

PLANNING COMMISSION AGENDA
Thursday, June 10, 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, and 48 West Young St, Morgan, Utah. The agenda is as follows:

1. Call to order – prayer.
2. Approval of agenda.
3. Planning Commission business.
4. Declaration of conflicts of interest.
5. Planning Commission training.
6. Public comment.
7. Discussion/Decision: David S. and Julia C. Croft, rezone approximately 50.43 acres located in the Enterprise Area from MU-160 to A-20.
8. Public Hearing/Discussion/Decision: Request from Gary and Teralee Snyder for a Conditional Use Permit to temporarily occupy an existing residence during concurrent construction of a new residence on the same lot, and to convert the existing residence into an accessory structure for use as an accessory apartment and storage space.
9. Discussion regarding the proposal to repeal the Planned Residential Unit Development ordinance.
10. County Council update.
11. Motion review and approval.
12. Adjourn.

**MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY JUNE 10, 2010 – 6:30 P.M.**

MEMBERS PRESENT

Robert Wright
Ladd Albrechtsen
Bill Weaver
Trevor Kobe
Adam Toone
Roland Haslam

STAFF PRESENT

Grant Crowell, Director Planning Services
Charlie Ewert, Planner Tech/Code

MEMBERS ABSENT

Steve Wilson

COUNTY COUNCIL PRESENT

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

1. Call to order – prayer.

Chairman Wright called the meeting to order.

Chairman Wright excused Member Wilson and Council Member Kelley and noted Council Member Kelley would be arriving later in the evening.

The Prayer was offered by Member Albrechtsen.

2. Approval of agenda.

The Chairman requested to move agenda item #3 to the end of the agenda.

Member Kobe moved to approve the agenda as amended. Second by Member Albrechtsen. The vote was unanimous. The motion carried.

3. Planning Commission business.

4. Declaration of conflicts of interest.

There were no conflicts of interest declared.

5. Planning Commission training.

Chairman Wright requested discussion and input with regard to this training and if it was beneficial to the members. The members unanimous agreed that this training was valuable and should continue.

6. **Public comment.**

Julie Croft – Made comments in regard to the last meeting. She noted there were concerns brought up by the public about this re-zone setting precedence. She noted she did not know how it would set precedence. The precedence came about because of a certain parcel of land which their piece was divided off of in 1991. She would like to point out that in 2005, a re-zone, which included part of this property up Spring Hollow in the amount of 1.46 acres was requested from MU-160 to RR-1 as per the area and general plan. In 2007, which was the most recent re-zone, there was 7.43 acres which was part of the same estate, re-zoned from MU-160 to RR-1. It was re-zoned based on the general plan and area plan recommendations. This particular parcel received no public comment and there was never any concern at the Planning Commission regarding any legal status; that was three years ago. There was also some things done in the late 1990's, one of the lots that had been re-configured as part of this parcel was given a permit to build a new home and abandonment of the old home. She would also like to mention that they were also issued a permit for these properties to do a subdivision because they wished to sell Dave's mother's home. This permit was issued to allow them to separate some of their range land, which was part of this estate, and create a one acre lot. When they went to sell the home they found out that was not a legal process. So with County approval they created the lots. Her point is that she does not really see where a precedence could be set now, it has already been set. She would also like to point out that it is not always the citizens of the County that create problems, sometimes problems are created with County approval. She does not know how this estate came to be divided, but it makes her have suspicions on how it could have been done. Most people have the desire to be honest and up-right about what they do.

She noted the question had been asked "why now", and noted that one of the reasons is that the area plan has called for it and another is because about one year ago they had to have a survey done of this parcel because they were missing some survey markers from the previous survey and their was a question about the boundaries. They paid to have it surveyed and that is one of the reasons they are here now because with the investment of the survey they believed for them it would be a good time.

7. **Discussion/Decision: David S. and Julia C. Croft, rezone approximately 50.43 acres located in the Enterprise Area from MU-160 to A-20.**

Chairman Wright noted agenda item was discussed two weeks ago and there was discussion that maybe the infra structure and timing was not appropriate at this time. Another discussion item was whether not changing zoning would stop the Crofts from doing anything with their property. Staff was asked to define what could be done on that property per the current code.

Charlie Ewert noted the County's difficulty with this agenda item is in providing legal establishment of the use. Staff has not been able to define what the laws were at that time it was divided off; the record is unclear.

Member Albrechtsen noted the question he really has was do the Croft's have the ability, in their current status, to put a hay barn on their property or do anything at this point in time, based on how the property is zoned. Mr. Ewert noted the land use ordinance requires that any main use of this property beginning today or in the future, is 160 acres.

Member Albrechtsen noted because the Crofts are so limited, something should be done to relieve this limitation. He would be in favor of granting the A-20. He believed they were too limited to what

they have and it is not due to any fault of their own. If this zoning change can correct a piece of property that is currently not usable, in a fashion which is in conformance to the general plan and the area plan, then he believed it should be re-zoned.

Member Weaver noted he was first concerned about setting precedence because there are a lot of illegal lots in the County. He then decided that maybe it was time to clean these illegal lots up. He believes the area plans should be supported whenever possible and if the area plan calls for this zone in that area than the plan should be supported.

Member Kobe questioned if their proposal to have the re-zone was to develop and put homes there; would that change people's opinion. There have been other people who have come before this body who have had property within a defined area plan, and the area plan specifies a certain kind of zoning. However, because of what they wanted to do with it people said it is not the right time and not now. Are we doing this only because we feel we know what they are going to do with it right now and someone may come in next week in the same situation and say they are not going to develop also?

Member Haslam noted because the lot was created illegal at the time, the Crofts are in a tight spot. His opinion, based from what he has read, he did not believe this was the time or place to fix this problem. He did not believe it was the right time until development gets around it and the rest of the MU-160 begins to get addressed then that is when this should be addressed.

Member Albrechtsen moved to forward a positive recommendation to the County Council for the Croft re-zone request, application # 10.017 rezoning approximately 50.43 acres of the property located east of Enterprise village center in section 9 T4N R2E from MU-160 to A-20 based on the four findings listed in the staff recommendation dated May 18, 2010, which are as follows:

- 1. The proposed zone map amendment is in accordance with 1999 Morgan County General plan. The proposed re-zone conforms to the goals of the general plan and the Enterprise area plan and map as identified in the general plan.*
- 2. Changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of this title. Granting the requested re-zone will remediate the non-conformity of the lot, thereby alleviating land use restrictions related to lot size non-conformity.*
- 3. The parcel has adequate acreage for the A-20 zone.*
- 4. Potential development land use stimulated by the re-zone will be required to adhere to the regulations of the requested zone. All applicable land use and subdivision regulations and any other relevant County ordinances prior to approval. The heaviest use of the property under the regulations of the A-20 zone generally conforms to the County general plan and incorporated Enterprise area plan.*

With no additional findings and no conditions. Second by Member Kobe.

Chairman Wright called for discussion:

Member Kobe – A-20 zone in that area is in conformance with the area plan and is appropriate for the current state of that area as well. He was hesitant to support it with the finding that we are doing it to make it conforming when it is non-conforming. There may be other lots which are non-conforming which are not right at the time.

There was further discussion.

The Chairman asked if Member Albrechtsen would consider adding a 5th finding with regard to the area plan recommendation for the area.

Member Albrechtsen amended his motion to read as follows:

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- 1. The proposed zone map amendment is in accordance with 1999 Morgan County General plan. The proposed re-zone conforms to the goals of the general plan and the Enterprise area plan and map as identified in the general plan.*
- 2. Changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of this title. Granting the requested re-zone will remediate the non-conformity of the lot, thereby alleviating land use restrictions related to lot size non-conformity.*
- 3. The parcel has adequate acreage for the A-20 zone.*
- 4. Potential development land use stimulated by the re-zone will be required to adhere to the regulations of the requested zone. All applicable land use and subdivision regulations and any other relevant County ordinances prior to approval. The heaviest use of the property under the regulations of the A-20 zone generally conforms to the County general plan and incorporated Enterprise area plan.*
- 5. A-20 zoning is consistent with the general development of the area at this time.*

With no additional findings and no conditions. Second by Member Kobe. The vote was not unanimous with Members Toone, Weaver, Kobe, and Wilson for. Member Haslam against. The motion carried with a vote of four to one.

Member Toone requested that the record reflect that his vote was based upon the memo received in the Planning Commission packet and the statement that the record, as to legal establishment of the use relative to regulations at the time of parcel creation is not clear; using that he based his decision.

- 8. Public Hearing/Discussion/Decision: Request from Gary and Teralee Snyder for a Conditional Use Permit to temporarily occupy an existing residence during concurrent construction of a new residence on the same lot, and to convert the existing residence into an accessory structure for use as an accessory apartment and storage space.**

Mr. Ewert presented his staff report (Please see attached exhibit B). Mr. Ewert noted staff recommendation was divided because of the explicit language in the code that says the structure needs to be removed after construction; Staff's initial recommendation was to recommend approval for the conditional use permit to live in one structure while building another. Once they receive final occupancy of the new structure, and then remove the temporary structure. However, if the County does find that they would rather side with removing the temporary use of the structure rather than the temporary structure itself, then there are additional conditions that staff would request be applied.

Chairman Wright noted, that the Planning Commission has received three letters in support of the request the Snyders have submitted.

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

Gary Bowen – Neighbor to the North.

Does not mind the Snyder's building another house. However, the problem he can see along that side of the road is what was initially set up was well spaced housing, will eventually become more of small subdivisions all the way along the road. It impacts the water and septic tanks. It does not make sense to tear down a house that is functional and livable, but at the same time he does not know if you can have two houses on a lot. If it works for them, he would sure like to come back and see about the possibility to do the same thing. So a mushroom effect may end up occurring. He certainly would not have any negative comments with regard to tearing down the home and building a new house that is fine. To him it does not look like it is a very economically sensible move to tear down a home that has value and put up another. In his opinion it would be better to buy another lot and sell that one as an intact residence.

Member Albrechtsen moved to close the public hearing on the Snyder conditional use permit request. Second by Member Kobe. The vote was unanimous. The motion carried.

Gary Snyder – Applicant (requested to address Mr. Bowen's concerns.)

Mr. Snyder noted that he agreed it is not good economics to tear down the existing house, nor is it economically feasible for them to simply build a new house, thus they are pursuing the ordinance. The ordinance is not subdividing or circumventing, it is an ordinance on the books of an accessory apartment that is a very small apartment, limited to the 1000 square feet etc. The well is sufficient for both residences per Morgan County Health Department and they are in the process of septic approval as well. It will require a separate septic system. Regarding Gary's interest in doing the same thing, he would be happy to counsel with him and help him do that, but he would also be limited to a very small secondary residence.

Regarding the application, he noted he had a number of things that he believed he may need to address, but first off, he would like to understand alternative #1 in the staff report. It does not work for them and is not what they have applied for to build a new home and tear down the existing home. Alternative #2 is acceptable to them. It is one of the options they have in their application which is to live in the home while they build the new home, and then convert it into an accessory apartment. He noted they put on two options of using both levels of the home. It is a 900 square foot home footprint on the main floor and the basement. Staff has recommended an alternative that it be restricted to the main floor, plus the laundry room in the basement. He requested to hear the members concerns and noted there are a number of things he was prepared to address.

Chairman Wright noted he would prefer Mr. Snyder present any comments he had and then the members would close comment for discussion among just the commission. He asked Mr. Snyder if he had a copy of the staff report. Mr. Snyder stated he did. The Chairman asked Mr. Snyder if there was anything inaccurate in the report or that he would specifically like to address.

Mr. Snyder noted the staff has been wonderful to work with. They have been through this for five years now trying to figure out how they can make this property a long term home for their family. They have looked at other homes and property and they always come back and say they love the property, the community, and the neighbors. They have gone through the process of trying to figure

out how to add on to the home to the point of needing to spend \$100,000 to do that and it ends up with nooks and crannies; for another \$60,000 they could build a new home that suits them. They are not throwing good money at an old home, although the home is a good home, it simply does not meet their needs. They knew that when they bought it five years ago. He noted they come into staff a couple of years ago and were given some options of using a PRUD (different ordinance than what is on the books now), a flag lot, or going for a variance to subdivide. He noted they are not interested in selling off their land and losing control of it. None of the options seemed viable options and so they went house hunting again and back through the process of trying to figure out how to add on. They came back into staff four months ago to explore some of the same options from several years ago. The PRUD had changed, flag lots are no longer permissible in the County and they were at the point of not knowing what to do when staff presented the accessory apartment ordinance to them. He asked if the members had their application and a copy of the ordinance that he had taken and walked through. Chairman Wright noted they did. Mr. Snyder noted they are complying with the ordinance. A couple of things he would like to point out: Within the staff report on page 1, second paragraph. It states, "*The specific ordinance used to allow this type of use is not clearly defined.*" Mr. Snyder noted the ordinance that most closely fits is 8-5A-3, referred to in the staff report. It talks about a structure incidental to construction. It is not incidental. They are not going to be constructing, it is not a construction office, it is not quarters for construction workers, and it is their home; that is not incidental. He also pointed out in the definition of a temporary use in the top paragraph it states, "*Temporary uses are exempt from a conditional use permit*". He highlighted some other temporary uses out of 8-6-16 in red that gets them kind of close; which is where their application comes in. Temporary structure issue is a concern if that is a concern to the commission. He noted there are cases where some definitions of some code have been applied. Three examples Mr. Ewert has pointed out where that was to be done and then converted to some other structure. One was a garage; one was a garage with living quarters. Chairman Wright interrupted and noted the members had looked through the staff report so they were familiar with these.

Mr. Snyder noted occasionally there is confusion in the accessory apartment ordinance because it is included with the extended living ordinance; they get mixed in together. The extended living ordinance is for family members or for servants within the dwelling. Accessory apartment can be a separate structure. The limitation of that of course (couldn't hear what he said).

Mr. Snyder noted the authority of the Planning Commission. He noted staff's recommendation is for the proposed motion to be recommended to the County Council. Mr. Snyder noted Section 86-33 Accessory apartments and extended living areas, section B, uses permitted. #1 "*Accessory apartments may be allowed by conditional use permit in order to make housing units available to moderate income houses.*" #2 "*Extended living areas, shall be allowed as a permitted use.*" So staff has that authority. Section D, Requirements for approval of accessory apartments, #1, paragraph 1, "*A conditional use permit may be granted by the Planning Commission for accessory apartments.*"

Chairman Wright noted the members were familiar with the ordinances, and asked if there was information that the members needed to know that was pertaining to this specifically? Mr. Snyder noted the reason for bringing this up is because in the staff report recommendation is for the Planning Commission to recommend to the County Council. Chairman Wright noted that Mr. Snyder needed to understand that is what the Planning Commission does. They will not, as a body, approve this or disapprove this tonight. Mr. Snyder noted he would maintain they do according to the code. Chairman Wright noted as Chairman he would state that they do not and that is what they will go with. The planning commission recommends to the County Council and they will actually approve the Conditional use permit. Mr. Snyder asked what about the code. Chairman Wright stated there is probably a disagreement on its meaning. Mr. Snyder noted he has given them documentation of where they have authority and where they do not. Chairman Wright noted they are familiar with that

and they are a recommending body. Mr. Snyder asked if it was somewhere in the code because he can not find it. Chairman Wright noted that is how it is defined.

Member Haslam noted in D Paragraph 1, “*A conditional use may be granted by the Planning Commission for accessory apartments, provided that the following requirements are met.*” He noted to a point that is true, “*provided all the requirements are met*”, if they are not met then they do not. Mr. Snyder noted he agreed other than it is pointed out in section 8-8-3 that the Planning Commission has authority to grant exceptions where they have authority to grant permission or approval. You can get into situations where it becomes grey. Their effort has been to fulfill every requirement of the ordinance so that it is not an issue.

Member Weaver asked how close the new home will be to the existing home; it looks pretty close. Mr. Snyder noted the separation is about 25 feet. Member Weaver asked if there is a reason they are going that close; there is neighboring property that is pretty close. Mr. Snyder noted it fits and creates some distance from Mr. Bowen’s property sheds. Member Weaver noted Mr. Bowen had commented that he would like to see them spread out and he can see that because of the rural area that this is in; it is pretty tight in this location. Mr. Snyder noted there is a hillside from their property up to Mr. Bowen’s property and so they are avoiding the hillside and believe it fits in the space.

Chairman Wright called for comment from the members.

Member Toone asked if it can be called an accessory if the main meter is on the accessory building. He referenced Appendix 5, site plan and noted the main meter and gas line are being run in to the accessory apartment and from there to a main dwelling. It makes sense because it is less infrastructure, but it also kind of contradicts the fact that one is going to be the main and the other is an accessory in his opinion.

Member Kobe noted if someone is going to build a new home and they decide to have an attached garage that is off-set a little bit, what kind of approvals are needed to build that. If they are not calling it an accessory apartment can it just be built as a detached structure from the building as long as it meets the requirements? If they want to turn it into an apartment then they have to get approval for it to be called an accessory apartment. Mr. Ewert noted yes, to the second part. It would depend on what the structure looked like. If the building official had questions then they would address that at the building permit level. However, before they could start renting it out it needs to go through this process.

Mr. Kobe noted if they built it and it was obviously part of the design of the structure then they would not have to get an approval for an accessory apartment? Mr. Ewert noted that is a difficult question because it gets into extended living areas as well. It indicates additional kitchens and basements would need to be considered extended living areas. In speaking with the building official about this he noted that past staff required a second kitchen to go through this process; currently that is not the situation.

Mr. Kobe noted one of the items that stands out states, “*an accessory apartment and detached structure shall be constructed of materials of equal or greater quality and similar design and color*”. He noted it talks about the proposed brick structure of the existing residence be of equal or greater quality and a little bit in terms of design. He asked if specifics of what the exterior of the new home and accessory apartment would look like were concerns for later in the process or is it important to know more detail at this stage of the process. Mr. Ewert noted that is important at this stage. Once the applicant receives approval of this, assuming they get approval from the County Council for the

accessory apartment and the full use, they have the right at that point to get the building permit and begin to move forward with it. If the Planning Commission has very specific design qualities that they want to include then it should be addressed in conditions of the approval.

Member Albrechtsen noted he was struggling with this mainly because from their point of view it doesn't make any sense to make someone tear down a perfectly good house because of the formality in the ordinance. One of his concerns, that were also voiced earlier, is that it begins to look like two homes on a lot. His understanding of the requirement is that it can be 1000 square feet of living space maximum or 30 percent of the main structure, which in this case, is 4700. The applicant would then be maxed at a 1000 square feet. He asked if it was realistic of the Planning Commission to monitor and enforce them tearing out what is currently in the basement and turning it into a storage facility. Mr. Ewert noted they have required applications in the past to basically section off a room for storage uses. If it meets the ordinance, or helps them meet the ordinance, he would say yes. If you look at the ordinance a little closer, it talks about accessory apartments in basements and you can give more than 1000 square feet if it is in the basement of the primary residence, at the Planning Commission's discretion. Member Albrechtsen asked if it is considered an accessory when it is in the main structure. Mr. Ewert noted an accessory apartment can be in the main structure and in an accessory building.

Chairman Wright asked about occupancy. Mr. Ewert noted extended living can not be rented to anyone but family, accessory apartments can be rented to anyone. Chairman Wright asked that Mr. Ewert be sure Mr. Bowen gets copies of all the material.

Chairman Wright noted there has been some history in the County on accessory apartments. Mr. Clark had issues with size. The home was not as large as the space above the garage. Planning Commission recommended approval of the footprint of the building and County Council limited it to 1000 square feet. The McGeary property and the Ferrell property as well have fairly large structures; in the case of the Ferrell's it was limited to 1000 feet; the request was for more than that. Mr. Wright asked if there was an ordinance for the distance between homes. Mr. Ewert noted in the accessory apartment ordinance it discusses that it could not be any closer to the back of the home by a certain amount of feet. In this case it discusses how far set back from the front of the other building it needs to be and this particular application meets that.

Member Haslam noted the setback has to be 10 feet greater than the main building. If you go to definitions for main building, the main building is going to be the new house and the dwelling is where they are going to reside or sleep. From what this shows, they have their setback being based off the front of the garage which by definition is incorrect, it needs to be off of the front of the house because that is the main dwelling and dwelling is defined as where the people are sleeping. It needs to be located behind the main dwelling or at a minimum setback which is 10' or greater of the setback of the main dwelling. The main dwelling is the house not the garage by our definition. He further noted in the staff report it states the existing home is 900' and asked how that was calculated because the dimensions that he come up with gives approximately 1008 square feet. Mr. Ewert noted that is a valid point. He would assume the measurements come from the interior wall rather than the exterior wall. If that measurement needs to come from the exterior wall then it could be limited to the upper portion of the building. Member Toone noted that is a valid point. He can guarantee if it was a real estate agent it would be on the exterior of the building when they measure it. He noted there were some regulations in the RR-1 and he does not know if they are planning 100 years into the future, as instructed, but the side yard regulations are 15 feet in an RR-1 and 10 feet for an accessory building. It is far enough if for some reason it got divided again because of new zoning

and they split it into two homes or they would need to go 30 feet if it was ever re-zoned. There is more than two acres in the parcel and shares the same driveway.

Member Kobe stated he does not have a concern with any home that has an accessory building that complies with acreage and if the buildings are designed such that it does not look like two different homes. The ordinance says 1000 square feet or 30% of the building, why are some people holding to the 1000 feet. In his opinion one of the things you would probably want to avoid is when you get down in Provo you have one home and three families live in that one home and then around back they have turned the tool shed into a home and a newly married couple that can verily afford it lives back there and then back in the corner there is another home. He believes that is what the ordinance is trying to prevent, not something like the Ferrell's have done. He believed what they did fit the neighborhood they live in. If they lived in a different neighborhood and had different size lots, maybe it would not be appropriate. In his mind, given the size of this lot, the fact that the ordinance gives the option of 1000 square feet or 30% he would not have a concern granting the larger footprint that is allowed there. The biggest concern he would have is the same as Mr. Bowen that it they don't want it to appear that there are two homes there and start getting that Provo feel where you have all these buildings built on a lot. He asked to what extent we can make sure that the exterior of the two buildings are tied together and make them look as if it was designed that way just like other homes have been designed that way. He knows other individuals who have built barns and had living space in there while building their new home and sometimes it has been approved and sometimes it hasn't. In terms of having a living space their while they are on their property he does not have a concern with that. If this was a smaller lot so that it didn't make sense for it to fit he would have concerns with it. He would want to make sure that it could be documented to make sure when it is all finished we see is a very nice home with a nice detached structure that looks like a detached accessory apartment, but it doesn't look like Provo.

Chairman Wright noted page 11, item #5; the conversion of existing residence shall adhere to compatibility.

Member Weaver stated that he did not believe Mr. Snyder would be able to match a brand new home to a 40 year old home and make them look compatible. There is plenty of acreage except they are very close together. He agrees with Mr. Bowen that he would like to see them separated. Granted there may be a hillside problem that prohibits but he just sees them too close. You are putting two homes on 2 ½ acres that could be spread out and hopefully look like they are separate.

Member Haslam noted that on the square footage requirement Member Kobe brought up earlier, it actually states, "*No accessory apartment comprise more than 30% of the main building "nor" be greater than 1000.*" Member Albrechtsen noted the way it is written is pretty clear; it cannot exceed 1000 feet. Member Kobe noted he would be ok with the 1000 square feet.

Member Kobe stated with regard to Member Weaver's concern, his thought with an accessory apartment is that it would need to be close enough that it appears to be an accessory apartment. He would be concerned if they did spread them out to look like they are on separate five acre lots. Because we are doing an accessory apartment there needs to be some proximity that needs to take place to make it look like it is subordinate to and that it is an accessory apartment. The second concern with being compatible is a valid concern. If the requirements of that can be fulfilled he would like to give people the option of presenting something.

Member Haslam noted these two buildings do not look anything alike. How do we define appearance? At what point do we say these need to look similar. He did not know if some of the reason for design was for the septic system they have to accommodate to meet the Health Department code.

Chairman Wright asked Mr. Ewert about appearance. If the Planning Commission and County Council were to approve this what do we do about appearance? Mr. Ewert noted Mr. Snyder has indicated that he is willing to brick the new home in the same style and color of brick that the old home is in. Apparently there is some panel board on the upper portion of the existing home which they are also willing to put on the new home. Chairman Wright clarified stating the style may be different, but the general appearance meaning color and building materials would match. Mr. Ewert noted that was correct and they could even design the new home for the style of the old home. He further noted a 30 year old home is a 30 years old home, but that is a design questions and not necessarily an age question. Chairman Wright asked if that would be managed as part of the building permit. Mr. Ewert noted as long as that condition is clearly stated in the conditions of approval.

Member Toone stated he can not go forward with the 10 foot set back as you look at the site plan as per 84.8 and 87 feet from the property boundary, which to his understanding also correlates with Morgan Valley Drive. Can we move forward even if we do not approve with the site plan? Chairman Wright noted the Planning Commission has a number of options. One would be to table stating there are concerns with the 1000 feet, appearance, and set-backs. Those three things need to be resolved before taking action. Another option would be to instruct staff as part of the findings process that we expect (1) the 1000 foot limit would be honored. (2) Certain design considerations (3) approve pending setback issues being resolved. Historically those kinds of things open up a little bit of a gap because the County Council will give recommendation based on a couple of things yet to happen.

Member Albrechtsen asked what the setback was on the front corner of the new main house and what is the setback from the street to the existing building. Member Toone noted as he reads it, to the front corner shooting from the property boundary across the driveway in front of the garage it is 84 feet 8 inches. From the line that runs right in front of were the septic tank is it says 87 feet.

Member Haslam noted the only thing that would affect that would be the septic system because you have to show primary and secondary systems and if that is the reason for sliding it back in order to get the secondary system in the front then that becomes a little bit of an issue. If you slide that seven (7) feet forward to get the 10 foot then they have met the requirement. Member Albrechtsen asked Mr. Ewert if that was the case. Mr. Ewert noted he did not know what the required distance from a septic system was. It does not appear to be similar to a well head protection zone.

Member Albrechtsen asked Mr. Snyder if he could respond whether it would be a big deal to move the main home forward the proper amount in order to reach the proper set-back. Mr. Snyder noted for approval here and at County Council septic is not a requirement. Member Albrechtsen noted that is not what he asked. Mr. Snyder noted they can and those details are being worked out with the County health department.

Member Haslam requested tabling so that he could get further questions answered; one of the concerns being the square footage. He disclosed that he had visited with the Snyder's a little bit and they want to use the basement and that was left open as far as bedrooms etc. but they do want to use the laundry facilities. If the Council is sticking to the 1000 square feet and the Planning Commission

takes off 10 inches 40 x 24 foot gives 960 square feet; that only gives 40 more square feet to reach the 1000 which is a 4 x 10 foot area which is not going to allow them to use the laundry room area which is what they would like to do but that will put them over the 1000 feet. If we could somehow get a resolution as to how to get a laundry facilities to accommodate this area so that they are just using the upstairs. Member Albrechtsen noted that is really their (the Snyder's) issue. They really have to figure out how to resolve that. It is not the Planning Commission's job to architecturally design this home so that they can have a laundry facility in it. That is overstepping what the Planning Commission should be doing. We simply put a condition in there that says there is only 1000 square feet of living space that is available to them and they have to figure out how to make it work. Technically you eliminate the basement plus eight square feet on the main floor. Mr. Haslam wondered if that was something acceptable to them. Another concern is the appearance. You can re-brick the house, you can find white brick that matches, but you still have two structures that don't look anything close. Member Albrechtsen noted the argument for that would be in his recommendation that they have a responsibility to make the two homes look alike. He does not believe anything has to be changed architecturally, but if they decide they want this brand new home to look modern, that is great, but then they have to come back to the accessory apartment and they have to make it look like the new home somehow. If they rock the new home then they have to come back to the accessory and rock it as well. Again, we just put a condition in there that states these two homes have to look alike and like they are a part of the same layout and feel. They need to figure out how to do that; people do it all the time.

Chairman Wright noted maybe this is an emotion that we want to say here are the rules and let the Snyder's work that through. He believed the Planning Commission needed to be specific to staff so that they have some marching orders that they are comfortable with.

Member Haslam noted he would rather take time here and get it right then send it to the Council because there are a lot of people, that in all fairness, are going to look at this and say ok let's go, and they are going to want to do the same thing. We need to be very careful on what is sent to the Council for approval. Chairman Wright noted he would caution about designing or getting into the details of the home. When you talk about compatibility it is difficult, there can be differences of opinion.

It was the consensus of the members to table this in order to get better information in order to have a better probability of success when it gets to the County Council. Their biggest concerns were compatibility, proximity of the two homes with adjusted setbacks, and a working plan that limits the accessory apartment to 1000 feet.

Member Albrechtsen moved to table the conditional use permit for Gary and Teralee Snyder and instruct staff to answer the following questions:

- **See drawing that shows that the new home and accessory building meet all set-back requirements.**
- **See a drawing showing how they will limit the living space of the accessory apartment to 1000 feet.**
- **Have information showing how the accessory apartment will be compatible with the look of the new home.**
- **This application is to be returned for consideration on June 24th. Toward the beginning of the agenda.**

Second by Member Kobe. The vote was unanimous. The motion carried.

Mr. Ewert asked how the square footage was to be measured. Member Albrechtsen noted if an appraisal were to be done on a home, however it is done. It should follow the same format.

There was further discussion.

Mr. Snyder noted the garage includes the bonus room which is mandatory by the chief designer of this home which is he and his wife. The connection between the two homes is a two story connection which is part of the home. Chairman Wright noted the Planning Commission does not want to be in the design business. Member Albrechtsen stated the question is if they share the same roof then they are the same home but if they don't then they are not. Mr. Snyder noted it is continuous. Chairman Wright noted the Planning Commission has gone down that road a couple of times with Mr. Peterson. Mr. Snyder stated this was not 100' breezeway this is a mud room with a ½ bath in it which has a stairway and it is to connect and bring people in from the outside and the bonus room is fundamental to their home; it is 800 square feet and is essential to the design of their home.

Chairman Wright asked if Member Albrechtsen would like to re-consider. Member Albrechtsen noted he would like to add an additional item.

Motion by Member Kobe to re-open the motion just voted on for re-consideration. Second by Member Weaver. The vote was unanimous. The motion carried.

Member Albrechtsen moved to table the conditional use permit for Gary and Teralee Snyder and request the following:

- **See drawing that shows the new home and accessory building meet all set-back requirements.**
- **See a drawing showing how they will limit the living space of the accessory apartment to 1000 feet.**
- **Have information showing how the accessory apartment will be compatible with the look of the new home.**
- **This application is returned for consideration on June 24th. Toward the beginning of the agenda.**
- **Staff gives the Planning Commission an interpretation of what is required to define the garage as being connected and part of the main structure with findings.**

Question by Chairman Wright - Do we use the garage as the front end or the home as the front end? Member Albrechtsen noted they will want backup information with regard to roof etc.

Chairman Wright noted based on that decision they would move ahead and work with the Snyders. If the answer is the home then that decision would force one direction. If it has to be the garage then it would force another decision.

Second by Member Kobe.

Member Haslam noted when we re-consider the motion have we done the correct procedures. Chairman Wright noted he believed all bases had been covered.

The vote was unanimous. The motion carried.

9. **Discussion regarding the proposal to repeal the Planned Residential Unit Development ordinance.**

Chairman Wright noted this was a discussion that took place in a previous meeting. The question was whether we want to repeal the PRUD ordinance, whether we want to have a PRUD revision on the books for the next year/18 months, or whether we believe the current PRUD is simply not workable in its current state and the County would be better off without it for a time.

Mr. Crowell noted each member should have received a document prepared by Member Wright about PRUD alternatives. He noted he was given a handout by Mr. Brent Anderson just prior to the meeting; each member should have been given the same handout.

Member Albrechtsen noted one of the concern that was voiced over and over when the PRUD was put in place was that we don't want the County to look like Park City with homes dotting the hillside; which is why this was put in place. He also understands the problem of too much open for interpretation in this ordinance as it stands. His concern is that if the PRUD is repealed then the County is left with the basic subdivision ordinance which is fairly limiting if someone has a large hillside they want to develop; then they basically have to put each home on each piece of property.

Mr. Crowell noted the ability to utilize alternate lot sizes does not exist in the standard subdivision code. If you are in the A-20 zone and you have a standard subdivision then you have a 20 acre lot. If you are in the A-20 zone and you are in a PRUD there is an ability to try to create a bank of units, distribute them as you see fit, and the lot size is not an issue with the zoning anymore.

Member Weaver stated his biggest concern with the PRUD is the streets and how they become private in this County. He believed they should be County streets and not private. He would like to see the area plan guidelines followed.

Member Kobe noted if this is repealed entirely and the County is left with only a subdivision ordinance would this get the County the kind of developments they want or would it be better to keep parts of the PRUD that work. What has been the concern with the open space and conservation easements? Chairman Wright noted one of the concerns has been its usefulness with the open space.

Member Albrechtsen noted one of the challenges the County has faced, which can't be overcome by conditions, is this is an ordinance that has to be adhered to and so we can't put in the condition and not adhere to the one part of it for this time around. It is an ordinance that has to be adhered to all parts and parcel and that is what the struggle was with. If there are weak spots in it maybe the solution is to fix the weak spots.

Mr. Crowell noted the County has talked about the 100 year plan and if the County is to have 100 year plan there are only a few different ways to actually approve it for a long time. Some are the conservation easement, public park creation, etc. If that is truly not a goal of the County then it does no one any service to have an ordinance that requires it. If it is a goal of the County then tools and mechanisms need to be designed to achieve that goal; this ordinance may not be the perfect one. There are other things besides standard subdivisions and PUD's. New PUD's could be written, the MPDR could be revised, or a new ordinance could be written. You could simply modify the general plan to create smaller lot zoned areas in the County. From an administrative standpoint the goal is to figure out what it is that the County wants to achieve and if fixing this PUD ordinance is how they

want to approach it. Staff would be glad to fix it if that is what the County wants. He noted there was a lot of time spent on revising the subdivision ordinance and whether it is a PUD or not the County needs to have a good fundamental subdivision ordinance under everything. That ordinance will actually address some of the private road issues and some of the infra-structure and water issues. After that is passed and approved by the County Council then time can be spent re-writing a PRUD ordinance if that is what the County wants. He noted if the Planning Commission were to ask for his recommendation and priority he would say that the subdivision ordinance should be worked on beginning next week. He would further say, with regard to the global ordinance re-write, that probably the next most important thing is the conditional use permit processes and procedures. He noted Mr. Snyder brought up some really good points about what is written in the code. He noted the County needs to clarify who approves conditional use permits. The code could definitely be written how he read it. Mr. Snyder has done a lot of research in the code. Staff has been administering them because Council said that is what they wanted to do and they had been before with the current staff, but maybe staff should have questioned that.

Mr. Crowell noted he has worked on many PRUD ordinances. He believed it was important to point out that those provisions are in conflict with previous planning efforts and Envision Morgan. He believes it should just be settled in the general plan as well. If the County wants to preserve open space in perpetuity he would recommend a few measures. (1) The creation of a parks and trails master plan for the County, which would identify those key areas the county, wants to preserve as public parks and trails and identifying the areas they want to preserve in specificity in the general plan. What also can not be avoided is re-visiting the parks and recreation plan because then you know where you want to target that open space preservation into a public system. (2) PRUD/PUD ordinance is an important part and tool box for open space preservation. He does believe conservation easements have a lot of utility if you really are serious about open space preservation. (3) Critical mass and lot size. Talk to a few land trust organizations and ask what the County can reasonable expect. Would these organizations recommend a 50 acre parcel for farm land, does it need to be 1000 acres for elk preservation, etc. Then try to get some better metrics from those organizations; again if that is what the County wants to do.

In regard to the issues of Home owner Associations and their maintenance, while some subdivisions have had remarkable success in their private ownership and maintenance, that is not the trend nationwide; even in our County there are some issues. You want to sure up the HOA maintenance agreement stuff in the PUD ordinance. Try to make sure that if assigning some of those responsibilities to private organizations that those things are in there, and they have legal review and financial and accounting background to go with them. When the County goes into the planning people understand what the long term maintenance costs of those areas are and actually get them to set up some professional management organizations to do that and make sure it actually occurs.

Chairman Wright noted the question before this commission is should the PRUD ordinance be kept or not. We won't be fixing it tonight, we don't have the time, energy or experience.

Member Weaver asked if the new subdivision ordinance would incorporate the goods parts of this PRUD so that we could do away with it; could it be built within the subdivision ordinance. Mr. Crowell noted not at this time as it has been drafted; candidly, because we are getting side tracked from the foundational work in the ordinance that was started over a year ago. He noted the policy questions are what is taking staff time instead of addressing some of the administrative and legal issues in our foundational codes. He would still recommend they be kept separate, but make it the next thing to do.

Member Albrechtsen noted the agenda states a discussion only for this item and questioned whether that was a problem. Mr. Crowell noted he did not believe it was because the public hearing had been held.

Member Kobe noted he did not see enough reason why the County would want to get rid of this. He feels being forced into the standard subdivision could create more problems. If there are specifics he is missing, he believed open space was a good thing and there is a right way to administer it. Parks and trails can be in the benefit of land owners as well, if it is done right; unless this can not be administered as is then that could be a problem. If it is just because it is cumbersome but doable and the County can focus on the things Mr. Crowell just listed and then come to this in the right sequence to revise it or replace it; that would be his preference with the information he has right now.

Chairman Wright noted his opinion is that the PRUD ordinance is fourth in priority with what is being worked on right now.

Member Albrechtsen moved to forward a negative recommendation to the County Council to repeal the current PRUD that is currently in place. Second by Member Haslam. The vote was not unanimous with Members Albrechtsen, Weaver, Haslam, and Kobe for and Member Toone against for reason that leaving the current one on the books is not desirable to use and it is something without vision. The motion carried with a vote of four to one.

Member Haslam asked at what point can this be addressed and fixed.

There was discussion on the process again.

Mr. Crowell noted that property owners can always petition to amend the code on their own behalf and staff tries to work in applications between the other works that is being done.

10. County Council update.

Mr. Crowell noted the County Council passed the geological ordinance. It is posted on the County website and is 103 pages in its entirety. He noted the County Council modified the policy direction fairly significantly.

11. Motion review and approval.

There was no review of motions.

12. Other business.

- Seventh Heaven's application had been withdrawn.
- Chairman Wright noted this would be Member Albrechtsen last meeting. He will be moving out of state. He further recognized Member Albrechtsen presence on the Planning Commission as a great asset to the County and one that will be missed.
- Chairman Wright recommended a vote for a new vice-chairman at the July 8th meeting. He requested Member Weaver to conduct the next meeting on 24th of June.

- Whisper Ridge Telephone lines – Mr. Crowell noted Qwest did not go through the County for their permit but to UDOT instead. Member Weaver noted the residents of Mtn. Green have been very tolerant of the construction that has gone on there.
- Member Toone asked about the vision statement for the general plan. It was noted that the consultants are still accepting input from the members on that.

13. Adjourn.

Member Toone moved to adjourn the meeting.

Approved: _____
Chairman

Date: _____

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

Date: _____