



January 10, 2024, 6:00 PM
Kane County Planning Commission
Land Use Authority
Kane County Commission Chambers
76 N. Main Street, 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. Swearing in of newly appointed Commission Members

Swearing in of John Reese and Jeremy Chamberlain.

2. Election of Chair and Vice Chair

3. Update on Commission Decisions

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

4. Approval of Minutes

December 13, 2023

LEGISLATIVE ITEMS

Public Hearing

4. Zone Change/Ordinance 2024-1: Kanab 160 LLC

An application for a zone change from Agriculture (AG) to Residential 1 (R-1) by Ordinance 2024-1, on behalf of Kanab 160 LLC, parcel 3-5-34-2, containing 160 acres, located between Lone Spur Estates and Canyon Country Subdivision east of Kanab. Submitted by Tom Avant, Iron Rock Group, holding power of attorney.

ADMINISTRATIVE ITEMS

Public Meeting

5. Temporary Use Permit: Western Rock

An application for a Temporary Use Permit for a Hot Mix Asphalt Plant (Batch Plant) at the existing New Paria gravel pit, located on parcel 2-1-33-6. Submitted by Jeremy Leonard, Western Rock.

Public Meeting

6. Open & Public Meetings Training

Training on Utah Open & Public Meeting laws. Presented by Kane County Attorney, Rob Van Dyke.

****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; General; Land Use Ordinance 9-2-1 through 10.



KANE COUNTY LAND USE AUTHORITY

Shannon McBride
LAND USE AUTHORITY
ADMINISTRATOR

Staff Report

DATE: December 27, 2023

To: Planning Commission
From: Shannon McBride, Land Use Administrator
Subject: Project # 24001: Zone Change Application, Agricultural (AG) to Residential-1 (R-1)
Ordinance O-2024-01
Parcel 3-5-34-2 consisting of a total of 160 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 and on the state and county websites. A sign was posted near the parcel.*

REQUEST: On December 18, 2023, Kanab 160 LLC, Benjamin Menlove, an acting manager, with Tom Avant, holding power of attorney, submitted a zone change application, for parcel 3-5-34-2, located off of Highway 89 east of Vermilion Cliffs Estate and Lone Spur subdivisions and west of the Color County subdivision; requesting to rezone from AG to R-1.

LEGAL DESCRIPTION: PARCEL 3-5-34-2 (Legal THE W/2SE/4; & THE E/2SW/4 OF SEC 34 T43S R5W SLB&M. CONT 160.0 AC, M/L. LESS & EXCEPTING THEREFROM ANY PORTION OF SAID PROPERTY THAT MAY LIE WITHIN THE BOUNDS OF US HWY 89 OR OLD US HWY 89. Consisting of 160.00 acres.
SUBJECT TO R/W'S.

FACTS & FINDINGS:

- Parcel 3-5-34-2 meets the requirements to be zoned R-1. The parcel is currently zoned AG.
- The applicant requests the parcel be zoned R-1 which requires a zone change.
- If the zone change is approved all uses contained in the KCLUO 9-6A-6 R-1 Uses Table will be allowed.
- Surrounding parcels are zoned R-1 and AG.
- The parcel would gain access from Highway 89.
- Access points will be located off of Canyon Avenue in the Vermilion Cliffs Subdivision; which has turn lanes.
- The next access point is off of Bryce Canyon Way in Canyon Country Subdivision; which has turn lanes.
- All property owners within 500 ft. of this parcel have been mailed a public notice. Notices are posted on the state and county websites
- **9-6A-1: PURPOSE:** To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- **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
76 North Main Street | Kanab, Utah 84741 | p: (435) 644-4966 | www.kane.utah.gov
Shannon McBride | Land Use Administrator | e-mail: smcbride@kane.utah.gov

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. 10 (2.) Avoiding the extension of municipal-scale services in unincorporated areas. A guiding principle which has been present in every Kane County plan since 1970 has been the recognition that unincorporated areas of the county cannot be expected to accommodate municipal-scale land uses. Residential or commercial land uses which require large investments in infrastructure such as roads, water, waste disposal, schools, and so on, cannot occur on a land base where such services are not available. Past limitations due to the lack of services have sometimes disqualified private land for development. Kane County will allow development within the perimeters of county land use and zoning ordinances with the understanding that infrastructure improvement, development and maintenance will be at the expense of the subdivider and/or land owners who enjoy the benefits of such improvements. Kane County will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain services without expecting or receiving county-provided services. The installation of water systems and fire hydrants does not imply or require county provided road maintenance or snow removal.

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

If the zone change amendment is adopted, the regulations of the new zone of R-1 can be found in the Kane County Land Use Ordinance, Chapter 6: Residential Zones, Article A.

MOTION: I move to recommend denying/approving the zone change for parcel 3-5-34-2, AG to R-1 & Ordinance O-2024-01 to the County Commission based on the facts and findings as documented in the staff report.



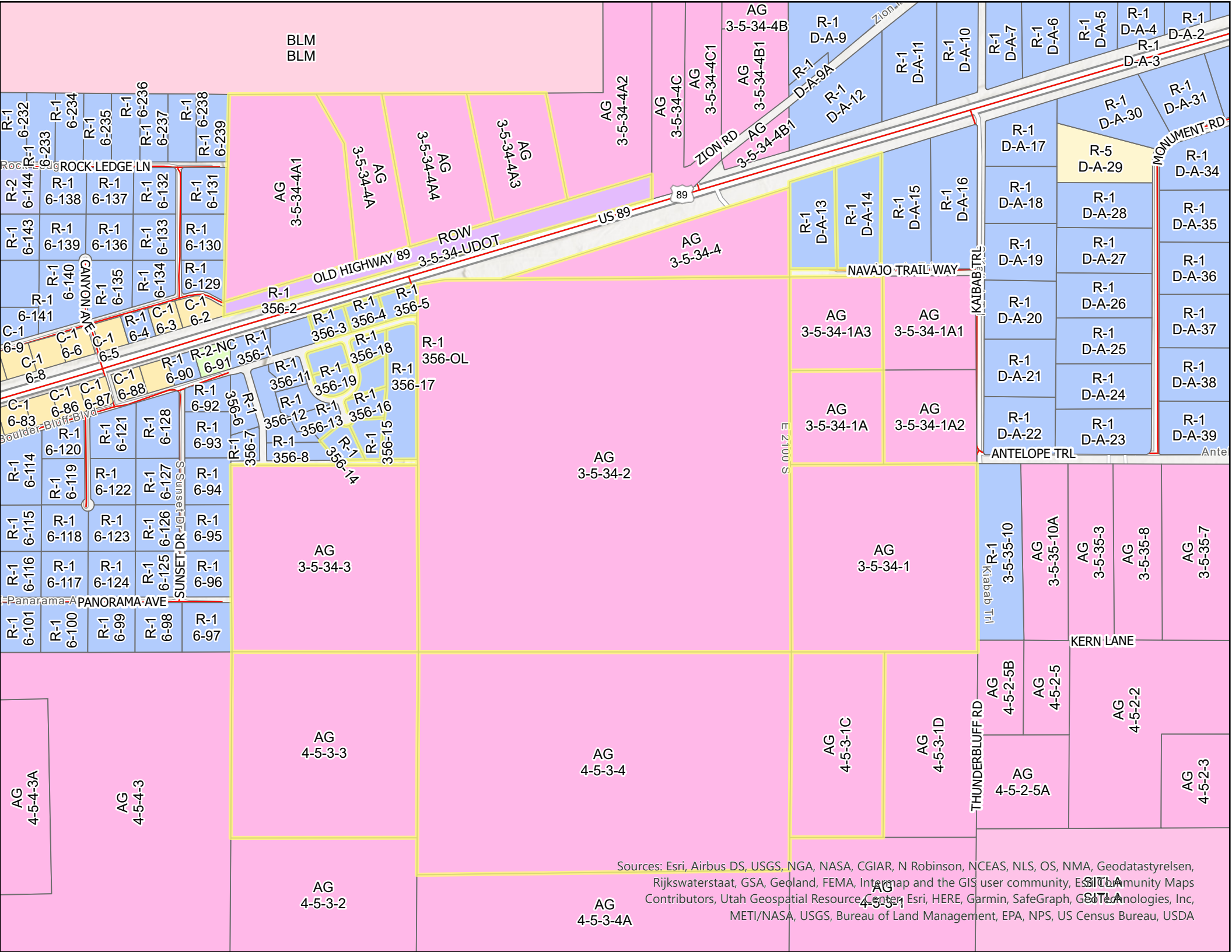
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Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodastystyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, Utah Geospatial Resource Center, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA

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KANE COUNTY ORDINANCE NO. O 2024-01

**AN ORDINANCE AMENDING THE ZONING OF PARCEL 3-5-34-2
FROM AGRICULTURAL TO RESIDENTIAL 1**

WHEREAS, the Kane County Board of Commissioners finds that said zone change is in accordance with the Kane County Land Use Ordinance **9-6A-1: PURPOSE:** To provide for residential neighborhoods of a rural character together with a limited number of livestock for the benefit and enjoyment of the residents. (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 3-5-34-2, from Agricultural to Residential 1;

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

Parcel 3-5-34-2

LEGAL DESCRIPTION: PARCEL 3-5-34-2 THE W/2SE/4; & THE E/2SW/4 OF SEC 34 T43S R5W SLB&M. CONT 160.0 AC, M/L. LESS & EXCEPTING THEREFROM ANY PORTION OF SAID PROPERTY THAT MAY LIE WITHIN THE BOUNDS OF US HWY 89 OR OLD US HWY 89. Consisting of 160.00 acres.
SUBJECT TO R/W'S.

Is hereby rezoned from Agricultural to Residential 1 and shall from here forth be zoned R-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 _____, 2024.

ATTEST:

Chameill Lamb
Kane County Clerk

Wade Heaton, Chair
Board of Commissioners
Kane County

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



STAFF REPORT

DATE: 12/28/2023

PROJECT: A complete application for a temporary use permit was submitted by Western Rock representative, Jeremy Leonard for the existing Western Rock New Paria gravel pit, located on leased parcel 2-1-33-6, Township 42 South, Range 1 West, SLB&M. They are requesting a temporary use permit for a Hot Mix Asphalt Plant (Batch Plant). The reason for the permit would be to re-asphalt US 89 from the Arizona state line to Buck Tank Draw. The project will consist of approximately 40,000 tons of warm mix asphalt that would be produced from the proposed plant. This temporary hot mix asphalt plant will be set back approximately 2,000 feet from US 89 and surrounding residences. In addition, earth berms have been placed along the US 89 perimeter that will aid in the reduction of any noise produced.

FINDINGS: This Temporary Use Permit application conforms to the standards as found in the Kane County Land Use Ordinance:

9-15B-5: TEMPORARY ASPHALT OR CONCRETE BATCH PLANT:

Temporary asphalt or concrete batching plants may be approved by the land use authority subject to the following additional requirements:

A. The batch plant shall not be located within six hundred feet (600') of a residence.

MITIGATIONS: The plant will be located in an area that is set back approximately 2,000 feet.

B. Hours of operation, defined as any activity that results in producing an asphalt or concrete product, shall be limited to Monday through Friday, beginning one-half ($1/2$) hour before official sunrise and ending one-half ($1/2$) hour after official sunset, unless the plant is located more than five thousand feet (5,000') from a residence or a commercial facility.

MITIGATIONS: Proposed days of operation: Monday thru Friday. Plant and Yellow Iron operation times of 6:00 a.m. to 10:00 p.m. There is one small generator that is required to run in the off hours to keep the oil hot.

Western Rock is requesting permission to work weekends if schedule proves it is necessary.

C. The batch plant permit shall be valid for a maximum six (6) month period, unless an extension is approved by the land use authority for a second six (6) month period (maximum of 1 year).

MITIGATIONS: Project duration, 180 days.

D. No portion of the batch plant or its operation shall be located on a public or private street.

MITIGATIONS: The access road is private onto Highway 89. Ingress and egressing traffic has been a concern; Western Rock will present for approval a Traffic Control Plan to mitigate this concern.

E. The batch plant shall only furnish concrete, asphalt, or both, to the specific project for which the temporary use permit is issued. The placement of a temporary batching plant for a private project is restricted to the site of the project.

F. The temporary plant shall be operated in a manner that minimizes dust, noise and odor to meet the requirements of the Utah State Department of Environmental Quality, including, but not limited to, covering trucks, hoppers, chutes, loading and unloading devices and mixing operation, and maintaining driveways and parking areas free of dust.

MITIGATIONS: A full-time water truck will be on-site to ensure compliance is met for dust control in the pit as well as the haul road. The pit will have a locked gate at the entrance and posted to prevent unwanted entry into the area. A permit will be obtained from the Utah Division of Air Quality. No excessive lights will be used.

G. The site must be clear of all equipment, material and debris upon completion of the project.

MITIGATIONS: All trash will be hauled off to a disposal site.

H. All public improvements that are damaged during the operation of the temporary batching plant must be repaired or replaced within thirty (30) calendar days of completion of the project.

I. A reclamation bond shall be required sufficient to ensure restoration of the site to original or other substantially beneficial condition consistent with local plans.

J. At termination of the permit and/or removal of plant, permittee shall notify the land use administrator. The permittee or its agent shall conduct an inspection with the land use administrator to verify sufficient restoration in compliance with county standards. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Recommended Conditions for Portable Asphalt Plant New Paria Gravel Pit

Conditions to the Temporary Use Permit 2024

1. Use all operating practices necessary to minimize noise, dust, contaminants and vibrations i.e.: regular spraying of roads and pits, mufflers on generators, berms to reduce noise level, etc.
2. Every effort will be taken to prevent any environmental damage to the surrounding areas and the operation will be governed by an Air Quality Permit provided by the Division of Air Quality from the State of Utah. All State permits in place including Department of Air Quality permits.
3. No excessive lighting.

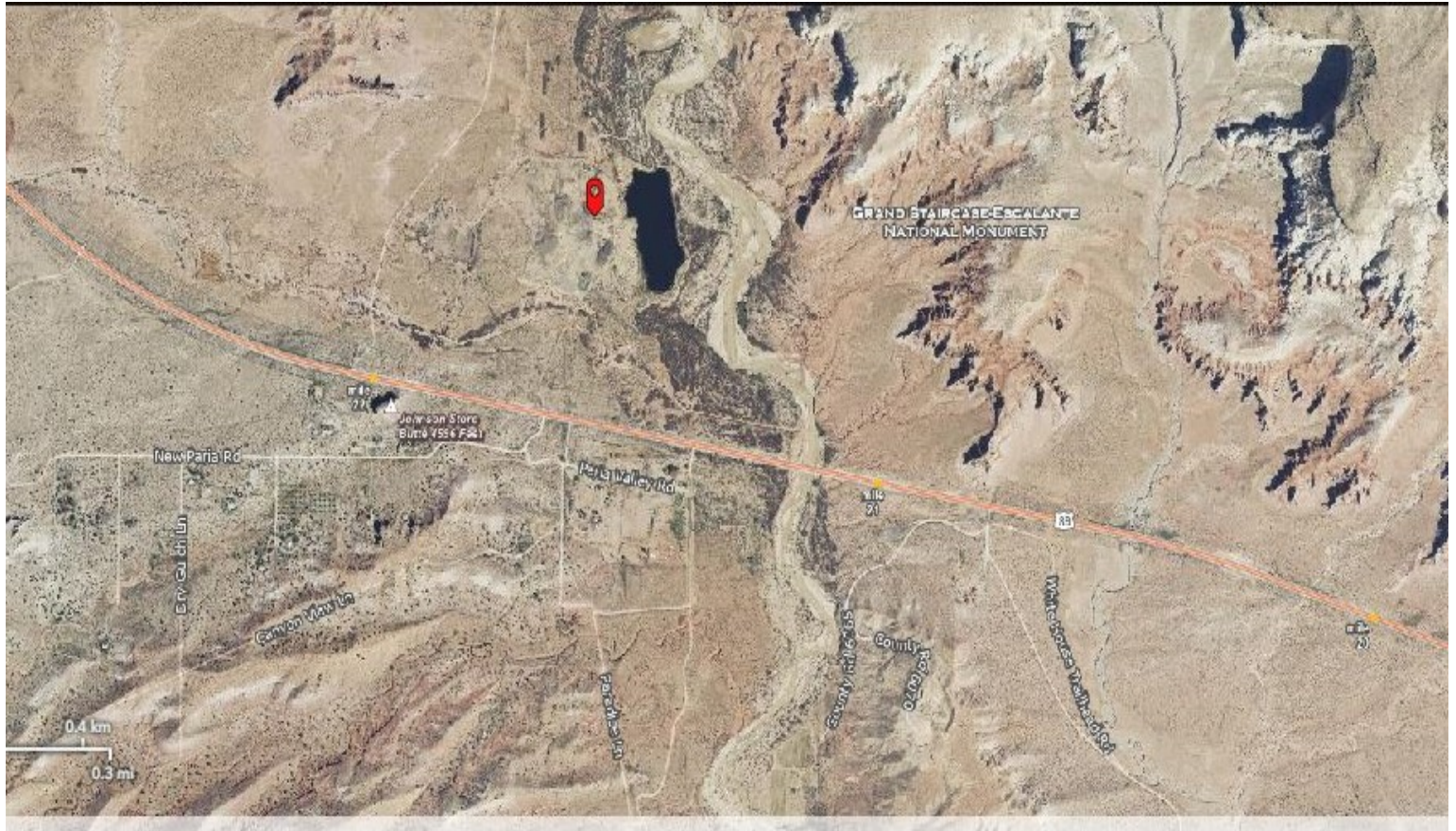
4. All trash and scrap metal including wood and extraneous material to be hauled off to a land disposal site.
5. Leave the pit in an environmentally stable condition during the downtime to prevent any infiltration of sediment in the natural drainage of the land site.
6. No deleterious materials including fuel oils or chemicals left on site when crushing operations have ceased for the year.
7. Twenty-four hours of operation and 6 a.m. to 10:00 p.m. for hauling. Mountain Standard/ Daylight Savings time and seven days a week.
8. Reclamation Plan through the state.

STAFF RECOMMENDATION: Land Use Administrator, Shannon McBride, recommends approval of this (complete) application and project. Proper notice has been given for a temporary use permit. The agenda was placed on the State and County websites and in two public places. Conditional use permits or temporary use permits do not require a public hearing and do not need to be recommended to the Kane County Commission.

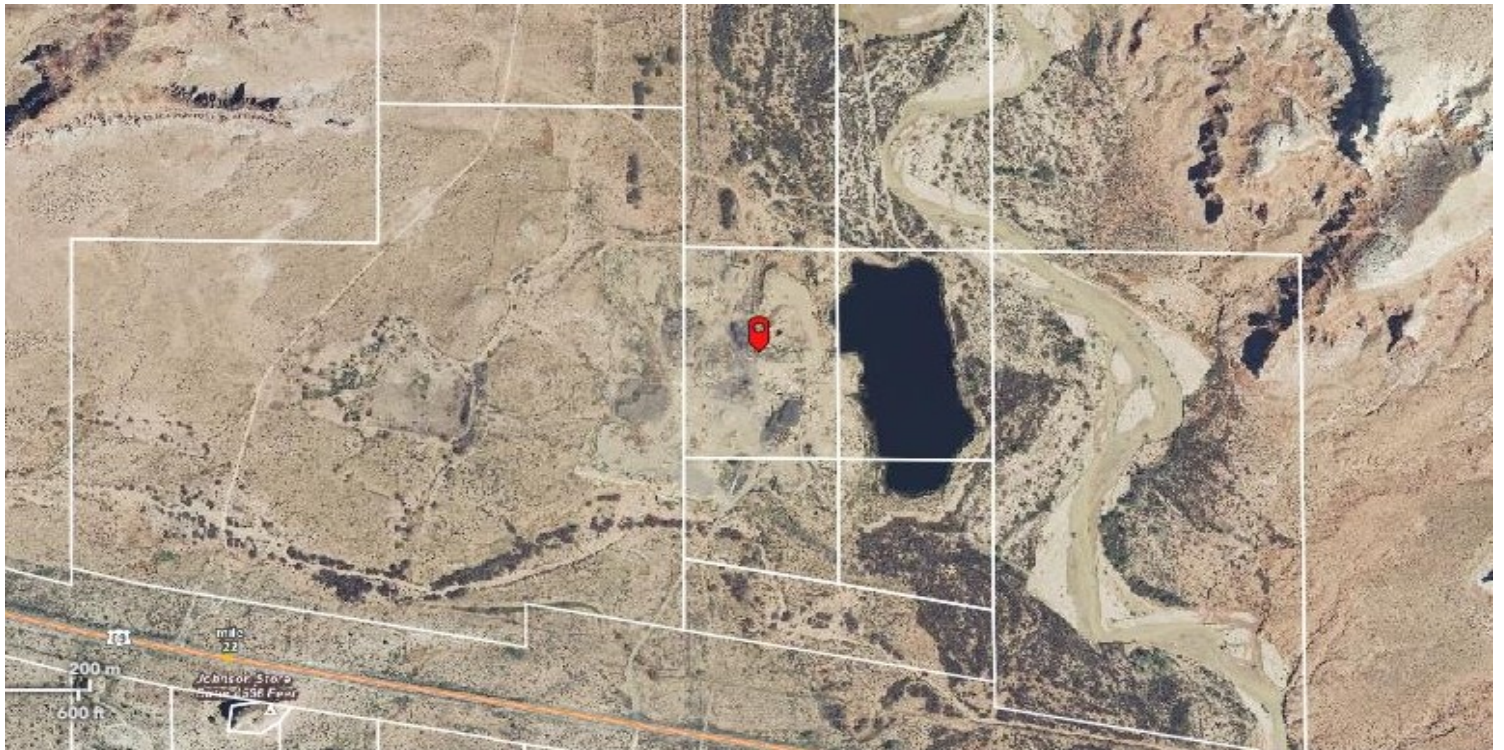
The motion can be made to approve the temporary use permit on parcel 2-1-33-6, with an existing gravel pit, for a temporary Hot Mix Asphalt Plant within the ordinance suggestions found in Kane County Land Use Ordinance 9-15B 1-5-(A-J).

I move to approve the temporary use permit for a Hot Mix Asphalt Plant (Batch Plant) on leased parcel 2-1-33-6 in New Paria.
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Thank you.



76 North Main, Kanab, Utah 84741



76 North Main, Kanab, Utah 84741