



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
Kanab Center Board Room
20 N. 100 East, Kanab, UT
April 12, 2023

CHAIRMAN: Doug Heaton

MEMBERS PRESENT: Doug Heaton, Byard Kershaw, Gwen Brown, John Reese, Matt Cox,

MEMBERS ABSENT: Jeremy Chamberlain, Aaron Bonham

EX-OFFICIO MEMBER: Commissioner Wade Heaton

STAFF PRESENT Shannon McBride, Land Use Administrator; Wendy Allan, Assistant Planning & Zoning Administrator; Rob Van Dyke, Attorney;

6:00 PM Meeting called to order Doug Heaton
Invocation Doug Heaton
Pledge of Allegiance Byard Kershaw

GENERAL BUSINESS

1. Update on Commission Decisions

Commissioner Heaton reported that the Commission approved the Carter and the Zion Mountain Ranch zone changes. The SITLA ordinance was revised at the commission level to state that a zone will not be assigned during the recommendation stage. It was also changed to state that if someone purchases SITLA land they can apply for a zone prior to it transferring to private ownership. If they do not apply for a zone change prior to purchasing the land it will be assigned Agricultural zoning when transferred to private ownership.

Commissioner Heaton noted that the recent legislative session focused on water, the housing issue and protecting AG uses. A bill was passed that will fund conservation easements to keep land in AG use. The county rollback taxes will be set aside to establish a fund for these conservation easements.

Wendy reported that in the last 3 years, 3785.63 acres have been taken out of Agricultural zoning with 2258.68 acres going into commercial development and 1526.94 acres being changed to residential zoning.

2. Approval of minutes March 8, 2023

MOTION: Matt Cox made a motion to **approve** the March 8, 2023 minutes. John Reese seconded the motion.

VOTE: The **motion passed** unanimously.

3. Public Meeting – Conditional Use Permit: DW Towers 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.

Reg Destree, representing DW Tower LLC, is proposing a 150' self-supporting tower that will provide space for multiple cell phone companies. Verizon will be the first tenant and they anticipate that T-Mobile will join them in the future. The site is on a high point, south of Highway 89, approximately 15 miles east of Kanab. There is good access to the 20 acre parcel. There are currently 2 homes in the area. There is power and fiber in the area.

Shannon indicated that everything is in order and that the county engineer has signed off on the project. She recommends approval.

MOTION: John Reese made a motion to **approve** 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. Seconded by Matt Cox.

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

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

4. Public Meeting - Conditional Use Permit: Shay & Megan Hunt An application for a conditional use permit for a conditional use permit for a gym/fitness center, located on lot 6-76 in the Vermilion Cliffs Estates subdivision. Submitted by Shay & Megan Hunt.

Megan Hunt explained that they would like to put in a 24 hour gym/fitness center to service the citizens east of town.

Shannon noted that she is waiting for a letter from the health department. All conditions have been mitigated and she recommends approval.

Matt asked about the existing septic system. Megan said that the current septic system was designed for a second building, however, the use of the second building has changed. Daniel Cole with Southwest Public Health is reviewing the current system to see if a second leach field will be sufficient. The septic area is fenced off to prevent parking on it. Shannon explained that the septic concerns will be addressed at the time of building.

MOTION: Byard Kershaw made a motion to **approve** the Conditional Use Permit on lot 6-76 zoned Commercial 1 for a gym/fitness center. Gwen Brown seconded the motion.

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

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.

5. Public Meeting - Conditional Use Permit: Ponderosa Ranch Limited

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.

Chris Heaton, Iron Rock Group, representing Ponderosa Ranch Limited, explained that they already have some camping, tiny cabins and RV spots in the area and they are wanting to add more RV spots. Zion Ponderosa will provide the water and sewer.

Shannon stated that she and Chris have worked together for the last few weeks to make sure everything is in order.

MOTION: Matt Cox made a motion to **approve** the conditional use permit for Julie Millard, Zion Ponderosa, LLC, RV Park with no more than 30 recreational vehicle sites on parcel 1-9-5-3A. Byard Kershaw seconded the motion.

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

FINDINGS: The use for an R.V. park is in compliance 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.

6. Public Meeting – Compliance Review: Owens

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

Shannon explained that are hundreds of illegally split parcels in the county. This is one of several processes in place to help land owners legalize their property. Shannon researches what the code

requirements were at the time the property was split and then determines what part of the process still needs to be completed. This parcel needs to come before the planning commission for approval for it to become legal.

MOTION: Gwen Brown made a motion **to approve** the compliance review application, adopting the findings contained in the staff report and authorizing the Chair and Land Use Administrator to execute any documentation to that affect. John Reese seconded the motion.

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

7. Public Meeting – 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.**

Chris Heaton, Iron Rock Group, explained that the owner would like to split the 40 acre parcel into two 20 acre parcels. The split follows the cliff line. Chris mentioned that it took a year to get a feasibility letter from the health department because they had to go through a water rights change application with the state.

Shannon noted that they have secured the necessary easements. She stated that the engineers have reviewed this and everything is in order.

MOTION: Gwen Brown made a motion to **recommend** approving the Hansen Rural Unimproved Split (RUS) on behalf of Bruce Hansen, Noel S. Hansen and Joan Ann Hobbs, parcel 3-4-32-1F becoming new parcels 1 & 2 to the Kane County Commissioners, based on the findings in the staff report. Byard Kershaw seconded the motion.

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

FINDINGS: The application for a Rural Unimproved Split (RUS) complies with Utah State Code unannotated §17-27a-605 (1), (ab)-(i)-(iv). The Hansen RUS complies with Kane County Land Use Ordinance, Title 9, Chapter 21, Article K, 1-3. All requirements for rights-of-way and existing easements conform to the standards in the Kane County Land Use Ordinance at the time of the application for the RUS process. Notices are in conformance to all standards and notice requirements of §17-27a-202. A notice was posted on two public notice boards at the Kane County courthouse, on the Utah State web site, and the Kane County website. This RUS contains 2 new parcels. The two new parcels will be zoned AG-FAA. The surrounding parcels are zoned AG.

8. Public Hearing – Zone Change/Ordinance 2023-14: Hardman

**An application for a zone change from Agricultural FAA (AG-FAA) to Agricultural (AG), parcel 258-8, consisting of 11.27 acres, located east of Highway 89 near Tod's Junction.
Submitted by Jeremy Hardman.**

Jeremy Hardman stated that he purchased the property in 2022. He is currently renting out two vacation rentals on this property. He stated that there are 5 cabins in the area and only one of

these cabins is owner occupied. The rest are vacation rentals. He worked with 3 of the vacation rental owners to maintain the road during the winter. He feels that he is helping achieve the county's goals in the general plan of diversifying from tourism, expanding hospitality properties and providing for long term work. He requested to remove the FAA zoning restriction to allow them to store snow removal equipment and add 5 camp/glamp sites to his property.

Shannon explained that the rural unimproved subdivision split was created to allow families to split off land for family members. She stressed that these parcels do not have infrastructure in place. She informed the P&Z that Jeremy was informed prior to purchase that this property was in a rural unimproved subdivision that did not allow for commercial uses. She noted that Camp Lutherwood, located behind Jeremy's property, was created in the 60's or 70's and is grandfathered in.

Shannon clarified that farm equipment is allowed to be stored in the AG-FAA zone, however, construction equipment is not allowed.

Jeremy acknowledged that he was aware of the zoning restrictions when he bought the property.

MOTION: John Reese made a motion to go in and out of public hearing at the call of the chair. Matt Cox seconded the motion.

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

Chairman Heaton called the commission into public hearing.

Marcia Barton-She owns the property next to Jeremy Hardman. She is adamantly against the rezoning request. Her family moved to this area, because of the zoning, to find peace. Noise and stress cause her daughter to have seizures. Her son in law suffers from anxiety and depression and has heart issues. Her granddaughter has PTSD. They bought in this area to find peace. The rental cabins in the area are not disruptive.

Rocky Halloday-Her daughter has PTSD. She currently feels safe where she lives. They feel that a campground in the area will threaten their safety. Jeremy told them he can do whatever he wants to do and no one can stop him. She does not want a campground and the people it brings next to her. She questioned who would be responsible during the night. She feels that her safety is being taken away.

Heber Steed- He cleans and manages Jeremy's rentals. He stated that Jeremy is not out to hurt anyone. He supports this request.

Chairman Heaton called the commission out of public hearing

Jeremy indicated that it will take some time before the campground will be established. He does not believe that it would significantly increase traffic. He stated that this will not affect the neighbors and will still maintain a rural feel. He said that the terrain will help hide the camp

sights and help with noise suppression. Doug noted that a campground requires an onsite manager.

MOTION: Gwen Brown made a motion to **recommend denying** 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. Seconded by John Reese.

Gwen stated that this is not the place for a campground. She said that even though this area is zoned AG-FAA it is more like a residential area. John reminded the P&Z that the owner was aware of the zoning when he purchased the property.

Jeremy indicated that 4 out of the 5 cabins are vacation rentals. Gwen stressed that a single rental is much different than a campground.

VOTE: Gwen Brown, John Reese and Matt Cox voted aye. Byard Kershaw voted nay. The motion to **recommend denial passed**.

FACTS & FINDINGS:

- Lot 258-5 meets the requirements to be zoned AG. The lot 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 limitation during the due diligence period.
- The applicant requests the lot 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 lot would gain access from Highway 89 and Lutherwood Road.
- All property owners within 500 ft. of this lot 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.

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

An application for a zone change from Residential 1 (R-1) to Commercial 1 (C-1), lot 19-34, consisting of 4.80 acres, located on Front Avenue, north of Highway 89, in the North Acres Subdivision. Submitted by Brooke Weaver.

Brooke Weaver explained that she runs the Amangiri horse rides and is looking for a place to base her business. She plans to fence the property and put her horses there. There is currently no water to the area so she will haul water to her horses.

Shannon showed the zoning in the area noting that the majority of the properties along the front of the subdivisions are zoned C-1. She stated that there are no houses in the North Acres Subdivision.

Chairman Heaton called the commission into public hearing.

Dennis Barnes-He owns property in Church Wells. He acknowledged that the Weavers take good care of their property. He stated that his daughter lives near their property. He read a letter from his daughter (previously sent to the commissioners).

Chairman Heaton called the commission out of public hearing

Brooke clarified that she would be housing 10-12 horses on the property at a time.

MOTION: John Reese made a motion to **recommend 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. Matt Cox seconded the motion.

John noted that this property is along the highway and there are no homes in the area.

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

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 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.

10. Public Hearing – 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 Chapter 6 & 7; allowing multi residential uses in the Commercial zones.

Shannon reviewed the suggested changes with the P&Z.

Chairman Heaton called the commission into public hearing.

(No Comments)

Chairman Heaton called the commission out of public hearing.

MOTION: John Reese made a motion to **recommend approval** of Kane County Land Use Ordinance 2023-12 to the County Commission. Byard Kershaw seconded the motion.

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

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

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

Shannon recommend this be postponed.

MOTION: Matt Cox made a motion to postpone this item to next month. Byard Kershaw seconded the motion.

VOTE: The vote was **unanimous to approve postponing.**

John Reese made a motion to adjourn. Matt Cox seconded the motion.
Meeting was adjourned at 7:34 p.m.

Land Use Authority Chair
Doug Heaton

Administrative Assistant
Wendy Allan