoned Residential.

76 North Main Street | Kanab, Utah 84741 | p: (435) 644-4966 | www.kane.utah.gov
Shannon McBride | Land Use Administrator | e-mail: smcbride@kane.utah.gov

- 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 89.
- All property owners within 500 ft. of this parcel have been mailed a public notice. Notices are posted on the state and county websites
- **9-7B-1: PURPOSE:** The purpose of the commercial 1 (C-1) zone is to protect areas located in or near residential zones to meet the day to day needs of area residences. Development standards are intended to protect adjacent residential zones, promote orderly development and avoid the creation of traffic volumes which cannot be accommodated by the existing transportation network. (Ord. O-2022-42, 7-26-2022)
- **9-7B-2: USE REGULATIONS:**
- Development of any parcel of land for any of the uses listed in this section exceeding fifteen thousand (15,000) square feet of total building floor area are not permitted in this zone.
- A. Permitted Uses: The following uses are permitted in the C-1 zone:
- Accessory uses and buildings, customarily incidental and subordinate to an approved permitted use.
- Any permitted uses listed in the light commercial (L-C) zone.
- Restaurants.
- Retail sale and/or rental of goods, merchandise and equipment conducted wholly within an enclosed building.
- Tour Companies without ATV/UHV rentals.
- B. Residential And Agricultural Uses: All uses listed in the residential and agricultural uses table are allowed in the C-1 Zone with their appropriate designation of permitted or conditional unless otherwise changed in the commercial uses table.
- C. Conditional Uses: The following uses are subject to the conditional use approval process outlined in chapter 15 of this title:
- Accessory uses and buildings, customarily incidental and subordinate to an approved conditional use.
- Automobile car wash, not to exceed four (4) bays.
- Automobile sales
- Automobile fuel stations.
- Cell towers.
- Child daycare or preschool center which meets all state and local regulations.
- Commercial recreation and entertainment facilities, not to include sexually oriented businesses.
- Heli pad private.
- Private business and technical schools.
- Reception center and/or wedding chapel.
- D. Any uses not set forth in this section or L-C are not allowed.
- E. Other: Any use not named which may be considered harmonious with the zone and current allowed uses can be considered for proposed inclusion into the chapter by the Kane County Planning Commission in a public hearing and approval of the County Commission. (Ord. O-2022-42, 7-26-2022)
- **9-7B-3: SITE DESIGN REGULATIONS:**
- All site design elements for the above listed conditional uses are subject to review by the planning commission, who shall apply the standards and provisions found in chapter 15 of this title.
- A. Objectionable Factors: All uses shall be free from objectionable odor, noise, dust, smoke, vibration or other such factors; and
- B. Advertising Signs: All advertising signs shall comply with the provisions of chapter 16 of this title. (Ord. O-2022-42, 7-26-2022)

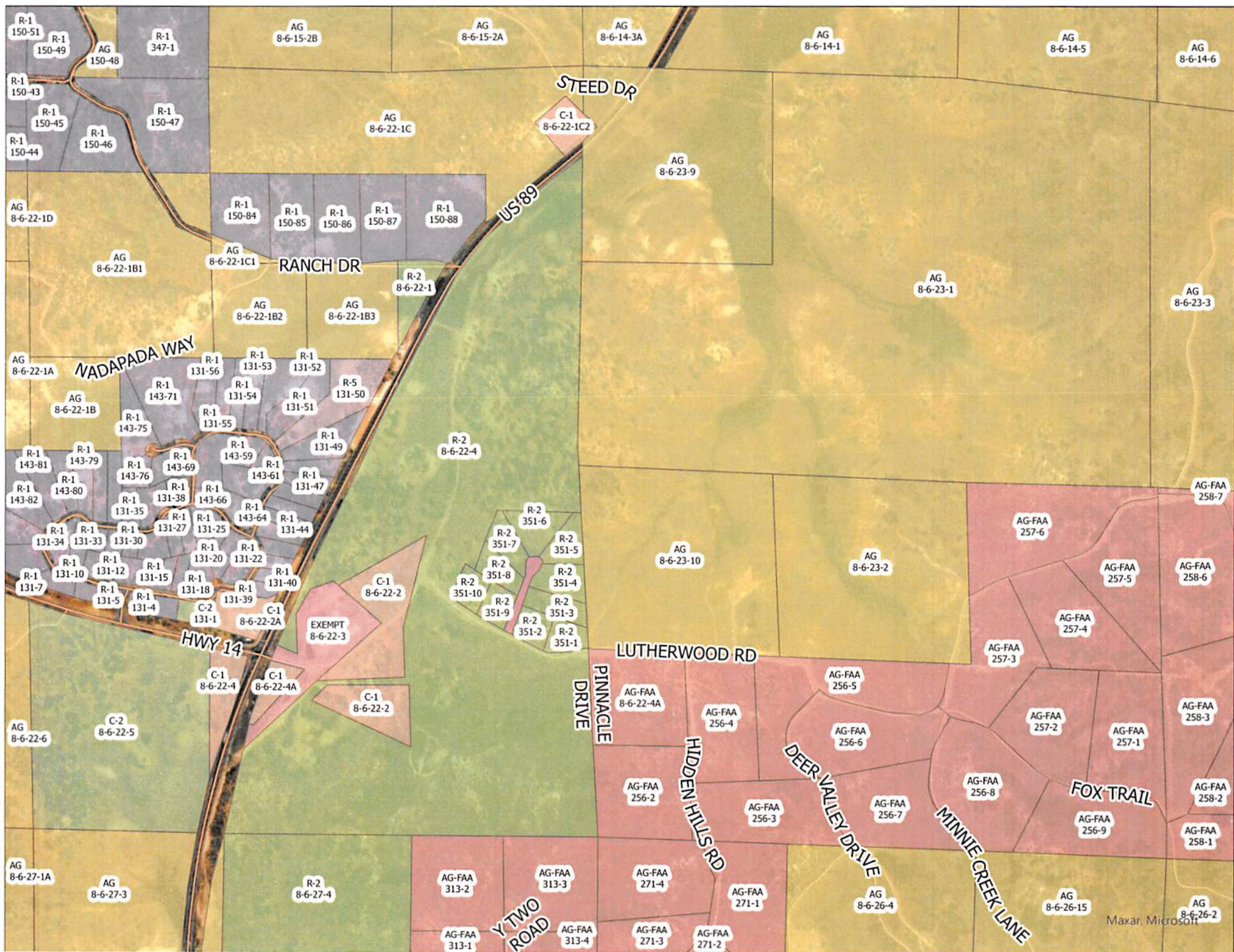
76 North Main Street | Kanab, Utah 84741 | p: (435) 644-4966 | www.kane.utah.gov
 Shannon McBride | Land Use Administrator | e-mail: smcbride@kane.utah.gov

- Kane County General Plan, Vision Statement, Pg. 3: 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 Use: **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.
- The parcel is located at an intersection, surrounded by Residential 1 (R-1), Residential 2 (R-2) and AG zones and abuts Highway 89.

Conclusion: The Planning Commission should vote based on behalf of Kane County's best interest, including; future planning efforts, private property owner's rights, protecting existing zones, rights of surrounding property owners, and also maintaining the purposes of the Land Use Ordinance and General Plan. This zone change request maintains the purpose of the General Plan for commercial land use.

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

MOTION: I move to recommend denying/approving the zone change for parcel 8-6-22-1, R-1 to C-1 & Ordinance O-2023-10 to the County Commission based on the facts and findings as documented in the staff report.



KANE COUNTY ORDINANCE NO. O 2023-10

**AN ORDINANCE AMENDING THE ZONING OF PARCEL 8-6-22-1
FROM RESIDENTIAL 1 TO COMMERCIAL 1**

WHEREAS, the Kane County Board of Commissioners finds that said zone change is in accordance with the Kane County Land Use Ordinance 9-7B-1: **PURPOSE:** The purpose of the Commercial 1 (C-1) zone is to protect areas located in or near residential zones to meet the day to day needs of area residences. Development standards are intended to protect adjacent residential zones, promote orderly development and avoid the creation of traffic volumes which cannot be accommodated by the existing transportation network. (Ord. O-2022-42, 7-26-2022)

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

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

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make the recommended zone change to parcel 8-6-22-1, from Residential 1 to Commercial 1;

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

Parcel 8-6-22-1

LEGAL DESCRIPTION: PARCEL 8-6-22-1 (SURVEYED & REVISED DESCRIPTION): BEGINNING AT A POINT S00°19'00"W 1320.22 FEET AND N88°53'12"W 1294.81 FEET FROM THE NE CORNER OF SECTION 22, T38S-R6W, S.L.B.&M. SAID POINT BEING THE NW CORNER OF THE SE1/4 NE1/4 SAID SECTION; SAID POINT ALSO BEING ON THE SOUTH RIGHT-OF-WAY LINE OF RANCH DRIVE; THENCE S88°53'12"E ALONG SAID SOUTH RIGHT-OF-WAY LINE 226.12 FEET TO THE PC OF A CURVE TO THE RIGHT, CURVE DATA: DELTA=06°50'20"E, RADIUS=259.60', CHORD= S85°28'02"E 30.97', THENCE ALONG THE ARC OF SAID CURVE 30.99 FEET TO BEGINNING OF A CURVE TO THE RIGHT, CURVE DATA: DELTA=114°23'12"E, RADIUS=50.00', CHORD= S24°51'16"E 84.05', THENCE ALONG THE ARC OF SAID CURVE 99.82 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF US HIGHWAY 89, SAID POINT BEING ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT, CURVE DATA: DELTA=05°43'19", RADIUS=2870.36', CHORD= S29°28'41"W 286.53', THENCE ALONG THE ARC OF SAID CURVE AND RIGHT-OF-WAY 286.65 FEET; THENCE S27°01'22"W ALONG SAID RIGHT-OF-WAY 327.95 FEET TO A POINT ON THE WEST LINE OF THE SE1/4 NE1/4 SAID SECTION; THENCE N00°12'29"W ALONG SAID WEST LINE 624.69 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.32 ACRES.

Is hereby rezoned from Residential 1 to Commercial 1 and shall from here forth be zoned C-1.

---- END OF ORDINANCE ----

This Ordinance shall be deposited in the Office of the County Clerk, and recorded in the Kane County Recorder's Office and shall take effect fifteen (15) days after the date signed below. Utah State Code 17-53-208 (3) (a).

The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this ____ day of _____, 2023.

ATTEST:

Chameill Lamb
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Kubeja voted _____
Commissioner Meyeres voted _____

ITEM # 9

Discussion/Action: Kane County Resolution No. R-2023-10 a Resolution Authorizing the Temporary Closure of Certain County Roads to Heavy Vehicle Traffic Due to High Snow Pack Kane County Ordinance No. O-2023-11 The Temporary Road Closure Ordinance

KANE COUNTY RESOLUTION NO. R 2023 – 10

**A RESOLUTION AUTHORIZING THE TEMPORARY CLOSURE OF CERTAIN COUNTY
ROADS TO HEAVY VEHICLE TRAFFIC DUE TO HIGH SNOW PACK**

WHEREAS, Kane County has seen a massive snow fall in the last six weeks, particularly in the Duck Creek area or Cedar Mountain area of Kane County; and

WHEREAS, this high snow fall and high snow pack has begun to melt and will likely do so at an alarming rate, creating an extreme likelihood of severe damage to many county roads in the area, particularly from the traffic from Heavy Vehicles, namely _____; and

WHEREAS, the County desires to authorize the temporary closure of certain county roads that are identified by the Commission Chair upon the recommendation of the Road Department Supervisor, which will only restrict the travel of Heavy Vehicles for the duration of the temporary closure; and

WHEREAS, the authorization for this resolution is found in Utah Code §41-6a-208 and Utah Code §17-53-201 et. seq.;

**NOW THEREFORE BE IT HEREBY RESOLVED BY THE KANE COUNTY BOARD OF
COMMISSIONERS, IN AND FOR KANE COUNTY, STATE OF UTAH, AS FOLLOWS:**

1. Beginning immediately and ending June 30, 2023, the Commission Chair is authorized to temporarily close any county road to Heavy Vehicles (_____) upon recommendation from the County Road Department Supervisor.
2. Temporary road closures to Heavy Traffic under this resolution shall exist for a maximum of two weeks unless additionally authorized by the Commission Chair upon the recommendation of the County Road Department Supervisor.
3. Any County road that is temporarily closed to Heavy Vehicles under this resolution shall be appropriately marked at the discretion of the Road Department Supervisor.

--End of Resolution--

ADOPTED this 14th day of March 2023.

ATTEST:

CHAMEILL LAMB
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Meyeres voted _____
Commissioner Kubeja voted _____

KANE COUNTY ORDINANCE NO. O 2023 – 11

THE TEMPORARY ROAD CLOSURE ORDINANCE

WHEREAS, Kane County is a rural area with thousands of miles of county roads crossing various types of landscapes, all subject to extremes in temperatures and weather events that can affect the safety and quality of the roads, including but not limited to flash flooding from monsoon or other rains, flooding from snow pack runoff, deep water and mud from standing water, etc.; and

WHEREAS, from time to time, the need arises to temporarily close certain county roads in order to mitigate safety conditions or to protect the roads from damage, which temporary road closures may be for all vehicle traffic or to limit only certain types of vehicle traffic; and

WHEREAS, the County desires to adopt the Temporary Road Closure Ordinance which authorizes the temporary closure of certain county roads that are identified by the Commission Chair upon the recommendation of the Road Department Supervisor; and

WHEREAS, the authorization for this resolution is found in Utah Code §41-6a-208 and Utah Code §17-53-201 et. seq.;

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

Kane County Code Title 5 Chapter 3 “Temporary Road Closure Ordinance” is enacted as set forth below. Additions to the Ordinance are indicated with an underline and deletions from the ordinance are indicated with a strike-through. Instructions to the codifiers are italicized and inside parenthesis.

TITLE 5 MOTOR VEHICLES AND TRAFFIC CHAPTER 3 TEMPORARY ROAD CLOSURE ORDINANCE

5-3-1: Title:

This Ordinance shall be known as the Temporary Road Closure Ordinance

5-3-2: Purpose:

Kane County is a rural area with thousands of miles of county roads crossing various types of landscapes, all subject to extremes in temperatures and weather events that can affect the safety and quality of the roads, including but not limited to flash flooding from monsoon or other rains, flooding from snow pack runoff, deep water and mud from standing water, etc. From time to time, the need arises to temporarily close certain county roads in order to mitigate safety conditions or to protect the roads from damage, which temporary road closures may be for all vehicle traffic or to limit only certain types of vehicle traffic.

5-3-3: Definitions:

The following words and phrases used in this chapter shall have the following meanings:

ALL-TERRAIN TYPE I VEHICLE: Any motor vehicle fifty two inches (52") or less in width, having an unloaded dry weight of eight hundred (800) pounds or less, traveling on three (3) or more low pressure tires, having a seat designated to be straddled by the operator, and designed for, or capable of, travel over unimproved terrain.

ALL-TERRAIN TYPE II VEHICLE: Any other motor vehicle not defined in Utah Code Annotated sections 41-22-2(2), 41-22-2(9) or 41-22-2(20), designed for or capable of travel over unimproved terrain. This term does not include golf carts, any vehicle designed to carry a disabled person, any vehicle not specifically designed for recreational use, or farm tractors as defined under Utah Code Annotated section 41-1a-102.

OHV: All motorcycles, snowmobiles, and all-terrain type I vehicles, and all-terrain type II vehicles. (Ord. 2005-3, 8-8-2005)

HEAVY VEHICLE: _____

5-3-4: Temporary Road Closure Process:

The Chair of the Kane County Commission may temporarily close a Kane County Road to all vehicle traffic or to limited classes or types of vehicles as follows:

- A. The Kane County Road Department Supervisor shall first make a recommendation in writing to the Kane County Commission Chair that recommends the temporary closure of a Kane County Road. The recommendation shall state the need for the temporary closure, the specific roads subject to temporary closure, the duration of the closure, and the class or type of vehicle subject to temporary closure.
- B. The Kane County Commission Chair shall review the recommendation and may accept the recommendation to temporarily close the roads, reject the recommendation and close no roads, or request that the recommendation be altered to limit the duration of closure, limit the number of roads temporarily closed, or limit the class or type of vehicle subject to the temporary closure.
- C. The Kane County Commission Chair shall issue the temporary road closure by written executive order. The executive order must clearly state the need for the temporary closure, the specific roads subject to the temporary closure, the duration of the closure, and the class or type of vehicle subject to the closure.
- D. The executive order shall be published on the state Public Notice Website. Appropriate signage, designating the road as temporarily closed shall be placed on each road that is effected by the executive order, in at least one location on the road for each direction of travel.

5-3-5: Prohibition:

If a road has been temporarily closed under Section 5-3-4, no person shall drive or otherwise operate a vehicle on a county road during a period when the road has been temporarily closed to all vehicles or to the type or class of vehicle that the person is driving or operating.

5-3-6: Penalties:

A violation of section 5-3-5 is an infraction. The minimum fine is \$50 for each violation.

End of Ordinance

This Ordinance shall be deposited in the Office of the County Clerk, and shall take effect fifteen (15) days after the date signed below.

The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this 14th day of March 2023.

ATTEST:

CHAMEILL LAMB
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted _____
Commissioner Meyeres voted _____
Commissioner Kubeja voted _____

ITEM # 10

Discussion/Possible Action on Adding Contract
with Greg Hughes as Policy Advisor

CONSULTING AGREEMENT

THIS AGREEMENT FOR PROFESSIONAL SERVICES (hereinafter referred to as "Agreement") is made and entered into this 1st day of March, 2023, between and among TSC, LLC (hereinafter referred to as "TSC"), a Utah Limited Liability Company with an address at 472 East Midlake Drive, Draper, UT 84020 and Kane County, Utah, a Utah political subdivision, (and for purposes of this agreement hereinafter referred to as "County"), with an address at 76 No. Main Street, Kanab, Utah 84741.

WHEREAS, County is engaged with helping to promote the use of the county's development and infrastructure, in promoting in-state film and industry; and the development, growth, and opportunities in Kane County.

WHEREAS TSC, LLC has certain unique experience with the development, knowledge, and systems within the state, and has key relationships and resources and knowledge necessary to assist County with the matters identified herein. TSC agrees to provide its services to County, which may include, but not be limited to: general strategy, outreach, lobbying, public relations and strategic communication consulting, coalition building, negotiating public policy solutions agreeable to County, political strategy, and strengthening and establishing County as key policy influencers.

NOW, THEREFORE, based on the foregoing, the parties agree as follows:

I. CONSULTING SERVICES. TSC, LLC desires to enter into this Agreement to provide consulting services to advance the interests of County. TSC will perform the services under this Agreement in a professional manner, applying best practices and demonstrating skill and diligence. TSC will provide consulting insight and strategic advice on various aspects of various projects along with relation strategies. The scope of services includes but is not limited to: assisting with developing county's in-state film industry; development, growth, and establishment of economic opportunities in Kane County; general strategy, outreach, lobbying, public relations and strategic communication consulting; coalition building, negotiating public policy solutions agreeable to County, political strategy, and strengthening and establishing County as key policy influencers.

II. TERM OF AGREEMENT. The term of this Agreement shall commence on March 1, 2023 and shall end December 31, 2023, or on such date as is otherwise agreed by both parties. Termination may occur at any time, at the discretion of either TSC or County upon 30-days written notice to the other.

III. COMPENSATION. County shall compensate TSC for all Professional Services performed and reimburse the service provider for all direct expenses incurred in conformance with the following:

- a. Professional Services: The compensation for Services hereunder shall be for an annual contract total of \$24,000. This shall be divided in monthly increments and invoiced as \$2,400 per month.

- b. Reimbursement of Expenses: Travel will be covered by TSC directly but any presentation or hard costs directly related to the performance of services shall be billed by TSC to County separately from consulting services and without a markup.

IV. CHANGES IN AGREEMENT. County may at any time order changes to the Scope of Service, excluding substantial or cardinal changes, without invalidating any provision of this Agreement. If such changes increase or decrease the nature of the Scope of the Service, then any price changes/charges may be adjusted accordingly, as agreed to in writing by both parties.

A substantial or cardinal change is deemed to be a major deviation from the original Scope of the Service or the intended method of achievement, or a revision of contract work so extensive, significant, or cumulative that, in effect, TSC is required to perform different work from that described in the Scope of Service in the original Agreement. County and TSC may mutually agree in writing to substantial or cardinal changes to the Scope of Service. Any price changes/charges resulting from substantial change(s) would be agreed to in writing by both parties.

V. MISCELLANEOUS.

Independent Consultant Relationship. The relationship between County and TSC LLC hereunder shall at all times be that of an independent contractor, and nothing contained herein shall render or constitute the parties' joint ventures, partners, agents, or fiduciaries of each other. Neither the County nor TSC shall hold itself out to third parties other than as set forth herein.

Compliance with Law. In the performance of this Agreement, County and TSC agree that they will comply with all statutes, ordinances, laws, rules, regulations, orders, and requirements of any federal, state, or municipal government.

Notices. All notices required or permitted to be given hereunder shall be in writing, and shall be valid and sufficient if dispatched by (i) registered or certified mail, postage prepaid, in any United States Post Office; (ii) hand delivery; (iii) overnight courier; or (iv) facsimile transmission or electronic transmission upon confirmation of receipt by the recipient. The address of record for each party shall be as follows:

KANE COUNTY
CELESTE MEYERES
76 NORTH MAIN STREET
KANAB, UT 84741

TSC,LLC
GREG HUGHES, PRESIDENT
472 EAST MIDLAKE DRIVE
DRAPER, UT 84020

Severability. If any part of this Agreement is determined to be void, invalid, inoperative, or unenforceable by a court of competent jurisdiction, or by any other legally constituted body having jurisdiction to make such determination, such determination shall not affect any other provision hereof, and the remainder of this Agreement shall be effective as though such void, invalid, inoperative, or unenforceable provision were not contained herein.

Entire Agreement. The terms set forth in this Agreement, and all attachments/appendix hereto, if any, constitute the entire agreement between County and TSC, all prior negotiations and

understandings being merged herein. This Agreement may only be altered by a written instrument executed by both County and TSC.

IN WITNESS WHEREOF, Kane County and TSC, LLC have caused this Agreement to be signed by its duly authorized representative as of the day and year first above written.

KANE COUNTY:

Celeste Meyeres, Commissioner
Kane County Commission

TSC, LLC:

Greg Hughes, President

ITEM # 11

Discussion/Possible Action for the Commission
Chamber Remodel Parking Issue

ITEM # 12

Discussion/Possible Action on the Courthouse Remodel-
Lease Renewal

ITEM # 13

Discussion on Active Living Center Meals

ITEM # 14

Discussion/Possible Action on an Interagency
Agreement for Transferring Funds to the BLM

ITEM # 15

Review of 2023 Legislative Session

ITEM # 16

Commissioner Report on Assignments

Request for Proposal: Social Communications

Kane County Commission is accepting proposals for a social media communications contractor, to create and post new content and/or graphics an average of three times per week.

Please submit proposal, including desired compensation and proof of work (such as portfolio/resume), by 5pm Friday, March 31, 2023 to the following email addresses:

Wheaton@kane.utah.gov

Pkubeja@kane.utah.gov

Cmeyerres@kane.utah.gov