# PLANNING COMMISSION AGENDA
Thursday January 14, 2010
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 for December 10, 2009.
5. Ordinance and General Plan Review Committee update.
6. Planning Commission Training.
7. Public comment.
8. Discussion/Decision on the request by Cole Schlack for an extension of preliminary plat approval for the Sunny Meadows Estates Planned Residential Unit Development.
9. Public Hearing/Discussion/Decision on the request by Morgan County to amend the Milton Area Plan component of the Morgan County General Plan, including maps and text changes.
10. Public Hearing/Discussion/Decision on the request by Doug Kearsley to re-zone approximately 14.46 acres at 2175 West Deep Creek Road from MU-160 to RR-10.
11. Other Planning Commission business.
12. County Council update.
13. Motion review and approval.
14. Adjourn.

**MORGAN COUNTY PLANNING COMMISSION MEETING**
**MORGAN COUNTY COURTHOUSE - RM. 29**
**THURSDAY January 14, 2010 – 6:30 P.M.**

**MEMBERS PRESENT**
Robert Wright
Ladd Albrechtsen
Steve Wilson
Bill Weaver
Jodee Bosen
Trevor Kobe
Adam Toone

**STAFF PRESENT**
Grant Crowell, County Planner
Charlie Ewert, Planner Tech/Code
Teresa Rhodes, Planning Commission Assistant

**MEMBERS ABSENT**

**COUNTY COUNCIL PRESENT**
Tina Kelley

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

1. **Call to order – prayer.**

   Chairman Wright called the meeting to order.
   The prayer was offered by Member Toone.

2. **Approval of agenda.**

   Chairman Wright requested that agenda item #6 be moved to the end of the meeting.

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

3. **Declaration of conflicts of interest**.

   There was no conflict of interest declared.

4. **Approval of Minutes for December 10, 2009.**

**Member Toone moved to approve the minutes of December 10, 2009 with the noted minor corrections submitted by Chairman Wright. Second by Member Weaver. The vote was unanimous. The motion carried.**

5. **Ordinance and General Plan Review Committee update.**

- Chairman Wright explained to those present in the meeting that the County is in the process of reviewing and revising the Land Use Ordinance. The committee is currently working on subdivisions. The Council has asked that this be brought forward to them separately, instead of waiting for the entire review of the Land Use Ordinance.
- Staff sent out a Request for Proposal (RFP) to revise the County General Plan. Staff has received five proposals and has reviewed them. Two of those proposals will be considered further. The revision process may begin this year.

6. **Planning Commission Training.**
   This agenda item was addressed at the end of the meeting.

   Layers of Development Review
   - Pre-application
   - Complete submittal
   - Staff review
   - Planning commission
   - County council

7. **Public comment.**

   **Member Wilson moved to open public comment. Second by Member Toone. The vote was unanimous. The motion carried.**

   There was no public comment at this time.

   **Member Weaver moved to close the public comment. Second by Member Bosen.**
   **The vote was unanimous. The motion carried.**

8. **Discussion/Decision on the request by Cole Schlack for an extension of preliminary plat approval for the Sunny Meadows Estates Planned Residential Unit Development.**

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

   Mr. Schlack noted it was his error not submitting his extension request within the timeframe allowed by the ordinance. He would ask this be granted for the following reasons: (1) to cut down on paperwork; (2) He

has been accepting of the county's staffing issues and would appreciate some ability to extend this currently instead of back tracking.

Chairman Wright asked what the process would be to re-start this process. Mr. Crowell noted Mr. Schlack would need to submit new paperwork. Copies can be made from the old file, but that file will be closed and a new file opened so original paperwork would be kept with the original file. Mr. Crowell noted there is a new County Engineer and County surveyor since Mr. Schlack's first application.

Chairman Wright stated to Mr. Schlack that the County's new staff has been asked to carefully adhere to the county ordinances and management code.
Member Weaver asked if the moratorium that was placed in 2009 had affected Mr. Schlack. Mr. Schlack noted it had not.

**Member Albrechtsen moved to deny the request by Cole Schlack for an extension of preliminary plat approval for the Sunny Meadows Estates Planned Residential Unit Development.**
**With the following findings:**

- **No compelling argument to grant this extension.**
- **The current preliminary plat that was approved has since expired and the ordinance is very clear that once it has expired it is done.**

**Second by Member Bosen. The vote was unanimous. The motion carried.**

9. **Public Hearing/Discussion/Decision on the request by Morgan County to amend the Milton Area Plan component of the Morgan County General Plan, including maps and text changes.**

Mr. Ewert presented his staff report (Please see attached exhibit B).
Chairman Wright asked the members for their input.
Member Toone – noted the proposed plan uses the paved area of Deep Creek Road for a lot of the definition. On the plat maps, when anyone develops, will the County run into a similar situation where they would have to deed a certain portion of their property to the County for the road itself?
Mr. Ewert noted the standard for the subdivision ordinance, depending on where their property lines go and if the property extends into the road, would be to dedicate the center line of the road to the County. Eventually as things are developed, theoretically the County could completely own that road. Those lines could be determined by the County Engineer or a private engineer.

**Member Albrechtsen moved to open the public hearing for the Milton Area Plan. Second by Member Toone. The vote was unanimous. The motion carried.**

Doug Kearsley – Requested to know what has been done with Deep Creek Ranches and what the specific changes to the new plan are.

Brandon Anderson – Every time the Milton area plan comes up there are two issues:

- Zoning in Deep Creek Ranches is not being enforced. There are permanent structures that are not supposed to be there. The zoning calls for trailers to be there no more than 30 days. There are trailers that have been there for over five years. It is a concern for his family because they are down stream and there is potential pollution of the creek, what happens with the ground water, and sewer.

- Center point of the Deep Creek Road has never been defined. Believed it would be beneficial to define the center point of that road before too much development goes on in Deep Creek.

Cole Schlack –

- The plan seems to be taking an area (Deep Creek) and spot zoning because that is what has been done on various lots in the area in the past. The fix is to clean it up and to make one specific area R-10 to conform to lots that were illegally divided years ago. However, it appears that those below this area have to remain A-20 and have their property potentially polluted by everyone up above them in the R-10 zone
- It does not seem as though the Milton plans ever address the issue of why there is A-20 zoning next to the city.
- He would recommend that property owners be more involved ato see what the people want instead of those just in the Deep Creek area. He is aware of property owners in the area that have proposed medium density instead of being annexed into the city. There is RR-1 along the road and really no other opportunity to develop a quality development beyond that because of the zoning.
- There is not a lot of opportunity for people who have land on the East side of Morgan Valley Drive to develop because the area is all A-20. It pushes developers to get annexed into Morgan City because they cannot get approval from Morgan County. This area is highly developable, flat property.

It was noted Mr. Schlack's property is on the East side of Morgan Valley Drive and is not in the Deep Creek area.

Roger Prescott – Area Plan Committee Member

- One of the major concerns was the Deep Creek Ranch area. People on and off the committee have had complaints about the area for years.
- The village center came about because of the Milton Park area. He believed when you have a center district it should have direct access from a major collector. Milton's village center does not have direct access. It is two miles from the north and 1 ½ miles from the south to get to the center of Milton where there is no commercial. He is against this proposed village center location. Your higher density development planned for a village center is going to effect people on both sides of Morgan Valley Drive.

**Member Wilson moved to close the public hearing. Second by Member Albrechtsen. The vote was unanimous. The motion carried.**

Chairman Wright asked if the Area Plan Draft was available to the public. Mr. Ewert noted it is posted on line and those interested could call the office if they wanted to read the draft copy. Notices have been posted in the paper of committee members, their phone numbers, and meeting dates.

Chairman Wright asked what changes have been made from the older plan.
Member Albrechtsen noted there were no dramatic changes made. The committee tried to take the issues from both of the plans and tighten up any loose ends. They spent a considerable amount of time on the Deep Creek Ranches, although the majority of that information came with what was already adopted in 2008. The format did change due to the format of setting goals and then bullet points beneath on how to accomplish those goals.

Chairman Wright asked what one or two things were the biggest concerns or biggest change in the plan. Member Albrechtsen noted the changes made to the Deep Creek area was done to get some ordinances in place to try to enforce a lot of the issue up in that area. The change made to the Deep Creek area and overlaying that with R-10 for everybody instead of sectioning some properties off, was simply out of fairness. Whoever comes in still has to abide by the ordinances. The density nor location of the village center was not changed. There was a discussion with regard to where it was located, but there was not a logical place for a good access.

Chairman Wright asked if there had been any discussion concerning the area closest to Morgan City. Member Albrechtsen noted the committee specifically looked at the concept of the village center and they do not want density to increase anyplace other than the village center. They want that area to remain agriculture in order to maintain the rural atmosphere that is already in Milton.

Chairman Wright asked about code enforcement of the Deep Creek Ranch area.
Mr. Ewert noted he has contacted Brian Cowen of the Weber-Morgan Health and are hoping to get a tour of that area in the spring.

Chairman Wright asked about the RR-10 zone.
Member Albrechtsen noted that many lots are legal non-conforming. The lots were split a long time ago in past history. The majority of the lots are that way and the committee believed the existing situation needed to be acknowledged.

Chairman Wright asked about a plan for the Deep Creek Road.
Mr. Ewert noted the County Engineer could find the center of the road if needed and that would be a definite point that staff would look at if development were to begin occurring.
Mr. Crowell noted unless there was a capital improvement planned and budgeted for you are unlikely to see the County go out and determine the centerline for the project. As individuals come in, the surveyors and engineers will probably have to make the best guess of where to put the end of the 60 or 66 feet on the right-of-way dedication for the plats. It is difficult without a project to go piece by piece. If there is a project in 20 years and there are some pieces that have happened during that 20 year period they may not always completely line up and that will have to be dealt with during right-of-way acquisition per project. We know that it is public by use and so we can make an assumption under case law that there is a 60 or 66 foot right-of-way for public use, but the property plats will not reflect that right now.

Member Albrechtsen noted there really is no way to get adequate road width i because of the way the property lines and homes are located.

Chairman Wright asked the members for input.

Member Bosen –

- Asked Mr. Albrechtsen to comment on Mr. Schlack's concern with regard to property below Deep Creek. Mr. Albrechtsen noted the area below is flat land and farm land. In the Deep Creek area the ground is not flat and is more slope and good for grazing. Milton really wants to leave zoning as it is, that is what the general plan states.

Member Toone –

- Noted the area that borders the Island Road is where the sewer ponds and Weber Basin Canal is. The zoning is wisely done. It can create questions when looked at on paper, but the people on the

committee have assessed it well in knowing what is physically there. Believe they have drafted their plan to preserve that rural atmosphere.

Member Kobe –

- Asked for clarification on page 6 of 13 where it discusses the quality of life. Is farming and agriculture critical because it provides livelihood for people, open space, and will there come a time in the near future where someone wants to farm, but they are unable and then does the land just become open space and will it be addressed at that time?
    - Mr. Albrechtsen noted Milton has a significant number of people who get their livelihood from the agriculture that is there. An area plan is anticipated to be five years. The committee did not see this being an issue in the next five years.

Member Weaver –

- Impressed with the plan. The map is very informative.
- Agree that the trailers should not be left up in Deep Creek. Mr. Albrechtsen noted that the 2008 adoption states that there should be no trailers between November 1st and April 30th. That limitation was moved last time around, not this time around.
- Likes the idea of stopping the damming of Deep Creek.
- Mr. Ewert noted this is general plan form and zone enforcement is contingent upon enacting ordinances to remove those structures.

Mr. Ewert noted that the recommendation is not the zoning it is what is recommended for future if landowners wanted to come in and request a re-zone. Current zoning is in place until that time.

Member Wilson –

- Asked about the difference between the low density and 10 acre lots where it reads a potential increase in dwelling units shown would only occur if all property lines were consolidated and re-subdivided to allow exactly 10 acre lots. He asked if that was the reflection between the 24 dwelling units under the 2008 plan and the 53 under the 2010 plan.
    - Member Albrechtsen noted the plan has very clear definitions as far as how far from Deep Creek Road development can occur. The 53 dwelling units would take all of the area that could possibly be accessed off Deep Creek Road with Private roads, new subdivisions, etc and says if those were developed that is how many units could potentially be there.
- Does the committee anticipate the residents wanting to increase the density in the town center and has a sewer and water system been considered. Member Albrechtsen noted he was unaware of any plans at this time.

Chairman Wright recommended the following:

- Make notice that this is a five year plan.
- Physical boundaries – does this plan tie up tight against the Porterville/Richville areas and Peterson area. Member Albrechtsen noted there is a gap, but it was discussed in depth and it was not a concern. Mr. Crowell noted the County needs a County map. There are a lot of holes throughout the County with regard to boundaries. The focus needs to be on the boundaries.
- Recommended using the word "approximately" on the map boundaries.

The members reviewed page by page the draft. Minor changes were suggested.

Chairman Wright asked if Mr. Albrechtsen was comfortable with public input of this plan and the knowledge of it. Member Albrechtsen noted that all meetings were properly posted in the paper and at the park. There was an extensive search for committee members. He believed the plan was properly advertised.

**Member Albrechtsen moved to recommend to the County Council a positive recommendation for the adoption of the 2009 Milton Area Plan with the following changes;**

- **Page 3 – eliminate in the second paragraph the sentence that begins with "*Topics*" and ends with "*Densities*".**
- **Page 5 - under objective #2 that the line that states "*The zoning that currently exists*" be eliminated.**
- **Page 5 – In the second to last paragraph that we eliminate the words "*from the current A-20 zone*" and eliminate the last sentence as well that begins with "*Policy changes*".**
- **Page 12 - under "Future land use maps category descriptions" add the sentence "*Boundaries on map are approximate".*.**

**With the following finding:**

- **The 2000 area plan and the 2008 future land use map had some sections that needed further description and further information.The need for one complete guiding document.**

**Second by Member Weaver.**
The Chairman called for discussion.

Member Toone asked if the Council would see the strikethroughs and minor changes. Mr. Crowell noted staff would clean the draft up and the Council would see the corrections.

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

**10. Public Hearing/Discussion/Decision on the request by Doug Kearsley to re-zone approximately 14.46 acres at 2175 West Deep Creek Road from MU-160 to RR-10.**

Mr. Ewert presented his staff report (Please see attached exhibit C)
Chairman Wright asked what makes it necessary to re-zone. Mr. Ewert noted Mr. Kearsley's property is currently legal non-conforming. He was granted legal non-conforming status in 1996 when he purchased the property. The zoning laws of the MU-160 zone pertained to his property. Whatever his use was in 1996 can continue, but he cannot add any new uses in this zone unless it coincides with the MU-160. He noted Mr. Kearsley would like to open a riding arena on the property. This would not be permitted under current zoning because the lot has a non-conforming status as it exists.
Chairman Wright referred to the Dorius request and ask how this request was different. Mr. Albrechtsen noted that one of the main differences was that the Dorius request was for more density (two new lots) . Mr. Ewert noted this request could follow the County Council's adoption of the area plan if they prefer.

**Member Weaver moved to open the public hearing for Doug Kearsley. Second by Member**
**The vote was unanimous. The motion carried.**

Doug Kearsley –

- 1996 when he closed on this property the County Commission said it would be re-zoned, which he

thought it was. After speaking with Mr. Ewert it was determined, through minutes that it never was.

- His intent is to build an equestrian riding academy for special need individuals. To make this process easier and cleaner this is what should be done.

Brandon Anderson –

- Ran into the same situation when he tried to re-zone his father's property.
- Supports what Mr. Kearsley wants to do.

**Member Toone moved to close the public hearing. Second by Member Albrechtsen. The vote was unanimous. The motion carried.**

Chairman Wright asked if this will result in similar requests in the future. Mr. Ewert noted that it will. There are other properties in the area with similar issues. There are no current applications and assuming the Council approves this, the adoption should precede those possible requests.

Member Albrechtsen noted the biggest difference between this and the Dorius application is that the Dorius application was asking for increased density and this is not; that is pretty substantial in his mind because there is discussion all the time about not wanting to increase density outside of the village centers and town centers.

Member Wilson noted he does not like to go outside the area plan and would like to see the new Milton area plan passed before this application is granted.

Member Weaver had not concerns.

Member Toone noted zoning was clearly defined 300 feet from the road. He explained the Dorius request for change was different because the area in question was more than 300 feet away from the main road some. The ordinance is clear on that distance. In the Kearsley case, the zoning line is somewhat less clear and is based on a general plan whose lines are intended to be somewhat soft. So the inclusion of additional property with Kearsley is less of an issue.

Chairman Wright summarized:

- Density is not increased.
- The question of a legal non-conforming lot needs to be resolved.
- Part of the property is outside of what is now outside of the Milton area plan and that Mr. Kearsley will not be able to move ahead with additional facilities on the property without this being approved.

**Member Toone moved to forward a positive recommendation to the County Council for the request by Doug Kearsley to re-zone approximately 14.46 acres at 2175 West Deep Creek Road from MU-160 to RR-10. Based on the fact that the use of the lot is based upon frontage off of Deep Creek Road and the following five findings:**

1. **The nature of the rezone is in conformance with the current and future land uses of the area.**
2. **The rezone is in conformance with the General Plan.**
3. **The parcel has adequate frontage and acreage for the RR-10 zone.**
4. **Allowing the rezone would bring the nonconforming property into conformance with zoning laws.**
5. **Rezoning the property will not cause the potential for greater density because it is not large enough to be legally subdivided according to current zoning laws.**

**And no conditions.**

**Second by Member Albrechtsen. The Vote was unanimous. The motion carried.**

**11. Other Planning Commission business.**

Bonding was discussed. The County Council has asked the Planning Commission to consider a change to the existing ordinance that would ensure bonding funds are available to the county if needed. Current bonding processes such as surety bonds, lines of credit, or escrow may not be sufficient to guarantee money is available to the county if needed.
Work session with the County Council will take place on Tuesday January 19, 2009

Member Toone – Road dedication.

- Mr. Crowell noted the reason this was a concern to Mr. Adams was because it triggered his application not being in the short subdivision process. If the County did not want to require road dedication in a right-of-way that is a policy decision. He would not advise the Council to take it away because in the future (50 years) that may be property the County will need to purchase.
- Summit County Water distribution case may bring this issue up and the County may need to gather some legal opinions.
- Deferral agreements may need to be considered for future right-of-ways. These are also policy issues.
- Member Toone will work with staff to see if there is a way to manage road dedication more equitably.

**12. County Council update.**

- Fairgrounds master plan was approved.
- Board of Appeals by Gus Kallas for a cat adoption center will ake place Thursday January 21, 2010 at 6 p.m.

**13. Motion review and approval.**

**Member Albrechtsen moved to approve the motions made this evening. Second by member Toone. The vote was unanimous. The motion carried.**

**14. Adjourn.**

**Member Toone moved to adjourn the meeting.**

**Approved: _____** **Date: _____**

**Chairman**

**ATTEST: _____** **Date: _____**

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

**Exhibit A – Agenda item #8 - Cole Schlack for an extension of preliminary plat approval for the Sunny Meadows Estates Planned Residential Unit Development.**

# MEMO

**TO:** PLANNING COMMISSION
**FROM:** GRANT CROWELL
**DATE:** 6 JANUARY 2010
**SUBJECT:** REQUEST BY COLE SCHLACK FOR PRELIMINARY PLAT EXTENSION FOR SUNNY MEADOWS PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD)

On October 21, 2008, the Morgan County Council approved the preliminary plat for the Sunny Meadows PRUD, a five lot subdivision. On December 7, 2009, the staff received a request to extend the approval for an additional twelve month period (the mailed copy was received on December 9, 2009). The original approval expired on October 21, 2009.

Section 18-11(A) of the Morgan County Land Use Management Code (LUMC) presents the regulation for plat expiration and extension:

18-11 **Validity of Preliminary Plat Approval**

A. An approved preliminary plat is valid for one (1) year. The Planning Commission may grant a one (1) year extension of the preliminary plat, provided the plat still complies with all applicable ordinances. No person or entity obtains a vested right to develop the property by reason of obtaining preliminary plat approval.

Staff has discussed the time period issue with the applicant, and he expressed a desire to move forward with the request regardless of the LUMC or Staff's recommendation. Staff believes that the request for extension should have been received prior to the original expiration date, and therefore the request is not ripe for review. According to this, a new preliminary plat application is required to be processed.

The PRUD and subdivision code have not changed since the original approval, and based on that, a re-submittal should proceed with essentially the same outcome. However, the current development review staff will re-review any new application in accordance with the LUMC, making sure all relevant items are addressed.

If you have any further questions regarding this item, please let me know.

**Exhibit B – Agenda item #9 -Milton Area Plan**

**Exhibit C – Agenda item #10 - Doug Kearsley to re-zone approximately 14.46 acres at 2175 West Deep Creek Road from MU-160 to RR-10**

**To:** Morgan County Planning Commission
Business Date: 1/14/2010

**Prepared By:** Charles Ewert, Planning Technician

**Re:** **Rezone Request**
Application No.: 9.038
Applicant: Doug Kearsley
Project Location: 2175 W Deep Creek Road
Zoning: MU-160
Acreage: Approximately 14.46 Acres (Approximately 629,878 $ft^2$)
Request: Request for approval of a rezone from MU-160 to RR-10

## SUMMARY

This application is a request for a rezone of 14.46 acres located at 2175 W Deep Creek Road. The property is currently zoned MU-160. The applicant is requesting approval of a rezone to the RR-10 zone.

## BACKGROUND

In 1996, the applicant purchased four contiguous parcels of property, about 49 total acres, located in the Deep Creek area. In February 1996, prior to purchasing these properties, the applicant appeared before the Planning Commission and County Commission to request a letter of legal non-conformance for the purpose of obtaining a mortgage on the property. Legal nonconformance was granted for the entire parcel ownership. The applicant was under the impression that this action rezoned the property. Upon the recent realization that his land is still zoned MU-160, the applicant submitted this zone map amendment application to bring one of his four lots (14.46 acres) into conformance with zoning laws by requesting a zone change to RR-10. The lot has a single family dwelling unit and several accessory and agricultural buildings. It has approximately 485 feet of frontage along Deep Creek Road, which is a local minor collector street. The applicant desires to leave the remaining three lots in the MU-160 zone, as his use of those parcels is primarily agricultural. (See Exhibit A)

## ANALYSIS

*General Plan*. The property is located within the Milton Area Plan portion of the Morgan County General Plan. In March 2008, the County Council approved the Milton Small Village Future Land Use Map wherein a portion of the Deep Creek area was designated for future RR-10 zoning. The majority of the parcel which the applicant is requesting rezoned is primarily in this future RR-10 zoning designation, and due to the parcel size, rezoning the entire parcel to RR-10 would not create the potential for increased density in the area. (See Exhibit B)

The proposed draft 2010 Milton Area Plan map designates the future land use for the majority of this property as low density zoning (with a minimum lot size of 10 acres) as well. This designation is intended to develop at no less than approximately one unit per ten acres of land. Rezoning decisions should be based on whether the current infrastructure can handle the increased density, including the increased traffic load along Deep Creek Road. The low density land use designation begins west of the current RR-1 zone along Morgan Valley Drive and extends in both directions approximately 1,400 feet from the centerline of, and to the end of the paved surface of Deep Creek Road in order to promote ten (or more) acre lot developments solely along Deep Creek Road. Zone changes that will stimulate developments that do not front Deep Creek Road are discouraged.

The Milton Area and Morgan County General Plans provide general guidance for future land uses in the Milton area. The logical boundary of a rezone when compared to the general recommended boundary of an area plan may differ, but it is important when evaluating the logical boundary that the goals and objectives of the area plan and general plan are met. The rezone request is in general conformance with the boundary recommendations of both proposed and existing Milton future land use maps (See Exhibit C).

*Zoning.* The property is currently assigned the MU-160 zoning classification, supporting one dwelling unit per 160 acres (see Exhibit D). The requested RR-10 zone supports one dwelling unit per minimum 10 acres, and the purposes of the rural residential zones are:

i. To promote and preserve in appropriate areas conditions favorable to large lot family life,
ii. To maintain a rural atmosphere
iii. For the keeping of limited numbers of animals and fowl; and
iv. To reduce requirements for public utilities, services and infrastructure.

The Land use Management Code (LUMC) use table 16-10-030, Use Regulations, indicates the permitted (P), conditional (C), and prohibited (-) uses in both the MU-160 and RR-10 zones. When considering a zone change request, all potential uses of the prospective zone should be determined to comply with the general character of the area. The differences in the LUMC table 16-10-030 with respect to the MU-160 and RR-10 zones are compared in the following table. The table has been modified from the official version to display the differences between the two zones only:

| **16-10-030 Use Regulations.** No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained in the multiple use, agricultural, or rural residential districts except as provided in this Code. TABLE 16-20-030 [2005-03]**Districts** | **MU-160** | **RR-10** |
|---|---|---|
| 4.g. Forest Industry, such as a saw mill, wood products plant, etc. | C | - |
| 5. Child day care or nursery. | - | C |
| 7.a. Bed and Breakfast Inn. | - | C |
| 8.a. Single-family dwelling. | C | P |
| 8.c .Homes or mobile homes on bona fide farms or for worker | C | - |
| 11. Mine, quarry, gravel pit, rock crusher, concrete batching plant, | C | - |
| a. Temporary gravel pit, crusher, subject to the provisions of Section 16-20-120 | | C |
| 15.a. Airports. | C | - |
| 19. Temporary meteorological monitoring tower, subject to regulations in subsection 16-20-120 | C | - |

According to the LUMC Table 16-10-040 the minimum lot size in acres for any main use in the districts regulated by [Chapter 10] shall be 160 acres in the MU-160 zone, and 10 acres in the RR-10 zone. In other words, under current land use ordinances, any main use in the MU-160 and RR-10 zones as designated by table 16-10-030 requires 160 acres and 10 acres respectively.

In 1996, the property was declared legally nonconforming. According to the LUMC Definitions 16-02-590, legal nonconformance is defined as a lot created prior to the adoption of this code. Legal nonconformance allows existing land uses to consistently continue, despite changing land use ordinances. However, if there are any desired changes of land use, current land use ordinances are typically required to be observed because the legal nonconforming status only applies to uses that existed prior to the changing ordinances.

Bringing this property into compliance with current zoning laws by rezoning to RR-10 will provide the land owner the opportunity to use his property in a legal conforming manner according to the use table of Chapter 10, and alleviate questions for financing and rebuilding in the future, related to lot size nonconformity.

*Circulation*. If rezoned, the property is not large enough to be subdivided, thereby offering no increase to density, and no

increased traffic demand for residences. The use table indicates that the RR-10 zone conditionally allows child day-cares/ nurseries, and bed and breakfast inns. Should these uses be pursued by the property owner, there may be increased local traffic circulation, but these harmful impacts would be addressed through the conditional use review and approval process.

*Noticing.* The 2000 Milton Area Plan recommends that rezones be noticed in the local paper(s), and a 2x3 public hearing sign be posted on site prior to the hearing date. The LUMC 16-03-150 and 16-04-010 only requires public hearings for rezones when the County Council's hears the rezone request. State law 17-27a-205 requires the first public hearing (whatever body is hearing it) to be noticed on the County's website and published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing, and mailed to the property owner affected by the change, as well as adjacent property owners within parameters specified by the county (which is 300 feet in Morgan County).

This public hearing notice was posted at a minimum within the State and County requirements in the following manner:

1. Posted to the County website within 10 days prior to this meeting.
2. Published in the Morgan County News within 10 days prior to this meeting.
3. Mailed to property owners within 300 feet of the affected property.
4. Mailed to the property owner.
5. Posted in the foyer of the Morgan County Courthouse.

**STAFF RECOMMENDATION**

This recommendation is based on the following findings:

6. The nature of the rezone is in conformance with the current and future land uses of the area.
7. The rezone is in conformance with the General Plan.
8. The parcel has adequate frontage and acreage for the RR-10 zone
9. Allowing the rezone would bring the nonconforming property into conformance with zoning laws.
10. Rezoning the property will not cause the potential for greater density because it is not large enough to be legally subdivided according to current zoning laws.
11. The rezone will not create greater traffic along Deep Creek Road.

**MODEL MOTION**

Sample Motion for a *Positive* Recommendation – "I move we forward a positive recommendation to the County Council for the Doug Kearsley rezone request, application #9.038, rezoning approximately 14.46 acres of the property at 2175 W Deep Creek Road from MU-160 to RR-10, based on the findings listed in the Staff Report dated January 5, 2010, and as modified by the conditions 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 Doug Kearsley rezone request application #9.038, rezoning approximately 14.46 acres of the property of 2175 W Deep Creek Road from MU-160 to RR-10, based on the following findings:"

1. List any additional findings…