



PLANNING COMMISSION AGENDA
Thursday September 16, 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 August 26, 2010.
5. Public comment.
6. Public Hearing/Discussion/Decision: 7th Heaven: Requesting a Conditional Use Permit for a Residence, Farm worker housing, accessory buildings, and special general services for a private water system on a 630 acre property located in the MU-160 zone near the intersection of Jeremy Ranch Road and Highway 65 in Morgan County.
7. Public Hearing/Discussion/Decision - To amend portions of sections 8-2, 8-3, and 8-8 of the Morgan County Code pertaining to accessory apartments and conditional use permits.
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. County Council update.
10. Planning Commission business.
11. Adjourn.

MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY, September 16 – 6:30 P.M.

MEMBERS PRESENT

Robert Wright
Bill Weaver
Adam Toone
Roland Haslam
Steve Wilson
Brandon Andersen

STAFF PRESENT

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

MEMBERS ABSENT

Trevor Kobe

COUNTY COUNCIL PRESENT

Tina Kelly

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

1. Call to order.

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

2. Approval of agenda.

Member Weaver moved to approve the agenda. Second by Member Wilson. 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 August 26, 2010.

Member Weaver moved to approve the minutes of August 26, 2010 with the noted minor corrections. Second by Member Haslam. The vote was unanimous. The motion carried.

5. Public comment.

There was no public comment at this time.

6. **Public Hearing/Discussion/Decision: 7th Heaven: Requesting a Conditional Use Permit for a Residence, Farm worker housing, accessory buildings, and special general services for a private water system on a 630 acre property located in the MU-160 zone near the intersection of Jeremy Ranch Road and Highway 65 in Morgan County.**

Charlie presented his staff report (please see attached exhibit A).

Areas of concern were:

- Driveway clearance
- Define what the bunkhouse is accessory to.

Member Weaver was concerned about sanitation because it is so far from the main dwelling.

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

There was no public comment.

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

Farley Escelson Dominion Engineering. Mr. Escelson noted the following:

- Showed the members an aerial plat of the property.
- The ranch is currently a working ranch.
- Original bunkhouse did not have a bathroom in it. It was torn down and the one being shown on the current drawings is a new one.
- This will not be Mr. Fenton's primary residence at this time. Two people will be living in the ranch house to take care of the day to day responsibilities of the ranch.
- Farm worker housing will be used by the ranch hand. It is a three bedroom one bath home and was existing when the ranch was purchased.
- Originally the applicant had requested variance for the height on the equipment shed but did not pursue that and went ahead and built it to code.
- Buildings that have been built on the property: Equipment shed, horse barn, grainery and bunkhouse. These were all built under agriculture. They have plumbing from a well that was already dug.

Member Wilson asked staff if this can be called an accessory and eventually the owner then eventually sold the property, someone bought it, and then created a series of units, like a motel then could it still be called accessory?

Charlie noted there are certain elements of the code that, by his interpretation it would be that additional dwelling units are permitted as long as there is a conditional use permit. Historically the

County has used conditional use permits to capture something in the future if it is needed. State code states, however, that if it is allowed then it is allowed and harmful impact could be mitigated. However, it is difficult to allow the historical context to apply in this situation. The ultimate question is how many residential units can be on the property; current code does not explicitly address this.

Mr. Crowell noted sometime in the future, a more complete definition of what a recreation dwelling is, would be helpful.

Staff is recommending that if an accessory unit is allowed it be limited to one. They would also recommend that the farm worker housing not be rented out.

Member Weaver noted concern about fire protection. Mr. Ewert noted the applicants plan was approved by the local fire officials. He further noted it is one of the best the County has received for the Urban Wild land Interface Code.

Member Andersen noted his only concern would be with the ranch worker housing as well.

Member Toone noted as long as the farm worker housing stays on the same lot and they are together he could then see that as essential. However, because we are making a permanent resident on the lot, services are a concern to him. If the property is ever sold, will someone then need school bus services? Another issue that may become present is snow removal.

Mr. Ewert noted primary residence is really difficult to define because of concepts that are difficult to rein in; i.e. Number of days lived in. He believed to address this as a primary residence, regardless of its use or intended use, is appropriate.

Member Toone noted if it is a secondary residence would you be giving all the same services to a secondary residence that you do to a primary residence? Mr. Ewert noted staff analyzed this as if it were a recreational dwelling and noted they would probably present the same type of findings and conditions as if it were secondary just because it is so hard to define the difference. He noted Mr. Fenton has signed off on an acknowledgement of responsibility and indemnification. Mr. Ewert noted the County ordinance, for a recreational dwelling unit, requires that this be recorded against the title. He noted they are kind of treating it one in the same because it is in such a remote area of the County and because it is a conditional use just as the cabin would be.

Mr. Ewert noted he did call the school district who stated that unless there are a lot of children they do not extend bus service to more remote outer areas of the county, but instead give parents a stipend to transport the children to the nearest bus stop. Member Toone noted he would like to find a solution to protect the Fenton's from people using their driveway as a parking lot for snowmobiling in the winter or ATV's in the summer. Mr. Ewert noted he has spoken to the public works supervisor and the County has no intention of plowing that road.

Member Haslam noted a letter dated April 29, 2010 from the State of Utah. (Appendix 9 of Planning Commission packet)

- Asked about the size of the farm worker housing home. Mr. Escelson noted around 1500 square feet.

- Did they renovate or build new equipment shed. Mr. Escelson noted there is one standing that will be torn down once the new one is built. Mr. Ewert noted 7th Heaven did receive land use approval for the new shed.
- Code states one residence per lot - there will now be a farm worker house and a secondary residence which gives two residences on one lot which by the code is not allowed. If the farmhouse is going to be an accessory building part of the problem is the 1000 square feet.

There was further discussion on height and use of land.

- Definition chapter explains the criteria for finding the height of the building.

Member Wilson asked Member Haslam how he interpreted accessory uses on page three.

Mr. Ewert noted according to the IBC a building attached to another could be construed as one building. Member Wilson noted that was interesting because the question will come up a lot and if people are willing to connect with walkways under one roof, then under that definition they can do just about what they want.

The ultimate question is, are the limitations the County has on lot coverage for buildings adequate? Or should it be based on how big the main home is? Chairman Wright asked Charlie to address the 1000 square foot question. Mr. Ewert noted that is governed by the criteria of our accessory apartment ordinance. It does not seem applicable in this case.

Member Wilson moved forward a positive recommendation to the county council for the 7th Heaven conditional use permit based on the finding and conditions in the September 9, 2010 staff report and modified by two additional conditions as noted in the staff report dated September 16, 2010, making a total of 15 recommendations and the 6 findings.

1. That farm worker housing structures on the lot is limited to one dwelling unit.
2. That the farm worker housing unit is only occupied by farm/ranch employees; it shall not be rented or leased to occupants.
3. That a building permit is required for the residential building.
4. That a building permit is required for the "bunk house."
5. That verification of water rights is submitted concurrent with the building permit submittal and that no building permit will be issued without adequate water verification
6. That verification of approval from the Weber-Morgan Health Department of the proposed water system is submitted prior to building permit submittal.
7. That the applicant adheres to the Fire Protection Plan submitted July 15, 2010.
8. That the applicant adheres to the engineered drawings submitted August 10, 2010.
9. That the applicant adheres to the architectural drawings submitted August 10, 2010.
10. That a performance agreement and bond is submitted in an amount equaling 115% of the estimated cost of landscaping/revegetation as approved by the County Engineer prior to building permit submittal.
11. That all County contracted development review services are paid in full prior to building permit submittal.
12. That all other County, State, and Federal laws are upheld.
13. That any snow removal on Jeremy Ranch road, required to access the site, is the responsibility of the

applicant. Snow removal in the County right of way shall be done with the plow blade a minimum of three inches from the road grade.

14. That an acknowledgement of responsibility and indemnification agreement be recorded against the title in a form as approved by the County Attorney.
15. That the height exception be limited to the main residence.

Based on the following findings:

1. Limiting the number of farm worker housing to one dwelling unit limits the expansion of human habitation in the MU-160 zone, and thereby upholds the purposes of the zone.
2. The proposed building height increase will not impair the view of neighboring property, nor negatively affect the property values of abutting properties.
3. That the submitted designs, plans, and drawings are sufficient to mitigate the proposals harmful impact on the surrounding area.
4. That an improvement bond is necessary to ensure adequate completion and performance of landscaping/revegetation.
5. That the intention of current ordinances is to allow a farm worker housing dwelling unit on the same property as a residential dwelling unit.
6. That a conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

Second by Member Weaver.

Chairman Wright called for any discussion.

Member Haslam would like to see height limitations. Member Wilson referred to 8-6-13 maximum height of main building. Mr. Ewert read this section. There was further discussion. Mr. Haslam noted he would like a height exception to be tied solely to the residence and not the farm worker housing or other buildings.

The vote was not unanimous with Members Toone, Weaver, Wilson, and Andersen for and Member Haslam against. The motion carried with a vote of four to one.

Member Haslam voted against granting the CUP. His primary concern was that there is an agreement in place between Mr. Fenton and the state of Utah as to the nature of the building that can take place on that property. Member Haslam was concerned that the terms of the conservation easement were possibly not being fully adhered to. His preference would have been to table the request and ask staff to do some additional research in that area.

Staff gave the Planning Commission a copy of the conservation easement agreement with the explanation that it was informational in nature and that the Planning Commission was not being asked to determine whether Mr. Fenton was doing all he had agreed to do in that document. As a body the Planning Commission agrees with staff's position on this.

7. Public Hearing/Discussion/Decision - To amend portions of sections 8-2, 8-3, and 8-8 of the Morgan County Code pertaining to accessory apartments and conditional use permits.

Mr. Crowell noted staff had been instructed by the County Council to re-address the accessory apartment conditional use permit portion of the code. He presented his draft and reviewed page by page the proposed changes. (Please see attached exhibit B)

Member Toone moved to open a public hearing. Second by Member Weaver. The vote was unanimous. The motion carried.

Debbie Sessions -

- Public hearing is for 8-2, 8-3, and 8-8. Duplexes are under 8-5 and were not noticed under this public hearing. Some people may be concerned and have comments, therefore labeling this may be good.
- Doing away with detached accessory is a good move.
- Having attached accessory apartments in ¼ and ½ acre are a concern.
- Concern about conditional use permit. Does not like doing away with the Board of Appeal or hearing officer and requiring an applicant to make a giant leap to go to District Court is quiet burdensome.

Carolyn Morrison –

- Believes it is important to hold a public hearing.
- Families have children moving home with their families. This can cause a lot of problems.
- Traffic is a concern.

Member Weaver moved to close the public hearing. Second by Member Haslam. The vote was unanimous. The motion carried.

Mr. Crowell noted we would notice a second public hearing and would place this back on the October 14, 2010 agenda.

Chairman Wright called for discussion and noted the following be discussed further and addressed:

- Separate buildings not allowed for accessory or extended building areas.
- Size of 1000 feet.
 - Limit to two bedrooms
 - Square footage is the only control.
 - Not larger than the main dwelling.
 - 49% of the main dwelling.
- Must be owner occupied.
 - Absentee creates a different type of ownership.
- Permit is not to be re-reviewed if the property is sold.
 - Land use right.

- ADA is not required
- County Council is the land use authority.
 - District Court is burdensome.
- Changes in the use regulations metrics. Need to see a better draft.
- Size of property for accessory apartments and extended living.
 - Nothing smaller than RR1.
 - Extended living should be allowed in less than an acre.

Member Toone moved to table the land use regulations text amendments regarding accessory apartments, conditional use permits, and appeal provisions, application 10.033, pending due notification for public notice for all sections and instruct staff to present a clean copy according to discussion of the following 15 items:

1. Separate buildings are not allowed for either accessory apartments or extended living areas
2. Review appeal process – should not go to an appointed body
 - a. Deal with variances
3. General plan supports affordable housing
 - a. Is accessory apartment part of affordable housing
4. Impact of accessory or extended living areas is number of bedrooms and number of trips per day
5. Size of 1,000 feet is an issue – just use building footprint – body count
6. Both must be owner occupied
7. Permit not Re-reviewed if property is sold
8. Difference between Accessory apartments and Extended Living
 - a. Accessory has external access; extended living does not
 - b. Accessory does not require family; extended does
9. ADA is not required
10. County Council is the land use authority
11. Permit expiration is deleted
12. Changes to use regulations matrix – clarify
13. Accessory size of property for accessory apartments – no limit
14. Extended size of property – no limit
15. BOA – leave with district court

Second by Member Wilson. The vote was unanimous. 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.

Mr. Crowell noted that roads were discussed at the last work meeting. Emphasized that an important section would be in regard to public and private streets.

Chairman Wright noted that due to the time this discussion would be postponed.

9. County Council update.

- Mr. Carver has requested that his application be postponed but not withdrawn. An amended application has been submitted with regard to that parcel and the division.

10. Planning Commission business.

- Study meeting on September 22nd.
- Regular planning commission meeting September 30th, October 14th and October 28th.
- Possible public Hearing for general plan October 7th.
- November will be bumped to the 4th and 18th due to regular scheduled holidays.
- December 16th will most likely be the only meeting in December.

Board of Appeal and a hearing officer were discussed.

- Funding will come from application fees.

Member Toone moved to adjourn.

Approved: _____
Chairman

Date: _____

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

Date: _____

Exhibit A Agenda item #6 Staff report Public Hearing/Discussion/Decision: 7th Heaven: Requesting a Conditional Use Permit for a Residence, Farm worker housing, accessory buildings, and special general services for a private water system on a 630 acre property located in the MU-160 zone near the intersection of Jeremy Ranch Road and Highway 65 in Morgan County.

STAFF REPORT
September 9, 2010

To: Morgan County Planning Commission
Business Date: 9/16/10

Prepared By: Charles Ewert, Planning Technician

Re: **Seventh Heaven Residence Conditional Use Permit**

Application No.: 10.027

Applicant: Tim Fenton

Project Location: 9755 South Jeremy Ranch Road

Zoning: MU-160

Acreage: Approximately 630.35 acres

Request: Conditional use permit for the approval of a residence, accessory structures, farm worker housing, and special general services for utility uses on the Seventh Heaven Ranch; and a special exception request for additional height.

SUMMARY

The proposal is located in the MU-160 zone. The use of property for a residence, certain accessory structures, farm worker housing, and special general services for utility uses are allowed by conditional use permit within the MU-160 zone.

The proposal has sufficient lot area to satisfy the County's setback requirements for the zone. The average height of the proposed structure exceeds the maximum allowable by 6 feet, and the applicant is requesting a special exception as allowed by ordinance.

Determining the interpretation of the ordinance regarding farm worker housing is critical to this request. Does the provision allow additional dwelling units on one lot as long as it is for farm worker housing? Does the ordinance allow farm worker housing on an agricultural lot that does not already have a residential structure? This is an area within the code that has few objective evaluative criteria, and clear findings will be necessary. The Morgan County Code (MCC) has specific requirements regarding landscaping; water source identification and approval; fire protection; septic system design, placement and approval; potential geology hazards; and potential flood plain hazards that should be considered when reviewing this request.

BACKGROUND

In 2009, the applicant acquired ownership of Seventh Heaven Ranch (formerly known as the Clayton McFarland

Ranch), approximately 7000 acres south of East Canyon Reservoir. The property was purchased for the use as agricultural grazing property and the erection of a primary residence. The applicant submitted this request upon determining that residential and other proposed uses of the property requires approval of a conditional use permit.

ANALYSIS

Zoning. The subject property is approximately 630.35 acres, and is one of 12 contiguous parcels in the Seventh Heaven Ranch. It is located entirely in the MU-160 zone. MCC 8-5A-1 identifies the purpose of the MU-160 zone as:

“... to establish areas in mountain, hillside, canyon, mountain valley, desert and other open and generally undeveloped lands where human habitation should be limited in order to protect land and other open space resources; to reduce unreasonable requirements for public utility and service expenditures through uneconomic and unwise dispersal and scattering of population; to encourage use of the land, where appropriate, for forestry, grazing, agriculture, mining, wildlife habitat and recreation; to avoid excessive damage to watersheds, water pollution, soil erosion, danger from brushland fires, damage to grazing and livestock raising, and to wildlife values; to avoid the premature development of lands by discouraging intensive development until the ultimate best use of the land can be recommended by the planning commission to the governing body; and to promote the health, safety, convenience, order, prosperity and general welfare of the inhabitants of the community.”

The request observes the purpose of the MU-160 zone by limiting human habitation while preserving large tracts of land for agricultural uses.

MCC 8-5A-3 identifies four aspects of this request as requiring a conditional use permit. The use of the property for a residence, farm worker housing, certain accessory buildings, and special general service-utility uses (water system) require conditional use permits. The request combines the four conditional uses into one permit because each is an individual component of the overall use of the land as ranch property. If the Planning Commission determines the issues are too complex to combine the requests they may ask the applicant to separate them.

There is currently a structure onsite that the applicant has identified as farm worker housing (see Appendix 3). The County has no evidence of a conditional use permit being issued for that structure to be used as such. This is the proper time to bring the use into conformity. To determine whether the use of the structure is appropriate for farm worker housing the Planning Commission should consider the request within the context of the ordinance language. Staff has broken the issues into the following questions for the Planning Commission’s consideration:

- Does the ordinance allow farm worker housing in conjunction with a residential use of a lot? If so, how many total dwelling units may be erected on one lot?
- Does the ordinance allow farm worker housing as the only residential use of the lot, incidental to agricultural purposes, thereby restricting the use of the lot for additional dwelling units?

The following code references indicate that the ordinance is intended to allow, by conditional use permit, the simultaneous use of one lot for farm worker housing *and* residential dwelling units (the underlines are for

emphasis; italics are Staff comments):

8-6-4: DEFINITIONS:

DWELLING UNIT (DU): Each permanently occupied space that provides complete, independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, equals one dwelling unit.

By this definition, both the proposed residence and the farm worker housing are considered a dwelling units.

ACCESSORY USE: A use of land or structure, or portion thereof, customarily incidental and subordinate to the principal use of the land or structure and located on the same parcel with the principal use. No additional dwelling unit built on the lot, either attached or separate from the principal unit, without a conditional use permit authorizing such use, shall be considered an "accessory use".

The farm worker housing structure is a use accessory and incidental to agricultural uses. Upon the completion of a residence, it may also be considered accessory and incidental to the main building. This definition makes it seem as if multiple dwelling units may be built on one lot after approval of a conditional use permit.

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

Every dwelling structure shall be located and maintained on a separate lot having no less than the minimum area, width, depth, frontage and public improvements required by this title for the district in which the dwelling structure is located, except that group dwelling complexes under single ownership and management which are permitted by this title and have approval from the planning commission, may occupy one lot for each such multi-structure complex.

This reference also appears to provide for more than one dwelling unit on one lot under certain conditions.

Utah State Code, 17-27a-506: CONDITIONAL USES:

(1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

(2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

Because the ordinance explicitly allows farm worker housing as a conditional use, but lacks specific standards, the Planning Commission may apply reasonable conditions to mitigate any reasonably anticipated detrimental effects that may be caused by the proposed use. Staff recommends specific findings regarding detrimental effects and other applicable standards, as conditions are crafted.

If the conditional use permit is not approved for the additional dwelling, then requiring the removal of the existing residence prior to the completion of the proposed residence would be required in order to construct the new residence.

Setbacks: The setback requirements in the MU-160 zone are 63 feet from the centerline of the road for the front yard, 60 feet for the rear yard, and 60 feet for the side yards. Page A1.2 of Appendix 2 illustrates that the proposed building location satisfies this requirement.

Height: The required maximum building height (as measured from the average grade) of structures in the MU-160 zone is 35'. The average height of the proposed residence is 41'. Pursuant to MCC 8-6-13, the applicant can request additional building height if the height to setback ratio is equal to or greater than 1.5' of height to 1' of setback. The ordinance is set forth as follows:

8-6-13: MAXIMUM HEIGHT OF MAIN BUILDING:

C. Special Exception For Additional Building Height: Where expressly allowed by this title, and upon special approval of the county council, after recommendation from the planning commission, actual building height may exceed the height limitation if required building setbacks (front, side and rear) are increased by a ratio of one and one-half feet (1^{1/2}') of height to one foot (1') of additional setback. The planning commission must make a finding that the height increase will not impair the view of neighboring property, nor negatively affect the property values of abutting properties.

The proposed setbacks are more than sufficient to meet these terms as evidenced by page A1.2 of Appendix 2, and the County may grant the special exception request if the finding can be made that the height increase will not impair the view of neighboring property, nor negatively affect the property values of neighboring properties. The proposed residence is a sufficient distance from neighboring uses to permit the additional requested height of the residence without impacting viewsheds and surrounding property values.

There are other buildings onsite that are accessory and incidental to other uses. Pursuant to MCC 8-5A-3, buildings accessory to agricultural uses are permitted. Buildings which will become accessory to the residence upon its completion will require conditional use approval as well.

- Barn—Agricultural—Permitted.
- Equipment Shed—Appendix 1 calls it a garage, Appendix 2 calls it an equipment shed. The applicant attests that it will be solely for the storage of agricultural vehicles and equipment—Agricultural—Permitted.
- Grainery—Agricultural—Permitted.
- Pony Express Building—Existing, legal non-conforming?)
- Bunk house—no kitchen or bathroom, accessory to main building—Conditional use. This structure is currently being remodeled. It was originally presented as an agricultural building exempt from requiring a building permit. Upon further review, the County has determined that this structure does not meet the exemption requirements of the State Code, and is required to obtain a building permit as well as conditional use approval.

Circulation. The proposed residence will be accessed by a long dirt driveway (see Appendix 8). The driveway is required to be engineered to support a 75,000 lb. fire apparatus, and have an unobstructed height of 13.5'. It should be maintained and kept clear at all times for emergency services purposes. The use of the proposed residence can be expected to generate an average of 10 vehicle trips per day.

Landscaping and Lot Coverage. Due to the size of the lot, the majority of it will remain unchanged in its current natural condition. The area surrounding the building site will be disturbed and graded to provide suitable

topography for the building. In order to prevent soil erosion from the disturbed areas, the applicant has proposed a landscape plan as illustrated on page 8 of Appendix 1 for revegetation. A revegetation bond in an amount as approved by the County Engineer is required.

Water Source. The proposed residence and several accessory buildings are proposed to be served by a private water system. The system will utilize two water tanks, which will be filled by a proposed well. MCC 8-8-4(B)(1) requires a guarantee of sufficient water to serve the intended land use and a water delivery system meeting standards adopted by the governing body. The County relies on the Weber-Morgan Health Department's approval for this type of use. We will require verification of water rights and approval from the Weber-Morgan Health Department of the proposed water system prior to the issuance of a building permit.

Fire Protection. The proposal is in the Wildland Urban Interface area, and is required to have a fire protection plan. The applicant submitted a plan in a form approved by the District Fire Official. (See Appendix 6.)

Septic Systems. The residence will be served by a septic system, as will several other accessory buildings onsite. MCC 8-8-4(B)(2) requires a wastewater disposal system and a solid waste disposal system meeting standards adopted by the governing body. The County relies on the Weber-Morgan Health Department's approval for this type of use. The Weber-Morgan Health Department has approved the proposed wastewater system.

Geology. The area on the site plan designated for the building does not fall within a geologic hazards study area. According to the current Salt Lake 30X60 Geologic Quadrangle, the geologic units beneath the proposed residence are Qal and Tac, neither are listed as hazardous in MCC 8-51-040. (See Appendix 4.)

Flood Plain. The designated building area is in the "X" flood zone according to FEMA maps. Appendix 5 illustrates the boundaries of the Big Dutch Hollow Stream 100 year flood plain. The proposed residence is outside that area.

It has been brought to the County's attention that a conservation easement exists for this property. Even though the particular type of easement is a private contract that the County does not typically oversee, the applicant has submitted the easement holder's acknowledgement and approval of this proposal. (See Appendix 9.)

OTHER STAFF REVIEWS

Engineering Review Comments. Verification of water rights should be submitted prior to building permit submittal, as should approval from the Weber-Morgan Health Department of the proposed water system.

Fire Chief Comments. Adhere to the submitted and approved fire protection plan.

STAFF RECOMMENDATION

Staff recommends approval of the Seventh Heaven Residence Conditional Use Permit and special exception request by Tim Fenton, application #10.027, subject to the following conditions:

16. That farm worker housing structures on the lot is limited to one dwelling unit.
17. That the farm worker housing unit is only occupied by farm/ranch employees; it shall not be rented or leased to occupants.

18. That a building permit is required for the residential building.
19. That a building permit is required for the "bunk house."
20. That verification of water rights is submitted concurrent with the building permit submittal and that no building permit will be issued without adequate water verification
21. That verification of approval from the Weber-Morgan Health Department of the proposed water system is submitted prior to building permit submittal.
22. That the applicant adheres to the Fire Protection Plan submitted July 15, 2010.
23. That the applicant adheres to the engineered drawings submitted August 10, 2010.
24. That the applicant adheres to the architectural drawings submitted August 10, 2010.
25. That a performance agreement and bond is submitted in an amount equaling 115% of the estimated cost of landscaping/revegetation as approved by the County Engineer prior to building permit submittal.
26. That all County contracted development review services are paid in full prior to building permit submittal.
27. That all other County, State, and Federal laws are upheld.

This recommendation is based on the following findings:

11. Limiting the number of farm worker housing to one dwelling unit limits the expansion of human habitation in the MU-160 zone, and thereby upholds the purposes of the zone.
12. The proposed building height increase will not impair the view of neighboring property, nor negatively affect the property values of abutting properties.
13. That the submitted designs, plans, and drawings are sufficient to mitigate the proposals harmful impact on the surrounding area.
14. That an improvement bond is necessary to ensure adequate completion and performance of landscaping/revegetation.
15. That the intention of current ordinances is to allow a farm worker housing dwelling unit on the same property as a residential dwelling unit.
16. That a conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

MODEL MOTION

Sample Motion for a *Positive* Recommendation – "I move we forward a positive recommendation to the County Council for the Seventh Heaven Residence Conditional Use Permit and Special Exception Request, application #10.027, based on the findings and conditions listed in the Staff Report dated 9/9/10 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 Seventh Heaven Residence Conditional Use Permit and Special Exception Request application #10.027, based on the following findings:"

1. List any additional findings...

Appendices:

1. Engineer's Drawings
 - a. Overall Site Plan
 - b. Water Line Plan and Profile
 - c. Fire Access Plan and Profile
 - d. Bridge Plan and Profile
 - e. Landscape Plan
 - f. Additional Plan Detail
2. Architectural Drawings
 - a. Site Plan(s)
 - b. Residence—Plan View
 - c. Residence—Elevations
3. Farm worker housing statement from applicant
4. Geology Map
5. Flood Analysis
6. Fire Protection Plan
7. Ownership Plat
8. Driveway Drawing
9. Conservation Easement: Approval letter

Exhibit B – Agenda item #7 – Accessory apartment

Planning and Development Services
48 West Young Street
Morgan, UT 84050
(801) 845-4015

STAFF REPORT
13 September 2010

To: Morgan County Planning Commission
Business Date: 16 September 2010

From: Grant Crowell, AICP
Planning and Development Services Director

Re: **County Initiated Text Amendment Regarding Accessory Apartments and Conditional Use Permit Requirements**

Application No.: 10.033
Applicant: Morgan County
Request: To amend Morgan County Code Sections 8-2, 8-3, 8-6, and 8-8 regarding accessory apartment regulations, conditional use requirements, and appeals.

SUMMARY & BACKGROUND

Recent and historical applications for a variety of accessory type units and apartments have caused the County Council to direct Staff and the Planning Commission to re-evaluate the accessory apartment provisions in the Morgan County Code (MCC). These types of requests have involved units within existing structures, in accessory buildings, and new construction proposals. Questions have also been raised regarding who the Land Use Authority for conditional use permits is, and what the proper Appeal Authority for Council decisions should be.

The policy issues surrounding accessory apartments have presented questions about whether this ordinance is becoming a circumvention mechanism of the subdivision ordinance, or whether its provisions are necessary to provide affordable housing in unincorporated Morgan County. Regardless of the broader policy questions, ambiguous provisions in the MCC need to be clarified and made more objective.

ANALYSIS

General Plan. While the goal for additional housing options in the County is a good one, and reinforced in the General Plan and associated documents, like the Enterprise Area Plan, an affordable housing program for a jurisdiction is a policy decision with many different possible solutions. Inclusionary zoning, buy-down or mortgage assistance programs, coordination with Morgan City, multi-family housing development, lot size modifications, and allowances for accessory apartment are just some of the possible programs to encourage housing diversity. In the case of accessory apartments, the proposed language does not prohibit them within dwellings, and should still meet the intent for alternate housing options in the unincorporated areas of the County. Further policy direction on a county wide approach to this issue should be debated and decided in the

Land Use Ordinance Provisions. While this text amendment will address several sections of the MCC, the primary citation regarding accessory apartments is found within MCC 8-6-33. Staff has approached the issue by addressing the use of accessory buildings for apartment purposes, as that seems to be of the most concern. However, a much more complete amendment or repeal could be accomplished simply by revising this section further. Other necessary clarifications within the entire section have also been proposed for administrative clarity and enforceability. Proposed modifications to this section appear in ~~strikeout~~ form.

8-6-33: ACCESSORY APARTMENTS AND EXTENDED LIVING AREAS:

A. Purpose: This section is established to provide regulations and design standards for "accessory apartments" and "extended living areas", as defined in subsection B of this section, within single-family dwellings in residential zones.

B. Uses Permitted; Defined:

1. Accessory apartments ~~are~~ allowed by conditional use permit in order to make housing units available to moderate income households, providing economic relief to those homeowners who might otherwise be forced to leave the neighborhood. "Accessory apartment" shall be defined as a housing unit which is self-contained but incorporated within an existing single-family dwelling structure and ~~which~~ will not substantially alter the structure or appearance of the structure.

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2. Extended living areas ~~are~~ allowed as a permitted use in order to make living units available which are appropriate for households at a variety of stages in the life cycle. "Extended living areas" shall be defined as additional and accessory living facilities within a dwelling structure, with kitchen, bathroom and sleeping areas, designed for temporary use by extended family members for medical or economic reasons on a non-rental basis, and in compliance with standards set forth in this title.

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~~This~~ definition also includes family secondary kitchens and living quarters for servants or other personnel typically employed in household maintenance, i.e., maids, butlers, gardeners.

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C. Requirements For Approval Of Extended Living Area:

1. Approval for an extended living area may be granted by the Zoning Administrator. The granting of approval for an extended living area shall not exempt the applicant from meeting other applicable ordinances, covenants, codes or laws recognized by the county.

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2. The following preconditions and documentation are required:

a. A letter of application sworn before a notary public shall be provided by the owners, stating that such owners will occupy ~~the~~ dwelling, except for bona fide temporary absences, and that the individuals residing in the extended living area are related by blood, marriage or adoption.

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b. It shall be prohibited to construct an extended living area within a mobile home.

c. The applicant shall record a notice regarding the approval for the extended living area with the County Recorder's office, on a form approved by the Zoning Administrator, including any required conditions of approval to guarantee compliance with the approval. The applicant shall provide to the Zoning Administrator a copy of the recorded document prior to the commencement of the use of the extended living area or the issuance of any required building permit for the conversion.

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D. Requirements For Approval Of Accessory Apartment:

1. A conditional use permit may be granted by the Land Use Authority for accessory apartments within existing single family dwellings, provided that the following requirements are met in addition to the requirements in chapter 8 of this title. The granting of a conditional use permit for an accessory apartment shall not exempt the applicant from meeting other applicable ordinances, covenants, codes or laws recognized by the county.

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2. The following preconditions and documentation are required:

a. A letter of application sworn before a notary public shall be provided by the owners, stating that such owners shall occupy the dwelling, except for bona fide temporary absences.

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b. A floor plan of one-fourth inch equals one foot ($1/4" = 1'$), showing the floor in which the accessory apartment will be located within the existing single family dwelling, shall be provided.

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c. It shall be prohibited to construct a new dwelling with an accessory apartment constructed concurrently. An application for a conditional use permit for an accessory apartment within a dwelling shall not be accepted prior to the issuance of a certificate of occupancy for any dwelling.

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d. It shall be prohibited to construct an accessory apartment within a mobile home, any accessory buildings, or to be attached by a breezeway, portico, or similar structural attachment.

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e. The applicant shall record a notice regarding the approval for the accessory apartment with the County Recorder's office, on a form approved by the Zoning Administrator, including any required conditions of approval to guarantee compliance with the approval. The applicant shall provide to the Zoning Administrator a copy of the recorded document prior to the commencement of the use of the accessory apartment or the issuance of any required building permit for the conversion.

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E. Design Standards For Accessory Apartments:

1. Only one accessory apartment shall be created within a single-family dwelling and the apartment shall be a subordinate part of the dwelling, as measured in total calculable square feet of floor area. In no case shall an accessory apartment comprise more than 30 percent of the main dwelling's total calculable floor area, including basement and unfinished areas, and in no case shall the accessory apartment exceed 1,000 square feet in floor areas, nor have more than two bedrooms.

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2. The owners of the residence shall live in the dwelling in which the apartment was created, except for bona fide temporary absences.

3. The accessory apartment shall be designed so that the appearance of the building remains that of a single-family dwelling, including the retention and enhancement of landscaping.

4. It shall be prohibited to install separate utility meters for the accessory apartment.

5. All entrances to the accessory apartment shall be located on the side or rear of the building.

6. The design and size of the apartment shall conform to all applicable standards in the fire, building and health codes. The applicant shall obtain all necessary building permits prior to construction of the accessory apartment.

7. The occupants of the accessory apartment shall not sublease a portion of the accessory apartment to other individuals.

8. At least three off street parking spaces shall be available for use by the owner/occupants of the dwelling and accessory apartment. All parking shall be upon hard surface (concrete, asphalt, brick, rolled and compacted road base, etc.). Tandem parking spaces are not to be counted for the purpose of determining parking space conformance.

9. Any other conditions deemed necessary for accessory apartments to mitigate potential detrimental effects shall be entered into the record with accompanying findings.

F. Design Standards For Extended Living Areas:

1. Only one extended living area shall be created within a single-family dwelling and the area shall be clearly a subordinate part of the dwelling, as measured by total calculable floor area. Access to extended living areas shall be made available within the existing dwelling without requiring entry and access to be gained through a separate exterior entrance.

2. The owners of the residence shall live in the dwelling in which the extended living area is created, except for bona fide temporary absences.

3. The extended living area shall be designed so that, the appearance of the building remains that of a single-family dwelling remains, including prohibition of separate utility meters, separate addresses and mailboxes, etc. Additional entrances shall be located on the side or in the rear of the building.

4. The design and size of the extended living area shall conform to all applicable standards in the fire, building and health codes. The applicant shall obtain all necessary building permits prior to construction of the extended living area.

5. Extended living areas shall only be approved for use by family members or employed household maintenance personnel on a non-rental basis.

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Although MCC 8-6 is the primary citation regarding accessory apartments, the issues regarding the administration of these conditional use permits necessitates modifications to several other MCC provisions. Starting with definitions, the following changes are proposed:

8-2-1: DEFINITIONS:

ACCESSORY BUILDING: ~~A detached building located on a lot or parcel which is incidental to the main allowed use on the lot or parcel.~~

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ACCESSORY USE: A use of land or structure, or portion thereof, customarily incidental and subordinate to the principal use of the land or structure and located on the same ~~lot or parcel~~ with the principal use.

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Regarding the question of which approval body is the Land Use Authority for the granting of conditional use permits, the County Council has made it clear that is their role. In those cases, the Council becomes an administrative approval body for conditional use permits. To begin to clarify this, some modifications to the administrative provisions of the MCC are proposed. Changes are also proposed which bring the MCC into compliance with State Law section 17-27a-506, which governs land use approvals for all counties in the State.

17-27a-506. Conditional uses.

(1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

(2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

The conditional use permit section, however, still needs a more thorough revision in the near future as part of the overall zoning ordinance re-write project.

8-3-9: PLANNING COMMISSION:

H. Powers And Duties: The ~~P~~lanning ~~C~~ommission is hereby designated the ~~L~~and ~~U~~se ~~A~~uthority of the ~~C~~ounty for the following:

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1. Prepare and recommend a general plan, and amendments to the general plan, to the governing body as provided in this title;

2. Recommend zoning ordinances and maps, and amendments to zoning ordinances and maps, to the governing body as provided in this title;

3. Administer provisions of this title, where specifically provided for in this title, as adopted by the County Council;

4. Recommend subdivision regulations and amendments to those regulations to the governing body;

5. Hold a public hearing on proposed subdivision regulations before making its final recommendations to the governing body;

6. Recommend approval or denial of subdivision applications as provided in this title;

7. Advise the governing body on matters as the governing body directs;

8. Recommend approval or denial of conditional use permits³;

9. Exercise any other powers that are necessary to enable it to perform its function, or delegated to it by the governing body.

8-8-3: CONDITIONAL USE PERMIT REQUIREMENTS:

A. Permit Required: A conditional use permit shall be required for all uses listed as conditional uses in this title. The County Council is designated as the Land Use Authority for all conditional use permit requests, after receiving a recommendation from the Planning Commission.

C. Revocation Of Permit:

1. In the event any person holding a conditional use permit pursuant to this section violates the terms of the permit, or conducts or carries on said site development in such a manner as to materially adversely affect the health, welfare or safety of persons residing or working in the neighborhood of the property of the said permittee, a temporary suspension may be made effective immediately upon notification by the zoning administrator.

2. No conditional use permit shall be permanently revoked or suspended until a hearing is held by the County Council, after receiving a recommendation from the Planning Commission. The permittee shall be notified in writing of such hearing and said notification shall state:

a. The grounds for complaint or reasons for the revocation or suspension, in clear and concise language.

b. The time and place such hearing is to be held. Such notice shall be served by registered mail or personal service on the permittee at least five days prior to the date set for the hearing. At any such hearing, the permittee shall be given an opportunity to be heard, and he may call witnesses and present evidence on his behalf. Upon conclusion of such hearing, the governing body shall determine whether or not the permit shall be suspended or revoked.

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4. The planning commission shall hold a preliminary meeting to consider its recommendations to the governing body for revocation or suspension of permits which have been temporarily suspended at the next regularly scheduled meeting of the Planning Commission.

D. Expiration Of Permit: Every conditional use permit shall run with the land, unless specific conditions regarding time limitation are placed on the permit which are necessary to mitigate potential detrimental effects.

E. Grounds For Denial Of Conditional Use Permit Application:

A conditional use permit may be denied if the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards.

F. Approval Conditions:

A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

1. Exceptions: The County Council, after receiving a recommendation from the Planning Commission, may authorize exceptions to any of the requirements and regulations set forth in this chapter. Application for any exception shall be made by a verified petition (such as a notarized document) of the applicant stating fully the grounds of the application and the facts relied upon by the petitioner. Such petition shall be filed with the conditional use permit application. In order for the land referred to in the petition to come within the provisions of this section, it is required that the County Council to find all of the following facts with respect thereto:

- a. That the land is of such shape or size, or is affected by such physical conditions, or is subject to such title limitations of record that it is impossible or impractical for the developer to comply with all of the regulations of this title.
- b. That the exception is necessary for the preservation and enjoyment of a substantial property right by the petitioner.
- c. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.
- d. That granting the exception will not be detrimental to the environment.

2. Referral For Recommendations: Each proposed exception shall be referred to the officers or agencies involved, and such officers or departments shall transmit to the Planning Commission their recommendations, which recommendations shall be reviewed prior to the granting of any exceptions.

3. Approval By County Council: The County Council, shall hold a public hearing on the proposed exception, after which it may approve the conditional use permit application with the exceptions and conditions it deems necessary, or it may disapprove the exception request. Any such approval or disapproval of requested exceptions shall be accompanied by written findings of fact and conclusions therefrom.

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Deleted: expire by limitation and become null and void if the work authorized by such permit has not been commenced within one year, or is not completed within two (2) years from date of issue; except that the planning commission may, if the permit holder presents satisfactory evidence that unusual difficulties have prevented work being started or completed within the specified time limits, grant a reasonable extension of time, up to one year, if written application is made before the expiration of the permit.

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G. Variances From Design And Improvement Standards: Where, in the opinion of the County Council, having received the recommendation of the Planning Commission, the literal enforcement of the design and improvement standards in this title 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:

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1. Application for a variance shall be made to the County Council and shall include:

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- a. A description of the land to be developed.
- b. An identification of the title provision from which the variance is requested.
- c. 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.
- d. A description of the hardships which will accrue to the detriment of the property owner if the requested variance is not granted.
- e. A nonrefundable variance review fee, payable to the county, in accordance with the currently applicable fee schedule as adopted by resolution of the governing body.

2. The County Council shall submit the variance application to the Planning Commission for review and comments upon receipt of said application.

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3. The Planning Commission shall review the variance application and shall submit its written recommendation for approval or disapproval of such application to the County Council, along with written reasons therefor within 30 calendar days from receipt of the application from the governing body at a regularly scheduled meeting of the Planning Commission.

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4. The County Council shall hold a public hearing before granting the variance. The hearing shall be held no later than 30 calendar days from receipt by the County Council of the recommendation of the Planning Commission and no less than ten calendar days from the publication of notice.

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5. 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.

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6. 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.

M. Appeals. Appeals from land use decisions of the County Council regarding the approval or denial of conditional use permits shall be appealed directly to District Court, within the time period specified by Utah State Law.

In order to alleviate some of the current issues with the Board of Appeals providing oversight to the

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County Council on appeals of conditional use permits, Staff is suggesting additional code change so that appeals of County Council decisions on administrative approval requests, such as conditional use permits and subdivisions are appealed directly to District Court, as allowed by Utah State Code 17-27a-701(4)(e), “(4) By ordinance, a County may: (e) provide that specified types of land use decisions may be appealed directly to the district court.” This revision removes the ability of an appointed body to review the adequacy of decisions of an elected body, which has proved awkward at times. Work is still ongoing – as a separate Planning Commission project - on the direction by the Council to replace the Board of Appeals in its entirety with a Hearing Officer. To complete this change, the following code citation needs to be made:

8-3-11: APPEAL AUTHORITY:

C. Powers And Duties:

- 1. The board of appeals shall hear and decide:
 - a. Requests for variances from the terms of this title; and
 - b. Appeals from decisions of the Zoning Administrator applying this title.

D. Appeals:

- 1. The applicant, a board or officer of the county, or any person adversely affected by the Zoning Administrator’s decision administering or interpreting this title may, within thirty (30) calendar days of the decision, appeal that decision to the board of appeals by alleging with specificity in accordance with Utah Code Annotated section 17-27a-701(2), that there is error in any order, requirement, decision or determination made by the Zoning Administrator in the administration or interpretation of this title. In order to assure the parties receive due process of law, only those issues specified in the notice of appeal shall be reviewed by the board of appeals. The appellant shall state the requested relief related to the administrative action. Appeals shall only be accepted in which final action or other final written determination or decision of the Zoning Administrator has been made.
- 2. The board of appeals shall act in a quasi-judicial manner for and serve as the final arbiter of issues involving the interpretation or application of this title.
- 3. No member of the board of appeals may participate in the decision or deliberation of an appeal of a matter in which that member had first acted as a member of the land use authority in the decision of the action being appealed.
- 4. The community development director shall determine the completeness of the application and shall reject any appeal filed without the required fee or submitted after the thirty (30) day deadline has expired.
- 5. At hearings before the board of appeals, the petitioner and respondents may appear in person or through a licensed attorney in good standing with the state bar.
- 6. The appellant has the burden of proving that the Zoning Administrator erred.

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7. Except as otherwise agreed to by the parties and approved by the board of appeals, during an appeal hearing, the appellant shall present their case first. The respondent and other affected parties shall then present their case before the board of appeals. If justice requires, the board of appeals may further allow rebuttal from all parties. During these proceedings, both appellant and respondent may provide evidence as deemed necessary. Where facts remain in dispute, the board of appeals may permit the examination and cross examination of witnesses. The board of appeals may ask questions as they deem appropriate. The board of appeals shall thereafter render its written findings of fact, conclusions of law and decision.

8. Only those decisions in which the Zoning Administrator has applied this title to a particular application, person or parcel may be appealed to the board of appeals.

9. In reviewing a decision of the Zoning Administrator, the board of appeals must affirm that decision, unless by a majority vote of its members, it finds that the decision interpreting or applying this title was arbitrary, capricious or illegal.

10. The board of appeals shall determine the correctness of a decision of the Zoning Administrator in its interpretation and application of this title. Only those decisions in which the Zoning Administrator has applied this title to a particular application, person or parcel may be appealed to the board of appeals. No person may challenge a legislative decision by the County Council to the board of appeals, including land use ordinance amendment, general plan amendment, or zoning map amendment.

11. In exercising its powers, the board of appeals may reverse or affirm, in whole or in part, or modify an order, decision or determination, to make such order, decision or determination, consistent with county ordinances and other applicable laws.

12. A decision of the board of appeals takes effect on the date when it issues a written decision. A written decision constitutes a final decision under Utah Code Annotated section 17-27a-802(2)(a) or a final action under Utah Code Annotated section 17-27a-801(4).

13. Appeals may not be used to waive or modify the terms or requirements of this title.

Finally, to anticipate and avoid an additional option to circumvent the purpose of the single family residential zones, changes to the adopted use tables are necessary to remove two-family and recreational dwellings as an allowed conditional use. These uses could be used in the future by applicants looking for

8-5A-3: USE REGULATIONS:

Dwellings:						
Homes or mobile homes on bona fide farms or for worker housing	C	-	C	-	-	-
Recreation dwelling	C	C	▼	▼	▼	▼

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Residential facilities for handicapped or elderly	C	-	C	C	C	C
Single-family dwelling	C	-	P	P	P	P
Accessory Apartment	C	-	C	C	C	C
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8-5B-3: USE REGULATIONS:

Dwellings:						
Single-family dwelling	P	P	P	P	P	P
Two-family dwelling	-	-	-	P	P	
Three-family dwelling	-	-	-	C	C	
Four-family dwelling	-	-	-	C	C	
Multiple-family dwelling	-	-	-	C	C	
Groups of dwellings (including twin homes, etc.) when approved as a planned unit development	-	-	C	C	C	
A two-family dwelling on a corner lot requires 2 front and 2 rear yards	-	-	-	A	A	
Accessory Apartment	C					

Procedures for adopting amendments to Title 8 of the Morgan County Code. Title 8- Land Use Regulations (formerly Title 16- Land Use Management Code) sets out the required procedures for adopting and amending the land use requirements of the County Code:

8-3-2-C. Amendments And Rezoning:

1. The governing body may amend:
 - a. The number, shape, boundaries or area of any zoning district;
 - b. Any regulation of or within the zoning district; or
 - c. Any other provision of the zoning ordinance.

2. The governing body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its approval, disapproval or recommendations.
3. The governing body shall comply with the procedure specified in subsection B of this section, in preparing and adopting an amendment to the zoning ordinance or zoning map.

8-3-2-B. Preparation And Adoption Of Zoning Regulations:

1. The planning commission shall prepare and recommend to the governing body a proposed zoning ordinance, including both the full text of the zoning ordinance and maps that represents the planning commission's recommendations for zoning all or any part of the area within the county.
2. The governing body shall hold a public hearing on the proposed zoning ordinance recommended to it by the planning commission in compliance with Utah Code Annotated section 17-27a-205.
3. After public hearing the governing body may:
 - a. Adopt the zoning ordinance

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a positive recommendation to the County Council for the proposed land use regulations text amendments regarding accessory apartments, conditional use permits, and appeal provisions, application 10.033, based on the following findings:

1. That the amendments are necessary to clarify ambiguous language in the accessory apartment regulations.
2. That the amendments are necessary to maintain the integrity of the single family character of the County's rural residential areas.
3. That the amendments are necessary to bring the conditional use permit requirements in accordance with State Code.
4. That the amendments are necessary to clarify and re-designate appeal provisions for conditional use permits.
5. That the amendments are not detrimental to the County's health, safety, and welfare.

MODEL MOTION

Sample Motion for a Positive Recommendation – "I move we forward a positive recommendation to the County Council for the proposed land use regulations text amendments regarding accessory apartments, conditional use permits, and appeal provisions, application 10.033, based on the findings presented in the Staff report dated September 9, 2010:"

1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – "I move we forward a negative recommendation for the proposed land use regulations text amendments regarding accessory apartments, conditional use permits, and appeal provisions, application 10.033, based on the following findings:"

1. List any additional findings...

