



Special Meeting MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
76 North Main Street, Kanab
October 26, 2015

VICE CHAIRMAN: Wade Heaton

MEMBERS PRESENT: Dale Clarkson, Byard Kershaw, Robert Houston, Wade Heaton

MEMBERS ABSENT: Hal Hamblin, Que Johnson, Tony Chelewski

STAFF PRESENT: Shannon McBride, Land Use Administrator; Mary Reynolds, Assistant Administrative; Rob Van Dyke, County Attorney

1:00 PM Meeting called to order by Wade Heaton

Meeting called to order by Wade Heaton

Administrative

(1) Compliance Review of Previously Divided Property

John C. Stimson and Pearl L. Stimson 1971 Trust, parcel #3-5-34-1A

Shannon McBride: The recommendations are on my staff report and the ordinance that applies is in your file. We did not find any minutes so this is a procedural defect only. The Record of Survey has been filed at this point. The Compliance Review is in order. The statute that applies is on the report. The last step for this application is to go in front of you – Planning & Zoning Commission.

Robert Houston: Where is it located?

Wade Heaton: It is east of town. Most of them [Compliance Reviews] are out there.

Shannon McBride: This is time sensitive; Dirk [Clayson] has a contract on this one.

Wade Heaton: Was this originally filed?

Shannon McBride: No; Lanny Talbot had the Record of Survey and they [the surveys] are being filed now. We have no liability.

Rob Van Dyke: The fact he didn't file [the Record of Survey] is not what holds this up; [not filing the ROS] is an issue his license is at stake for. There is some concern of fraud, but we are taking the stance that unless we have evidence to the contrary, we will accept what the applicant says on their application. Shannon's instruction is to do this [from the County Commissioners].

Wade Heaton: This is to clean this up [the improper splits?]

Shannon McBride: Yes; I recommend approval. It doesn't have to go to the County Commission.

Byard Kershaw: These are the same as the previous compliance reviews?

Shannon McBride: Exactly the same; the staff reports were revised only.

Wade asked about parcel size and Shannon told him it was 9.9 acres, which the ordinance allows for. Robert Houston voiced his concern about having public access to the properties. Shannon explained that people were already living on the parcels so access had been established. Robert continued his concern about whether the access was legal, or that the county was just allowing whatever agreement was in place between owners. Shannon said it wasn't in the Kane County ordinance to require [legal access]. Wade Heaton added that Utah was a buyer-beware state.

The discussion continued on rights-of-way on public lands. Shannon told them about a person (Ken Hardison) who obtained public access from BLM on his own. Robert's concern was establishing a legal right-of-way for people to get to their land. He felt they should be required to have legal access when they originally buy it. He didn't want the problem to return 20 years down the road. Shannon agreed, but [these] people already had the use of access. Wade Heaton added there are rules of [a proper] division, so [property owners] must comply with it. It's still up to the buyer to pull title reports, etc. Robert said he was concerned that the owner will argue the county should have made sure their access was legal.

The discussion continued on whether or how to let the land owner know if they have legal access or not. Shannon said it's safer to buy into a subdivision and not just a parcel of land so she cautions callers they should do their research before purchasing any land. Robert is concerned we are compounding the problem. There are some ordinances in place to make sure divisions of property are continued legally – such as a rural unimproved subdivision. The County Commissioners think it's a bigger liability to not have this compliance review. The P&Z is actually at the end of a problem created 20 years ago, and is only fixing part of the problem. No fee is attached here; it is 100% public service.

There were some additional questions regarding the easements on the plat, but Land Use doesn't have to look at that. The easements on the plat are for both roads and utilities; one can't tell how far the easements go. Wade said this [overall] discussion is better spent at another time. This compliance review is being held to the old standard, not the new one.

Motion was made by Dale Clarkson to approve the application for a Compliance Review of Previously Divided Property for **John C. Stimson and Pearl L. Stimson 1971 Trust, parcel #3-5-34-1A according to recommendations of staff review**. Motion was seconded by Robert Houston. The Chair asked if there were comments or questions. The Chair called for the question; and the motion passed unanimously.

Administrative **(1) Compliance Review of previously Divided Property**
Charles Lybarger, parcel #3-5-34-1A2

There was no specific discussion because the earlier discussion applied to both applications.

Motion was made by Dale Clarkson to approve the application for Compliance Review of Previously Divided property for **Charles Lybarger, parcel #3-5-34-1A2, in accordance with the staff report**. Motion was seconded by Robert Houston.

Robert Houston: Are we not fixing the [other] parcels surrounding the plat?

Shannon McBride: No; that's a discussion that has to be completed with the attorney. We need a signed application [even though] Commissioner Clayson wants it as a blanket approval.

Rob Van Dyke: It is an administrative action; therefore you can't change it for other people. If it's a legislative action, you don't need an owner's consent. However, Shannon will try to contact some of the people adjacent to properties [as these applications come in].

Shannon McBride: Some owner's are OK with how their land is. Some are not required to go through this process. Lou [Pratt, GIS Director] fixes it on the GIS mapping after the Compliance Reviews are approved so it will show up on the Wolfe mapping system.

The Chair asked if there were comments or questions. The Chair called for the question; and the motion passed unanimously.

Motion was made by Byard Kershaw to adjourn the meeting. The motion was seconded by Dale Clarkson.

Meeting was adjourned at: 1:40 pm

Land Use Authority Vice Chairman,
Wade Heaton

Land Use Administrative Assistant,
Mary Reynolds