



PLANNING COMMISSION AGENDA
Thursday, January 8, 2009
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 W Young St, Morgan, Utah. The agenda is as follows:

1. Approval of agenda
2. Declaration of any conflicts of interests
3. Approval of minutes
4. Public comment period
5. Public Hearing-Plat Amendment, Pettit Ranches PRUD, 246 E Woods Creek Rd.
Amendment to lot 1 (22.15 Acres) into a 5 acre lot for the existing home and open space parcels.
6. Design Standards Variance-Continued from 12/4/08-Request by Floyd Hatch (Lazy H Ranch PRUD) to vary design standards for the length of a dead-end road; bridge width; and shared driveway improved surface width. Located at approximately 5400 S Highway 66, East Canyon Area.
7. Conditional Use Permit-Home Occupation-MVP Massage (Brett Kendell) located at 1236 S Hwy 66, Richville.
8. Conditional Use Permit Amendment-Achieve Fitness (Rusty Hurd) located at 4883 W Old Hwy Rd. Request to amend hours of operation to 24 hours per day.
9. Review of Draft 2009 Land Use Management Code
10. Council Action Updates
11. Commission Business
12. Approval of Decisions
13. Adjourn

**MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY JANUARY 8, 2009 – 6:30 P.M.**

MEMBERS PRESENT

John Toone, Chairman
Robert Wright
Bill Weaver
Steve Wilson
Ladd Albrechtsen
Jodee Bosen

STAFF PRESENT

Sherrie Christensen, County Planner
Jason Allen, County Engineer
Teresa Rhodes, Transcription

MEMBERS ABSENT

David Croft

COUNTY COUNCIL PRESENT

Tina Kelley

*** * * M I N U T E S * * ***

Chairman Toone welcomed everyone to the meeting.
The prayer was offered by Chairman Toone.

1. Approval of agenda.

**MEMBER ALBRECHTSEN MOVED TO APPROVE THE AGENDA. SECOND BY
MEMBER WILSON. THE VOTE WAS UNANIMOUS.**

2. Declaration of any conflicts of interests.

There were no conflicts of interest declared.

3. Approval of minutes.

There were no minutes to approve.

4. Public comment period.

Wendy Wynn – approach the Planning Commission for a plat amendment on their property.
They live in summer ridge #6. The lot is .86 in size.

The main access to the home is summer ridge and the back of the lot backs the old Highway.
They would like to get a secondary access from the old highway to the back of their lot to

build a storage garage on the back. They own a construction business and they have a lot of trailers and equipment that need to be stored. It would be a secondary access and they would not be using the access often.

They have obtained signatures from all of their neighbors who have viewed their plans and are ok with that they are doing. Their access would not conflict nor ever conflict with properties across Old Highway. They have designed it so that they would never have to back out onto Old Highway Road. They could pull straight in and back into the garage and pull straight out.

Member Wright asked if they plan to build something to connect the garage and the home. Mrs. Winn noted they do not plan to do that. She noted the main need is to store work related items.

Member Wright asked if there was a restriction on secondary access.

Sherrie noted the concern would be access onto Old Highway. She noted when Summer Ridge was platted there was a restriction placed on the plat restricting access to the lots from Old Highway Road on those lots that had double frontages (frontages along Old Highway and Summer Ridge Road).

Sherrie noted this would require a plat amendment to take that restriction off. She noted she has not researched what considerations went into the Planning Commission's deliberation to restrict these lots. She would research that.

Sherrie noted there are two parts of the subdivision ordinance that reference this

- 19-13 Streets # K “Where a subdivision abuts or contains an existing or proposed arterial or collector street, the Planning Commission may require local access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.”
- 19-25 #E “Double frontage, and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of Topography and orientation. The Planning Commission may place mitigating conditions upon the development of said lots.”

Member Wright noted this is somewhat of a business garage now is there any restrictions for that. Sherrie noted they would be required to have their conditional use permit and business license.

Member Wright asked about taking the existing driveway down another 50’.

Mrs. Winn – noted the way the lot slopes, the driveway is built up to the house and it can not continue down because it is raised up. It is 12’ feet from the ground level in the back, with a rock wall around it. There is no way to continue it down into the back yard because of the slope.

Mrs. Winn noted everything will be completely garaged and contained. The HOA requires that the garage match the home.

Member Wright stated he would be interested in knowing why the prior Planning Commission put restrictions on the plat originally. It was noted there are seven lots with

double frontage.

Member Weaver noted concern that this may set precedence because there are a lot of deep lots along there. Recommended the Planning Commission use caution in making a decision.

MEMBER WRIGHT MOVED TO CLOSE THE PUBLIC HEARING. SECOND BY MEMBER WEAVER.

5. Public Hearing-Plat Amendment, Pettit Ranches PRUD, 246 E Woods Creek Rd. Amendment to lot 1 (22.15 Acres) into a 5 acre lot for the existing home and open space parcels.

Sherrie presented her staff report (Please see attached exhibit A)

Mr. Pettit – noted he is requesting this amendment in order to re-finance his home. The home needs to be placed on five acres to do this. It will not change any density. He still needs to go through preliminary and final on his subdivision.

Sherrie noted the plat has been reviewed and everything is ok as far as the code is concerned. She received a report today from the recorders office and they have some minor corrections to the legal description. The recorder's official also wanted the Planning Commission to be aware that there are some lien holders that will need to sign off on this.

MEMBER WRIGHT MOVED TO OPEN A PUBLIC HEARING FOR TYLER PETTIT. SECOND BY MEMBER WEAVER.

There was no public comment.

MEMBER WEAVER MOVED TO CLOSE THE PUBLIC HEARING. SECOND BY MEMBER ALBRECHTSEN.

Member Albrechtsen asked which pieces were attached to the home originally.

Mr. Pettit noted it all was. This will just separate his home from the rest of the parcel but it will not impact the open space in regard to the concept that was just approved for the new lots in the fall of 2008.

Sherrie noted it is a 24.3 acres piece as it exists.

MEMBER WRIGHT MOVED TO RECOMMEND TO THE County Council APPROVAL FOR THE REQUEST FROM TYLER PETTIT TO MAKE AN AMENDMENT SPECIFICALLY TO DIVIDIE LOT 1 INTO A 5 ACRE LOT WITH THE TWO FINDINGS NOTED BY STAFF AND NO CONDITIONS. SECOND BY MEMBER WILSON. THE MOTION PASSED UNANIMOUSLY.

6. Design Standards Variance-Continued from 12/4/08-Request by Floyd Hatch (Lazy H Ranch PRUD) to vary design standards for the length of a dead-end road; bridge width; and shared driveway improved surface width. Located at approximately 5400 S Highway 66, East Canyon Area.

Sherrie presented her staff report (Please see attached exhibit B)

Greg Schmidt, Real Estate Attorney, representing Floyd Hatch.

Chairman Toone noted that the Planning Commission had taken a site tour and he asked that the Members discuss their concerns.

Member Bosen – Three of the four areas do not meet the code

Jason Allen responded with the following:

- Length of the road - This does not meet the code and that is where we are looking at a design variance.
- Width of the existing bridge – there is nothing in the code that addresses the widths of bridges. He noted that a 28’ bridge is pretty wide and that width has been determined because that is the width of the road.
- Shared driveways – The driveways would need a variance to the code. He would recommend that the road widen to 20’ every 200 feet. The big concern is the impact to the environment; hillside scaring.
- Size of cul-de-sac – 45’ radius to comply with the code.

He noted the Fire Chief has declared these issue ok. Jason read a letter from the fire chief dated November 18, 2008 (Please see attached exhibit C)

Member Wright asked about the 10% grade on driveways - Jason noted they are able to go up to 15% grade on driveways if it is approved by the engineer and fire chief. He noted it is roads that are required to be 10% and anything over that has to have the approval of the County Council.

Member Wright asked Sherrie if the open space being discussed will be considered private property for the 15 homes.

Sherrie noted there is a number of ways for that to be structured. On each 20 acre lot they have the building envelope which is approximately 3 acres. The remaining 17 acres would be their own private property. She noted with regard to the 1800 acres of remaining open space it can be structured several ways. The developer can dedicate that to the public, it can be dedicated and deeded to a public entity or private association, it can be maintained and held by the owner, or it can be held in common by the seven lot owners. She believes Mr. Hatch’s intention is to maintain the open space but maintain the ownership for him self. He may give rights to the homeowners to hunt on the open space.

Member Wright – If this entire property is purchased by another buyer in the future would it have any impact on what the County is trying to do.

Greg Schmidt noted the area would have a restricted covenant consistent with County ordinances indicating that the area has been designated as open space; regardless of who has ownership the covenant will be in place and it will be perpetual open space. Anyone buying the property would buy it with the notice of the open space restriction so they could not come in and develop it.

Member Weaver – noted concern of the cul-de-sac width and turnouts.

Jason Allen noted he would like the County engineer to control the location of where the 20' turnouts are located. The code recommends any driveway longer than 200' have these. The road can be down to 12' wide but it has to have turnouts. He would recommend "*as determined by the County engineer*".

Member Wilson – agrees the access is where it needs to go. Let's make sure we learn from this and not have to make a variance in the future.

Sherrie noted she would like some standards put in place as far as actual construction standards for bridge width; Right now there is just a small clause that addresses a variance. Member Wilson noted when we send this back to the County he would like to put reasons in why the Planning Commission is sending this back the way it is.

Member Albrechtsen asked Sherrie and Jason about the Urban Wild land Interface. He noted there had been some discussion, with a member of the County Council at the site tour, that the County had not adopted that in its entirety. Sherrie noted she believed it was adopted in its entirety.

Member Albrechtsen asked Jason if there is a grade requirement on the cul-de-sacs because one of the concerns raised, at the site visit, was that the cul-de-sac just past the bridge has a decent slope to it and the roads taking off from that cul-de-sac have very significant slopes to them. If there is a requirement that the cul-de-sacs not have more than a 3% slope that will impact the amount of slope on the other two roads.

Jason noted the 3% slope is for a public road. Private streets do not have any restriction requirements on cul-de-sac slope it just has the cul-de-sac size; that is where the 3600 square feet comes from. He further noted that was a discussion he also had with the fire chief. They looked at it because it is an 8% grade on the cul-de-sac coming off of the bridge. Where there is no restriction for private streets, he would refer back to the fire chief's approval because he is the one using it and needing it. He noted the size of the cul-de-sac was a bigger concern to the fire chief than the slope on this one. He referred to chapter 19 page 7 of the Land Use Management Code where it refers to streets; page 9 is the private streets part where you can not find anything on the slope for a cul-de-sac.

Member Albrechtsen noted that Jason has indicated the turnouts of 20' would be adequate in

width and length. He questioned whether that was really adequate.

Jason noted it would have to be tapered so really it would be close to 40°. 10' taper in and 10' taper out. 20' would not be included in the taper.

Member Albrechtsen asked what the plans were for the height of the side barriers on the bridge. The engineer for Floyd Hatch noted it is basically handrail height so that anyone walking across the bridge has someplace to hold onto if a car were to pass.

Jason noted the rails would not hold the car at a head on, but if it was grazed it would possibly hold a car in; it would hold a four-wheeler.

Sherrie noted the rails are more of a physiological thing for the driver.

Member Albrechtsen asked for a discussion on the variance guide issues that need to be met; based on his research there are the five issues:

The one which he is getting stuck on is #2 –There are special circumstances attached to the property that do not generally apply to other properties in the district.

Greg Schmidt, Mr. Hatch representative – noted one of the situations Mr. Albrechtsen probably witnessed was where the turnoff from the road is. He noted there is a UDOT road coming down the canyon with rather steep abutments almost all the way down. Because of that circumstance having a longer access road and eliminating additional turnoffs promotes the safety of the road.

**MEMBER WRIGHT MOVED TO RECOMMEND TO THE County Council
APPROVAL OF THE LAZY H RANCH PRELIMINARY PRUD LOCATED IN
EAST CANYON, WITH THE FOLLOWING FINDINGS:**

1. This project is consistent with the area plan.
2. The project contains greater than 50% open space.
3. Mr. Hatch has offered to create an extensive private restrictive covenant of 1,800 acres with this request and an additional 3,200 acres as part of a pending phase 2 request. This easement will not be public land.
4. The County currently has no remote development ordinance to act as a guideline for this type of development. The PRUD ordinance used to manage this development may not always reflect the best decisions for development in mountainous or resort areas.
5. The access road of 1,600 feet should be an approved variance from the current ordinance which restricts road length to 1,000 feet.
 - a. The existing road location is the best, if not the only, reasonable location where it can leave highway 66.
 - b. The access road location was approved and recommended by UDOT.
 - c. The access road location is recommended by the county engineer.
 - d. The Kern pipeline runs through the property and may become an issue if fill is placed over the pipeline.
6. The planned 14 foot driveways should be an approved variance.
 - a. Narrow driveways reduce number of cuts and fills and promote soil stability.
 - b. Urban Wildlife Interface allows for 12 foot private drives (see section 403.2)
 - c. Each driveway will have one or more turnouts as recommended by the county

- engineer in compliance with the Wild land Urban Interface.
- d. The county fire marshal has approved this variance, provided turnouts are constructed.
 - e. The county engineer has approved this variance, provided turnouts are constructed.
7. The current 12 foot bridge should be an approved variance.
- a. The bridge will service no more than 6 residences and it is unlikely that any of these residences will be primary dwellings.
 - b. The line of sight will allow for vehicles to be seen at a distance so as to avoid traffic jams on the bridge itself.
 - c. The bridge area marks the end of the 28 foot access road.
 - d. Construction of a wider bridge may be environmentally damaging to the area and create additional areas to collect debris.
 - e. The access road is a gravel road and is not intended for heavy use.
 - f. Traffic volume will be very light and not likely to increase over time.
 - g. The bridge will be modified to have substantial support railing enough to stop a car with a glancing blow.
 - h. The bridge is in an area where the Corp of Engineer has given approval.

AND CONDITIONS:

1. This recommendation from the planning commission replaces the recommendation given on 6 June 2008.
2. The recommendation is for the approval of lots 102 through 108 with lot 108 not being approved for home or cabin construction at this time. Any construction on that property will be brought to the planning commission as a separate request.
3. The access road to lots 102-107 will be widened to meet the county standard which is 28 feet.
4. A storm water pollution prevention plan and drainage system will be addressed in construction drawings to the satisfaction of the county engineer.
5. Mr. Hatch will be able to show ownership of sufficient water rights for the lots being proposed.
6. Building envelopes be placed on each lot in locations where there is both 1) less than 20% slope, and 2) the envelope is more than 100 feet from East Canyon Creek.
7. The cul-de-sac turnout area immediately past the bridge will have a defined 45 foot external radius.
8. All roads will conform to the county ordinance which restricts any road being more than 10 percent grade.
9. Property line issues are to be resolved in the County Recorder's office.
10. Driveway turnouts will be constructed as determined by the county engineer with a minimum width of 20 feet and length of 20 feet, with locations to be determined by the county engineer.
11. The approval for a variance to use a 12 foot bridge is predicated on the construction of no more than 6 residences served by the bridge. If additional residences are constructed in the immediate vicinity, or if this road access is connected to additional residences planned for phase 2, then the bridge will be widened as part of that phase approval.

SECOND BY MEMBER ALBRECHTSEN. THE VOTE WAS UNANIMOUS. THE MOTION

PASSED.

7. Conditional Use Permit-Home Occupation-MVP Massage (Brett Kendell) located at 1236 S Hwy 66, Richville.

Sherrie presented her staff report (please see attached exhibit D)

Member Albrechtsen recommended a condition to limit hours of operation; 7 a.m. to 9 p.m.

**MEMBER ALBRECHTSEN MOVED TO RECOMMEND TO THE County Council A
CONDITIONAL USE PERMIT TO BRETT KENDELL WITH THE EIGHT
FINDINGS:**

1. The proposed use is compatible to the surrounding properties;
2. Adequate parking facilities have been provided;
3. The use is accessory and incidental to the primary use with no changes to the residential appearance of the home and no use of outside storage.
4. The use does not create an increased service demand.
5. The use does not create a nuisance for surrounding properties.
6. The use is not hazardous to public health, safety, morals or welfare.
7. The use will not create excessive noise, excessive traffic, nuisance, fire hazard, safety hazard or other adverse effects of commercial use
8. Mr. Kendell is a licensed massage therapist.

AND SIX CONDITIONS.

1. Any signs will be approved only in conformance to the LUMC.
2. The conditional use permit may not be transferred to another operator without first receiving approval to amend the permit.
3. The conditional use permit will conform to the regulations for Home Businesses.
4. A Morgan County business license will be acquired by the business operator.
5. Upon complaint with relation to the business the Planning Commission may hold a public hearing
6. Hours of operation will be performed between the hours of 7 a.m. and 9 p.m.

**SECOND BY MEMBER BOSEN. THE VOTE WAS UNANIMOUS. THE MOTION
CARRIED.**

8. Conditional Use Permit Amendment-Achieve Fitness (Rusty Hurd) located at 4883 W Old Hwy Rd. Request to amend hours of operation to 24 hours per day.

Sherrie presented her staff report (Please see attached exhibit E)

Chairman Toone asked if there was business during these hours.

Mr. Hurd noted they do have individuals who work various shift word that use these times.

They have a system where a key card unlocks the doors and everything can be monitored by surveillance cameras. Employees are at the gym from 5 a.m. until 2 p.m. Card access is used from approximately 1 p.m. to 5 a.m. when no staff is present. He further noted they have used this system at their Morgan City facility and it has worked well.

Member Albrechtsen asked if there was any notice given to neighbors to extend the hours. Sherrie noted they have not received a single complaint about this business at all. Mr. Hurd noted he has not contacted the neighbors because the hours had been very similar 5 a.m. to midnight and there had been no complaints. He further noted the building is really rather secluded and there is a fence located behind the building.

Sherrie asked if there are any precautions in place if someone were to get hurt at the facility. Mr. Hurd noted that he has a pretty extensive contract with the state and liability coverage. He noted there is a phone sitting on the front desk to use.

MEMBER WILSON MOVED TO RECOMMEND TO THE County Council APPROVAL TO RUSTY HURD, ACHIEVE FITNESS TO AMEND HOURS OF OPERATION TO 24 HOURS. WITH THE NOTED THREE FINDINGS:

1. The proposed use is consistent with the Central Development Zone;
2. The proposed use is consistent with the requirements for commercial business within the LUMC;
3. Card access is used from approximately 1 p.m. to 5 a.m. when no staff is present.

AND SEVEN CONDITIONS:

1. All new outside lighting shall be diffused to deflect light down and not onto adjoining properties.
2. Parking will be provided at a rate of 25 guests.
3. Sign changes will be in conformance with the LUMC, new signs must meet the theme regulations for Mountain Green in the CD zone and area plan.
4. Applicant shall obtain a Morgan County Business License for this location
5. Review of said conditions shall be reviewed annually for compliance at the time of business license renewal.
6. Hours of operation to be 24 hours per day.
7. If any valid complaint is received by staff it will be reviewed and may be reviewed again by the Planning Commission.

SECOND BY MEMBER WEAVER. THE VOTE WAS UNANIMOUS. THE MOTION PASSED.

9. Review of Draft 2009 Land Use Management Code.

Sherrie explained the new restructuring of the County.

The County has split her department. Her department is now planning and Development Services which her department will handle are land use applications such as re-zones and conditional use permits. Jason Allen has been appointed the department head over a new department titled Public Services which will encompass building permits, engineering, roads, and parks.

The County has contracted with Sterling Codifiers to go through each ordinance and make it an electronic version. They also do a search and analysis to see where ordinances are conflicting with one another and give the County a report back showing the problems. It has been recommended to the County Council that a re-write of the County Land Use Management code not be done until Sterling Codifiers makes their presentation to the County.

She noted Sterling Codifiers hosts a website where you can go to our code from their website and do a query; i.e.: all references that relate to water. Every ordinance that relates to water would pop up a list so that all ordinances related to water could be reviewed.

What the council would like to see, as priorities, before the end of the moratorium is the following:

- new process in place for processing subdivisions
- New contract County Engineer.
- GIS mapping

10. Council Action Updates.

Sherrie noted that Aquila Development is no longer pursuing the Mtn. Green central development district. Mr. Johnson has taken the property back and the County will be establishing a re-development agency.

She will be meeting with an interested party to do a motocross at the fairgrounds.

Member Wilson asked if there was a way to incorporate for developers a formula for developing parks, trails, and other amenities.

Sherrie noted they have called back the consultants that completed their impact study and they are working on establishing standards for developments.

11. Planning Commission Business.

It was noted that Member Toone and Member Croft's terms are up. Sherrie will be advertising those openings and they will need to be filled by the first meeting in March.

12. Approval of Decisions.

MEMBER MOVED WRIGHT TO APPROVE THE DECISION AND ACTION REPORT OF JANUARY 8, 2009 WITH THE NOTED MINOR CORRECTIONS. SECOND BY MEMBER WEAVER. THE VOTE WAS UNANIMOUS. THE MOTION PASSED.

Approved: _____
Chairman

Date: _____

ATTEST: _____
Teresa A. Rhodes, Secretary
Planning and Development Services

Date: _____

Exhibit A – Agenda item # 5 - Public Hearing-Plat Amendment, Pettit Ranches PRUD, 246 E Woods Creek Rd. Amendment to lot 1 (22.15 Acres) into a 5 acre lot for the existing home and open space parcels.

**Planning Commission
Staff Report
January 8, 2009**

Applicant: Tyler Pettit

Request: Amendment to existing Pettit Ranchettes PRUD, specifically to divide lot 1 into a 5 acre lot with the existing home and the remainder into agricultural open space parcels.

Location: 246 W. Woods Creek Road, Porterville Area

Zoning: A-20

DESCRIPTION

The applicant is currently in process (concept approval) of an amendment to his Subdivision, which would add additional acres and lots to the existing subdivision. Mr. Pettit has been unable to proceed beyond concept approval because of the moratorium. He is re-financing his home and can only have 5 acres tied to the home, as part of new financing rules, so he is making this request to amend the existing lot.

The proposed modification to this lot has no effect on the overall density allowed in the subdivision and is within the minimum standards of the LUMC. These particular lot line adjustments are required to come before the Planning Commission and County Council because it is part of a recorded subdivision.

The plat amendment is complete and no corrections are outstanding.

SUGGESTED FINDINGS/CONDITIONS

The Planning Commission recommends to the County Council approval of the Plat Amendment/Lot Line Adjustment with the following findings:

- Findings:
1. The proposed amendment is in accordance with the Morgan County Subdivision Ordinance;
 2. The amendment will not negatively affect integrity of the general plan;

Exhibit B- Agenda item #6 - Design Standards Variance-Continued from 12/4/08-Request by Floyd Hatch (Lazy H Ranch PRUD) to vary design standards for the length of a dead-end road; bridge width; and shared driveway improved surface width. Located at approximately 5400 S Highway 66, East Canyon Area.

**Planning Commission
Staff Report
January 8, 2009**

Applicant: Lazy H Ranch PRUD

Request: Variance from Design and Improvement Standards

Location: Overall Project- 5,476 acres South of Hwy 66, East Canyon Area
Phase I- 1,920.19 acres (131 acres in 7 lots & 1,883 acres in open space)

Zoning: Overall Project-MU-160 (~345.62 acres) & F-1 (~5,130.38 acres)
Phase I- MU-160 (225.8 acres) & F-1 (1789 acres)

DESCRIPTION (continued from December 4, 2008 meeting)

This development proposal has received recommendation from the Planning Commission for preliminary plat approval. In review of the application by the County Council, the following standards have not been met:

1. Maximum dead end road length-1,000 feet (~1,600')
2. Width of bridge does not meet the minimum improved surface of 28' (proposed/existing bridge 12')
3. Proposed improved width of shared drives does not meet the minimum 20' (proposed at 14')
4. Proposed cul-de-sac does not meet the minimum 45' radius, as per the Wildland Urban Interface Code.

ANALYSIS

1. Length of dead end road:
LUMC Section 16-19-13 (F) states that a cul-de-sac in a residential zone shall not exceed 1,000 feet in length. (subdivision design standards)

LUMC Section 16-20-070 states that the maximum street length for a dead-end street within a PRUD shall be one thousand (1,000) feet. (PRUD standards)

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There is a conflict between the two provisions. The Subdivision Design Standards chapter implies that longer cul-de-sacs could be approved in zones other than residential zones and the PRUD does not. I believe this was likely the intent behind adding the phrase “in a residential zone” to allow longer cul-de-sacs in mountainous terrain and in those zones A-20 and larger.

The proposed access for these 7 lots, is to improve and use the existing access as a private gravel road. The road has two constraining circumstances to its location and length. First the entrance onto Hwy 66 was established by UDOT permit, and was constructed in the only viable location on the frontage. Second the location of the existing bridge has been indicated by the developer's engineer as the best location, given the high water mark and issues with bank erosion, in the event of heavy runoffs and/or floods. The end/turn around for the private road is to be constructed across the bridge, because the intent is to use two shared driveways each to access 3 lots, and the maximum number of dwellings that can utilize each share driveway access is 4 homes.

Thus from the access point on Hwy 66 and the cul-de-sac across the existing bridge, the road length is approximately 1,600 feet.

2. Width of Bridge-the existing bridge is 12' wide. While the County does not have a specific bridge width minimum within the code, the adopted standards for improved street width is 28'. The applicant wishes to use the bridge that is existing on the site. The County Engineer has evaluated the bridge and requested that railings be added to the bridge, as well as signage relating to the width is posted. (see attached staff report).
3. Improved Width of Shared Driveways- The applicant is proposing to use 14' wide driveways, instead of the 20' required under the PRUD ordinance. LUMC 16-20-050(2). The developer does not wish to widen those driveways to reduce the amount of cuts into the hillside.
4. Size of Cul-de-Sac- In LUMC 16-19-14(2) the standard for a turn around is 3,600 sq. ft. Chapter 24 Wildland Urban Interface Area Requirements, Section 403.2 requires that driveways over 200 feet in length and less than 20 feet in width are required to have turn-outs in addition to turn arounds. The required turn around is required to have a minimum 45' radius. Section 103 gives provisions for the code official to vary the standards of the WUI when it is impractical. That code official responsible for enforcement or granting a variance on this matter would be the Fire Chief. At this time the Chief has written a letter requiring the 45' turn around.

VARIANCE STANDARDS

LUMC 16-07-010(7) provides for the procedure for the variance request as follows:

7. Variances from Design and Improvement Standards. Where, in the opinion of the Governing Body, having received the analysis of the Planning Commission, the literal enforcement of the design and improvement standards in this Code would result in an unreasonable utilization of land and water or undue hardship due to unique circumstances, variances may be issued from one or more of the design and improvement standards according to the following procedure:
 - a. Application for a variance shall be made to the Governing Body and shall include:
 - i. A description of the land to be developed.
 - ii. An identification of the Code provision from which the variance is requested.
 - iii. A description of the peculiar physical conditions pertaining to the land in question and which do not pertain to other lands in the general area.
 - iv. A description of the hardships which will accrue to the detriment of the property owner if the requested variance is not granted.
 - v. A non-refundable variance review fee, payable to the County, in accordance with the currently applicable fee schedule as adopted by resolution of the Governing Body.
 - b. The Governing Body shall submit the variance application to the Planning Commission for review and comments upon receipt of said application.
 - c. The Planning Commission shall review the variance application and shall submit its written recommendations for approval or disapproval of such application to the Governing Body, along with written reasons therefore within 30 calendar days from receipt of said application from the Governing Body at a regularly scheduled meeting of the Planning Commission.
 - d. The Governing Body shall hold a public hearing before granting the variance. Notice of said public hearing shall be given by at least one publication in a newspaper of general circulation in the County. The hearing shall be held no later than 30 calendar days from receipt by the Governing Body of the recommendations of the Planning Commission and no less than ten (10) calendar days from the publication of notice.
 - e. Subsequent to and within 15 calendar days of the public hearing, the Governing Body shall approve or deny the request for a variance. A variance shall be granted only if the Governing Body makes a finding upon the record submitted to it that the issuance of a variance will be in the interest of the public safety, health or welfare and the proposed development substantially complies with the County General Plan and adopted zoning ordinance.
 - f. A record of all correspondence, recommendations, submissions, and official action regarding all variance applications shall be maintained for a reasonable time by the County as a public record.

COUNTY COUNCIL ACTION

Member Creager moved to remand Lazy H Ranch LLC back to the Planning Commission for the purpose of reviewing the following 6 items:

- * Review of the private driveway must comply with existing code (20 feet in width);
- * All roads comply with existing code specifically not greater than 10 degree slope;
- * The 12 foot width of bridge be re-evaluated;
- * The 1,600 foot in length private road be reviewed as a possible variance with written authorization or recommendations from UDOT;
- * The property line disputes be resolved with the Recorder's office;
- * The plat show outside radius of 45 feet on cul-de-sacs within the subdivisions.

Seconded by Member Stephens. The vote was unanimous. The motion passed.

UPDATE

The Planning Commission had a site visit on December 8, 2008 to evaluate the variance requests with the existing topography on the property. Three members of the County Council were also in attendance. The site tour included viewing the site from the existing Hwy 66 access, the single lane bridge and the proposed building envelopes.

Recommendation

The County Engineer has reviewed the application for safety and has determined that the proposed variances do not constitute any additional safety hazard. The Planning Commission must determine if the proposed variances are appropriate within the parameters set forth above.

Exhibit C- Agenda item #6 - Design Standards Variance-Continued from 12/4/08-Request by Floyd Hatch (Lazy H Ranch PRUD) to vary design standards for the length of a dead-end road; bridge width; and shared driveway improved surface width. Located at approximately 5400 S Highway 66, East Canyon Area. – Letter from Fire Chief

(Please see attached)

This document can not be viewed online. A copy of the original letter is filed with the official recorded minutes in the Morgan County Clerks office or the Community and Development Services Department.

Exhibit D – Agenda item # 7 - Conditional Use Permit-Home Occupation-MVP Massage (Brett Kendell) located at 1236 S Hwy 66, Richville.

**Planning Commission
Staff Report
January 8, 2009**

Applicant: MVP Massage LLC, Bret Kendell
Request: Conditional Use Permit-Home Occupation Category III
Location: 1236 S Hwy 66, Richville
Zoning: RR-1

DESCRIPTION

Mr. Kendell is requesting a conditional use permit to operate a home business for licensed massage therapy. The use is listed as a conditional use.

Use/Location. The proposed business is proposed in one room of the home, with only one client at the home at any one time. The use is an accessory use which is clearly secondary and incidental to the primary use of the dwelling unit for residential purposes. Nor will the proposed use change the appearance of the home.

Signage. No signs are proposed at this time. Any sign for home business must comply with Chapter 5 of the LUMC.

Public Facilities. No changes are required.

Environmental Impact. There will be no environmental impact from the business.

Traffic, Parking and Improvements. The home has sufficient parking for the proposed use and the use as a residence.

Lighting. It is assumed that no changes to current lighting are expected.

Security. N/A

Hours of Operation. Have not been specified. Normal business hours are expected.

Safety. The home is required to meet all applicable building codes. No safety issues have been identified.

Standards for Review. The Planning Commission must find that the use will be compatible with surrounding structures in use, scale, mass and circulation; is consistent with the General Plan; and that the effects of any differences in use or scale have been mitigated through careful planning and conditions of operation. The following items should be used in considering the conditional use permit:

Size and location of the site

Traffic consideration

Utility capacity

Emergency vehicle access

Location and amount of off-street parking

Internal traffic circulation system

Fencing, screening, and landscaping to separate the use from adjoining uses

Building mass, bulk, design and orientation

Usable and permanent open space considerations

Signage and lighting

Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing.

Noise, vibration, pollution, odors, steam or other mechanical factors that might affect people and property off site.

Control of delivery and service vehicles, loading and unloading zones, and screening of trash pick-up or waste storage areas.

Expected ownership and management of the project

Right to Farm Considerations and Agreements.

Design or Architectural review as may be advised by the County or other technical review matters.

Proposed Findings and Conditions

Findings:

1. The proposed use is compatible to the surrounding properties;
2. Adequate parking facilities have been provided;
3. The use is accessory and incidental to the primary use with no changes to the residential appearance of the home and no use of outside storage.
4. The use does not create an increased service demand.
5. The use does not create a nuisance for surrounding properties.
6. The use is not hazardous to public health, safety, morals or welfare.
7. The use will not create excessive noise, excessive traffic, nuisance, fire hazard, safety hazard or other adverse effects of commercial use

Conditions:

Any signs will be approved only in conformance to the LUMC.

The conditional use permit may not be transferred to another operator without first receiving approval to amend the permit.

The conditional use permit will conform to the regulations for Home Businesses.

A Morgan County business license will be acquired by the business operator.

Upon complaint with relation to the business the Planning Commission may hold a public hearing to determine the validity of the complaint, and after which they may either impose additional conditions or revoke said permit.

Exhibit E– Agenda item # 8 - Conditional Use Permit Amendment-Achieve Fitness (Rusty Hurd)
located at 4883 W Old Hwy Rd. Request to amend hours of operation to 24 hours per day.

**Planning Commission
Staff Report
January 8, 2009**

Applicant: Rusty Hurd, Achieve Fitness

Request: Amendment of Conditional Use Permit for Achieve Fitness Center in Nyes Glass Building, 4883 Old Hwy. Rd. #C, specifically to amend the hours of operation to 24 hours per day

Lot Size: 1 Acre

Zoning: CD, Central Development

DESCRIPTION

Mr. Hurd is operating this existing business under a CUP issued in 2007. Indoor Recreation, such as athletic centers are listed in the CD zone as conditional uses. He has begun to offer 24 hour operation and access to the facility. One condition of the original permit was the hours of operation would be 5 a.m. to 12 midnight.

No complaints relating to the business or 24 hour operation have been received and staff finds no issues related to public health, safety and welfare by allowing said hours.

Current Findings and Conditions (with proposed amendment)

That the Planning Commission approves the Conditional Use Permit with the following findings and conditions:

FINDINGS:

1. The proposed use is consistent with the Central Development Zone;
2. The proposed use is consistent with the requirements for commercial business within the LUMC;

CONDITIONS:

1. All new outside lighting shall be diffused to deflect light down and not onto adjoining properties.
2. Parking will be provided at a rate of 25 guests.
3. Sign changes will be in conformance with the LUMC, new signs must meet the theme regulations for Mountain Green in the CD zone and area plan.
4. Applicant shall obtain a Morgan County Business License for this location

5. Review of said conditions shall be reviewed annually for compliance at the time of business license renewal.
6. Hours of operation to be ~~6 days a week Monday through Saturday 5 a.m. to 12 midnight.~~ 24 hours per day.
7. If any valid complaint is received by staff it will be reviewed and may be reviewed again by the Planning Commission.