



PLANNING COMMISSION AGENDA  
Thursday July 29, 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 July 8, 2010.
5. Planning Commission training.
6. Public comment.
7. Discussion/Decision: David S. and Julia C. Croft, referred back to Planning Commission for consideration of rezone approximately 50.43 acres located in the Enterprise Area from MU-160 to RR-5.
8. Discussion/Decision: To amend Chapters 8-2, 8-3, 8-4, 8-5, 8-8, 8-6, and 8-12 of the Morgan County Code pertaining to subdivision and development regulations.
9. Discussion regarding the Zoning Ordinance updates.
10. County Council update.
11. Planning Commission business.
12. Motion Review and Approval
13. Adjourn.

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

**MEMBERS PRESENT**

Robert Wright  
Trevor Kobe  
Adam Toone  
Bill Weaver  
Roland Haslam, arrived late

**STAFF PRESENT**

Grant Crowell, Director  
Charlie Ewert, Planner Tech/Code  
Teresa Rhodes, Planning Commission Assistant

**MEMBERS ABSENT**

Steve Wilson

**COUNTY COUNCIL PRESENT**

Tina Kelley  
Howard Hansen

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

**1. Call to order – prayer.**

Chairman Wright called the meeting to order.  
Chairman Wright offered the prayer.

**2. Approval of agenda.**

Member Kobe moved to accept the agenda as printed. Second by Member Weaver.  
The vote was unanimous. The motion carried.

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

There were no conflicts of interest declared.

**4. Approval of Minutes for July 8, 2010.**

Member Toone moved to table the minutes of July 8, 2010. Second by Member Kobe. The vote was unanimous the motion carried.

**5. Planning Commission training.**

Chairman Wright reminded the commission of the importance of having strong findings and solid conditions as part of Planning Commission motions. This will enable the County Council to better understand and act on work done by the Planning Commission.

**6. Public comment.**

**Gary Snyder** – Thanked the Planning Commission for making the motion and recommendation to the County Council. He noted his application was denied by the County Council and that he believes the denial is due to a mis-interpretation of the code. Does not want the Planning Commission to feel their work was for not.

The concept he would like to address is broader and for the benefit of future citizens – seeking a conditional use permit to occupy their home while they build a new home. The concept he would like to address is eliminating the bureaucracy of a citizen needing to come through the process. The process should be to get a building permit with a performance bond that requires you to tear down that existing home once you occupy the new home. Then you get an occupancy permit with revocation of the occupancy permit of your existing home, you tear it down, and you get the performance bond back. It is not good administration to require someone to take staff's time, County Council time, Planning Commission time, pay the fees, public notice and all of that to simply live in their home while they build a new home. He noted there are two short sections where this is addressed. 8-2-1 is the definition of the code; describes temporary uses. Very last sentence states "Temporary uses are exempt from a conditional use permit". Not sure what that is about, but maybe an attempt to avoid citizens needing to go through the entire process. Next section that staff refers to in their report on his application, admitting in the report that there is not a specific code, but the one that mostly closely fits is 8-5a-3 is a table on conditional permitted uses. Temporary use being a conditional use in RR-1 and uses terminology to the effect that uses incidental to construction work which buildings must be removed upon completion of construction; then talks about mobile homes. The main section of the code is 8-6-16 – specifically identifies where a temporary use permit is required. Nowhere does it talk about living in your existing home while building a new home.

Believes it is tradition from past administration and would plead with the Planning Commission to take some action to eliminate it and benefit everyone involved; there is no need for it. You require a performance bond up front with the building permit and you are covered. That is hopefully to the benefit of future generations for what it is worth.

Chairman Wright noted there are three items being worked on right now.

- What Planning Commission should approve on the conditional use permits.
- Mother-in-law apartment ordinance. Whether it is tossed, clarified, or strengthened.
- Conditional Use Permit re-work and try to codify and eliminate the redundancies.

Mr. Snyder noted the ordinance is tightly written. It is convoluted because it has two sections in there of extended living in an accessory apartment. To him it comes down to whether or not the

county wants moderate income housing relief in the code and economic relief. He believed the one simple statement under the definition 8-2-1 for temporary use is that if one sentence was simply put in there that said “living in an existing home while building a new home is not a temporary use” he believed it would be covered and could be administered.

**7. Discussion/Decision: David S. and Julia C. Croft, referred back to Planning Commission for consideration of rezone approximately 50.43 acres located in the Enterprise Area from MU-160 to RR-5.**

Chairman Wright gave a brief overview of the reason the County Council referred this request back to the Planning Commission.

- Did the area plan adequately figure the topography of the property? One of the elements that went into the County Council’s decision was that it may be too steep to be considered for RR-5.
- Future gravel pit concerns.

It was noted Mr. Ewert had submitted a MEMO regarding the County Council’s referral back to the Planning Commission (Please see attached exhibit A).

The members reviewed a Google Earth Map of the Enterprise Area.

Member Kobe asked if there was reason behind the boundaries of the RR-5. Mr. Ewert noted he had reviewed the minutes of the area plan and there was conversation with regard to the piece of property being included, but not definite reasoning for the RR-5 zone boundaries.

Chairman Wright asked Mrs. Croft to address the reasoning for their request once again.

Mrs. Croft stated the agriculture uses they would do on the property are still allowed in the RR-5 and RR-10. Their objective is just to have a lot they can utilize. It was her impression that the County Council’s main concern was that they did not want to see another gravel pit on the property.

Chairman Wright noted the area plan clearly states they want the RR-5 zone in this area. This property would be RR-5 by extension.

Member Weaver noted there is a lot of public concern in Enterprise about Gravel pits and safety.

Mr. Ewert stated that it should be noted that in the RR-5 zone there is a conditional use permit to have a temporary gravel pit but there are restrictions that the material needs to stay on site, such as the one that took place in the Cottonwoods for construction of the roads there.

Member Kobe – Clarified the following:

- The property zoned as A-20 increases the possibility of a future gravel pit.
- RR-5 is not appropriate due to slope.
- With the current zoning in place, certain uses are not allowed on the property.

**Member Haslam arrived at 7:15 p.m.**

Member Kobe noted his biggest concern at this time is setting a precedent. He would be more in favor of RR-10 with the finding that the area plan may not have considered the topography and density associated with the RR-5 zone.

Mr. Ewert clarified that the RR-10 zone does allow for temporary gravel pits for use within the property. As far as precedence goes, when it comes to administering ordinance, especially where discretion is essential in the administration of it, when a certain decision is made at that point, that is a decision that should probably be stuck to with similar types of applications in the future. It mostly applies to administrative decisions. When it comes to re-zones being a legislative decision it is a lot easier to provide a simple finding of, "It's not the right timing, it's not the right place." He would not be too concerned about setting precedence in this case because it would be easy for this exact same application to come forward on the opposite side of the valley. It would be easy to make the simple finding that it is not the right time and the area has not developed enough.

Member Toone – Hypothetical. If nothing happened and this was left as an MU-160 and someone purchased this property could it be used as a gravel pit then. Mr. Ewert noted only if the gravel pit has 160 acres total. Currently Sky View gravel pit is not at the 160 acres even if this parcel was to be acquired; but it is not impossible.

Member Toone noted he is somewhat confused at the message we are sending and/or receiving. Recently the County Council denied the Snyder CUP because it would look to dense, and yet this property was referred back because the zoning was not dense enough. These two pieces of property are approximately right across the valley from one another. It seems rather contradictory and inconsistent with individuals wanting to do something with their property. He noted a use such as mining does create the ability to keep things rural because there are fewer homes. We can send what we have in the County out and take the money in. He does not find it reasonable to say it is not all that bad for the gravel pit to expand there. What is it that we are truly trying to accomplish? Are we just trying to stop a gravel pit? Maybe gravel pits put a lot of wear and tear on the roads but they do bring a lot of revenue into the valley; the equipment is assessed the dirt is not. Should we acknowledge that the jobs a gravel pit provides to a county is valuable.

Chairman Wright noted we have learned a lot about gravel pits over the years. One thing we have learned is that if someone wants a gravel pit they can have a gravel pit. The county has been taken to court on this very issue.

**Member Weaver moved to forward a positive recommendation to the County Council for the Croft rezone request, application #10.017, rezoning approximately 50.43 acres of the property located East of Enterprise Village Center, in Section 9, Township 4 North, Range 2 East, from MU-160 to RR-10.  
Motion died due to lack of second.**

Zoning, slope, and potential use of the property were discussed.

Member Kobe – Does not want to feel pressured to zone down to RR-5, however, maybe it is not the right time given the present growth of Enterprise.

**Member Haslam moved to deny the rezone request to the County Council for the Croft rezone request, application #10.017, rezoning approximately 50.43 acres of the property located East of Enterprise Village Center, in Section 9, Township 4 North, Range 2 East, from MU-160 to RR-10. With the following findings:**

- 1. Not the time and place.**
- The motion died to lack of second.**

**Member Kobe moved to forward a recommendation to deny the re-zone request for the Croft rezone request, application #10.017, rezoning approximately 50.43 acres of the property located East of Enterprise Village Center, in Section 9, Township 4 North, Range 2 East, from MU-160 to RR-10.**

- 1. Not the right time given the growth in the Enterprise area**
- 2. Keeping the land in MU-160 will mitigate concern relative to gravel pits.**
- 3. When the time is right to rezone that zoning of RR-10 be given consideration given the topography of the area.**

**Second by Member Haslam.**

There was further discussion.

Member Weaver asked if this would really mitigate the potential of a gravel pit. Mr. Ewert noted an adjoining property or the Crofts would have to acquire another 100 acres to do anything. It could work at some point in time if either purchased more property.

Member Kobe noted that there are many similar situations in the county where there are 3 and 5 acre lots in the A-20 zone that people use the property for grazing or other recreational purposes. His concern would be that it would not be the right time for them to come forward and request an outbuilding on the property; when it is then we know the direction we want to support the Crofts to re-zone their property.

Member Haslam asked where it states in the code that in the MU-160 you cannot put up a barn. Mr. Ewert referenced 8-5A-4 Area Regulations, then 8-5A-3 Use Regulations states, *“No building structure or land use shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained in the multiple use, agriculture, or rural residential district except as provided in this article.”* He interprets this to mean the regulation for the area and the MU-160 zone is 160 acres minimum to use; the last sentence applies to buildings as well.

Member Toone noted he is not comfortable with the consequences, voting a yea on this when the Planning Commission has already said it is appropriate to take an action one direction.

Chairman Wright noted one of the concerns is the ability to develop anything on the property.

Chairman called for a vote.

**Member Kobe and Member Haslam for and Members Weaver and Toone against. The Chairman voted Nay. The motion failed.**

Mrs. Croft requested to address the Planning Commission. Chairman Wright granted the request.

Julie Croft - Noted that the Planning Commission recently re-zoned Bill Holyoak to RR-5. As far as saying this property is in the middle of nowhere and not being in the vision of the area plan, there are two other properties that have been re-zoned RR-5; some within 1000 feet.

Member Haslam asked who owned the property between the Crofts and Spring Hollow Road. Mr. Ewert noted various private landowners. Access to these properties was discussed.

**Member Toone moved to forward a positive recommendation to the County Council for the Croft rezone request, application #10.017, rezoning approximately 50.43 acres of the property located East of Enterprise Village Center, in Section 9, Township 4 North, Range 2 East, from MU-160 to A-20.**

- **Limits the density of what will occur on the property with regard to development as well as an approval that will enable them to make profitable use of their property.**
- **Movement of dirt required would not be any more significant than that of a gravel pit.**

**The motion died due to lack of second.**

**Member Toone moved to forward a positive recommendation to the County Council for the Croft rezone request, application #10.017, rezoning approximately 50.43 acres of the property located East of Enterprise Village Center, in Section 9, Township 4 North, Range 2 East, from MU-160 to RR-10.**

- **Housing density is limited more than RR-5.**
- **Enables a somewhat profitable use of the property**
- **Blocks gravel pit expansion or development on the property.**

**Second by Member Weaver.**

**There was further discussion –**

Member Kobe requested an amendment to the motion as follows:

- **The Planning Commission's intent is to follow the recommendation of the area plan but believe the RR-10 is more appropriate given the topography of the land.**

Member Haslam requested the following amendment to the motion as follows:

- **Re-zone is compatible with surrounding property.**

**Member Toone amended his motion to read as follows:**

**Member Toone moved to forward a positive recommendation to the County Council for the Croft rezone request, application #10.017, rezoning approximately 50.43 acres of the property located East of Enterprise Village Center, in Section 9, Township 4 North, Range 2 East, from MU-160 to RR-10.**

- **Housing density is limited more than RR-5.**
- **Enables a somewhat profitable use of the property.**
- **Blocks gravel pit expansion/development on the property.**
- **The Planning Commission's intent is to follow the recommendation of the area plan but believe the RR-10 is more appropriate given the topography of the land.**
- **Re-zone is compatible with surrounding property.**

**Second by Member Weaver.**

The chairman called for a vote.

**The vote was not unanimous with Member Toone and Member Weaver for and Member Kobe and Haslam against. The Chairman voted in favor to break the tie. The motion carried.**

8. **Discussion/Decision: To amend Chapters 8-2, 8-3, 8-4, 8-5, 8-8, 8-6, and 8-12 of the Morgan County Code pertaining to subdivision and development regulations.**

**(Please see attached exhibit B)**

**Motion by Member Weaver to open a public hearing. Second by Member Kobe. The vote was unanimous. The Motion carried.**

### **Debbie Sessions –**

- What is “Rural”? Needs defined.
- Once defined, make sure this ordinance will produce a rural subdivision.

**Motion by Member Kobe to close the public hearing. Second by Member Weaver. The vote was unanimous. The motion carried.**

The members discussed the proposed subdivision process.

The members discussed the following 15 items and set a baseline for review.

**Member Kobe moved to continue the discussion of Chapters 8-2, 8-3, 8-4, 8-5, 8-8, 8-6, and 8-12 of the Morgan County Code pertaining to subdivision and development regulations at the next meeting. Second by member Weaver. The vote was unanimous. The motion carried.**

#### **9. Discussion regarding the Zoning Ordinance updates.**

#### **10. County Council update.**

Grant Crowell noted the following actions from the County Council:

- Croft re-zone was referred back to the Planning Commission.
- Gary Snyder conditional use permit for an accessory apartment was denied.

#### **11. Planning Commission business.**

- Wasatch Back Report – Mr. Crowell noted that they met today with Jim, the lead from The Wasatch Back. The Emergency Services, Public works, and Sheriff Department was present. They are scheduled to speak to the Planning Commission on August 26, 2010. Staff has not received any formal complaints.
- Mother-in-law apartment – would like to review and decide what to do with this ordinance.

#### **12. Motion Review and Approval**

It was decided that if a motion is made under an agenda item, each motion would be read and reviewed after has been moved and voted upon.

**Member Toone moved to adjourn.**

**Approved:** \_\_\_\_\_  
**Chairman**

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

**ATTEST:** \_\_\_\_\_  
**Teresa A. Rhodes, Clerk**  
**Planning and Development Services**

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

**Exhibit A - Agenda Item #7 - Discussion/Decision: David S. and Julia C. Croft, referred back to Planning Commission for consideration of rezone approximately 50.43 acres located in the Enterprise Area from MU-160 to RR-5.**

# Memo

**To:** Planning Commission  
**From:** Charles Ewert  
**Date:** 1/27/11  
**Re:** County Council Referral of Croft Rezone Reconsideration

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## Reconsideration if the Croft Rezone Request

On July 20, 2010, the County Council heard and considered the Croft Rezone request, file #10.017, to rezone approximately 50.43 acres from MU-160 to A-20. The County Council had two primary concerns about this rezone request: the first is the concern about the possibility that the rezone could stimulate the expansion of gravel pit operations in the area; the second is that the Enterprise Area Plan Committee made recommendation for the future land use of this property to be RR-5, not A-20.

A rezone of this property to A-20 could incite the potential expansion of gravel pit operations in the area. There are concerns that an expansion may lead to additional wear and tear on the road system, cause roadway safety hazards, and harm the view shed of the area. Granted, some of these concerns may be addressed with a conditional use permit, the approval of such permit must be granted if harmful impact can be mitigated. Mitigation of such impact may take many forms, of which there could be reasonable solutions that may not meet the desires of the area residents. This is a chance that the County Council is not willing to take at this time. They feel the best way to keep the use from expanding onto this property is by rezoning to a more restrictive zone.

The Enterprise Area Plan Committee recommended the future land use of this property be RR-5, as delineated in the Enterprise Area Plan Map, adopted January 16, 2007. Whereas this is a recommendation, and may be treated as a recommended minimum, the County Council desires the Area Plan to be strictly applied for this particular request. If the property is rezoned to RR-5, the potential use of a gravel pit operation is prohibited. An important factor to consider relative to an RR-5 rezone is the potential impact that the fullest and best legal use of land may have on the surrounding area. A rezone of this nature could result in a subdivision of ten lots, each given the right to potentially be used in any manner listed as permitted or conditionally permitted in the RR-5 use column of MCC 8-5A-3.

There is some inclination to believe that the particular topography and geology of the site may be development prohibitive. Mitigation of harmful geology and steep slopes may be restrictive to potential development, but not necessarily prohibitive. The financial feasibility of developing the property into two building lots (as indicated in the May 18, 2010 Planning Commission packet) may be too cost restrictive for a land owner to justify, but a rezoning that could result in ten building lots becomes less of a financial burden. Under current ordinance, a developer could potentially move enough earth to create building envelopes that maximizes the land use as a ten lot subdivision. This potential use could impact traffic circulation, infrastructure and maintenance needs, and view shed of the Enterprise Area.

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The rezone of this property to RR-5 is in compliance with the enterprise area plan map. If the potential impact of the fullest and best use of the land was understood when the area plan committee made the recommendation, then the rezone may be merited. The Planning Commission may make the finding that this is the case, and move for a positive recommendation to rezone the property from MU-160 to RR-5. Alternatively, the Planning Commission may make the finding that the Area Plan Committee may not have provided sufficient deliberation into the potential impact of the RR-5 recommendation, and recommend denial of the proposal to the County Council.

**Exhibit B – Agenda Item #8 - Discussion/Decision: To amend Chapters 8-2, 8-3, 8-4, 8-5, 8-8, 8-6, and 8-12 of the Morgan County Code pertaining to subdivision and development regulations.**

**..Potential Table of Contents and Topical Areas, Title 8, Morgan County Code (Land Use Regulations), to be re-numbered as codified**

**General Provisions**

**Purpose and Applicability**

**Planning Documents**

**Administration and Enforcement**

**Rules of Construction and Definitions**

**Decision Making Bodies and Officials**

**Administrative and Development Review Procedures (CUP's, Appeals)**

**Non-Conforming Uses, Structure and Lots**

**Enforcement**

**Base Zoning Districts**

**Zone Establishment**

**Multiple Use, Agriculture, and Rural Residential Zones**

**Residential and Multi-Family Residential Zones**

**Commercial and Industrial Zones**

**Special Purpose and Overlay Zones**

**Sensitive Area District (partial), GROUP...**

**Master Plan Development Reserve**

**Airport Overlay Zone**

**Regulations of General Applicability**

**Outdoor Lighting**

**Design Standards and Guidelines**

**Landscaping and Screening**

**Natural Resources Inventory**

**Off-Street Parking and Loading**

**Signs**

**Supplementary Development Standards**

**Regulations for Specific Uses**

**Accessory Development Regulations and Second Kitchens**

**Multi-family Dwelling Development Standards**

**Home Occupations**

**Manufactured and Mobile Home Parks**

**Public Utility Substations**

**Recreation Vehicle Parks**

**Residential Facilities for Elderly Persons and Persons with a Disability**

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Temporary Uses  
Wireless Telecommunications Facilities

Subdivisions  
Subdivisions

Other Zoning Ordinance Topics  
Hillside protection / ridgelines, SO  
Nuisances, SO  
Urban Wild land Interface Code  
Sexually – Oriented Businesses, SO  
Construction Standards  
Accessory Apartments  
PRUDs  
Other County Codes (not z.o.)  
Resort ordinance

