



PLANNING COMMISSION AGENDA
Thursday October 14, 2010
Morgan County Council Room
6:30 PM

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

1. Call to order – prayer.
2. Approval of agenda.
3. Declaration of conflicts of interest.
4. Approval of Minutes for September 30, 2010.
5. Public comment.
6. Public Hearing/Discussion/Decision: To amend portions of sections 8-2, 8-3, 8-5a, 8-5b, 8-6, and 8-8 of the Morgan County Code pertaining to accessory apartments, duplexes, conditional use permits, and appeals.
7. 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.
8. County Council update.
9. Planning Commission business.
10. Adjourn.

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

MEMBERS PRESENT

Robert Wright
Trevor Kobe
Adam Toone
Steve Wilson
Brandon Andersen
Roland Haslam (arrived late)

STAFF PRESENT

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

MEMBERS ABSENT

Bill Weaver

COUNTY COUNCIL PRESENT

Tina Kelly

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

1. Call to order – prayer.

Chairman Wright called the meeting to order and noted that Member Weaver would be absent this evening.

The prayer was offered by Member Anderson.

2. Approval of agenda.

Motion by member Haslam to approve the agenda as printed. Second by Member Toone. 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 September 30, 2010.**

Motion by Member Wilson to approve the minutes as typed. Second by Member Haslam. The vote was unanimous. The motion carried.

5. **Public comment.**

Chairman Wright noted a letter was submitted by Mrs. Carolyn Morrison. (Please see attached exhibit A)

6. **Public Hearing/Discussion/Decision: To amend portions of sections 8-2, 8-3, 8-5a, 8-5b, 8-6, and 8-8 of the Morgan County Code pertaining to accessory apartments, duplexes, conditional use permits, and appeals.**

Member Wilson moved to open a public hearing to amend portions of sections 8-2, 8-3, 8-5a, 8-5b, 8-6, and 8-8 of the Morgan County Code pertaining to accessory apartments, duplexes, conditional use permits, and appeals. Second by Member Anderson. The vote was unanimous. The motion carried.

Debbie Sessions–

- Concern that this proposes no recreational dwellings in A-20. Why is that being taken away? She noted that Camp Zarahemla is currently in an A-20 zone.
- Concern of no duplexes. There have been duplexes in the County for years. Would suggest changing the definition of “common walls”. Believes the duplexes in Enterprise are very appropriate.
- Appeal authority – is burdensome to the applicant to file an appeal to go to District Court. It gives the appearance of arrogance on the Council that they do not want to be overturned. She has no problem with an appeal authority and would prefer that over having to go to District Court.

Randy Sessions –

- Who will represent the County if an applicant goes to District Court? The County may have to hire another attorney and that could become very costly. Prefer to see the Board of Appeals retained using County residents.
- Duplex – Without duplexes, affordable housing in the County will go away.

Member Wilson moved to close the public hearing on accessory apartments. Second by Member Toone. The vote was unanimous. The Motion carried.

There was discussion on the following:

- Accessory Apartment

- Size – Minimum/maximum-1000 square feet or 30% of footprint whichever is greater.
 - No limitations for basements.
- Number of People –one family
- Number of vehicles – three parking spaces
- Appearance of a single family dwelling.
- Access – front/side/back
- Duplex – eliminate duplexes.
- No allowance for detached accessory structure.
- Recreational dwellings -
 - A-20 zone.
 - State code - staff interprets that regardless you have the right to apply to the County, in this zone at anytime, for a recreational use even with a home on the A-20, if you mitigate. Mr. Crowell did not believe the County interpreted it that way.
 - One dwelling on 20 acres. You could not have a single family dwelling and a recreational dwelling.
 - Legal lot status.
- Appeals authority - Members agreed to leave for staff to address.
 - Hearing officer.
 - Board of Appeal.
 - District Court.
 - Different Counties have different policies on appeal authority.

Member Toone moved to amend the proposed text received in the staff report concerning Morgan County code sections 8-2, 8-3, 8-5a, 8-5b, 8-6, and 8-8 regarding accessory apartment regulations, duplexes, conditional use permits, and appeals.

1. On page 4 of the staff report strike the current lower case letter c.
2. On page 4, #1 of section E - Design Standards to read “*The accessory apartment shall not comprise more than 30% or 1000 square feet whichever is greater, of the main dwellings total calculable area.*”
3. On page 14, remove the strikes for zones A-20 and R10 concerning recreation dwelling and put the C code back in.

Member Toone amended his motion to rescind the second part concerning recreation dwellings; (#3) as follows:

Member Toone moved to amend the proposed text received in the staff report concerning Morgan County code sections 8-2, 8-3, 8-5a, 8-5b, 8-6, and 8-8 regarding accessory apartment regulations, duplexes, conditional use permits, and appeals.

1. On page 4 of the staff report strike the current lower case letter c.
2. On page 4, #1 of section E - Design Standards to read “*The accessory apartment shall not comprise more than 30% or 1000 square feet whichever is greater, of the main dwellings total calculable area.*”

Chairman Wright clarified the motion and asked Member Haslam if he was ok to still second the motion. Member Haslam noted he was.

The Chairman called for discussion:

Discussion/clarification:

Member Haslam requested clarification on the A-20 and R-10. Member Toone clarified that he removed that from the motion in anticipation of conflict.

Member Kobe asked Member Toone if he would consider adding to the limitation on 1000 square feet or 30% whichever is greater; adding something in there that talks about the no limitation on the basement so that we are not walling off the basement. Member Toone noted he would be fine with that.

Member Haslam noted he would second the amendments.

The motion was amended as follows:

Member Toone moved to amend the proposed text received in the staff report concerning Morgan County code sections 8-2, 8-3, 8-5a, 8-5b, 8-6, and 8-8 regarding accessory apartment regulations, duplexes, conditional use permits, and appeals.

- 1) On page 4 of the staff report strike the current lower case letter c.
- 2) On page 4, #1 of section E - Design Standards to read "*The accessory apartment shall not comprise more than 30% or 1000 square feet whichever is greater, of the main dwellings total calculable area.*"
- 3) No limitations on basement size.

Second by Member Haslam. The vote was not unanimous with Member Haslam, Wilson, and Toone for and Member Kobe and Anderson against for the following reason - Member Anderson preferred limiting it to 1000 square feet for an accessory apartment. Member Kobe voted against because he would like to see detached accessory apartments on lot sizes at the minimum at the least five acres or greater. His personal preference would be one acre or greater.

Member Toone noted his motion was just to amend the text. Chairman Wright noted it was just passed. Member Toone noted he intended to vote on changes to amend the staff report not to pass it.

The Members had a lengthy discussion on whether the motion had been interpreted as amending or approving. Some Members noted they had voted on the basis that it was being approved with amendments.

Mr. Crowell recommended a motion be made on the proposal and then a series of amendments.

Member Toone noted if he was making the amendment he would not make a motion to approve sections 839, 838 concerning the planning commission and appeal body.

There was a discussion on Roberts Rule of Order.

Chairman noted he would like a motion to move this ordinance forward to the County Council. He noted The Planning Commission just approved making three changes to the draft that staff has proposed. He would accept a motion to rescind the motion that was made and take another motion to accept the ordinance.

Member Anderson proposed to take a five minutes recess. A five minutes recess was taken at 8:52p.m. The meeting resumed at 9 p.m.

Chairman Wright read from the bylaws to reconsider a motion.

Member Toone moved to re-consider his previous motion. Second by Member Wilson. The vote was unanimous. The motion carried.

There was discussion on re-considering or voiding the motion. It was noted that it could be either.

Chairman Wright noted the motion was voided

Chairman Wright called for a new motion.

Member Kobe moved to forward with a positive recommendation the text as prepared by staff To amend portions of sections 8-2, 8-3, 8-5a, 8-5b, 8-6, and 8-8 of the Morgan County Code pertaining to accessory apartments, duplexes, conditional use permits, and appeals. With the following amendments

1. Strike "C" on page 4.
2. That on page 4 with the design standards that the size be limited to 1000 square feet or 30% whichever is greater.
3. That there is no limitation on the size of an accessory apartment comprised in the basement
4. That we modify the appeal authority language to reflect what is currently in the adopted Morgan County Code.
5. That we put back in the conditional uses (un-strike the C's in the amended text) for A-20, RR-10 and RR-5 related to recreational dwellings.
6. That we amend the definition of a recreational dwelling to state that a second recreational structure cannot be built on the same 5, 10, or 20 acre parcel that already includes a dwelling structure.
7. That we allow detached accessory apartments in zones greater than or equal to RR-5 where the detached structure is no larger than 30% of the primary dwelling.
8. That the exterior of the detached/accessory structure matches and is constructed out of the same materials as the exterior of the primary dwelling.

With the following five findings as listed in the staff report dated October 7, 2010 as follows:

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.

Second by Member Toone.

The Chairman called for discussion.

There was discussion on the following:

- Proposed amendment #6, definition of a recreational dwelling/recreational structure.
- Owns 160 acres zoned A-20. Would it have to be subdivided to put another dwelling on one of the 20 acres?
 - One structure on 20 acres another structure on another 20 of the 160.

Member Kobe amended his motion, particularly proposed amendment #6 to read as follows:

Member Kobe moved to forward with a positive recommendation the text as prepared by staff to amend portions of sections 8-2, 8-3, 8-5a, 8-5b, 8-6, and 8-8 of the Morgan County Code pertaining to accessory apartments, duplexes, conditional use permits, and appeals, with the following amendments:

1. Strike "C" on page 4.
2. That on page 4 with the design standards that the size be limited to 1000 square feet or 30% whichever is greater.
3. That there is no limitation on the size of an accessory apartment comprised in the basement
4. That we modify the appeal authority language to reflect what is currently in the adopted Morgan County Code.
5. That we un-strike the C's for recreational dwelling in the A-20, RR-10 and RR-5 zones.
6. That we amend the definition of a recreational dwelling to state that a recreational dwelling can not share the same 20 acres as an existing dwelling structure.
7. That we allow detached accessory apartments in zones greater than or equal to RR-5 where the detached structure is no larger than 30% of the primary dwelling.
8. That the exterior of the detached/accessory structure matches and is constructed out of the same materials as the exterior of the primary dwelling.

With the following five findings as listed in the staff report dated October 7, 2010 as follows:

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.

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

Mr. Crowell asked if Member Kobe was sure he did not mean on the same parcel. Because the same 20 acres when not every lot is 20 acres, that is going to be difficult. It was noted the division of the 160 acres could happen in many different ways.

Chairman Wright asked Teresa Rhodes to repeat the motion. The motion was repeated.

7. 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.

Chairman Wright noted that the Planning Commission had worked on the subdivision ordinance and made some modifications and staff has now presented a smaller version. He noted there were two documents; (1) definitions have now been moved to one location. (2) Modified subdivision ordinance which reflects discussion and changes made by the Planning Commission.

The Members reviewed the proposed draft. The following was briefly discussed:

- Section 160 – 5' contours versus 2' contours.
- Buffer between agriculture and residential.
- Fence in/fence out.
- Vesting
- Flag lots
- Trees in park strips.
- Taking section G out.

Member Kobe moved to continue the discussion of the subdivision ordinance review as per the Planning Commission bylaws to continue after 10 p.m. Second by Member Andersen. The vote was unanimous. The motion carried.

Member Haslam was concerned about the fencing issue and would like to discuss it further.

Member Toone moved to continue the discussion 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.

Chairman Wright asked if Member Toone was Tabling or continuing. There was discussion on whether to continue this discussion until the next meeting.

Member Toone moved to rescind his motion.

There was discussion:

Member Haslam noted he was fine moving this forward to the council as long as the fencing was not in it but taken out because he had further questions.

Member Wilson asked if there was anyone on the Planning Commission who was not comfortable passing this on to the County Council tonight. Mr. Haslam noted he was concerned about fencing. And wanted to make sure it was the developer's responsibility to fence out. Chairman Wright noted that was not currently in the proposed ordinance, but that is the discussion he would like to bring up as soon as a motion is made and ask staff to work on it. Member Haslam noted he did not want to move this forward if there are still issues about the fence. Chairman Wright noted at this point we are not requiring fencing. Mr. Crowell noted the current subdivision ordinance does not require fencing in or fencing out. The County has their regulations and a philosophy on that and the proposed subdivision ordinance does not change that policy. The fencing changes in this packet were merely moving them to a different place of the code and regurgitating what they say currently verbatim. They are just in a different organizational location.

Member Wilson noted we could table this and ask staff to put the fencing in for the next meeting. Member Andersen noted he would feel more comfortable having it complete in the subdivision ordinance if that is where we are going to add it.

Member Kobe noted his only concern is that there is some much intertwined with this. He believed if the Planning Commission tied too much to this it will never pass. He believed there was a whole series of issue.

Chairman Wright commented on the Farm Bureau meeting held October 13, 2010. One of the things they talked about is that the Planning Commission needs to re-consider the fence in ordinance that is now in place in the County. He believed that was an appropriate thing to have staff work on.

Member Haslam asked if we can add it right now and submit it to the County. Chairman Wright noted, as per Member Kobe's comment, if we do that it will add four – six weeks to the process. Member Haslam asked if the Planning Commission could make the motion with stipulation that the fencing rules will be added later. He noted he is ready to move this on, but he has that one concern.

Chairman Wright noted there will be a lot of discussion on fencing; it will not be quick to resolve. Once it is, then we apply that to the appropriate places in the Land Use Management code and move it ahead as a separate piece.

Member Haslam noted his theory is, if the subdivision part is approved and sent on to the Council and they pass it, which is going to be easier, to put it in now or to put it in later?

Member Kobe noted without design standards you will get someone that is going to throw up something to fence out and get something the County does not want. He believed this was a bigger issue than just put it in to fence. Mr. Crowell noted it is a lot more complicated that it appears as far as requiring it for development. The Planning Commission needs to agree on the type of fencing, bonding mechanisms need to be in place for construction, and a number of things. The global issue of whether to fence in/fence out, we should probably have the sheriff's department, animal control, and a number of other people provide input.

Chairman Wright asked Mr. Crowell if this was a good ordinance. Mr. Crowell noted this ordinance is comprehensive and is a big improvement on the ordinance the County currently has. It takes a lot of work that has been done previously and tries to put it in ways that flow and read together. It does not completely streamline so that it is easy to get approvals. It is a thorough subdivision ordinance. It addresses all the questions except for the fence in/fence out.

Chairman Wright noted at this point he would request a motion to table, decline, or approve with conditions.

Member Wilson asked Mr. Crowell how difficult it would be, by the next meeting, if the Planning Commission wanted to include a provision in this ordinance to make a subdivision fence out and give simple design standards. Mr. Crowell noted he could write something as long as the Planning Commission did not want to be very specific.

Member Haslam stated this was not mandatory issue to him to have it in, but if someone gets in the middle of a development, something like this becomes expensive.

Member Kobe moved to forward a positive recommendation the amended 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 to the Morgan County Council based on the following findings:

1. That changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of this title.
2. That the County wide policy objectives to be achieved by the subdivision ordinance have been re-evaluated and updated.
3. That conformance with Utah State Code is required.
4. That the amendment of these provisions improves the administrative review of subdivisions and land use applications.
5. That the proposed amendment is in accordance with the comprehensive general plan, goals and policies of the county.

Second by Member Wilson.

Chairman Called for discussion.

Chairman Wright asked about a modification of the flag lot definition. Taking the one sentence out that says flag lots are not allowed in Morgan County.

The members requested the following amendments be added:

- Modify the definition of flag lot to exclude that flag lots are not accepted in Morgan County.
- Strike, under section 8.6.28 paragraph G, regarding barb wire and razor wire.
- The language in section 160 is modified from 2' to 5' feet for a contour interval on a concept subdivision.

Member Kobe moved to amend his motion as follows:

Member Kobe moved to forward a positive recommendation the amended 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 based on the following findings:

1. That changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of this title.
2. That the County wide policy objectives to be achieved by the subdivision ordinance have been re-evaluated and updated.
3. That conformance with Utah State Code is required.
4. That the amendment of these provisions improves the administrative review of subdivisions and land use applications.
5. That the proposed amendment is in accordance with the comprehensive general plan, goals and policies of the county.

With the following amendments:

1. Modify the definition of flag lot to exclude that flag lots are not accepted in Morgan County.
2. Strike, under section 8.6.28 paragraph G, regarding barb wire and razor wire.
3. The language in section 160 is modified from 2' to 5' feet for a contour interval on a concept subdivision.

Second by Member Wilson. The motion was not unanimous with Member Wilson and Kobe for and Members Haslam, Andersen, and Toone against. The motion failed with a vote of three to two.

Chairman Wright called for another motion.

Member Kobe moved to forward a positive recommendation on the same criteria to amended 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 based on the following findings:

1. That changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of this title.
2. That the County wide policy objectives to be achieved by the subdivision ordinance have been re-evaluated and updated.
3. That conformance with Utah State Code is required.
4. That the amendment of these provisions improves the administrative review of subdivisions and land use applications.
5. That the proposed amendment is in accordance with the comprehensive general plan, goals and

policies of the county.

With the following amendments:

1. Modify the definition of flag lot to exclude that flag lots are not accepted in Morgan County.
2. Strike under section 8.6.28 paragraph G
3. The language in section 160 is modified from 2 to 5 feet for a contour interval in concept subdivision.
4. Excluding striking the section on the trees.

There was discussion. It was noted #5 under amendments should say “including” and not “excluding”. And that it should read landscaping and trees.

The final motion was as follows:

Member Kobe moved to forward a positive recommendation on the same criteria to amended 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 based on the following findings:

6. That changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of this title.
7. That the County wide policy objectives to be achieved by the subdivision ordinance have been re-evaluated and updated.
8. That conformance with Utah State Code is required.
9. That the amendment of these provisions improves the administrative review of subdivisions and land use applications.
10. That the proposed amendment is in accordance with the comprehensive general plan, goals and policies of the county.

With the following amendments:

5. Modify the definition of flag lot to exclude that flag lots are not accepted in Morgan County.
6. Strike under section 8.6.28 paragraph G
7. The language in section 160 is modified from 2 to 5 feet for a contour interval in concept subdivision.
8. Excluding striking the section on landscape and the trees.

Second by Member Toone. The motion was not unanimous with Member Haslam, Wilson and Toone for and Members Andersen, and Kobe against. The motion passed with a vote of three to two.

Member Anderson noted his reason for voting no was that he did not believe this was ready to move forward and would like to wait until the next meeting and have everything finalized for review prior to planning commission approval. Member Kobe noted that his reason for voting no was because he likes trees, but he would also like to get this ordinance in front of the Council.

8. County Council update.

Because of the time no further agenda items were discussed.

9. Planning Commission business.

There was no business discussed.

10. Adjourn.

Member Toone moved to adjourn.

Approved: _____
Chairman

Date: _____

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

Date: _____

Dear Morgan County Planning Committee,

October 7, 2010

As you continue to have public meetings, to amend, and codify, the Mountain Green Area Plan, and ordinances, please keep in mind how the following will affect the Rose Hill Subdivision. For instance, here are the problems that you need to understand, and consider. The disturbances are as follows: nuisances, noise, dust, oil, and dangerous gas, smoke, and along with that, the transportation problems to load, and the unload commercial Tow Trucks, and trailers, and in addition to these critical problems, consider their parking problems that go along with this contamination. They all violate our community's peace, and contentment in the Rose Hill Subdivision.

These problems already exist, and have existed for twenty-years of our living here in Mountain Green "The Beautiful." It is time for a change.

Thank you

Sincerely, Carolyn Dee Morrison