

# STAFF REPORT

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**DATE:** 03/28/2017

**TO:** Kane County Planning Commission

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

**RE:** Compliance Review of Previously Divided Property  
**APPLICANT:** *Little Land LLC*  
Parent Parcel Number: 3-5-24-3 split off parcels 3-2-24-(B) (C) (D) & (E)

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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 Little Land LLC, for a parcel that was subdivided on or about 12/131/1998. 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. The Little's did not go through the Planning Commission for a recommendation.
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. The Planning Commission needs to recommend approval for the parcels 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 applicant has filled out a compliance application for a recommendation from the Planning Commission and is now asking for the Planning Commission's approval for recommendation to be in compliance with the 1998 requirements under Exemption from the plat requirement.

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 for the Planning Commission recommending approval in 1998.

RECOMMENDATION: Based on staff’s review and analysis, 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.



## Land Use Authority

180 West 300 North, Kanab, Utah 84741  
(435) 644-4966 or (435) 644-4951 Fax (435) 644-4963  
Email [planning@kane.utah.gov](mailto:planning@kane.utah.gov)

### **PROCEDURE FOR** **"COMPLIANCE REVIEW OF PREVIOUSLY DIVIDED PROPERTY"**

The following is the procedure to submit an application and obtain approval for a "Compliance Review of Previously Divided Property." (Kane County Resolution, No. R 2015-10). The general purpose of this application process is to provide an official determination of the status of any divided property, to establish whether it was divided in compliance with state and local law or not at the time of the division. For property that was divided illegally, this process will help the applicant understand their options and limitations for moving forward and may provide a fast track approval to correct any procedural deficiencies. In general, this application should not be used if the property was divided after January 1, 2005 or if there was no survey completed prior to the division.

1. If it has not been recorded already, obtain the Record of Survey Map created at the time of the division of land. The Record of Survey Map must have been completed by a licensed surveyor and must comply with Kane County Land Use Ordinance 9-21K-2.
2. If the divided land has a water and/or sewer system, or plans for a water and/or sewer system, obtain a letter of approval from the Culinary Water Authority and/or Sanitary Sewer Authority.
3. Sign and notarize the "Agreement of Understanding" (attached)
4. Submit an application (attached) to the Land Use Administrator with the following documentation:
  - a. Signed "Agreement of Understanding"
5. After submitting the completed application the Land Use Administrator will conduct a review of the application. You will be notified of any problems with the application.
6. The Land Use Administrator will make one of the following determinations. 1) The land contained in the application was divided legally at the time and is currently in compliance with state and local subdivision regulations. 2) The land contained in the application was divided illegally due to substantive requirements of the law. 3) The land contained in the application was divided illegally due to procedural requirements of the law only.

Under No. 1, the Land Use Administrator issues a letter indicating that the land is in compliance. Under No.'s 2 and 3, the Land Use Administrator will issue a letter indicating that the land was divided illegally and set forth the potential processes for coming into compliance under current law. The application will then go to the Land Use Authority (Planning Commission) for final review and procedural approval.

7. Applications must be submitted no later than 10 days in advance of the next regularly scheduled Planning Commission meeting (Land Use Authority) to be considered at that meeting. If the application is heard by the Land Use Authority it is highly recommended that the applicant or their authorized agent be present at the Land Use Authority meeting. Telephonic appearance is acceptable if prior arrangements are made.
8. After hearing the recommendation of the Land Use Administrator, the Land Use Authority will approve or deny the application. Approved applications and letter issued by the Land Use Administrator indicating that the divided land is compliant with subdivision requirements may be recorded.

**"COMPLIANCE REVIEW OF PREVIOUSLY DIVIDED PROPERTY" APPLICATION**

Owner/Applicant LittleLand LLC Date 3/14/17  
Phone \_\_\_\_\_ E-Mail l.little@kanab.com  
Address 635 So. 175E. Fax: \_\_\_\_\_  
City Kanab State Ut. Zip 84741

Registered Engineer or Surveyor \_\_\_\_\_  
Address \_\_\_\_\_ Fax \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone \_\_\_\_\_ E-Mail \_\_\_\_\_

Name of Subdivision, if any: \_\_\_\_\_

Location and Legal Description of Divided Land:  
3-5-24-3 - (B)(C)(E)  
Johnson Canyon

Number of Lots 4 Minimum Lot Size 10 acres

Date land was divided 1998

**Attached Documents:**

Record of Survey Map: Y N Agreement of Understanding: Y N  
Culinary Water Authority Approval: Y N/A\* Sanitary Sewer Authority Approval: Y N/A\*

(\*Must show documentation that no system exists or is planned)

Additional Comments:  
\_\_\_\_\_  
\_\_\_\_\_

I HEREBY CERTIFY THE ABOVE INFORMATION TO BE TRUE AND ACCURATE

Signature: \_\_\_\_\_

**Office Use Only:**

**Land Use Administrator Action:**

Existing Zone AG

Water/Sewer Compliance: Y N

Status of Divided Land:  Compliant  Substantive

Record of Survey Map: Approved Denied

**Land Use Authority Action:**

Approved Denied LUA Chairman \_\_\_\_\_ Date: \_\_\_\_\_

General Plan Compliance: Y N

Current Subdivision Reg. Compliance: Y N

Non-Compliance  Procedural Defect Only

Easements: Approved Denied N/A



**Certificate of Written Approval**

On \_\_\_\_\_ 20\_\_, the Kane County Land Use Authority voted to approve the division of land as set forth herein. Under Utah Code 17-27A-605 the following described land meets the requirements to be exempt from a plat. Furthermore, at the time of the division of the land it was in compliance with County Ordinances. As of the date signed below, the land contained herein is in compliance with State and County laws and ordinances regarding the subdivision of land. Any document previously recorded or recorded here with that effectuates the division of land as described herein is legal as of the date that this document is recorded.

Owner(s) of the Property: L.H. Heaton LLC  
Parcel ID: 35-243 (B)(C)(D)(E)  
Legal Description of Property: Johnson Canyon

STATE OF UTAH     )  
                              :SS  
COUNTY OF KANE )

I, Tony Chelewski or Wade Heaton the Chair or Vice Chair of the Kane County Land Use Authority, hereby certify that the property contained herein has applied for subdivision and has been approved by the Land Use Authority.

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_  
Tony Chelewski, Chair or Wade Heaton, Vice Chair  
Kane County Land Use Authority

SUBSCRIBED AND SWORN TO before me on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC



**17-27-803. Amendments to subdivision ordinance.**

(1) The legislative body may amend the provisions of the subdivision ordinance if the proposed amendment was proposed by or submitted to the planning commission for its approval, disapproval, or suggestions.

(2) The legislative body and the planning commission shall comply with the procedures contained in Section 17-27-802 in adopting an amendment to the subdivision ordinance. 1991

**17-27-804. Plats required.**

(1) Unless exempt under Section 17-27-806 or not included in the definition of a subdivision under Subsection 17-27-103(1), whenever any lands are divided, the owner of those lands shall have an accurate plat made of them that sets forth and describes:

(a) all the parcels of ground divided, by their boundaries, course, and extent, and whether they are intended for streets or other public uses, together with any areas that are reserved for public purposes; and

(b) all blocks and lots intended for sale, by numbers, and their precise length and width.

(2) (a) The owner of the land shall acknowledge the plat before an officer authorized by law to take the acknowledgement of conveyances of real estate.

(b) The surveyor making the plat shall certify it.

(c) The county legislative body shall approve the plat as provided in this part. Before the legislative body may approve a map or plat, the owner of the land shall provide the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(3) After the plat has been acknowledged, certified, and approved, the owner of the land shall file and record it in the county recorder's office in the county in which the lands platted and divided are situated. 1999

**17-27-805. Subdivision approval procedure.**

A person may not submit a plat of a subdivision to the county recorder's office for filing or recording unless a recommendation has been received from the planning commission and:

(1) the plat has been approved by:

(a) the legislative body; or

(b) other officers that the legislative body designates in an ordinance; and

(2) the approvals are entered in writing on the plat by the chief executive officer or chairperson of the legislative body or by the other officers designated in the ordinance. 1997

**17-27-806. Exemptions from plat requirement.**

In subdivisions of less than ten lots, land may be sold by metes and bounds, without the necessity of recording a plat if:

(1) a recommendation has been received from the planning commission;

(2) the deed contains a stamp or other mark indicating that the subdivision has been approved by:

(a) the legislative body; or

(b) other officers that the legislative body designates in an ordinance;

(3) the subdivision is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes; and

(4) 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 those requirements by the board of adjustment. 1995

**17-27-807. Dedication of streets.**

(1) Maps and plats, when made, acknowledged, and recorded according to the procedures specified in this section shall operate as a dedication of all streets and other public places and vest the fee of those parcels of land in the public for the uses named or intended in those maps and plats.

(2) The dedication established by this section shall not impose liability upon the county for streets and other public places that are dedicated in this manner but, upon

**17-27-808. Vacating or changing a subdivision plat.**

(1) (a) The county legislative body or any other officer designated by the legislative body designates by ordinance may, without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any street, lot, or alley contained in a subdivision plat at a public hearing.

(b) If a petition is filed, the responsible body or officer shall hold the public hearing within 45 days after the petition is filed if:

(i) the plat change includes the vacation of a street or alley;

(ii) any owner within the plat notifies the responsible body or officer in writing within ten days of the filing of the petition of their objection in writing within ten days of the filing of the petition by mailed notification; or

(iii) a public hearing is required because all owners in the subdivision have not signed the plat.

(2) Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition the legislative body to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.

(3) A petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:

(a) the name and address of all owners of record of the land contained in the entire plat;

(b) the name and address of all owners of record of the land adjacent to any street that is proposed to be vacated, altered, or amended; and

(c) the signature of each of these owners who consent to the petition.

(4) (a) Petitions that lack the consent of all owners referred to in Subsection (3) may not be scheduled for consideration at a public hearing before the responsible body or officer until the notice required by this part is given.

(b) The petitioner shall pay the cost of the notice.

(5) When the responsible body or officer proposes to vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall consider the issue at a public hearing after giving the notice required by this part.

(6) Petitions to adjust lot lines between adjacent properties may be executed upon the recordation of an appropriate deed if:

(a) no new dwelling lot or housing unit results from the lot line adjustment;

(b) the adjoining property owners consent to the lot line adjustment;

(c) the lot line adjustment does not result in removing land that did not previously exist; and

(d) the adjustment does not result in violation of applicable zoning requirements.

**17-27-809. Notice of hearing for plat change.**

(1) (a) The responsible body or officer shall give notice of the proposed plat change by mailing the notice to each owner of property located within 300 feet of the property



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N 0° 08' E 39.82

3-5-24-3D  
 DANIEL G & LISHA B  
 LITTLE - TRUSTEES  
 10 AC ML  
 NW/1/4 NW  
 0213-122

3-5-24-3E  
 LANE & SUSAN  
 LITTLE  
 10 AC ML  
 SW/1/4 NW  
 0181-389

E/2 SW/4 NW

3-5-24-3  
 LITTLE LAND. LLC  
 116.35 AC  
 NW/1/4 SW  
 0211-544

3-5-24-3B  
 MICHAEL LANE LITTLE  
 & JAMIE LITTLE  
 - TRUSTEES -  
 10 AC ML  
 NW/1/4 NE/4 SW  
 0213-120

3-5-24-3C  
 MICHAEL LANE &  
 JAMIE LITTLE  
 - TRUSTEES -  
 10 AC ML  
 NE/1/4 NE/4 SW  
 0259-602

E 67  
Van  
046

NORTH 40.00

S/2 NE/4 SW

3-5-24-3A  
 DAVID G  
 LITTLE  
 25.85 AC  
 Proper

