



**April 12, 2023**  
**Kane County Planning Commission**  
**Land Use Authority**  
**Board Room, Kanab Center**  
**20 N. 100 E., Kanab, Utah**

To listen to this meeting live call 435-676-9000, participant code 168030.

## **AGENDA**

6:00 PM                      Call to Order  
                                  Invocation  
                                  Pledge of Allegiance

### **1. Update on Commission Decisions**

Commissioner Heaton will relay the County Commission's decisions on last month's projects.

## **ADMINISTRATIVE ITEM**

### **2. Approval of Minutes**

March 8, 2023

## **Public Meeting**

### **3. Conditional Use Permit: DW Tower LLC**

An application for a conditional use permit to construct and operate a cell tower on parcel 3-4-32-2-1A, located approximately 15 miles east of Kanab. Submitted by Reg Destree.

## **Public Meeting**

### **4. Conditional Use Permit: Shay & Megan Hunt**

An application for a conditional use permit for a gym/fitness center, located on lot 6-76 in the Vermilion Cliffs Estates subdivision. Submitted by Megan Hunt.

## **Public Meeting**

### **5. Conditional Use Permit: Ponderosa Ranch Unlimited**

An application for a conditional use permit for a 30-site RV park, located on parcel 1-9-5-3A, adjacent to the Zion Ponderosa Resort. Submitted by Chris Heaton, Iron Rock Group, holding power of attorney.

## **Public Meeting**

### **6. Compliance Review: Owens**

An application for a compliance review of previously divided property, parcel 8-6-2-1F. Submitted by Raymond Owens.

**Public Meeting****7. Rural Unimproved Split: Hansen**

An application for a rural unimproved split, parcel 3-4-32-2-1F, creating 2 parcels. Submitted by Chris Heaton, Iron Rock Group, holding power of attorney.

**LEGISLATIVE ITEMS****Public Hearing****8. Zone Change/Ordinance 2023-14: Hardman**

An application for a zone change from Agricultural FAA (AG-FAA) to Agricultural (AG), parcel 258-5, containing 11.27 acres, located east of Highway 89 near Tod's Junction. Submitted by Jeremy Hardman.

**Public Hearing****9. Zone Change/Ordinance 2023-15: Weaver**

An application for a zone change from Residential 1 (R-1) to Commercial 1 (C-1), lot 119-34, containing 4.80 acres, located on Front Avenue, north of Highway 89 in the North Acres Subdivision, Church Wells. Submitted by Brooke Weaver.

**Public Hearing****10. Ordinance 2023-12: KCLUO Chapters 1, 4, 6 & 7**

An ordinance revising Kane County Land Use Ordinance Chapter 1; adding the size limit to the glamping definition, Chapter 4; requiring feasibility letters when requesting a change to a less dense zone, and Chapters 6 & 7; allowing multi residential uses in the Commercial zones.

**Public Hearing****11. Ordinance 2023-13: KCLUO Chapters 1 & 3**

An ordinance amending Kane County Land Use Ordinance Chapter 1 and Chapter 3 regarding the process and procedure for the appeal of the land use decisions to the Appeal Authority.

**\*\*Agenda items may be accelerated or taken out of order without notice as the Administration deems appropriate.**

**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 Shannon McBride at (435) 644-4966 or Wendy Allan at (435) 644-4364.

**Planning Commission Meetings Statutory Authority, Rules & Procedures can be found online at [kane.utah.gov](http://kane.utah.gov); Departments; Planning Commission; General; Land Use Ordinance 9-2-1 through 10.**



# Kane County

## Planning Commission

### Staff Report

MEETING DATE: April 12, 2023  
PROJECT NUMBER: 23013  
REQUEST: Conditional Use Permit for a 150' Self-Supporting Lattice, Co-locatable Wireless Communication facility  
PREPARED BY: Shannon McBride, Land Use Administrator

**SYNOPSIS:** The applicant, DW Tower LLC, represented by Reg Destree, is seeking approval for a conditional use permit to construct and operate a 150' multi-carrier, self-supporting, lattice wireless communication facility, site name: Honeymoon Trail. Verizon is the anchor tenant and is willing to lease to other tenants at the site facility. The tower will be lattice design, located on parcel # 3-4-32-2-1A, zoned AG and leased from the Sheryl Lee Wilson Trust. The parcel is located about 15 miles east of Kanab, off of Highway 89 and County Road 3250, which is a 40' wide access easement, in the Back Acres Subdivision. The objective is to provide cell coverage to travelers on Highway 89 and residents inside their homes in the area. The project area will be within an approximate 100' X 100' fenced compound. The fence will be 6' high with barbed wire. The 200' X 100' total lease area, approximately 20,000 sq. ft., is being acquired to accommodate solar power if Garkane is ultimately unable to provide power. Kane County Land Use Ordinance (KCLUO) Title 9-15A-1-7 requires a conditional use permit subject to the Planning Commission's approval for wireless transmitting towers in an agriculture zone.

Hearing: A public hearing need not be held; however, a hearing may be held when the Land Use Authority shall deem a hearing to be necessary to serve the public interest. Utah State Code Unannotated §17-27a-506(3)

Existing Zoning	Proposed Lattice Tower Height	Size of Property	Surrounding Properties Zones
AG	150'	18.97 acres	Surrounding parcels are zoned AG

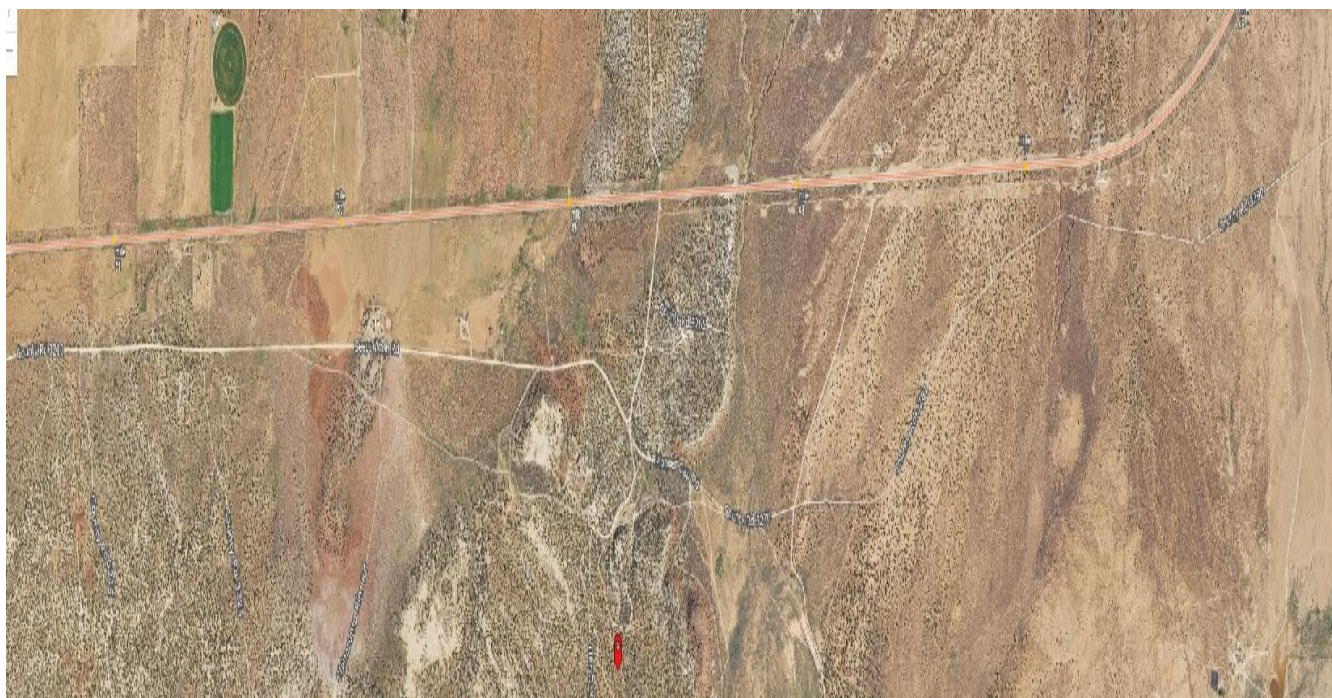
## SUMMARY:

- The applicant is proposing a 150' self-supporting lattice, wireless communications (co-locatable) facility.
- A 200' X 100' lease area, approximately 20,000 sq. ft., at the northeast corner of the parcel, will enclose propane tanks and back-up generators.
- Verizon will be the anchor tenant, in addition to co-locating antennas.
- The tower is setback 87' from the property to the north and 207' from the neighbor's property to the east.
- The proposed site plan benefits the area and while not necessarily harmonious with the surrounding uses, it is unoccupied and shouldn't impact neighboring residents.
- The cell tower will add coverage and help assist with Highway safety to tourist and residents.

## GENERAL INFORMATION & PICTURES OF THE PROJECT











#### **STAFF RECOMMENDATION:**

The Land Use Administrator recommends approval of the Conditional Use Permit for a co-locatable, 150', self-support, lattice designed, cell tower, and the required ground equipment, to be located on parcel #3-4-32-2-1A, zoned AG, based on the findings as found in and regulated in the KCLUO Chapter 15 Conditional Uses and the findings as documented in this staff report.

**Findings and Conditions:** In approving a conditional use permit, the Land Use Authority **shall** find:

1. That the proposed use is necessary or desirable and will contribute to the general well-being of the community;
2. That the use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity;
3. That the proposed use is in harmony with the intent of the General Plan and the zone in which it is located. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

**FINDINGS:** This project is in compliance with:

Utah State Code: 17-27a-506

Kane County General Plan: Pages 11, 30, 36, 38, 41, 43

Kane County Land Use Ordinance: 9-5A-3 & 9-15A-(1-7): Conditional Uses

## CHAPTER 15 CONDITIONAL USES:

Review Criteria: In reviewing an application for a conditional use permit, the land use authority shall consider whether the application: substantially mitigates the adverse impacts that are reasonably anticipated from the magnitude and intensity of the development and use, as proposed.

Development Plan: The applicant for a conditional use permit shall prepare a site plan of the proposed buildings, fences, landscaping, automobile parking and loading areas, and any other information the Land Use Authority may deem necessary. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Land Use Authority Action: The Land Use Authority **shall** approve a conditional use permit if conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. In approving any conditional use permit, the Land Use Authority **may** impose conditions deemed necessary to protect the public welfare, ensure compatibility with other uses in the vicinity, and ensure that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions **may** include the following:

### CONDITIONS - FINDINGS – MITIGATION

#### 150' Verizon Wireless Self-Support Lattice Cell Tower

##### KCLUO 9-15-1-7 CONDITIONAL USES

1. Assurance that the use will not be detrimental to the health, safety, comfort, order, or general welfare of persons residing or working in the vicinity.

**Findings:** Having additional cell coverage will increase safety, due to the amount of tourists, residents that reside in the area, and local traffic. Improved wireless communications coverage is something that has been requested by the carriers in this area and providing coverage along this well-traveled section of highway will help residents, visitors and public safety. Due to the elevation, location away from the scenic vistas and lack of neighboring homes, this site is the least-intrusive means to providing coverage in the area.

**MITIGATIONS:** A lease agreement is in place with the parcel owner. Fall Zones are in place and all surrounding zones are AG. This location was selected as it offers a flat area which is accessible with minimal driveway development. It is also near the solar arrays and water tank area on the owner's neighboring property. The owner's home is the nearest to this development and is about 600' northwest. The nearest home, other than the owner's, is about 2,200' to the northwest of the site. Other than the owner's home, there is currently one house within ½ mile of the site and 4 within one mile.

2. Assurance the use will:

a. Comply with the intent, spirit and regulations of the Kane County Land Use Ordinance and Kane County General Plan.

**Findings:** Kane County General Plan: Pages 11, 30, 36, 38, 41, 43.

**MITIGATIONS:** The cell tower is in harmony with the above references in the General Plan.

3. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations:

**Findings:** The proposed site will meet all required “fall zone” setbacks to adjacent parcels. The fenced compound is 100' X 100' and is set back 37' from the north property line, 157' from the east property line, over 500' from the south property line and nearly 1,000' from the west property line. The tower is located in the center of the compound. The tower is setback 87' from the property to the north and 207' from the neighbor's property to the east.

**MITIGATIONS:** The proposed tower is an un-manned facility that is in operation 24 hours a day, 7 days a week. Placing the cell tower south of the Highway helps avoid placing it within the view shed area north of the Highway. It also allows the site to fully utilize the sectors going east and west without concern of shooting signal south and crossing into Arizona.

The following mitigations are found in the “General and Site Work Notes (GSWN) Sheet Number C302 of attachment #1”

**“Design Criteria Used for this Project Are as Follows: 2018 IBC, 2018 IECC, and 2020 NEC.”**

#8 No noise, smoke, dust or odor will result from this proposal.

#15 All work performed and materials shall meet the highest rate standards. As a minimum standard, conform to all applicable codes, regulations and ordinances having jurisdiction. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the work.

#17 The contractor is responsible to maintain the present condition of any existing buildings, landscaping, fencing equipment, walks, drives, and attachments. If any damage should occur, the contractor is responsible to restore the damage to a better or new condition. All existing active sewer, water, gas, electric, and other utilities where encountered in their work, shall be protected at all times. Extreme caution should be used by the contractor when excavating or pier drilling around or near utilities.

#22 Cleanup and safety: Keep project area clean, hazard free, and dispose of all dirt, debris, rubbish and equipment removed and not specified as remaining the property of the owner. Leave room clean (premises in a vacuum and broom clean condition) Free from pain spots, dust, or smudges of any nature. The contractor shall be responsible for maintain all systems equipment in a clean working order until acceptance of the project by construction manager. Clean up daily at construction manager's discretion.

#### **SITE WORK:**

(2) Descriptions of access roads, turnaround area(s) and sites are constructed to provide a well-drained, easily maintained, even surface for material and equipment deliveries and maintenance personnel access.

(3) Quality Assurance as stated in C302

(4) Sequencing: a-f

(5) (6) (7) (8) (9) (10) (11) (13) (14) (15) (16)



DEMOLITION: 1-4

PRODUCTS: 1-2

EXECUTION: 1-3

4. Evidence that all required public facilities have adequate capacity to serve the proposed conditional use:

**Findings:** Negotiations with Garkane are in place. The power line will be extended and then go underground along Seeps Wash Road and CR3250. As mention above, if commercial power ends up being unavailable, we have leased space at the site to accommodate solar arrays which would likely be placed south of the 100' X 100' compound shown on these drawings. All necessary facilities have adequate capacity. They are working to coordinate fiber delivery from South Central Communications which would be buried to the site from its source point at the highway and share a trench with power for a lengthy portion of the run from Seeps Ranch Road. There are multiple microwave dishes shown on the drawings which would support backhaul in case South Central is ultimately unable to provide fiber service. This site will not require water, sewer or refuse service as it is unoccupied.

**MITIGATIONS:** DW Tower has arranged for adequate back up sources to keep the cell tower operational. The site will be designed to remain on air during power outages and natural disasters such as fires or extreme storms. Those are the times when public safety providers and other customers become most reliant on the critical communications offered by these sites. An additional cell tower in the area will help increase coverage.

5. Limiting the hours, days, place and/or manner of operation:

**Findings:** Hours of operation and days will be 365 days a year, 24 hours a day.

**MITIGATIONS:** Although the site is in operation 365 days a year, 24 hours a day, it is an unmanned facility.

6. Requiring size or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, glare, erosion, odor and/or dust:

**Findings:** The architectural design will be the lattice design.

**MITIGATIONS:** Emissions will meet all local and Federal EPA requirements. Traffic will consist of two to three standard work pick-up trucks and a backhoe during the duration of construction. A crane and concrete truck will be on site one to two days only for specific site construction purposes. The site is unmanned and will only require to be visited once a month usually with a pick-up truck for general maintenance.

7. Requiring larger setback areas, lot area, and/or lot depth or width;

**Findings:** The setback requirements of the AG zone have been met. The fall zone setback is more than sufficient.

**MITIGATIONS:** The parcel is large enough that the fall zone is plenty sufficient.

8. Limiting the building height size or lot coverage, and/or location on the site;

**Findings:** The cell tower and ground equipment will take up a minimal area.

**MITIGATIONS:** Only a small portion of a 100' X 100' fenced compound with a total lease area of 200' X 100' feet will be utilized on the parcel.

9. Designating the size, number, location and/or design of vehicle access points or parking areas;

**Findings:** No permanent parking will be needed.

**MITIGATIONS:** Site construction takes approximately 90-120 days depending on weather and soil conditions. There are generally not more than 2-3 work trucks onsite regularly during this period. For certain portions of the work, heavier equipment is needed for short periods of time such as a semi to deliver the structure and a crane to erect the structure. The site is unmanned and will only require monthly visits, usually with a pick-up truck, for general maintenance.

10. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved.

**Findings:** This parcel has sufficient ingress and egress. There are no local trails on this particular parcel of land.

**MITIGATIONS:** All ingress and egress are acceptable and there are no trails on this parcel.

11. Requiring landscaping, screening, drainage, water quality facilities and/or improvements of parking and loading areas;

**Findings:** The disturbance area is minimal.

**MITIGATIONS:** None is needed.

12. Limiting the number, size, location, height and/or lighting of signs;

**Findings:** Minimal required signage will be installed and will not be lighted.

**MITIGATIONS:** The site will contain only a Site ID sign with contact information for tenants measuring 17 ½" X 7 ½" to be located on the front gate, in addition to a 7 ½" X 11" sign required by the FCC that addresses RF Emissions 47 CFR 1.1307(b) and an 12" X 9" sign that addresses Guidelines for working in RF Environments to be located on each side of the fenced compound.

13. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;

**Findings:** The tower height does not exceed FAA regulations, therefore it will not be lit.

**MITIGATIONS:** The proposed tower will not have lights. Any security and safety lighting of the ground equipment buildings will be appropriately shielded to keep light within the boundaries of the site. Towers under 199' do not require lighting per FAA rules.

**Kane County encourages lighting practices and systems which will: minimize light pollution, glare, conserve energy and resources while maintaining nighttime safety, utility, security, and productivity, and curtail the degradation of the nighttime visual environment. New and major additions to land-uses, developments and buildings or structures are encouraged to use hooded lighting practices. KCGP pg. 24**

14. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;

**Findings:** N/A.

**MITIGATIONS:** N/A.

15. Requiring and designating the size, height, location and/or materials for fences;

**Findings:** The project will be enclosed by a 6' chain link fence. The fenced lease area will enclose the tower, in addition to multiple carrier's equipment shelter and/or Base Transceiver Station (BTS) equipment cabinets.

**MITIGATIONS: The fence for the project is in accordance with building code and KCLUO standards.**

16. Encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, slopes, cultural resources, and/or sensitive lands;

**Findings:** The design helps preserve the surrounding area view shed.

**MITIGATIONS: Only a small area will be utilized and developed.**

17. Requiring the protection and preservation of groundwater recharge areas;

**Findings:** N/A

**MITIGATION: No running water and no wetland permits required.**

18. Limiting noise generation;

**Findings:** The area is not surrounded by residences.

**MITIGATION: The generator will be kept to a minimum noise level with a noise reduction housing to lower dB levels, however, the generator will only be in use when commercial power is out in the area.**

19. Minimizing environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;

**Findings:** Scenic qualities will be mitigated by painting the tower a color to blend in with the backdrop of the surrounding area (if required).

**MITIGATION: There is not a reasonable 150' stealth structure that would blend into the surroundings and this treatment is typically the best mitigation for visual impact.**

20. Requiring turn lane improvements at street intersections.

**Findings:** N/A

**MITIGATION: None required.**

21. Providing for emergency access;

**Findings:** There is adequate emergency access in place.

**MITIGATION: Easements and the roadway are in place to mitigate emergency ingress/egress to this project.**

22. Requiring pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks;

**Findings:** The proposed site will be within a locked fenced-in area.

**MITIGATION:** The subject parcel of this application does not have any of the above-mentioned uses going through the parcel nor any OHV/ATV trails.

23. Requiring approval of septic and of water systems;

**Findings:** N/A

**MITIGATION:** A cell tower does not require any septic and/or water systems. A portable toilet will be placed on-site during construction of the tower for construction personnel.

24. Requiring buildings to be built to specific requirements;

**Findings:** The Kane County Building department will regulate those requirements.

**MITIGATION:** A building permit will be applied for and obtained prior to the start of construction.

25. Cell tower fall zone conditions and setbacks: The minimum lot area for such uses shall include all lands within the circumference of the fall zone, the radius of which shall be the height of the tower. All cell towers must adhere to the zone setback requirements; (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

**Findings:** This portion of the parcel has the circumference needed for the fall zone requirements as stated in the KCLUO. The lease has the following statements addressing the fall zone:

**Lease agreement**

**#7 INSURANCE.** Tenant will carry during the Term, at its own cost and expense, the following insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of \$2,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence; and (iii) Workers' Compensation Insurance as required by law. It is understood and agreed that the coverage afforded by Tenant's commercial general liability insurance also applies to Landlord as an additional insured, but only with respect to landlord's liability arising out of its interest in the Property.

**#9 INDEMNIFICATION.**

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the Communication Facility or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, agents or independent contractor.

DW is Tenant and backs that section with Insurance

**MITIGATION:** The proposed site will meet all required "fall zone" setbacks to adjacent parcels. The fenced compound is 100' X 100' and is set back 37' from the north property line, 157' from the east property line, over 500' from the south property line and nearly 1,000' from the west property line. The tower is located in the center of the compound. The tower is setback 87' from the property to the north and 207' from the neighbor's property to the east.



The Land Use Administrator and Kane County Engineer recommends approval of the Conditional Use Permit for a 150' lattice wireless communications (co-locatable) cell tower facility, designed, with the required ground equipment to be located on parcel # 3-4-32-2-1A, zoned AG, based on the findings as found in the conditional use permit **FINDINGS and MITIGATIONS**. All detrimental uses have been mitigated, or attempted to be mitigated.

**MOTION:** I \_\_\_\_\_ **make a motion to approve** (or if *denied*, the reasons for denial would need to be health, safety and welfare; in other words, what conditions could not be mitigated) the conditional use permit for a 150' self-supporting lattice wireless communications (co-locatable) facility, owned by DW Tower LLC, located on parcel # 3-4-32-2-1A, zoned AG, based on the findings in the staff report.





EXISTING WATER  
EXISTING STORM DRAIN  
EXISTING SEWER  
EXISTING TELCO/FIBER  
DWT FIBER INSTALL  
EXISTING POWER  
DWT POWER INSTALL  
EXISTING FENCING  
DWT UTILITY EASEMENT  
EXISTING RIGHT-OF-WAY LINE  
DWT ACCESS/UTILITY EASEMENT  
EXISTING PARCEL LINE  
DWT TOWERS LEASE AREA

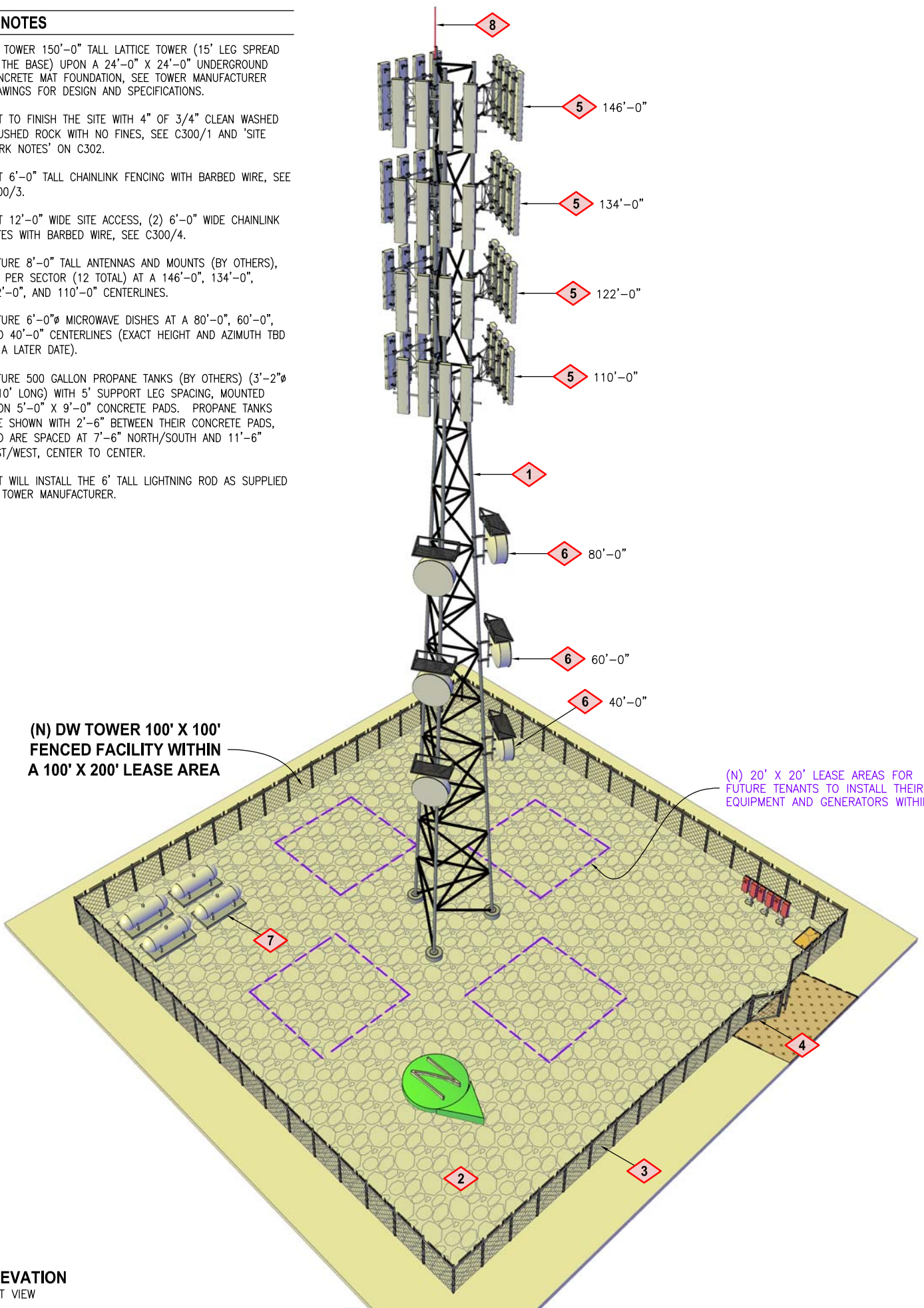
KEYED NOTES

- 1 DW TOWER 150'-0" TALL LATTICE TOWER (15' LEG SPREAD AT THE BASE) UPON A 24'-0" X 24'-0" UNDERGROUND CONCRETE MAT FOUNDATION, SEE TOWER MANUFACTURER DRAWINGS FOR DESIGN AND SPECIFICATIONS.
- 2 DWT TO FINISH THE SITE WITH 4" OF 3/4" CLEAN WASHED CRUSHED ROCK WITH NO FINES, SEE C300/1 AND 'SITE WORK NOTES' ON C302.
- 3 DWT 6'-0" TALL CHAINLINK FENCING WITH BARBED WIRE, SEE C300/3.
- 4 DWT 12'-0" WIDE SITE ACCESS, (2) 6'-0" WIDE CHAINLINK GATES WITH BARBED WIRE, SEE C300/4.
- 5 FUTURE 8'-0" TALL ANTENNAS AND MOUNTS (BY OTHERS), (4) PER SECTOR (12 TOTAL) AT A 146'-0", 134'-0", 122'-0", AND 110'-0" CENTERLINES.
- 6 FUTURE 6'-0"Ø MICROWAVE DISHES AT A 80'-0", 60'-0", AND 40'-0" CENTERLINES (EXACT HEIGHT AND AZIMUTH TBD AT A LATER DATE).
- 7 FUTURE 500 GALLON PROPANE TANKS (BY OTHERS) (3'-2"Ø X 10' LONG) WITH 5' SUPPORT LEG SPACING, MOUNTED UPON 5'-0" X 9'-0" CONCRETE PADS. PROPANE TANKS ARE SHOWN WITH 2'-6" BETWEEN THEIR CONCRETE PADS, AND ARE SPACED AT 7'-6" NORTH/SOUTH AND 11'-6" EAST/WEST, CENTER TO CENTER.
- 8 DWT WILL INSTALL THE 6' TALL LIGHTNING ROD AS SUPPLIED BY TOWER MANUFACTURER.

(N) DW TOWER 100' X 100' FENCED FACILITY WITHIN A 100' X 200' LEASE AREA

(N) 20' X 20' LEASE AREAS FOR FUTURE TENANTS TO INSTALL THEIR EQUIPMENT AND GENERATORS WITHIN

SITE ELEVATION  
SOUTHWEST VIEW



TOP OF LIGHTNING ROD AND OVERALL HEIGHT IS 156'-0"  
TOP OF LATTICE TOWER AND FUTURE ANTENNAS IS 150'-0"

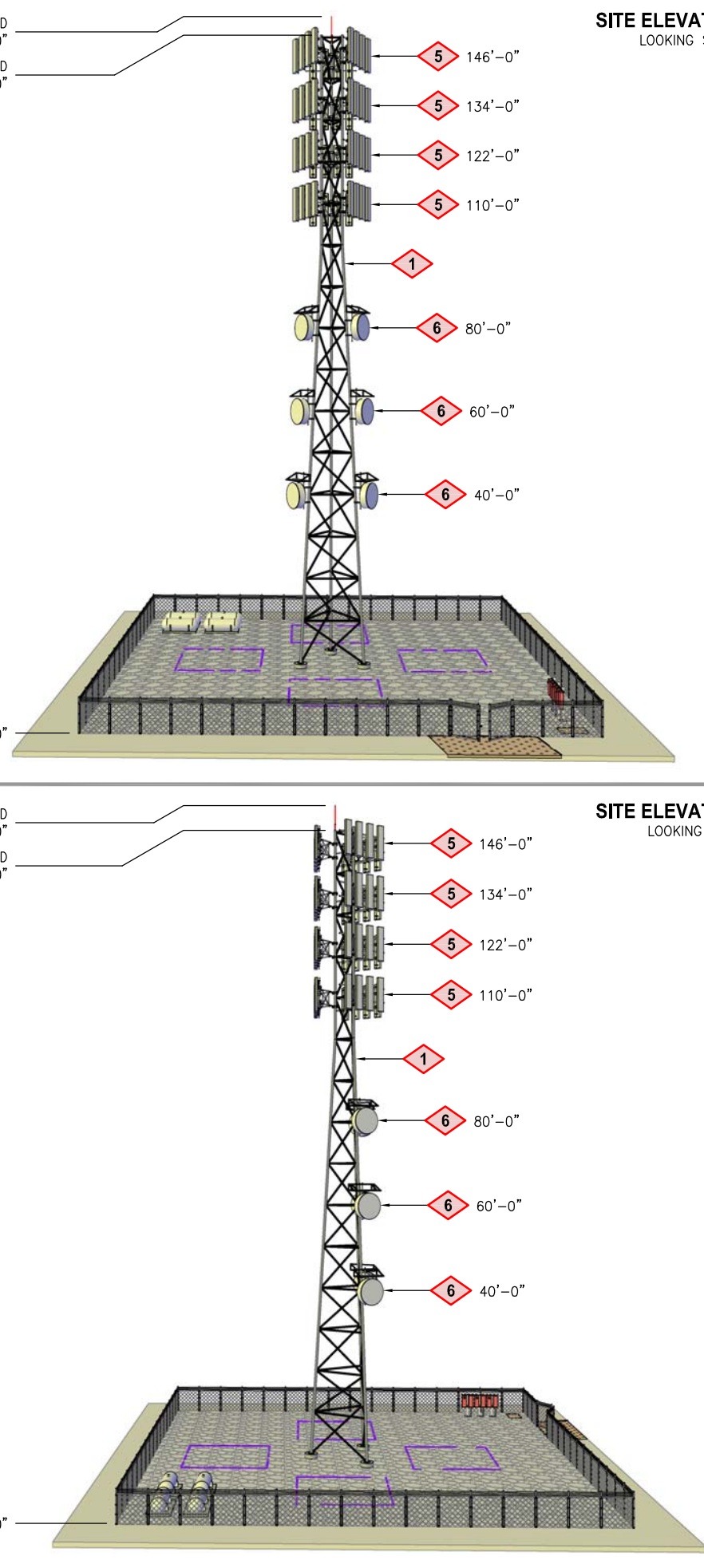
SITE ELEVATION  
LOOKING SOUTH

GROUND LEVEL IS 0'-0"

TOP OF LIGHTNING ROD AND OVERALL HEIGHT IS 156'-0"  
TOP OF LATTICE TOWER AND FUTURE ANTENNAS IS 150'-0"

SITE ELEVATION  
LOOKING WEST

GROUND LEVEL IS 0'-0"



DW TOWER, LLC

1603 GOLF COURSE ROAD SE, SUITE 4  
RIO RANCHO, NM 87124

Technology Associates

UTAH MARKET OFFICE  
1042 EAST FORT UNION BLVD #484  
MIDVALE, UTAH 84047

CORPORATE OFFICE  
3129 TIGER RUN COURT, SUITE #206  
CARLSBAD, CALIFORNIA 92010

DRAWN BY: JAY C  
CHECKED BY: MIKE F

0	02.15.2023	CONSTRUCTION DWGS
REV	DATE	DESCRIPTION

PRELIMINARY

HONEYMOON TRAIL  
NW SEC 32, T43S, R4W  
HWY 89, 15.3 MILES EAST OF  
KANAB, UTAH 84741  
- RAWLAND SITE -

SHEET TITLE  
SITE ELEVATIONS

SHEET NUMBER  
C200



## **DRAFT STAFF REPORT**

**DATE:** 04/03/2023

**PROJECT:** The Applicants, Shay and Megan Hunt, submitted an application for a Conditional Use Permit on February 14, 2023. The applicants are asking to build a gym/fitness center with 24-hour service, offering free weight training, yoga, bike machines, etc. The gym will be located on lot 6-76 in the Vermilion Cliff Estates subdivision located in a C-1 zone on .75 acres. The current use of the lot is a beauty salon. The total acreage of the lot is 1.53 acres.

**FINDINGS:** The above application complies with the Kane County Land Use Ordinance 9-15A-1-6: Conditional Uses and the Kane County Land Use Ordinance 9-7B-2 through 9-7B-7, Commercial 1 and the permitted/conditional uses; which allows the use of commercial recreation and entertainment facilities through a conditional use permit. The CUP has the conditions to mitigate safety issues and must be implemented at the time of the building permit application. The gym is accessed off of Mountain View and Vista Avenue.

### **KCLUO 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.

**Kane County Land Use Ordinance: 9-1-7: DEFINITIONS: (KCLUO): RECREATION AND ENTERTAINMENT, INDOOR:** An establishment offering recreation, entertainment or games of skill to the general public that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theaters, bingo parlors, pool halls, billiard parlors, video game arcades, racquetball and handball courts, and amusement rides.

## **FINDINGS OF THE PLANNING AND ZONING COMMISSION**

The Planning and Zoning Commission has reviewed the application for a conditional use permit submitted in this matter, has held a regularly scheduled meeting to consider the application and having had an opportunity to fully consider the matter, the Commission hereby makes the following findings:

1. That the proposed use is necessary or desirable and will contribute to the general well-being of the community; and
2. That the use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity; and
3. That the proposed use complies with the intent, spirit & regulations of the Kane County Land Use Ordinance and General Plan (KCLUO 9-15A-2E (2a)); and
4. The use is harmonious with other neighboring uses in the zone (KCLUO 9-15A-2E (2b)).

## **CONDITIONAL USE PERMIT GRANTED**

Based on the application submitted and based on the forgoing findings of fact, the Commission hereby grants the conditional use as outlined below, subject to all conditions listed herein and any other conditions enforceable in law or in equity. In the event that any of the conditions of this permit are not followed, the Commission reserves the right to revoke, in whole or in part, the conditional use granted herein.

**Applicant is hereby granted the following conditional use: Fitness/gym center with 24 hour potential service, free weight training, yoga, bike machines, etc.**

### **CONDITIONS OF PERMIT**

1. The holder of this permit must obey all state, local and federal laws in regard to use of the land on which this conditional use permit is granted. This includes compliance with all local ordinances, zoning ordinances, rules, regulations or other local laws as stated in Kane County Land Use Ordinance 9-15A-(1-7).
2. The holder of this permit must obtain a letter of approval from the Culinary Water Authority and/or Sanitary Sewer Authority.
3. Holder agrees to appear, when summoned in writing, at any meeting held by the Kane County Planning and Zoning Commission or the Kane County Commission, to address or answer any questions regarding the conditional use granted herein, including but not limited to holder's compliance or non-compliance with the conditions of the permit. Holder further agrees to make written response regarding compliance or non-compliance when requested by the Kane County Planning and Zoning Commission or the Kane County Commission.
4. Holder is allowed to construct and maintain the facilities, structures, and/or landscaping outlined in the site map which is attached hereto as Exhibit "C" and is hereby approved as part of this conditional use permit. Holder is not allowed to construct any additional facilities, structures, and/or landscaping unless said additions are approved by the Planning and Zoning Commission as part of this conditional use or are approved as activities that are acceptable within the zone.
5. Holder shall maintain all property and facilities used under this conditional use permit in good condition and repair and shall not allow their activities to cause or create a circumstance which causes or creates disturbance to persons or properties in the area surrounding the property which is the subject of this conditional use permit.
6. The conditional use permit will expire after one **(1) year** unless substantial work shall have been accomplished towards completion of the use. Whether or not substantial work has been accomplished shall be determined by the Planning and Zoning Commission.
7. This conditional use permit is granted with the use of the land, unless otherwise revoked or modified by the Planning and Zoning Commission as outlined herein, or as otherwise allowed by law and equity. If holder fails to complete the project within a reasonable time after **one (1) year** from the date of this permit, the Planning and Zoning Commission reserves the right to revoke the conditional use permit granted herein and the term above specified will no longer apply. Before the expiration of any term specified herein, holder may apply to amend the conditional use permit granted herein.
8. The holder of this permit shall allow members of the Planning and Zoning Commission, members of the Kane County Commission, the Kane County Building Inspector, and their designated agents to inspect the premises during the course of construction, and thereafter, to insure that holder is complying with the conditions of the conditional use permit.
9. This conditional use permit may not be transferred or assigned without express written consent of the Planning and Zoning Commission.

- 10 Assurance that the use will not be detrimental to the health, safety, comfort, order, or general welfare of persons residing or working in the vicinity.

## CONDITIONS

1. Assurance the use will:
- Comply with the intent, spirit and regulations of this title and Kane County General Plan;
  - Make the use harmonious with other neighboring uses in that zone;

**FINDINGS:** The location is next to the highway and has turn lanes. It abuts other commercial zoned lots.

**MITIGATIONS:** The commercial use is in compliance with the General Plan and Land Use Ordinance.

2. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

**FINDINGS:** Parking plans are sufficient for the use.

**MITIGATIONS:** Parking lot standards shall comply with Chapter 13 Parking and Loading Standards.

Retail stores and shops, commercial banks, savings and loan offices, other financial institutions, general retail stores, food stores, supermarkets, drugstores and other similar commercial businesses	1 space for each 250 sq. ft. of gross floor area. For commercial centers containing 500 or more spaces, spaces in excess of 500 shall be calculated on the basis of 1 space for each 500 sq. ft. of gross floor area
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### **KCLUO 9-13-3: PARKING REQUIRED:**

At the time of site plan approval of any building or issuance of a building permit a site plan indicating no less than the minimum of parking spaces as shown in the uses table with adequate provisions of ingress and egress by standard sized automobiles shall be required. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

### **9-13-4: SPACE SIZE:**

The dimensions of each street parking space shall be at least nine feet by eighteen feet (9' x 18') for diagonal or ninety degree (90°) spaces, or nine feet by twenty two feet (9' x 22') for parallel spaces, exclusive of access drives or aisles. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

### **9-13-9: PARKING LOT REQUIREMENTS:**

Every parcel of land hereafter used as a parking lot shall be paved with a surfacing material of asphalt or concrete composition or four inch (4") gravel road base.

Any parking lot adjacent to a residential zone shall be appropriately screened by a masonry wall or solid visual barrier fence or by other means not less than six feet (6') in height. Lights used to illuminate the lot shall be so arranged as to reflect the light away from the adjoining premises. Each parking lot shall be permanently maintained. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

### **9-13-10: PARKING LOT LIGHTS:**

A. Requirement: Parking lots used during hours of darkness shall be lighted by standards, a maximum of sixteen feet (16') in height above grade and using indirect, hooded light sources.

B. Downlighting: To protect the views of the night sky, all outside lighting shall be "downlighting" so that lighting does not trespass to adjoining properties.

C. Exterior Lighting: All exterior lighting should provide for the illumination of buildings and grounds for safety purposes, but in an aesthetic manner. All exterior lighting shall be shielded or hooded so that no light is allowed to spill onto adjacent properties. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

**9-13-13: SUBMITTAL OF PARKING, LOADING AND CIRCULATION PLANS:**

Detailed plans for off street parking, loading, circulation, and screening shall be submitted to the land use authority for approval. Said plans shall be in compliance with all standards and provisions set forth in this title and shall receive written approval of the land use authority prior to the issuance of a building permit. Appropriate filing fees shall be determined by the land use authority and submitted with each plan.

Notwithstanding all provisions of this section, all commercial, industrial and professional developments and all other nonresidential uses of land shall provide sufficient parking for all employees, business vehicles and equipment, customers, clients and patients of such business, industry or professionally used property, as may be required by the planning commission in addition to spaces presently required by this title. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

3. Evidence that all required public facilities have adequate capacity to serve the proposed conditional use;

**FINDINGS:** Feasibility letters required.

**MITIGATIONS:** All feasibility letters have been submitted, except for the Health Department.

4. Limiting the hours, days, place and/or manner of operation;

**FINDINGS:** Potential 24 hour service.

**MITIGATIONS:** If 24 hour service is allowed night lights on the parking lot will need to be installed and noise mitigations in order.

5. Requiring size or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, glare, erosion, odor and/or dust;

**FINDINGS:** Need lights, material of parking lot and building for 24 hours of operation, and noise mitigation.

**MITIGATIONS:** The lighting, parking and noise plans are in compliance with KCLUO requirements. Kane County Nuisance Ordinance 9-4-3-3 (25) Noise Related Nuisances: It shall be unlawful for any person in the county in a public or private place to make, cause to be made or allow the making of any noise which is inconsistent with the zoning area between the hours of eleven o'clock (11:00) P.M. and sunrise which is unnecessary or unusual, which noise annoys, disturbs or affects the comfort, repose, health or peace of others. Any such noise hereinbefore described, heard outside the limits of the real estate from which said noise has its source and heard by another person, shall be a noise as is hereby prohibited, which noise constitutes the basis of the violation of this section.

6. Requiring larger setback areas, lot area, and/or lot depth or width;

**FINDINGS:** N/A



7. Limiting the building height size or lot coverage, and/or location on the site;

**FINDINGS:** N/A

8. Designating the size, number, location and/or design of vehicle access points or parking areas;

**FINDINGS:** The parking lot/stalls and access are listed on the site plan.

**MITIGATIONS:** The parking stalls are in compliance for dimensions as required in KCLUO chapter 13.

9. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved provided that:
- An essential link exists between a legitimate governmental interest and each exaction; and
  - Each exaction is roughly proportionate, both in nature and extent to the impact of the proposed development;

**FINDINGS:**  
N/A

10. Requiring landscaping, screening, drainage, water quality facilities and/or improvements of parking and loading areas;

**FINDINGS:** Parking areas need to have road base, lights for 24 hour access and safety.

**MITIGATIONS:** All parking areas will require road base.

11. Limiting the number, size, location, height and/or lighting of signs;

**FINDINGS:** NO sign plans were submitted.

12. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;

**FINDINGS:** No plans were submitted for outdoor lighting.

**MITIGATIONS:** All lights will be down hooded. If the gym is open 24 hours parking lot lights will need to be installed.

13. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;

**FINDINGS:** N/A

14. Requiring and designating the size, height, location and/or materials for fences;

**FINDINGS:** Wood fence in place at the west/back side of the lot.

25. Encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, slopes, cultural resources, and/or sensitive lands;

**FINDINGS:** N/A

26. Requiring the protection and preservation of groundwater recharge areas;

**FINDINGS:** N/A

27. Limiting noise generation;

**FINDINGS:** Noise ordinance will be enforced.

**MITIGATIONS:** KC Nuisance Ordinance 4-3-3 (25)

28. Minimizing environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;

**FINDINGS:** N/A

29. Requiring turn lane improvements at street intersections when:
- a. An unsafe condition would be created by the development without the improvements; or
  - b. The projected increase in traffic generated by the new or expanded use will lower the level of service;

**FINDINGS:** Turn lanes are in place at this location. Ample parking and egress will be installed for quick turn off due to the access being right off of Highway 89 and entrance into the subdivisions in the area.

**MITIGATIONS:** Ample ingress and egress are shown on the site plan and are sufficient.

30. Providing for emergency access;

**FINDINGS:** The large parking lot provides enough room for emergency vehicles and access.

**MITIGATIONS:** The plans are in compliance with KCLUO 9-10-8 for easements and rights-of-way for access.

31. Requiring pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks;

**FINDINGS:** N/A

32. Requiring approval of septic and water systems;

**FINDINGS:** The health department will permit and inspect septic systems and kitchen area.

**MITIGATIONS: THE HEALTH DEPARTMENT FEASIBILITY LETTER NEEDS TO BE SUBMITTED.**

33. Requiring buildings to be built to specific requirements;

**FINDINGS:** A building permit will be required with a commercial review.

**MITIGATIONS:** A building permit will be applied for and approved through the Building Official and Land Use Administrator before any construction can begin.

The conditions, as stated in the CUP application, will be enforced by the Land Use Authority (LUA) Administrator and the Building Department staff throughout the building process. The Land Use Administrator will enforce the CUP conditions after the development is finalized.

**This conditional use permit may be revoked in whole or in part or may be modified based on any failure to observe any of the conditions outlined herein or those enforceable in law or in equity.**

**STAFF RECOMMENDATION:** Kane County Land Use Administrator, Shannon McBride and Kelvin Smith, Kane County Engineer recommend approval of this Conditional Use Permit with the site plan drawings and all required items being submitted before the building permit can be obtained.

This Conditional Use Permit does **not** need to be recommended to the County Commissioners.

Please note: **9-15A-5: TIME LIMIT:** Action authorized by a conditional use permit must commence within one year of the time the permit is issued. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit. The Land Use Authority may grant an extension for good cause shown. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

**MOTION: I move to approve/deny the Conditional Use Permit on lot 6-76 (zoned Commercial 1) for a gym/fitness center.**











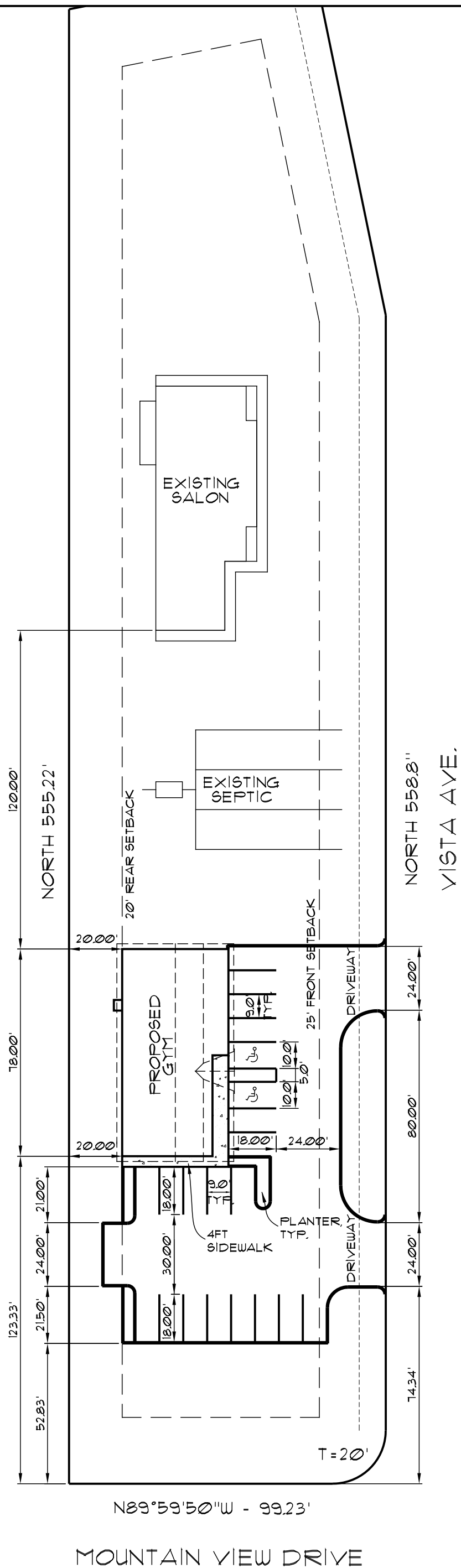
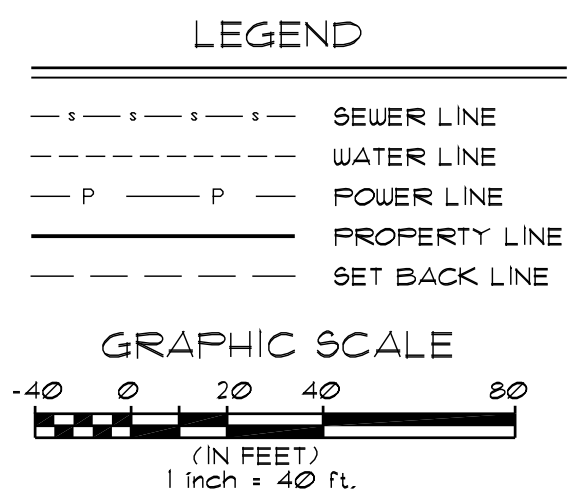








VERMILLION CLIFFS ESTATES  
LOT #76  
KANE COUNTY, UTAH  
1.53 ACRES



FULL FIT  
4365 E. MOUNTAIN VIEW DRIVE  
KANAB, UTAH

3-30-23

**991 SOUTH 100 EAST  
RICHFIELD, UTAH 84701  
435-287-0735**



# BLACK HOMES

SHEET:
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of 1



**Kane County Planning & Zoning  
Land Use Authority  
Shannon McBride, Administrator**



**DRAFT STAFF REPORT**

**DATE:** 04/03/2023

**PROJECT:** The Applicant, Julie N. Millard, Ponderosa Ranch Unlimited, with Chris Heaton, Iron Rock, acting with power of attorney in their behalf, submitted application for a Conditional Use Permit (CUP) for a 30-site RV park with a bath house, on parcel 1-9-5-3A, zoned C-2 consisting of 2.03 acres of the 206.3 acre parcel.

**FINDINGS:** The above application complies with the Kane County Land Use Ordinance, 9-15A-1-6: Conditional Uses and 9-7B-4 Commercial 2 Zone which allows the use of RV Parks through a conditional use permit. The CUP has the conditions to mitigate safety issues and must be implemented at the time of the building permit application.

**9-15A-2-E, 1-28:** The Land Use Authority shall approve a conditional use permit if conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. In approving any conditional use permit, the Land Use Authority may impose conditions deemed necessary to protect the public welfare, ensure compatibility with other uses in the vicinity, and ensure that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions may include the following:

1E. Land Use Authority Action: The Land Use Authority shall approve a conditional use permit if conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. In approving any conditional use permit, the Land Use Authority may impose conditions deemed necessary to protect the public welfare, ensure compatibility with other uses in the vicinity, and ensure that the negative impact of the proposed use on the surrounding uses and public facilities is minimized.

**These conditions include the following:**

1. Assurance that the use will not be detrimental to the health, safety, comfort, order, or general welfare of persons residing or working in the vicinity;

**FINDINGS:** The use for an R.V. park is in compatible with the surrounding zones and commercial uses. The project is located on the south end of parcel 1-9-5-3A. This development will be in accordance with applicable County ordinances and State codes.

**MITIGATIONS:** All CUP requirements will be in order to mitigate health, safety, comfort, order and welfare for those in the vicinity and staying at the R.V. Park. Fire hydrants need to be within a 500 foot vicinity of the R.V.'s. They need to be shown on the plan.

2. Assurance the use will:

a. Comply with the intent, spirit and regulations of this title and Kane County General Plan;

**FINDINGS:** The R.V. Park complies with the Commercial 2 regulations and Chapter 15 Conditional Uses. The property is zoned Commercial (C-2). The adjoining properties are either zoned C-1, AG, or Residential. The proposed R.V. Park is allowed in the C-2 zone and is compatible with the adjacent zones.

**MITIGATIONS:** All conditions will be in place before the final inspection and approval will be issued.

b. Make the use harmonious with other neighboring uses in that zone;

**MITIGATION:** The R.V. Park is in close proximity to the already existing resort.

3. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

**FINDINGS:** The development will conform to the layout of the attached site plan. The site is accessed from the North Fork Road via a 50 foot private street, Zion Ponderosa Resort Rd. The landscaping and lighting will be designed to minimize all glare and comply with County ordinances.

**MITIGATIONS:** All above requirements will be addressed in the site plan and reviewed by the Kane County Engineer and Land Use Administrator for compliance. The site map is in compliance with the above requirements for buildings, parking, traffic, noise, etc. All lights will be down hooded.

**KCLUO 9-10-14: LIGHTING:** The concerns of safety, utility, dark sky protection and aesthetic appearance need not compete. Good modern lighting practices can provide adequate light for safety and utility without excessive glare or light pollution. Careful attention to when, where, and how much nighttime lighting is needed results in better lighting practices, darker skies and reduced energy use and costs. Kane County encourages lighting practices and systems which will: minimize light pollution, glare, and excessive glare; conserve energy and resources while maintaining nighttime safety, utility, security, and productivity; and curtail the degradation of the nighttime visual environment. Any and all new and major addition to land uses, developments and buildings or structures are encouraged to use hooded lighting practices. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

4. Evidence that all required public facilities have adequate capacity to serve the proposed conditional use;

**FINDINGS:** Water is already in place from Zion Ponderosa Resort. The sewer will be through an on-site septic system.

**MITIGATION:** All feasibility letters were submitted and the plans comply.

5. Limiting the hours, days, place and/or manner of operation;

**FINDINGS:** In addition to the mitigation items listed in Item 3 a nightly quiet time will be enforced with no amplified music after 11 p.m.

**MITIGATIONS:** An on-site manager needs to be available.

6. Requiring size or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, glare, erosion, odor and/or dust;

**FINDINGS:** The entry road will consist of a hard surface. The site lighting plan will include shielded LED lighting with a color temperature maximum of 3000K.

**MITIGATIONS:** Gravel will be required for drive way and R.V. pads to mitigate dust concerns.

7. Requiring larger setback areas, lot area, and/or lot depth or width;

**FINDINGS:** The proposed sites as shown on the site plan would not be detrimental to the adjacent properties.

8. Limiting the building height size or lot coverage, and/or location on the site;

**FINDINGS:** The project will be in accordance with the attached site plan.

**MITIGATIONS:** All buildings and lot coverage are in compliance with site plan requirements.

9. Designating the size, number, location and/or design of vehicle access points or parking areas;

**FINDINGS:** The vehicle design for access/ingress/egress and parking area are in compliance with KCLUO Chapters 13, 15 and 18 requirements.

**MITIGATIONS:** All access designs and parking areas will be inspected for compliance before the final inspection is approved.

10. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved provided that:

a. An essential link exists between a legitimate governmental interest and each exaction; and

b. Each exaction is roughly proportionate, both in nature and extent to the impact of the proposed development;

**FINDINGS:** The entry road consists of the 50' wide Zion Ponderosa Resort Rd.

11. Requiring landscaping, screening, drainage, water quality facilities and/or improvements of parking and loading areas;

**FINDINGS:** Construction Drawings and Plans will be provided for review and will comply with the applicable County ordinance and State codes.

**MITIGATIONS:** Drainage, water quality facilities and parking areas will all be inspected for compliance to KCLUO Chapters 13, 15 and 18. Drainage plans will be reviewed by the Kane County Engineer

12. Limiting the number, size, location, height and/or lighting of signs;

**FINDINGS: N/A**

**MITIGATION:** No sign plans have been submitted. If any signs are added they will be in compliance with Chapter 16, Sign Regulations and approved by the Land Use Administrator and Building Official.

13. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;

**FINDINGS:** The site lighting plan will include shielded LED lighting with a color temperature maximum of 3000K.

**MITIGATIONS:** The building inspectors will inspect all lighting. All lighting will be down hooded for dark sky compliance as found in the KCLUO 9-10-14: **LIGHTING:** The concerns of safety, utility, dark sky protection and aesthetic appearance need not compete. Good modern lighting practices can provide adequate light for safety and utility without excessive glare or light pollution. Careful attention to when, where, and how much nighttime lighting is needed results in better lighting practices, darker skies and reduced energy use and costs. Kane County encourages lighting practices and systems which will: minimize light pollution, glare, and excessive glare; conserve energy and resources while maintaining nighttime safety, utility, security, and productivity; and curtail the degradation of the nighttime visual environment. Any and all new and major addition to land uses, developments and buildings or structures are encouraged to use hooded lighting practices. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

14. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;

**FINDINGS:** As the project is located within the canyon and not visible from outside the canyon, no screening or landscaping will be required.

15. Requiring and designating the size, height, location and/or materials for fences;

**FINDINGS:** No fencing required.

**MITIGATIONS:** Fences under 7 feet tall do not require a permit.

16. Encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, slopes, cultural resources, and/or sensitive lands;

**FINDINGS:** All landscape is going to try and be retained for a natural look.

**MITIGATION:** The parcel does not contain any historic, cultural resources. The site plan will show all required drainage and limits of disturbances.

17. Requiring the protection and preservation of groundwater recharge areas;

**FINDINGS:** The RV resort will have an on-site waste water system that is already in use with the main Ponderosa Resort.

**MITIGATION:** The Health Department will sign off for septic.

18. Limiting noise generation;

**FINDINGS:** In addition to the mitigation items listed in Item 3 a nightly quiet time will be enforced with no amplified music after 11 p.m.

**MITIGATIONS:** An onsite manager will be available at all times for noise complaints.

19. Minimizing environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;

**FINDINGS:** N/A

20. Requiring turn lane improvements at street intersections when:

- a. An unsafe condition would be created by the development without the improvements; or
- b. The projected increase in traffic generated by the new or expanded use will lower the level of service;

**FINDINGS:** N/A

21. Providing for emergency access;

**FINDINGS:** The main entry road to the resort is the North Fork Road with the 50' Zion Ponderosa Resort Road going directly to the site. This will allow for two-way traffic.

**MITIGATIONS:** Access will have a loop system for a two way access.

22. Requiring pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks;

**FINDINGS:** Trails are already established in the area.

23. Requiring approval of septic and of water systems;

**FINDINGS:** The RV Park will need approval for a separate system or hooking up to the existing system.

**MITIGATIONS:** The Health Department will approve all septic systems.

24. Requiring buildings to be built to specific requirements; (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

**FINDINGS:** All buildings and pedestals will require building permits.

**MITIGATIONS:** The building inspector will inspect and sign off on all building permits.

**25. Recreation vehicle parks: a) business license required; b) Transient Room Taxes required; c) the use must be consistent with the environmental, commercial, and economical land use purposes stated in the General Plan, as amended; d) an official site plan that clearly demonstrates that the park will not cause unreasonable risks to the safety of persons or property because of vehicular**



traffic or parking, or other similar unreasonable risks; the existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets shall be reviewed; e) RV parks and campgrounds/glamping sites must have State and/or County approved access off a State highway, County B or D road, BLM road or, if off a private road, roads will meet Wild Land Interface Urban Code standards and will require a road maintenance agreement between property owners and easement holders memorializing the mutual understanding that an increased use to the road will result and that proof of easements to property would be required; f) Health Department permit required if over forty (40) RV sites; the Department of Environmental Quality permit is also required for water and waste; g) must comply with Building Department and building permit regulations; h) on-site manager for RV parks and campgrounds; unless the campground is considered a primitive campground; i) requirements for the management and maintenance of facilities is adequate; j) the use shall not result in a situation which will create a need for essential services which cannot be reasonably met by local service providers, including roads and access for emergency vehicles and residents; fire protection; police protection; schools and school busing; drinkable water; sewer; storm drainage; and garbage removal; k) feasibility letters required for services extended to the RV parks and campgrounds to mitigate traffic safety conditions as to not adversely affect the use and surrounding areas; l) emergency access is adequate; m) a plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses is adequate; n) exterior lighting is adequate and does not unduly disturb the surrounding areas; o) exceptions include rural unimproved subdivisions that can only be used for agricultural purposes as defined in Utah State Code 59-2-502; (Ord. O-2017-16, 1-8-2018)

**MITIGATIONS:** All the above conditions will be mitigated before final approval and inspections will be passed off. Fire hydrants for safety need to be installed and shown on the site plan.

Kane County Land Use Ordinance 9-18-1-3 will be complied with:

SECTION:

**9-18-1: Purpose**

**9-18-2: Recreational Vehicle Park, Campground, And Glamp-Ground Approval**

**9-18-3: Recreational Vehicle Park, Campground, And Glamp-Ground Application**

**9-18-1: PURPOSE:**

To permit development of recreational vehicle parks, campgrounds, and glamp-grounds as defined herein, in appropriate zones and to require that recreational vehicle, campground, and glamp-ground accommodations will be of such character as to promote the objectives and purposes of this title, to protect the integrity and character of the zones contiguous to those in which recreational vehicle parks, campgrounds, and glamp-grounds are located and to protect other use values contiguous to or near recreational vehicle park, campground, and glamp-ground uses. (Ord. O-2018-6, 7-9-2018)

**9-18-2: RECREATIONAL VEHICLE PARK, CAMPGROUND, AND GLAMP-GROUND APPROVAL:**

A recreational vehicle park, campground, and glamp-ground may not be constructed unless first approved by the Land Use Authority, after review of plans, for said park, campground, and glamp- ground, which satisfy the Land Use Authority the proposed development will: (Ord. O-2018-6, 7-9-2018)

A. Be in keeping with the general character of the zone where it is proposed to be located. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

B. If attached to a mobile home park, the recreational vehicle, camping, and glamping area shall be at least one acre above the minimum area requirement for a mobile home park.

C. Meet all requirements of the State of Utah Code of camp, trailer court, hotel, motel and resort sanitation regulations which are intended to apply to trailer court and tent camps, including glamp-grounds as defined in such code. (Ord. O-2018-6, 7-9-2018)

### **9-18-3: RECREATIONAL VEHICLE PARK, CAMPGROUND, AND GLAMP-GROUND APPLICATION:**

A. An overall plan for development of a recreational vehicle park, campground, and glamp-ground shall be submitted to the Land Use Authority Administrator for review. The plan shall be drawn to a scale not smaller than one inch to fifty feet (1" = 50'). At least eight (8) copies of the plan shall be submitted. The plan shall show: (Ord. O-2018-6, 7-9-2018)

1. The topography of the site, when required by the Kane County Engineer, represented by contours shown at no greater than two foot (2') intervals;

2. A grading and drainage plan detailing geologic and flood hazards shall be submitted to the Land Use Authority Administrator with the application; (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

3. The proposed street and trailer, vehicle, or site space pad layout;

4. Any proposed reservations for parks, sites, playgrounds and open spaces, and tabulations showing the percent of area to be devoted to parks, sites, playgrounds and open space, the number of trailer spaces or site locations and total area to be developed; (Ord. O-2018-6, 7-9-2018)

5. Any proposed location, number and design of parking spaces;

6. Detailed landscaping and utility plan, including location of sewer, water, electricity, gas lines and fire hydrants. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

B. Upon receipt of the conditional use permit application and all other required materials by the Land Use Authority Administrator and review by the County Engineer, the Land Use Authority Administrator will place the application on the Land Use Authority agenda for review and approval. Should approval be denied, the applicant has thirty (30) days to appeal, in writing, to the Kane County Commission.

1. Conditions and compliance requirements can be referenced in chapter 15, article A, "Conditional Uses", of this title.

2. Upon approval of conditional use permit application, applicant must contact the Land Use Administrator to schedule a mandatory development meeting. The Development Committee along with the Land Use Administrator will provide information pertaining to required inspections and enforcement of conditions and Code compliance. (Ord. O-2018-6, 7-9-2018)

### **9-15A-3: APPEALS:**

Appeal of any decision of the Land Use Authority shall be to the Appeal Authority. Appeal shall be in writing and shall be filed at the Office of the Land Use Authority not more than thirty (30) days after the written decision by the Land Use Authority. The Appeal Authority may affirm, modify or reverse the decision of the Land Use Authority. However, the Appeal Authority shall present, in writing, the reasons for its action. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

### **9-15A-4: INSPECTION:**

The building official/Land Use Administrator shall inspect the conditional use during the course of construction to ensure that it complies with the conditions of the permit. (Ord. O-2018-6, 7-9-2018)

#### **9-15A-5: TIME LIMIT:**

Action authorized by a conditional use permit must commence within one year of the time the permit is issued. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit. The Land Use Authority may grant an extension for good cause shown which would require amending the original conditional use permit and going before the Planning Commission for approval. (Ord. O-2016-4, 10-15-2018)

#### **9-15A-6: EXPANSION:**

No use or structure in which a conditional use is located may expand without the approval of the Kane County Land Use Authority. Before expanding, the applicant shall present to the Kane County Land Use Authority a development plan. No public hearing need be held. However, the Kane County Land Use Authority may deem a hearing necessary. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

#### **9-15A-7: REVOCATION:**

A conditional use permit may be revoked upon failure to comply with the conditions imposed with the original approval of the permit and upon failure to comply with all local, State, and Federal laws, including remaining current on Property Tax payments. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

All notices are in conformance with all standards and notice requirements of §17-27a-201-205. The agenda was noticed in two different public places and posted on the Kane County and Utah State websites.

This CUP complies with Utah State Code section unannotated § 17-27a-506, Conditional Uses.

- (1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.
- (2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.  
(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

The conditions as stated in the CUP application will be enforced by the Land Use Authority (LUA) Administrator and the Building Department staff throughout the building process and enforcement of the conditions after the development is finalized the LUA Administrator will enforce the CUP conditions.

**STAFF RECOMMENDATION:** Kane County Land Use Administrator, Shannon McBride recommends approving the Conditional Use Permit, submitted by the applicants, Ponderosa Ranch Limited, Julie N. Millard, for no more than 30 RV sites, on parcel 1-9-5-3A.

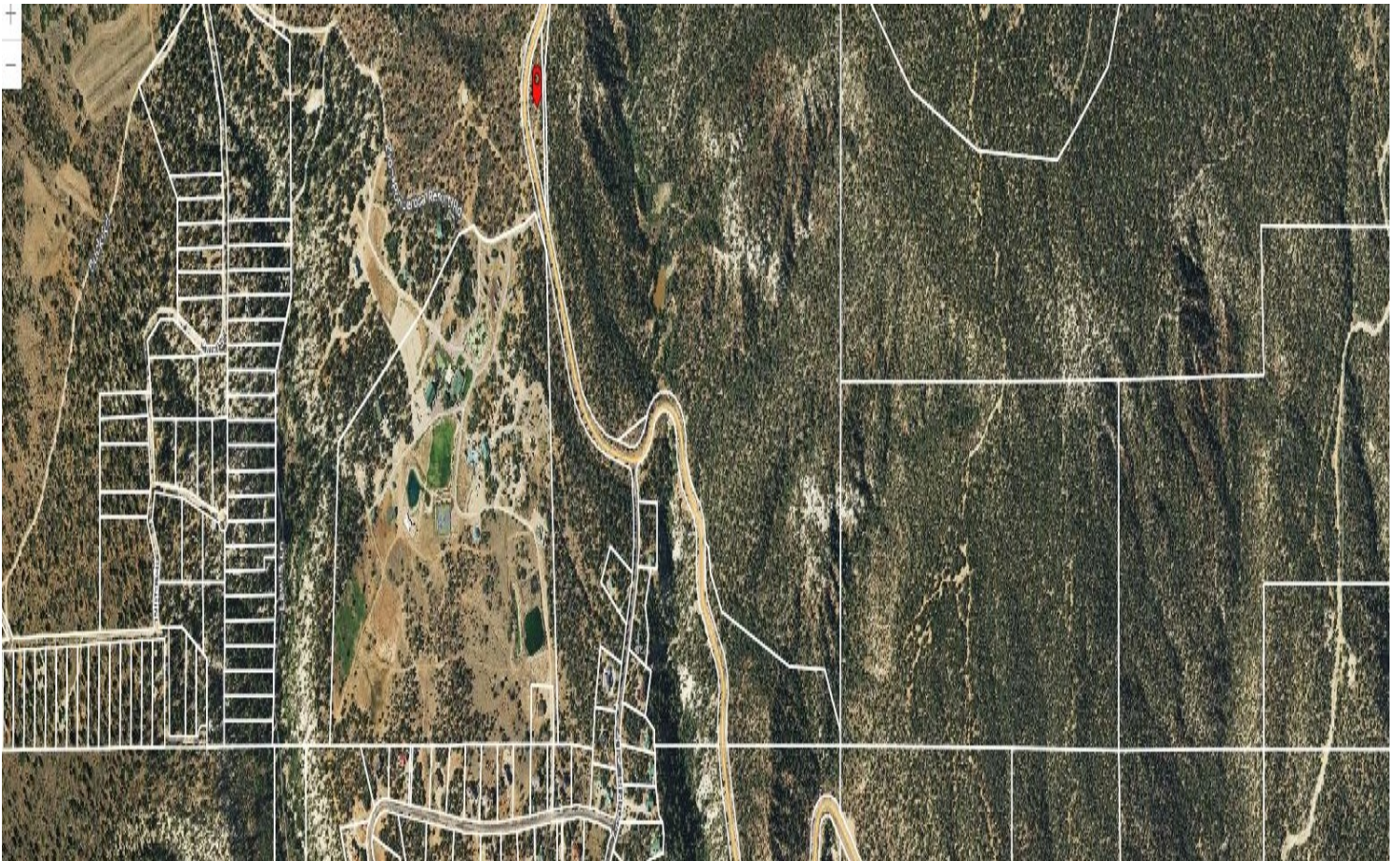


**I move to approve/deny** (or if denied, the reasons for denial would need to be health, safety and welfare; in other words, what conditions could not be mitigated) **the Conditional Use Permit for Julie Millard, Zion Ponderosa LLC, R.V. Park, with no more than 30 Recreational Vehicle sites, on parcel 1-9-5-3A.**

This does **not** need to be recommended to the County Commissioners.

**Please note: 9-15A-5: TIME LIMIT:**

Action authorized by a conditional use permit must commence within one year of the time the permit is issued. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit. The Land Use Authority may grant an extension for good cause shown. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)





# ZION PONDEROSA RANCH RV PARK

## PROPOSED SITE

ORDERVILLE, UTAH



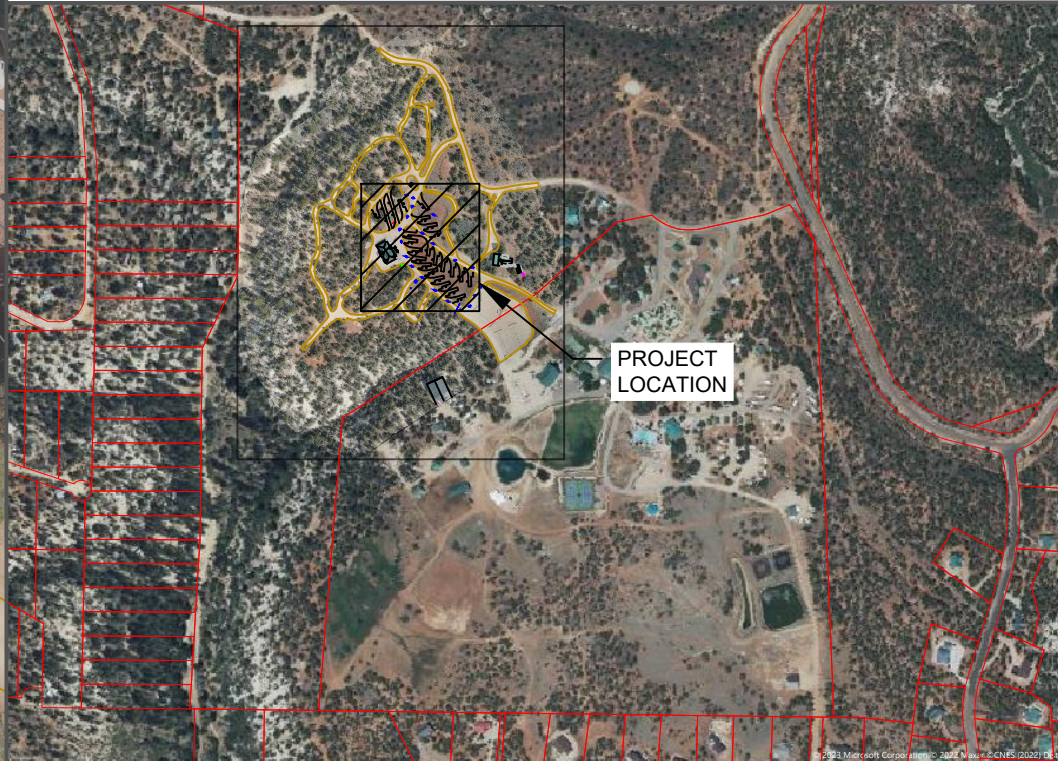
30 0 30  
SCALE IN FEET  
SCALE 1" = 30'



PROJECT INFORMATION:

PROJECT LOCATION: KANE COUNTY, UTAH  
PARCEL NUMBER: 80104001Y  
ZONE: C2  
OWNER & DEVELOPER: ZION PONDEROSA RANCH  
DESIGN SPECIFICATIONS: KANE COUNTY ZONING ORDINANCE  
TOTAL RV SPACES: 26  
ACCESSIBLE PARKING STALLS: 2

PROPOSED FIRE HYDRANT  
DRAINAGE DIRECTION  
PROPOSED CULVERT



VICINITY MAP

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UTILITY NOTIFICATION CENTER, INC.  
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Building on Solid Foundations

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KANAB, UTAH 84741  
435-644-2031  
www.ironrockeng.com

ZION PONDEROSA RANCH RV PARK

TITLE SHEET

TWIN KNOLLS RD.  
ORDERVILLE, UT

INITIAL SUBMITTAL: 03/08/23  
DATE: DESCRIPTION:  
REV#:

NOT FOR CONSTRUCTION

DRAWN BY: I.R.  
SCALE: 1" = 30'  
SHEET:

C001



# STAFF REPORT

---

**DATE:** 04/04/2023

**TO:** Kane County Planning Commission

**FROM:** Shannon McBride, Kane County Land Use Administrator

**RE:** Compliance Review of Previously Divided Property  
**APPLICANT:** *Raymond Owens*  
Parcel Number: 8-6-2-1F

---

Pursuant to Resolution No. R 2015-10, the Land Use Administrator has received an application for Compliance Review of Previously Divided Property ("Compliance Review Application") from Ryamond Owens, for a parcel that was subdivided in 1989. Pursuant to the Resolution, ***no fee was collected*** for consideration of this application, and there has been no review by the County Engineer/Surveyor. The following was considered and determined relating to subdivision compliance, as required by the Resolution:

1. Whether the County considers the real property that is the subject of this application to be illegally or improperly subdivided:
2. FINDING: YES, the real property is considered to be illegally/improperly subdivided.
3. At the time this subdivision of property occurred, the following were the ***substantive requirements of Utah State Code*** to subdivide real property:
  - a. Utah State Code 17-27-806-Exemptions from plat requirement. ( See Attached)
  - b. FINDING: Upon review, the Land Use Administrator has found that the Applicant was compliant with Utah State Code substantive requirements at the time of the subdivision. Except a record of survey was not filed, and they did not go through the Planning Commission.
4. At the time this subdivision of real property occurred, the following were the ***substantive requirements of the Kane County Ordinance*** to subdivide real property:
  - a. See Attached
  - b. FINDING: Upon review, the Land Use Administrator has found that the Applicant was compliant with County Ordinance substantive requirements at the time of the subdivision. A record of survey has not been filed and the Planning Commission needs to recommend approval for the parcel to be compliant.
5. At the time this subdivision of property occurred, the following was ***procedurally required by Utah State Code*** to subdivide real property:
  - a. See attached Utah State Code.
  - b. FINDING: Upon review, the Land Use Administrator has found that the Applicant was compliant with Utah State Code substantive requirements at the time of the subdivision. The original developer never filed a record of survey/plat and did not go through the Planning Commission/Commission. The applicant is coming before the Planning Commission to receive proper status for the 10 acre, AG split; which in 1989 required

the Planning Commission's approval for recommendation to be in compliance with the 1989 requirements under the exemption to the plat.

### **1982 Subdivision Ordinance Definitions**

*(c) If a person desires to divide the land into parcels smaller than the acreage indicated and wants to sell more than two lots he **SHALL** come to the Planning Commission and County Commission for them to indicate whether or not the land is still to be considered as agriculture.*

6. At the time this subdivision of property occurred, the following was ***procedurally required by County Ordinance:***
  - a. *[See attached County Code]*

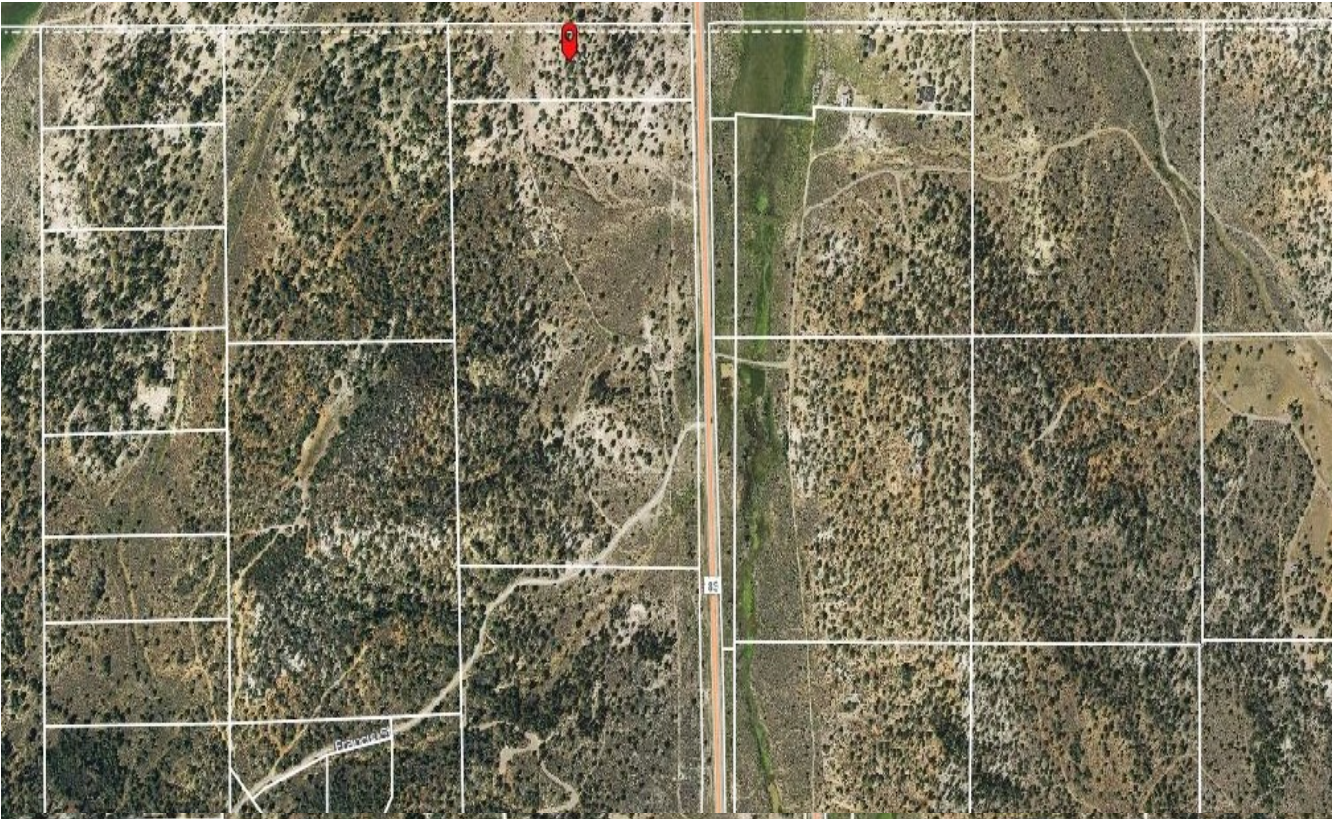
"If all substantive requirements were met but not all procedural requirements were met at the time of the illegal division of land the Land Use Administrator shall present the application to the Planning Commission/Land Use Authority for review and approval. All of the land included in an application that has been approved by the Planning Commission/Land Use Authority shall be considered legally divided as of the time of the division."

FURTHER FINDINGS: No minutes were found. The owner of the property now was not the original owner or developer. The current owner bought the property on September 02, 2020.

RECOMMENDATION: Based on staff's review and analysis, and review from the Kane County Deputy Attorney, it is recommended that the Kane County Planning Commission approve the Compliance Review Application, adopting the findings contained in this Staff Report, and authorizing the Chair and Land Use Administrator to execute any documentation to that affect.

**MOTION:** I \_\_\_\_\_ recommend approval of the Compliance Review Application, adopting the findings contained in this Staff Report, and authorizing the Chair and Land Use Administrator to execute any documentation to that affect.







# 1982 KC Subdivision

1982 Subdivision Ordinance and Zoning Ordinance	Definitions Ordinance
Agriculture	<p>Land shall be deemed to be in agricultural use when devoted to the raising of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals, poultry, livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all of such animals; bees, fur animals, trees, fruits of all kinds, including grapes, nuts and berries; vegetables, nursery, floral and ornamental stock; or when devoted to and meeting the requirements and qualifications for payment for other compensation pursuant to a cropland retirement program under an agreement with an agency of the state or federal government, and satisfies each of the following conditions: (a) Parcels of (10) acres.</p> <p>(b) <b>The purpose of the use shall be for agriculture</b>, not for investment building development, recreational use, livestock feed yard, or other agricultural industry or business..</p> <p>(c) <b>If a person desired to divide the land into parcels smaller than the acreage indicated and wants to sell more than two lots he SHALL come to the Planning Commission and County Commission for them to indicate whether or not the land is still to be considered as agriculture.</b></p>
Lot	A parcel or unit of land described by metes and bounds and held or intended to be held in separate lease or ownership, or shown as a lot or parcel on a recorded subdivision map, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract into two (2) or more smaller units.
Parcel of Land	No definition (Subdivision Ordinance)- Page 3 Contiguous land owned by and recorded as the property of a person Land in one ownership but physically divided by a public highway , road or street is considered contiguous under this definition.
Subdivision	The division of any tract, lot or parcel of land into three (3) or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future of sale, lease or of building development, provided that the term "subdivision" shall not apply to those divisions accepted or exempted in the Ordinance. The word "subdivide" and any other derivative thereof shall have reference to the word "subdivision" as herein defined
Sub divider	Any person, developer, firm, corporation, partnership or associate who cause land to be divided into a subdivision for himself or others.
Exceptions to Ordinance	Where unusual topographic or other exceptional conditions exist, the Kane County Commission may vary the requirements of this ordinance after receiving the recommendations of the Planning Commission, provided that such variations will not substantially impair the intent of this ordinance.



all plans and plats of land laid out in subdivision or building lots, and the streets, highways, alleys or other portions of the same intended to be dedicated to public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, located within the county limits, except those located within any city or town within the said counties, shall be submitted to the county planning commission, if one has been created, and approved by such commission before they shall be recorded. It shall not be lawful to record any such plan or plat in the office of the county recorder unless the same shall bear thereon by endorsement or otherwise the approval of such commission. The approval of such plan or plat by such commission shall not be deemed an acceptance of the proposed dedication by the public. Such acceptance, if any, shall be given by action of the board of county commissioners. The owners and purchasers of such lots shall be conclusively presumed to have notice of public plans, maps, and reports of such commission affecting such property within its jurisdiction.

From and after the time when a county planning commission has been appointed no land located within a subdivision as defined in this act shall be sold until and unless a subdivision plat shall have been approved by the planning commission and recorded in the office of the county recorder, except that in subdivisions of less than ten lots, land may be sold by metes and bounds, without necessity of recording a plat if all of the following conditions are met: (a) The subdivision layout shall have been first approved in writing by the county planning commission, (b) the subdivision is not traversed by the mapped lines of a proposed street as shown on the official map or maps of the county, and does not require the dedication of any land for street or other public purposes, and (c) if the subdivision is located in a zoned area, each lot in the subdivision meets the frontage, width and area requirements of the zoning ordinance or has been granted a variance from such requirements by the board of adjustment.

Whoever, being the owner or agent of the owner of any land located within a subdivision in a county where a county planning commission has been created, transfers or sells any land in such subdivision before a plan or plat of such subdivision has been approved by such planning commission and, except as set forth in the preceding paragraph, recorded in the office of the county recorder, shall be guilty of a violation of this chapter for each lot or parcel so transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. 1983

#### 17-27-22. Maximum regulation to govern.

Wherever the regulations made under authority of this act require a greater width of size of yards, court, or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute, the provisions of the regulations made under authority of this act shall govern. Wherever the provisions of any other statute require a greater width or size of yards, courts, or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this act, the provisions of such statute shall govern. 1983

#### 17-27-23. Violation of chapter or ordinance as misdemeanor — Remedies of county and owners of real estate.

Violation of Chapter 27, Title 17, or of any adopted county zoning, subdivision, or official map ordinance is punishable as a class C misdemeanor. The board of county commissioners, the county attorney, or any owner of real estate within the county in which such a violation occurs, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act. 1983

#### 17-27-24. Repealed.

1977

#### 17-27-25. Enforcement — Acceptance of grants.

The board of county commissioners is empowered to enforce the zoning regulations and restrictions which are adopted, and to accept grants of money and service for these purposes, and other purposes, in accordance with the act, from either private or public sources, state or federal. 1983

#### 17-27-26. Conformity with plan — Exceptions.

None of the provisions of this act shall apply to any existing building, structure, plant or other equipment, except as provided in Section 17-27-18. After the adoption of a plan, all extensions, betterments or additions to buildings, structures, plants or other equipment of a public utility shall be made in conformity with such plan, unless, after public hearing, the public service commission of the state or its successor commission, finds that the plan in relation to the extensions, betterments or additions is arbitrary and capricious and orders that such extensions, betterments or additions be made even though they conflict with the adopted plan. 1983

#### 17-27-27. "Unincorporated" and "subdivision" defined.

For the purposes of this act, "unincorporated" means situated outside of cities and towns, so that when used in connection with "territory," "areas," or the like, it covers, includes and relates to territory or areas which are not within the boundary of any city or town. "Subdivision" means the division of a tract, or lot or parcel of land into three or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future of sale or of building development; provided, that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes or of commercial, manufacturing or industrial land for commercial, manufacturing or industrial purposes. Nor shall this definition apply to the sale or conveyance of any parcel of land which may be shown as one of the lots of a subdivision of which a plat has theretofore been recorded in the office of the county recorder. 1983

## CHAPTER 28

### FIREMEN'S CIVIL SERVICE COMMISSION

#### Section

- 17-28-1. Creation and composition of commission—Appointment of members—Terms of office.
- 17-28-2. Vacancies — Qualifications of members — Compensation and expenses — Removal from office.



# KANE COUNTY LAND USE AUTHORITY

Shannon McBride  
LAND USE AUTHORITY  
ADMINISTRATOR

## **DRAFT Staff Report**

**DATE:** March 22, 2023

---

**To:** Planning Commission  
**From:** Shannon McBride, Land Use Administrator  
**Subject:** Project # 23017: Zone Change Application, AG-FAA to AG, Ordinance O-2023-14  
parcel 258-5 consisting of a total of 11.27 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 March 20, 2023, Jeremy Hardman, submitted a zone change application, for parcel 258-5 located off of Highway 89, in the Oak Ridge Estates, A Rural Unimproved Subdivision, zoned AG-FAA.

**LEGAL DESCRIPTION:** All of parcel 258-5, consisting of 11.27 acres.

### **FACTS & FINDINGS:**

- Parcel 258-5 meets the requirements to be zoned AG. The parcel is currently zoned AG-FAA.
- The property was purchased in September 2022. The facts were relayed to the new property owners of the area being zoned AG-FAA with limited uses.
- In November 2022, Mr. Hardman applied for a CUP to rent both structures out as a VRBO.
- The Land Use Administrator specifically made the new property owners aware of the Rural Unimproved Subdivision limitations during the due diligence period.
- The applicant requests the parcel be zoned AG which requires a zone change.
- Surrounding parcels are zoned AG-FAA and AG. Camp Lutherwood is located near the property and is a grandfathered use permitted back in the 70's, as a church camp.
- 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 and Lutherwood 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
- **9-21K-3:** Is located in a zoned area; upon completion and approval of application, land will then comply with FAA agricultural land use and will be zoned AG-FAA. The AG-FAA zoning must remain in place for a minimum of five (5) years from the time of the split.
- This Rural Unimproved Subdivision was split in 2015.
- The uses listed in 9-5A-3 will be allowed in an Agricultural zone.



- B. Residential And Agricultural Uses: All uses listed in the residential and agricultural uses table are allowed in the AG Zone with their appropriate designation of permitted or conditional unless otherwise changed in the commercial uses table.
- 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, Pg. 11 (3) Lands which do not contribute significantly to the agricultural base will be recognized as potential low density residential area. With regard to low density residential use, Kane County endeavors to provide for residential neighborhoods of a rural character which provide for a limited number of livestock. Ultimately, this rural residential attribute contributes to the benefit and enjoyment of the residents and provides a sustainable opportunity for households to continue agricultural pursuits for their families and community. Furthermore, it provides innumerable benefits for the community and the environment in the form of open space conservation and aesthetic enjoyment. In order to protect agricultural pursuits on unincorporated private land, Kane County has set a minimum of 10 acres for agricultural land or land splits subject to further ordinance or State law requirements as may be applicable.

**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 would allow minor commercial uses such as five additional camping sites if approved.

If the zone change amendment is adopted, the regulations of the new zone of AG can be found in the Kane County Land Use Ordinance, Chapter 5: Agricultural Zones.

**MOTION: I move to recommend denying/approving the zone change for parcel 258-5, from AG-FAA to AG & Ordinance O-2023-14 to the County Commission based on the facts and findings as documented in the staff report.**







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



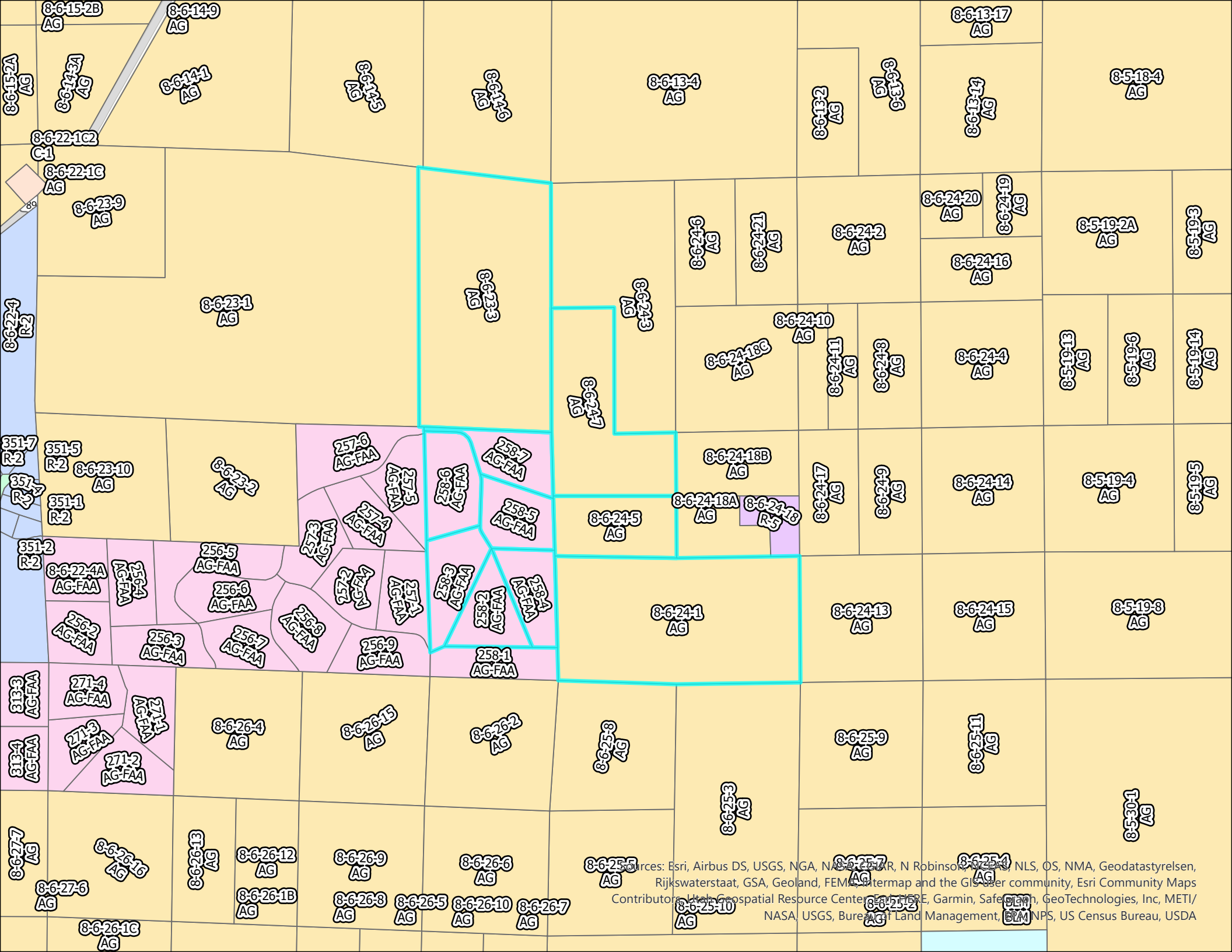


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Shannon McBride | Land Use Administrator | e-mail: [smcbride@kane.utah.gov](mailto:smcbride@kane.utah.gov)





**KANE COUNTY ORDINANCE NO. O 2023-14**

**AN ORDINANCE AMENDING THE ZONING OF PARCEL 258-5  
FROM AG-FAA TO AGRICUTLURAL**

**WHEREAS**, the Kane County Board of Commissioners finds that said zone change is in accordance with the Kane County Land Use Ordinance 9-21K-3, “Is located in a zoned area; upon completion and approval of application, land will then comply with FAA agricultural land use and will be zoned AG-FAA. The AG-FAA zoning must remain in place for a minimum of five (5) years from the time of the split”. The purpose of the Agricultural (AG) zone is, 9-5A-1 PURPOSE: To preserve appropriate areas for permanent and temporary agricultural and open space areas as defined herein. Uses normally and necessarily related to agriculture are permitted as set forth in the use matrix below and uses adverse to the continuance of agricultural activity are discouraged in general and specifically prohibited only as set forth herein. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

**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 258-5 in the Oak Ridge Estates Rural Unimproved Subdivision, from AG-FAA to Agricultural (AG);

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

**LEGAL DESCRIPTION:** All of parcel 258-5 in the Oak Ridge Estates Rural Unimproved Subdivision, 11.27 acres.

Is hereby rezoned from Agricultural FAA to Agricultural shall from here forth be zoned AG.

---- 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 \_\_\_\_\_



# KANE COUNTY LAND USE AUTHORITY

Shannon McBride  
LAND USE AUTHORITY  
ADMINISTRATOR

## Staff Report

DATE: March 22, 2023

---

**To:** Planning Commission  
**From:** Shannon McBride, Land Use Administrator  
**Subject:** Project # 23021: Zone Change Application, Residential 1 to AG, Ordinance O-2023-15  
Lot 119-34, consisting of a total of 4.80 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 March 21, 2023, Brooke Weaver, submitted a zone change application, for lot 119-34 located off of Highway 89, and Front Avenue, in the North Acres Subdivision Plat "A", from Residential 1 (R-1) to Commercial 1 (C-1).

**LEGAL DESCRIPTION:** All of lot 119-34, consisting of 4.80 acres.

### **FACTS & FINDINGS:**

- Lot 119-34 meets the requirements to be zoned C-1. The lot is currently zoned R-1.
- Surrounding lots are zoned C-1, R-1. The adjacent subdivision Church Wells has all C-1 abutting the Highway and front lots of the subdivision.
- Kane County Land Use Ordinance 9-1-2: It is Kane County policy is to refuse to participate in spot infrastructure improvements which benefit only a localized area yet burden the taxpayers at large.
- The lot would gain access from Highway 89 and Front Avenue.
- 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 zone is to provide for the sale of goods and the performance of services and other activities for which the market extends beyond the immediate area. (Ord. O-2022-42, 7-26-2022; amd. Ord. O-2022-60, 11-22-2022)
- Kane County General Plan, Vision Statement, page 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.

**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 would allow commercial uses if approved.

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 1 Zones.

**MOTION: I move to recommend denying/approving the zone change for lot 119-34, R-1 to C-1 & Ordinance O-2023-15 to the County Commission based on the facts and findings as documented in the staff report.**

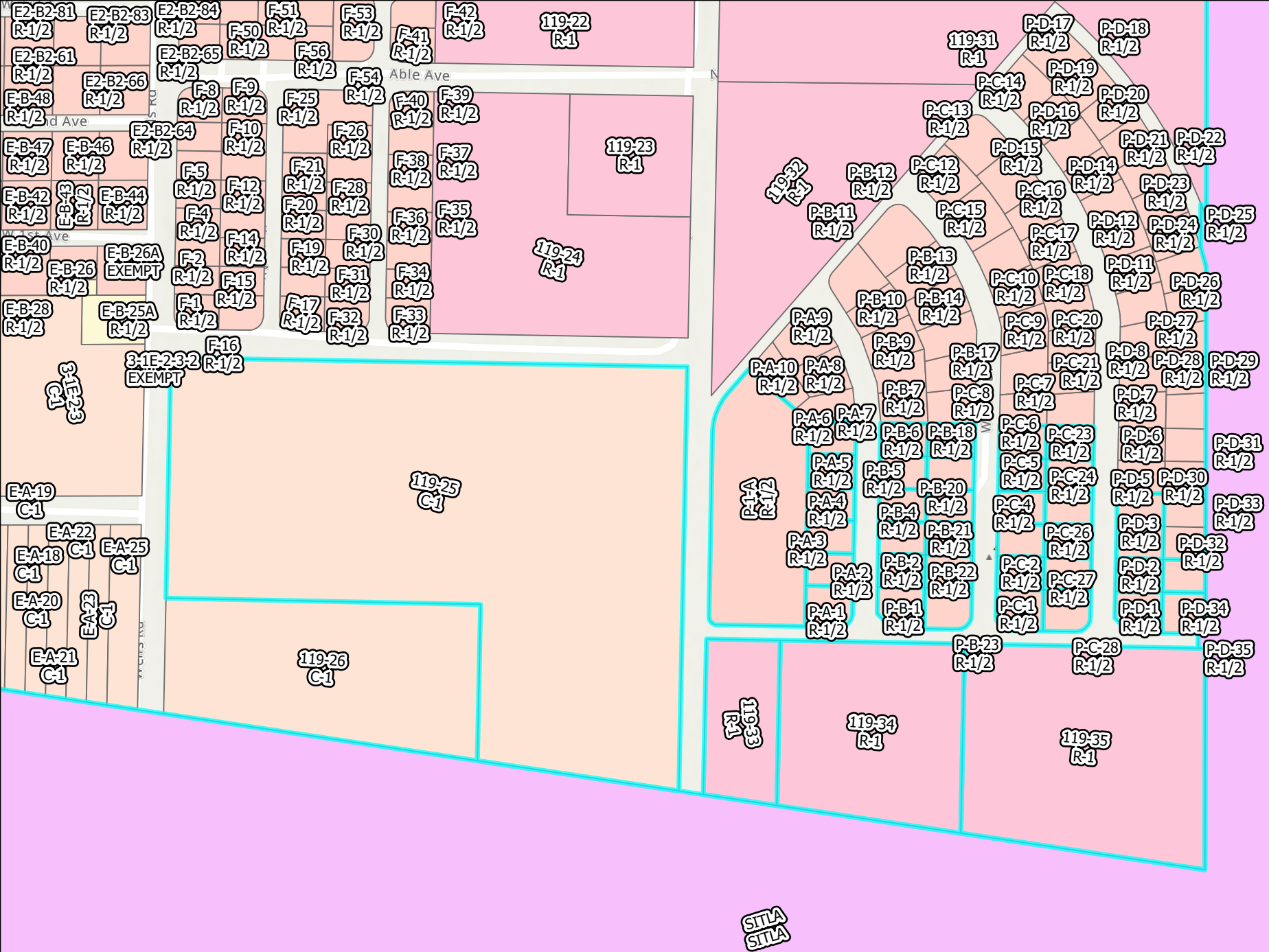






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Shannon McBride | Land Use Administrator | e-mail: [smcbride@kane.utah.gov](mailto:smcbride@kane.utah.gov)





SITLA

**KANE COUNTY ORDINANCE NO. O 2023-15**

**AN ORDINANCE AMENDING THE ZONING OF LOT 119-34  
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 zone is to provide for the sale of goods and the performance of services and other activities for which the market extends beyond the immediate area. (Ord. O-2022-42, 7-26-2022; amd. Ord. O-2022-60, 11-22-2022)

**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 lot 119-34, from Residential 1 to Commercial 1;

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

**LEGAL DESCRIPTION: ALL OF LOT 119-34 in the North Acres Subdivision Plat “A”, consisting of 4.80 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 \_\_\_\_\_

**KANE COUNTY ORDINANCE NO. O 2023-12**

**AN ORDINANCE AMENDING TITLE 9 CHAPTER 1, DEFINITIONS, CHAPTER 4 ZONES, CHAPTER 6 RESIDENTIAL ZONES AND CHAPTER 7 COMMERCIAL ZONES IN 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 1, Section 7, Definitions, Chapter 4, Section 4, (E) Rules for locating, Chapter 6, Residential Zones, Article B, Multi-residential Zone, Section 2, (G) Chapter 7, Article A, Section 2 ( B ) Light Commercial, Use Regulations and Article B Commercial 1 (C-1) Section 2 Use Regulations of the Kane County Land Use Ordinance; and

**WHEREAS**, the purpose of amending the above chapters is to clarify and add additional uses for multi-residential as conditional in the light commercial and commercial 1 zones and to allow more zones to accommodate housing shortages, and;

**WHEREAS**, the Kane County Planning Commission, after a duly noticed public hearing, recommended for the approval of the amendments as stated above 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, 201, and §17-53-501;

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

Chapters 1, 4, 6 and 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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9-1-7 EMPLOYEE HOUSING: A dwelling unit provided for employees by an employer which is ancillary and subservient to the primary activity on the property, includes accommodation for laborers, caretakers and supervisory staff, ~~provided that the employee housing is for the accommodation of one household only~~, of which at least one household member is employed on the property, is located on the same land unit on which the employment activity takes place, and may not be sold separately.

GLAMPING: Upscale camping in a semi-permanent structure placed on a permanent/semi-permanent foundation, to be no larger than seven hundred and seventy four (774) square feet, providing overnight sleeping accommodations with amenities and comforts not normally included in a campground, such as: beds, electricity, and access to indoor plumbing.

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9-4-4E: The Land Use Administrator may request an applicant, seeking a change in the rural areas of the county to provide proof of all required utilities by submitting feasibility letters. No zone change application will be processed or granted without meeting said utility requirements. Some areas of the county are not suitable for some zones due to scarcity of utilities, or lack of compatibility of the land for the requested zone. Feasibility letters for all utilities shall be submitted to, and approved by, the county prior to zone change approval, with all letters, applications, studies, plans, contract terms and conditions, acceptable to the county in its sole discretion.

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#### **9-6B-2: CONDITIONS:**

G. Uses permitted in this zone are restricted to the multi-residential zone, and the light commercial, and commercial 1 zones, unless otherwise stated. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013; amd. Ord. 2014-16, 8-25-2014; Ord. O-2022-18, 4-26-2022)

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#### **9-7A-2: USE REGULATIONS:**

Development of any parcel of land for any of the uses listed in this section, exceeding five thousand (5,000) square feet of total building floor area will require a different zone designation.

A. Permitted Uses: The following uses are permitted in the L-C zone:

Mobile food vendor

Multi-residential

#### **9-7B-2: Use Regulations:**

B. Multi-residential, Residential and Agricultural Uses: All uses listed in the multi-residential, 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:

Heli pad private.

Multi-residential

Private business and technical schools.



//

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 25th day of April, 2023.

ATTEST:

\_\_\_\_\_  
Chameill Lamb  
Kane County Clerk

\_\_\_\_\_  
Wade Heaton, Chair  
Board of Commissioners  
Kane County

Commissioner Heaton voted \_\_\_\_\_  
Commissioner Kubeja voted \_\_\_\_\_  
Commissioner Meyeres voted \_\_\_\_\_