

**PLANNING COMMISSION AGENDA**  
**Thursday, November 29, 2012**  
**Morgan County Council Room**  
**6:30 PM**

**PUBLIC NOTICE** is hereby given that the Morgan County Planning Commission will meet at the above time and date at the Morgan County Courthouse, Council Chambers, 48 West Young St, Morgan, Utah. The agenda is as follows:

1. Call to order – prayer.
2. Approval of agenda.
3. Declaration of conflicts of interest.
4. Approval of minutes from October 25, 2012 and November 8, 2012.
5. Discussion/Decision: Etcheverry Structures CUP: to consider a conditional use permit for two hunting cabins in the F-1 zone located in the Guildersleeve Canyon in the Lost Creek Area.
6. Staff Report.
  - 2013 Planning Commission Work Program

PLANNING COMMISSION AGENDA  
Thursday, November 29, 2012  
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**MEMBERS PRESENT**

Roland Haslam, Chairman  
Steve Wilson  
Alvin Lundgren  
Debbie Sessions  
Darrell Erickson  
Adam Toone  
Shane Stephens

**STAFF PRESENT**

Charles Ewert, Planner

**MEMBERS ABSENT**

**COUNTY COUNCIL PRESENT**

**\*\*\* MINUTES \*\*\***

1. Call to order – prayer.

**Chairman Haslam called the meeting to order.  
The prayer was offered by Chairman Haslam.**

2. Approval of agenda

**Member Toone moved to approve the agenda. Second by Member Sessions. The vote was unanimous.  
The motion carried.**

**Member Sessions moved to amend the agenda to add a public comment period along with agenda item #5 as required by code. Second by Member Stephens. The vote was unanimous. The motion carried.**

Chairman called for a vote in favor of the approval of the agenda with the amendment.  
**The vote was unanimous. The motion carried.**

3. Declaration of conflicts of interest.

Chairman Haslam declared a conflict of interest on agenda item #5. He noted he has done the soil testing for the septic system for the applicant.

He noted unless anyone disagreed, he would remain the chairman and not add any comments, or he would step down and let Vice-chairman Wilson conduct.

The members agreed that Chairman Haslam would remain the chairman but not comment.

**4. Approval of minutes from October 25, 2012 and November 8, 2012.**

It was noted there was a lot of errors in the minutes due to the audio recording equipment used and the members preferred to review these when the transcription clerk was present.

**Member Lundgren moved to table the minutes until Teresa Rhodes could be present. Second by Member Wilson. The vote was unanimous. The motion carried.**

**5. Discussion/Decision: Etcheverry Structures CUP: to consider a conditional use permit for two hunting cabins in the F-1 zone located in the Guildersleeve Canyon in the Lost Creek Area.**

Mr. Ewert presented his staff report (Please see attached exhibit A)

Member Erickson stated since there is no power identified, will power be provided by a generator. Mr. Ewert stated that is a concern and it should be looked at.

Chairman Haslam turned the time over to Mr. Bonnet.

Kim Bonnet

- Regarding the dry pipe – they are going up Spring Canyon and will be putting in a spring. It will be gravity flow and will have over 5,000 gallon holding tank. They have tested the water and it looks like they will have to put in a chlorination system in. the landowner is willing to do that to make sure they have good water.

Member Sessions ask if Mr. Bonnet had a business license in Morgan County. He stated he did, it was under Bucks and bulls.

Chairman called for public comment.

**John Toone**

Mr. Toone asked where the F-1 comes from if the surrounding ground is MU-160. Mr. Ewert believed that was an original zone. He noted the MU-160 zone was drafted in 1970. He would suspect that is when it went from F-1 to MU-160.

There was brief discussion on the zone.

Member Sessions asked about the landscape screening and the possibility of giving an exemption. Mr. Ewert noted landscape screening is required unless otherwise waived by the planning commission.

Member Wilson asked about the zoning on the maps.

**Member Sessions moved to forward a positive recommendation to the County Council for the conditional use permit request for Etcheverry Structures. To consider a conditional use permit for two hunting cabins in the F-1 zone located in the Guildersleeve Canyon in the Lost Creek Area. Application #12.092 subject to the findings and conditions listed in the November 7, 2012 staff report as follows:**

Conditions:

1. That all local, State, and Federal laws are adhered to.
2. That a building permit is required for this use.
3. That an Owner's Acknowledgment of Responsibility and Indemnification is recorded in a form acceptable to the County Attorney prior to the issuance of a building permit.
4. That proof of access to culinary water shall be provided with the building permit application.
5. That proof of Health Department approval for the culinary water and septic systems shall be provided with the building permit application.
6. That fire protection shall be provided in accordance with the submitted plan as approved by the local Fire Official, including the provision of a dry standpipe fire suppression system or other similar suppression system as may be approved by the local Fire Official. Any changes to the approved plan shall be approved in writing by the local Fire Official.
- ~~7. That a plan is submitted for the screening of the above ground utility appurtenances, and provided for staff approval prior to building permit issuance.~~

This recommendation is based on the following findings:

1. That the request complies with the requirements of Morgan County code for recreational uses.
2. That minimal earthwork is expected which is incidental to the clearing and treating of ground for a building pad. No other grading was proposed, and no other grading approval should be inferred.
3. That proof of access to culinary water and adequate sewage disposal is essential to the mitigation of the harmful impact of the use.
4. That the submitted fire protection plan has been approved by the local Fire Official, who is also requiring a dry-standpipe fire suppression system.
- ~~5. That utility screening is required by County Code.~~

**Second by Member Erickson.**

The Chairman called for discussion.

Member Lundgren believed that landscape screenings were created for subdivisions or other public areas along our roadways so that the people living in those areas would not suffer adverse visual site from utilities. This location is 1 ½ miles from the nearest public right of way. He believed imposing the additional burden of a landscape screen was unnecessary.

**Member Lundgren moved to amend the motion to remove finding #5 and recommendation #7 from the motion. Second by Member Toone.**

Chairman called for Discussion

Member Wilson asked if the planning commission had the authority to waive the landscaping if it was required by code. Member Lundgren noted it was his understanding that it could be waived by the planning commission according to Mr. Ewert.

The chairman called for a vote on the amendment

**The vote was unanimous. The motion carried.**

The chairman called for a vote on the main motion as amended.

**The vote was unanimous. The motion carried**

**6. Staff Report.**

- 2013 Planning Commission meeting schedule
  - It was noted that November 28<sup>th</sup> is Thanksgiving
  - And February 14<sup>th</sup> is Valentine’s Day.
  - There was discussion on several other dates and allowing the Chairman the prerogative to change dates if needed.

**Member Lundgren moved to cancel the December 13, 2012 meeting due to no agenda items ready to discuss. Second by Member Sessions. The vote was unanimous. The motion carried.**

**Member Toone moved to adjourn. Second by Member Erickson. The vote was unanimous. The motion carried.**

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

**Chairman**

ATTEST: \_\_\_\_\_

Date: \_\_\_\_\_

**Teresa A. Rhodes, Clerk  
Planning and Development Services**

**Exhibit A – Agenda item #5 Discussion/Decision: Etcheverry Structures CUP: to consider a conditional use permit for two hunting cabins in the F-1 zone located in the Guildersleeve Canyon in the Lost Creek Area.**

**Planning and Development Services**

**STAFF REPORT**

November 7, 2012

**To:** Morgan County Planning Commission  
Business Date: November 29, 2012

**Prepared By:** Charles Ewert, Planner

**Re:** **Etcheverry Conditional Use Permit Request**  
Application No.: 12.092  
Applicant: Ray Etcheverry  
Project Location: Guildersleeve Canyon; in the Lost Creek Area  
Zoning: F-1  
Acreage: Approximately 640 acres  
Request: Conditional use permit request to construct two hunting cabins

**SUMMARY**

This is an application to construct two hunting cabins in Guildersleeve Canyon, which is in the Lost Creek Area approximately five and a quarter miles southwest from the Lost Creek dam (see Exhibit A). The use of the property as a cabin is allowed by Morgan County Code by conditional use permit.

The ordinance does not specify conditions applicable to this type of use, and there are minimal standards listed to apply, but the ordinance does give items of general consideration that should be evaluated in order to determine whether harmful impact can be mitigated. The applicants have provided an excellent analysis of the use and its impacts, which is included as Exhibit B. Staff evaluation herein will draw from the applicant’s analysis, and provide additional and/or supplemental information where clarification may be necessary.

Staff recommends approval with the conditions listed herein.

**BACKGROUND**

The applicant operates a hunting operation in the Lost Creek area and desires to construct buildings that will temporarily house hunters and their equipment. In working through the type of use with staff, it was apparent that buildings intended for human occupancy require compliance with certain codes (i.e., Health Department regulations for drinking water and waste disposal, building codes, etc). It became clear that these buildings should be treated as dwelling units, and the land use most closely associated with the proposal is that of recreational dwelling units.

**ANALYSIS**

General Plan and Zoning. Pursuant to the future land use map (see Exhibit C), the property is designated as Natural Resources and Recreation. The 2010 General Plan gives the following description for this designation:

This designation comprises the vast majority of the land in Morgan County. Lands in this use category are managed primarily to maintain the resource, recreation, ranching, grazing, and open space uses and value of the lands. Residential uses that are incidental to and don’t interfere with the primary use may be allowed. The

maximum density is 1 residential unit per 160 acres.

It appears according to this that the use is in compliance with the intent of the General Plan.

The property is zoned F-1 (see Exhibit D). Morgan County Code (MCC) has two different minimum acreage requirements for the F-1 zone based on the type of use and the date of the lot's creation. Pursuant to MCC 8-5A-3 the minimum acreage requirement for any main use of property is one quarter section. Under this regulation the actual acreage required may vary depending on the true acreage of a particular County section. In general, sections are 640 acres; however most Morgan County sections vary to some degree from this due to the methodology of historical surveys as they relate to the technology available at the time and the diverse topography of the County. Pursuant to MCC 8-5A-9, all lots created after March 1, 2001 that are intended to be used for recreational dwellings are required to be 320 acres or half a section.

The subject property is a complete and original 640 acre section, therefore, regardless of which ordinance is applicable, complies with the minimum acreage requirements.

Ordinance Evaluation. The proposed use appears to be in strict conformance with the definition of a recreational dwelling, which according to MCC 8-2-1, is:

RECREATION DWELLING: A dwelling designed for limited rather than primary occupancy and generally located adjacent to or with easy access to recreational areas. The primary purpose for the construction of such a dwelling is to provide shelter during those limited periods of time when recreation is sought in the adjacent areas. Recreational dwellings shall not use the same minimum lot area used to qualify for the minimum lot area of a main dwelling.

The last sentence of the definition is further reflected in the use table of MCC 8-5A-3 which shows:

	Districts					
	MU-160	F-1	A-20	RR-10	RR-5	RR-1
Dwellings:						
Accessory apartment	C	-	C	C	C	C
Homes or mobile homes on bona fide farms or for worker housing	C	-	C	-	-	-
Recreation dwelling (shall not utilize the same minimum lot area as a main dwelling)	C	C	C	-	-	-
Residential facilities for handicapped or elderly	C	-	C	C	C	C
Single-family dwelling	C	-	P	P	P	P

This is interpreted to mean that the use of a property for a recreational dwelling cannot be located in any area that is required acreage for a main dwelling. Being a 640 acre property and that there are no other dwellings currently on the property it does not appear that this requirement should be a concern.

This is a request for two recreational dwelling units on the same lot. In searching the code to determine whether this is permitted, staff found the following code reference:

8-6-4: EVERY DWELLING TO BE ON A LOT; EXCEPTIONS:

Every dwelling structure shall be located and maintained on a separate lot having no less than the minimum area, width, depth, frontage and public improvements required by this title for the district in which the dwelling

structure is located, *except that group dwelling complexes under single ownership and management which are permitted by this title and have approval from the planning commission, may occupy one lot for each such multistructure complex.* [Italics added for emphasis.]

It appears according to this ordinance that multiple grouped dwelling units could be permitted by conditional use permit, as has been requested in this proposal. MCC 8-5A-9 gives additional criteria from which to evaluate this proposal [*inserted italics are staff comments*]:

8-5A-9: RECREATION DWELLINGS:

Notwithstanding any provision in this title to the contrary, the following additional provisions shall apply to recreation dwellings located in MU-160 and F-1 zones:

A. Width and frontage regulations may be waived, provided the dwelling and any accessory buildings are accessible by a legal right of way held by the property owner;

*The applicant's have provided evidence that an access easement does exist (see Exhibit E). It runs along the existing access road that will serve as access to the proposed cabins and extends southwest to the Lost Creek road, which is known as a public right of way (see Exhibit F).*

B. The dwelling and all accessory buildings shall be set back no less than two hundred feet (200') from all property boundary lines;

*The proposed structures are setback a minimum of 200 feet. Because this property is a full section the section lines are the property lines. The nearest property line to the north is nearly 750 feet from the cabin area, and the nearest to the west is approximately 1800 feet. The property lines to the south and east are an even greater distance than these. Meeting the minimum setbacks should not be a problem.*

C. For legal conforming lots existing on or before March 1, 2001, the minimum acreage for a recreation dwelling shall be one hundred sixty (160) acres, or a one-quarter (1/4) section. For legal conforming lots created after March 1, 2001, the minimum acreage for a recreation dwelling in the F-1 zone shall be three hundred twenty (320) acres or a one-half (1/2) section; and

*As described above.*

D. Prior to receipt of a building permit, the property owner must execute and record as an addendum to their property deed, and show proof thereof to the building inspector, an owner's acknowledgment of responsibility and indemnification in substantially the following form:

Owner's Acknowledgment Of Responsibility And Indemnification

State of Utah     )  
                                  ) ss.  
Morgan County    )

We (I), the undersigned owners of the property located at [describe property boundaries] acknowledge and agree to maintain and repair the private right of way, driveway or road accessing the property described herein and any dwelling or accessory buildings located thereon, and to remove snow and otherwise maintain reasonable access to our (my) dwelling and accessory building(s). We (I) agree that failure to maintain the road under all conditions may relieve Morgan County of emergency service obligations. We (I) agree to indemnify and hold Morgan County harmless from any claim, damage, or liability that may arise against the county or its employees, agents, or representatives related to our (my) failure to maintain the road under all conditions. We further acknowledge that failure of the local jurisdiction or planning commission to observe or recognize hazardous, unknown or unsightly conditions, or to recommend denial of this conditional use because of said unrecognized hazardous, unknown or unsightly conditions shall not relieve the developer or owner from

responsibility for the condition or damages resulting therefrom, and shall not result in the local jurisdiction or planning commission, its officers or agents, being responsible for the conditions and damages resulting therefrom.

Subscribed and sworn to before me this day of , 20\_\_

Signature(s)

*This acknowledgement of responsibility and indemnification is a pre-building permit requirement. A signed and recorded copy specific to this site will be required to be submitted as part of the building permit approval.*

Property Layout. The property is one full 640 acre section. The canyon known as Guildersleeve traverses the section. The specific site area proposed is in an area that is fairly flat according to topographic contours. It is located at the base of hillside. Please refer to Exhibit B for more site details.

Roads and Access. There is an existing road that accesses the site. The applicant has provided a recorded access easement for the road. More information about the road is provided in Exhibit B.

Grading and Land Disturbance. Other than minimal earthwork incidental to the installation of footings and foundation, there is no grading proposed.

Water Source. The applicant proposes to serve culinary water to the cabins with an existing spring. Improving the spring to make it fit for culinary drinking water will need to be demonstrated prior to building permit approval.

Septic Systems. It is proposed that the buildings will be served by a septic system. Approval for the system is under the authority of the Weber-Morgan Health Department. Verification of this approval is required during building permitting.

Fire Protection. The property is located in the non-exempt area of the Wildland-Urban Interface. The applicants have provided a fire protection plan as approved by the local Fire Official (see Exhibit H). There is indication from the Fire Official that a dry standpipe hydrant system is required. Approval should be conditioned on adherence to this plan. Any changes to the fire approval should be in writing from the local Fire Official.

Storm Water. There are no specific storm water mitigation plans for the proposal. Given the small footprints of the proposed buildings when compared to the overall acreage of the site, it is reasonable to assume that the impact of proposed use will be negligible. The drainage of the site will continue along naturally established drainage channels.

Flood Plain. The properties not in a flood plain boundary, as shown in Exhibit G.

Geologic and Geotechnical Evaluations. Geology maps are difficult to interpret for this area. It appears that the proposed site is either in the Qmo or the Twc unit designations, which are not listed as geologic hazards in MCC 8-5I.

Utilities. Electrical and heat will be provided by an above ground propane tank and an above ground propane generator. There is no proposed screening plan for these utility appurtenances. A screening plan, using either vegetation or fencing is required as per MCC 8-6-18, and should be a condition of approval.

### **STAFF RECOMMENDATION**

Staff recommends approval of the Etcheverry Conditional Use Permit Request, application #12.092, subject to the following conditions:

8. That all local, State, and Federal laws are adhered to.
9. That a building permit is required for this use.
10. That an Owner's Acknowledgment of Responsibility and Indemnification is recorded in a form acceptable to the County Attorney prior to the issuance of a building permit.
11. That proof of access to culinary water shall be provided with the building permit application.
12. That proof of Health Department approval for the culinary water and septic systems shall be provided with the building permit application.
13. That fire protection shall be provided in accordance with the submitted plan as approved by the local Fire Official, including the provision of a dry standpipe fire suppression system or other similar suppression system as may be approved by the local Fire Official. Any changes to the approved plan shall be approved in writing by the local Fire Official.
14. That a plan is submitted for the screening of the above ground utility appurtenances, and provided for staff approval prior to building permit issuance.

This recommendation is based on the following findings:

6. That the request complies with the requirements of Morgan County code for recreational uses.
7. That minimal earthwork is expected which is incidental to the clearing and treating of ground for a building pad. No other grading was proposed, and no other grading approval should be inferred.
8. That proof of access to culinary water and adequate sewage disposal is essential to the mitigation of the harmful impact of the use.
9. That the submitted fire protection plan has been approved by the local Fire Official, who is also requiring a dry-standpipe fire suppression system.
10. That utility screening is required by County Code.

### **MODEL MOTION**

Sample Motion for a *Positive* Recommendation – “I move we forward a positive recommendation to the County Council for the Etcheverry Conditional Use Permit Request, application #12.092, subject to the findings and conditions listed in the November 7, 2012 staff report, and as modified by the conditions and findings below:”

1. List any additional findings and conditions...

Sample Motion for a *Negative* Recommendation – “I move we forward a negative recommendation to the County Council for the Etcheverry Conditional Use Permit Request, application #12.092, subject to the following findings:

1. List any additional findings...

### **SUPPORTING INFORMATION**

- Exhibit A: Vicinity Map
- Exhibit B: Applicants Written Narrative
- Exhibit C: Future Land Use Map with Aerial
- Exhibit D: Zoning Map with Aerial
- Exhibit E: Recorded Right-of-Way
- Exhibit F: Aerial of Access Road
- Exhibit G: Flood Plain with Aerial
- Exhibit H: Wildfire Mitigation Plan

