



PLANNING COMMISSION AGENDA
Thursday July 8, 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. Election of Vice Chairman.
4. Planning Commission business.
5. Declaration of conflicts of interest.
6. Approval of Minutes for May 27, 2010 and June 10, 2010.
7. Planning Commission training.
8. Public comment.
9. 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.
10. Discussion/Decision: Concept Approval for the Heiner Estates Subdivision.
11. Discussion regarding the 2010 Morgan County General Plan.
12. Public Hearing/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.
13. Discussion regarding the Zoning Ordinance update.
14. County Council update.
15. Adjourn.

**MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY July 8, 2010 – 6:30 P.M.**

MEMBERS PRESENT

Robert Wright
Trevor Kobe
Bill Weaver
Adam Toone

STAFF PRESENT

Grant Crowell, Director Planning Service
Mr. Ewert Ewert, Planner Tech/Code
Teresa Rhodes, Clerk

MEMBERS ABSENT

Steve Wilson
Roland Haslam

COUNTY COUNCIL PRESENT

Howard Hansen

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

1. Call to order – prayer.

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

Chairman Wright excused Members Haslam, and Wilson and noted that Member Albrechtsen's vacancy had not been filled as of yet.

Chairman Wright read the following from the Planning Commission by-laws with regard to a quorum. *“Four members of the commission shall constitute a quorum for the transaction of business. Any member disqualified because of a conflict of interest shall not be considered when determining whether a quorum is constituted. Members abstaining from a vote however, will count towards a quorum except as otherwise specified. Specifically provided in these rules a majority vote of the commission members present at a meeting will be required.” “The chair shall vote only in event of a tie vote by the Planning Commission. The chair must vote if there are only four Planning Commission members present.”*

2. Approval of agenda.

Item #4 is moved after the County Council update.

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

3. Election of Vice Chairman.

Member Weaver moved to nominate member Kobe as vice-chairman. Second by Member Toone. The vote was unanimous. The motion carried.

4. Planning Commission business.

This agenda item was moved to the end of the meeting.

5. Declaration of conflicts of interest.

There were no conflicts of interest declared.

6. Approval of Minutes for May 27, 2010 and June 10, 2010.

Member Weaver moved to approve the minutes of May 27, 2010 as amended. Second by Member Weaver. The vote was unanimous. The motion carried.

Member Kobe moved to approve the minutes of June 10, 2010 as amended. Second by Member Weaver. The vote was unanimous. The motion carried.

7. Planning Commission training.

- Snow Basin –
 - a. Development on Weber County side.
 - b. Transportation study – indicates that no interchange is necessary, but they are not opposed to an interchange.
 - c. 50 – 100 year plan.
 - d. Second entrance may be into Morgan County. The Strawberry base is in Morgan County.
 - e. Working with Weber County on some ordinance development for several years.
- Johnson property – further extension to the participation agreement.

8. Public comment.

Gary Snyder – commented with regard to an assignment staff now has stemming from a discussion June 1, 2010 in County Council meeting to review the accessory apartment ordinance. He noted that

three members of the council expressed support for the ordinance whereas one expressed opposition viewing it as a loophole to zoning. Though any proposed changes will not impact his application, as citizen and from a professional perspective he would like it on public record that he is in support of the ordinance. Having represented the Church of Jesus Christ of Latter Day Saints in obtaining Conditional use permits for non-chapel purposes from various jurisdictions in multiple states, it is his public testimony that the accessory apartment ordinance is defined and restrictive enough even to be administered by staff, let alone the Planning Commission or the County Council. For example, it includes 15 different restrictions and requirements; very thorough and very well defined ordinance covering everything from parking to owner occupancy. In addition, to the support of the County Council other voices in the community have been expressed in chapter nine of the general plan supporting the variety of housing types; Objective 1.2 emphasis affordable housing. Objective 1.3 emphasizes working with property owners; Policy 1.3.2 flexibility/innovation in residential projects. Likewise, the voices of citizens have been expressed in the Envision Morgan document specifically vision principle #6 to create a variety of housing options to meet all income level types and stages of life; supports internal growth in general. Eliminating barriers and providing incentives to increase housing choices. It has one specific potential strategy, 6.1 that talk about accessory buildings. Likewise, the ordinance itself has two very key purposes in it. To make housing units available to moderate income households. He noted he is aware of two single parent families in their community that are looking for such housing and provide economic relief to those home owners who might otherwise be forced to leave the neighborhood; that is their purpose in using the ordinance. It is a very personal purpose for them. He again noted his support for the ordinance. It is well defined, has proper flexibility in it, broad citizen support. It may need some contextual and structural tweaking to reduce some confusion. He believed most of the confusion was because it was rarely applied. In the spirit of supporting words with action he would simply offer his service to the Planning Commission and staff as a citizen and professional who has carefully studied and applied the ordinance in any future review of the ordinance.

Chairman Wright noted that when Mr. Snyder visited with the Planning Commission before, one of the things that he took away was Mr. Snyder's reference that the Planning Commission "may" make decision and in making that decision it would not need to go to the County Council.

Mr. Snyder noted the document he had shared with the Planning Commission lists items in the code where the Planning Commission has the authority. He noted there is about ten.

Chairman Wright asked from Mr. Snyder's prospective, would he recommend that the County broaden the statement and make it more general?

Mr. Snyder noted his experience of obtaining CUP in various jurisdictions he has done twice before at City Councils and three times before a Planning Commission , two of those time it was done by staff; there is variety out there.

He noted an example of the different level of authority. The code allows Planning Commission to approve a campground for tents whereas the code requires the County Council to approve a campground for RV levels. Similar to the accessory apartment ordinance; it is actually accessory apartment and extended living area ordinance applies to mother in law apartments within the dwelling. Staff has the authority to permit that part of the ordinance. The purpose of that ordinance if for family members that have medical reasons. Then accessory apartment is to rent to whomever and then it applies a different level of approval which is Planning Commission. He believed it is well enough defined that staff could administer it.

Chairman Wright confirmed with Mr. Snyder that of all the CUP's that we might consider, Mr. Snyder's experience is that in some jurisdictions the Planning Commission can approve some, staff can do some, and County Council can do some; it is a mixed bag depending on what the request is. Mr. Snyder noted the conditional use permits that he is familiar with, from a professional standpoint, is much more complex. He believed the code was adequate in outlining who has stewardship for what.

9. **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.**

Chairman Wright noted a public hearing was held previously. He noted staff was asked to review and answer three questions asked at the previous public hearing. (1) Set back (2) size (1000 sq. foot limit) (3) appearance.

Chairman Wright noted the ordinance is clear in saying when the new home is constructed the old residence should be taken down. Do we make a finding that says this is an accessory building/apartment?

Mr. Ewert noted he was directed to answer the following four questions:

1. Is an attached garage considered part of the residence – In most cases it depends? If there is a bonus room above the garage which does have a residential occupancy. He spoke with the County building official who stated if you have to walk through one residence to get to the other residence probably not. But in the case of the Snyder's home the way it is designed you can go from the residential use of the home to the residential use of the bonus room with all the same occupancy indicating that it is all the same part of the house. So the footprint of the bonus room which is the footprint of the garage makes it all the same structure.
2. Is the proposed setback relationship of the accessory apartment relative to the proposed main dwelling setback in compliance with the code? The answer is yes. The question was really dependent on #1 being answered. The reason for that being the front corner of the garage is what was being used as the setback.
3. Using standard industry practices, re-measure the accessory apartment to ensure its compliance with code requirements. He noted a Common standard is the ANSI standard Z675 which takes the exterior of the home, exclude the garage, include chimney space, and it says you can exclude finished basements from that.

Chairman Wright asked whether if there is a residence on top of the garage, it is included in the measurements being taken. Mr. Ewert noted the garage is always excluded. However you would use the second story square footage. Chairman Wright asked if that would change the 1023 number they discussed last time the Planning Commission met and discussed this; would it make it a larger number. Mr. Ewert noted

the square footage of that home, as calculated, did include the bonus room; that was part of the residence to his understanding.

4. Provide information indicating the design compatibility of both structures. He noted he gave a brief bullet point list in the staff report (please see attached exhibit A) of how the applicant has proposed to meet those designed qualifications to make a similar design approach.

Chairman Wright – the area of design is a worrisome place for him; what is attractive to one may not be attractive to another. He is reluctant to try to define what looks good.

Member Kobe – is there a need to error on the side of leniency baring more specific design requirements in our code. We obviously need to pass an opinion, do we need to error on the side of leniency. Chairman Wright – in his opinion yes. Word such as “nice” and “same” don’t work for planners. He believed staff/Planning Commission needs to soften the interpretation and then tighten definitions through code change. Mr. Ewert noted it is his opinion that without specifics standards with what looks good it is getting into a gray area.

Member Kobe – having reviewed the requirements do you see anything that is not in compliance or have they met all of the conditions. Mr. Ewert – for accessory apartment Planning Commission and County Council have discretion to make that decision. In his opinion what they have submitted for an accessory apartment is in compliance with the requirements.

Member Weaver – recommendation to staff was to stay with the code and then take it down, but that is not what he is hearing now. Mr. Ewert noted that is why he stated accessory apartment. He noted he gave two alternatives: (1) based off of what the County has been doing traditionally and how the County has been interpreting the code traditionally. (2) Simply by the trust the County has instilled in staff to strictly interpret and enforce what the ordinance says. He believes the ordinance says the structure must be removed upon the temporary use. That is his preferred alternative simply because the verbiage says that.

Member Kobe asked Mr. Ewert for clarification in Title 8.

Mr. Ewert noted Title 8, Chapter 5a, Use regulations in the use table there is a reference to *temporary structure pursuant to construction work on a site*. He noted structures such as security housing, temporary Mobil homes, etc. Morgan County code 8-5a-3. Three is the use table in chapter 5a and 5a is the chapter that regulates what happens in the MU-160, F-1, A-20, R-10, RR-5, RR-1.

Chairman Wright noted if the Planning Commission were to move ahead with this it would seem appropriate that one of the things they would need to deal with is a finding that says this is an existing home that will become an accessory building/apartment. The code is clear saying old goes out. If we choose to follow that code then we would need that additional finding.

There was discussion on the word “Temporary”.

Mr. Ewert read from the code, “*Temporary buildings for uses incidental to construction work including living quarters for guard and night watchman*”. Mr. Ewert noted the one part that is a concern to him for recommending alternative is “*must be removed upon completion or*

abandonment". Member Weaver noted it states "Temporary building" and this is certainly not a temporary building. Mr. Ewert noted this is the ordinance that staff believes the County has used in the past to approve this same kind of use. He noted he had a hard time finding evidence in the code that applied to this in alternative ways. Otherwise if this code is not applied he did not find any other reference that would allow the occupancy of one home while building a second home on the same site, that would provide evidence that it would be a conditional use. When he went through and researched what the County had done in the past, none of the staff reports indicated what code reference they were using to allow that CUP. In interpreting between staff, they decided this most closely matches.

Member Weaver noted he is hung up on the words "temporary building" because it is not temporary. Member Kobe noted when he reads that it seems to be applying to when you put up the construction trailer. Mr. Ewert believes the intention was that.

Mr. Kobe noted as he reads through that he has a hard time applying because of what he knows it meant to mean. The intention was mobile homes and he did not know if the Planning Commission could apply that to this home. Mr. Ewert noted without the application of this ordinance he believed his recommendation would be for denial because he does not see any other reference in the ordinance that supports it.

Mr. Kobe asked if the ordinance specifically states that you cannot convert a building or have an accessory building while you are building. Mr. Ewert noted that it does state that you cannot have an accessory building without a primary use. If an accessory building is the primary use by nature of that definition it is not an accessory building.

This most closely matches. Weaver noted it is not a temporary building

Kobe – we don't even know if this has been used in the past. It is the only thing we could find.

Mr. Ewert – without the application of this ordinance, his recommendation would be for denial.

You cannot have an accessory building with a primary use.

Kobe – splitting hairs too much. People that build their garage and live in it while they build the home. What we are approving is what the outcome is.

Mr. Ewert one of the reason this can become a big deal is that at some point

Restrict multiple units on one lot.

Member Kobe wondered if it was splitting hairs to much with that. He noted there are a number of people who have built garages that were really garages with a living space in it and then they moved into their home and the garage with the living space is still there. It may not be approved as an accessory apartment but he has been in some very nice garages. He has seen too many occurrences of that to think that the timing is a factor. What the Planning Commission is approving here is what the outcome of this is. Mr. Ewert noted it is all about the process and the timing of that process. One reason that this can be made a big deal is because if there is not some kind of regulation surrounding it you could end up having two dwelling units on one lot; which not calling one an accessory apartment may not be legal. And not calling one an accessory apartment somebody may not be required to get a conditional use permit to do it and we do have an ordinance that restrict multiple dwelling units on one lot.

Mr. Ewert noted how he addressed the analysis of this was that he basically approached this as soon as they get their conditional use permit their current residence is thereby the temporary structure on site which is going to change to an accessory structure as soon as they get occupancy to the new building. He felt the way to line that up seemed to clear up the weird process so as soon as they moved in the new building, got their certificate of occupancy, they converted the old building to an accessory building with an accessory apartment in it and moved from there. He noted in the conditions of approval he also recommends securing a bond to ensure completion of that so there are not two dwelling units, but a dwelling unit and accessory structure. He noted he was splitting hairs with that definition.

Member Kobe noted that staff is saying they don't want to technically call it an accessory structure until the other structure is in place. Today if we approved it, we would approve it to be an accessory structure as an accessory apartment because the home is built and the other is in progress. If something doesn't happen, then we would revoke that conditional use permit and it reverts back to the primary structure. Mr. Ewert noted he would then use one of the conditions in the staff report that says "in the event that the home is not built within a year, the temporary use is removed and it is now just what it is as of this date".

Member Toone moved to forward a positive recommendation to the County Council for the request from Gary and Teralee Snyder, Application 10.024, 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 the use of an accessory apartment and storage space. With the following conditions as listed in alternative two of the staff report with some minor modifications (noted in italics)

Conditions for approval:

1. That the existing residence will not be converted to an accessory structure for an accessory apartment until after the proposed residence has received a final occupancy permit by the Morgan County Building Official.
2. That if construction of the proposed residence does not commence within one year, the temporary use of the existing residence will default back to the main use of the property, as designated single family dwelling, and the conditional use permit shall become null and void.
3. That completion of the proposed residence shall be within two years of the issuance of a building permit.
4. That approval from Weber-Morgan Health Department of the proposed septic system is required to be submitted to the County.
5. That conversion of the existing residence to an accessory structure/apartment shall adhere to the requirements MCC 8-6-33, specifically:
 - a. The main dwelling shall be owner occupied. An affidavit sworn before a notary public stating that such owners shall occupy said dwelling is required.
 - b. It shall be prohibited to install separate utility meters, and use separate addresses and mailboxes.
 - c. The square footage of the accessory apartment shall be limited to 1,000 sq. ft. The remaining portion of the basement area that exceeds the total floor area of 1,000 sq. ft.

- shall not be used as living space.
- d. The design and size of the apartment shall conform to all applicable standards in the fire, building and health codes, including the Wildland Urban Interface Code. The applicant shall obtain all necessary building permits prior to construction of the accessory apartment. If the applicant is unable to comply with the terms of the international building code, international fire code, and the Wildland Urban Interface Code as adopted by the county, the permit is null and void.
6. That all ground disturbances due to construction/demolition is required to be re-seeded/re-sodded with grasses, or *other erosion preventative landscaping*.
 7. That a completion bond performance agreement, in the amount of \$2,000 is required to be submitted prior to the certificate of occupancy of the new single family dwelling to assure completion of requirements. Release of the bond will be permitted only after all of the following conditions are met:
 - a. Issuance of a certificate of occupancy for the new residence;
 - b. Conversion of the existing residence to an accessory structure and its compliance with standards for accessory apartments; Specifically:
 - i. The removal of the residential use of four rooms in the basement; namely, the family room, the bathroom, and two bedrooms. The bathroom plumbing shall be disconnected, and all plumbing fixtures removed. All 800 sq. ft. basement area designated as storage shall be walled off from the remainder of the basement.
 - c. Revegetation of grounds disturbed by construction/demolition work in a manner complying with the rural residential nature of the area; and
 - d. A compliance inspection by the County.
 8. *To promote the health, safety, and welfare of county resident that the gas lines to the main dwelling shall not pass through the accessory structure.*

This recommendation is based on the following findings:

- 1) That Morgan County Code (MCC) 8-5A-3 provides for the use of temporary structures and uses incidental to construction work.
- 2) That pursuant to past County interpretations and approvals, the conversion of the existing dwelling unit to an accessory structure is permitted.
- 3) That pursuant to MCC 8-6-33 the creation of an accessory structure in an accessory building is permitted by conditional use permit.
- 4) That MCC 8-8-5 requires the completion of conditional uses within two years.
- 5) That MCC 8-8-5 requires approval of new septic systems by Weber Morgan Health Department.
- 6) That MCC 8-8-4 requires the submittal of a performance agreement and a bond in a form sufficient to attain completion of required standards and conditions of the Morgan County Code and the conditional use permit.
- 7) *A precedence set in the county based on June 5, 2007 County Council decision with Stephen ford application #7.042; May 3, 2005 decision with Joel labored, application # 5.022; and July 6, 1995 Planning Commission decision concerning Bill York.*
- 8) *There are multiple industry standards for measuring total finished floor area. One most*

popularly is the ANSI Z765-2003 Standard, which measures total finished floor area from the outside of exterior walls, including areas such as stair wells, and excluding areas that are not finished or heated the same as the rest of the house. The ANSI standard excludes any sub-grade floor area, whether finished or not, from the total calculated finished floor area of the residence. When measured with this standard, the total finished floor area of the Snyder house is 1,023 square feet. MCC 8-6-33(E)(6) requires the total floor area to be limited to 1,000 square feet unless in the opinion of the Planning Commission a greater or lesser amount of floor area is warranted by the circumstances of the particular building

There was discussion. Teresa Rhodes re-read the motion.

Member Weaver clarified that what Member Toone was stating was that they did not have to demolish the existing structure. Member Toone noted that was correct.

Member Toone requested to amend his motion and noted he would articulate in the record that it is 1023 square feet. He acknowledges that there is a little bit of gray area in the total floor but it is his opinion that it is 1023 square feet. He supports using the ANSI Z765 standard so that there is actually a standard and it will remove grey area from this. Also using a little of our own discretion.

Member Toone noted he is using the Memo dated June 17, 2010 in the Snyder file.

Chairman Wright called for a second.

Second by Member Weaver.

Member Kobe asked about Member Toone recommendation to move the gas line. Is there a safety reason he is unfamiliar with. Member Toone noted in some ways it does because it is on the exterior of the structure. Granted Mr. Snyder is a very nice man, but if for some reason a tenant was disgruntled with him it can be exposed easier. If there were any kind of repairs done within the accessory building, it puts the main structure out of gas. He noted just a T-off on the exterior of the structure would better promote the safety. Member Kobe questioned the cost of that. Member Toone noted similar to insurance you can save a lot of money now and incur a lot more cost later on. If his memory serves him correct he believes for the material it is a maximum of 17 linear feet.

Member Kobe – when we use the ANSI standard it tends to suggest that the Planning Commission is saying the basement is not counted in that. Is Member Toone’s motion in contradiction of item #7 where it states removal of the basement? He noted if we measure the apartment even with the basement is it even 1000 square feet and do we want to strike #7bi? Member Toone stated he had all intentions of striking that.

Member Kobe suggested instead of forwarding a positive recommendation do we want to grant the conditional use permit? This goes back to somewhat what Member Wright pointed out. In the code it does give us the ability, on specific things. We are not saying we can grant approval on all things, but if we look at chapter three for the Planning Commission it does state that we are the land use authority and specifically have the authority to approve and deny conditional use permits and that we look specifically at the statute for accessory apartments. It states very clearly, just for that. He did not believe the Planning Commission could apply this to other things unless it is specifically stated. It does say that the Planning Commission may deny or approve a conditional use permit. If all of us are comfortable with this recommendation and we feel it meets the code as the motion states, then that

would be his last suggestion; do we move it and change instead of a forwarding a positive recommendation that we just grant the conditional use permit in accordance with the code as it states and try to speed up the process.

Member Toone addressed Member Kobe's comments. He noted the authority exists and we may exercise it at our discretion. If this were a simpler application because we kind of have two in one situation, he would feel more confident in it going to the County Council on this decision.

Member Weaver noted that the Planning Commission needs to consider that they are going against staff recommendation and because of that he believes it was something that needed to go before the County Council.

Chairman Wright noted he has a motion and a second with one modification to the original, and called for a second.

Member Toone moved to forward a positive recommendation to the county council for the request from Gary and Teralee Snyder, application #10.024 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, upon completion of the new main structure, for use as an accessory apartment and storage space with the following conditions

1. **That the existing residence will not be converted to an accessory structure for an accessory apartment until after the proposed residence has received a final occupancy permit by the Morgan County Building Official.**
2. **That if construction of the proposed residence does not commence within one year, the temporary use of the existing residence will default back to the main use of the property, as designated single family dwelling, and the conditional use permit shall become null and void.**
3. **That completion of the proposed residence shall be within two years of the issuance of a building permit.**
4. **That approval from Weber-Morgan Health Department of the proposed septic system is required to be submitted to the County.**
5. **That conversion of the existing residence to an accessory structure/apartment shall adhere to the requirements MCC 8-6-33, specifically:**
 - a. **The main dwelling shall be owner occupied. An affidavit sworn before a notary public stating that such owners shall occupy said dwelling is required.**
 - b. **It shall be prohibited to install separate utility meters, and use separate addresses and mailboxes.**
 - c. **The square footage of the accessory apartment shall be limited to 1,023 sq. ft. (ANSI Z765-2003 standard use of measure).**
 - d. **The design and size of the apartment shall conform to all applicable standards in the fire, building and health codes, including the Wildland Urban Interface Code. The applicant shall obtain all necessary building permits prior to construction of the accessory apartment. If the applicant is unable to comply with the terms of the**

- international building code, international fire code, and the Wildland Urban Interface Code as adopted by the county, the permit is null and void.
6. That all ground disturbances due to construction/demolition is required to be re-seeded/re-sodded with grasses. Or other erosion preventatives
 7. That a completion bond performance agreement, in the amount of \$2,000 is required to be submitted prior to the certificate of occupancy of the new single family dwelling to assure completion of requirements. Release of the bond will be permitted only after all of the following conditions are met:
 - a. Issuance of a certificate of occupancy for the new residence;
 - b. Revegetation of grounds disturbed by construction/demolition work in a manner complying with the rural residential nature of the area; and
 - c. A compliance inspection by the County.
 8. To promote the health, safety and welfare of county residents that the gas lines of the main dwelling shall not pass through the accessory structure.

This recommendation is based on the following findings:

That Morgan County Code (MCC) 8-5A-3 provides for the use of temporary structures and uses incidental to construction work.

1. That pursuant to past County interpretations and approvals, the conversion of the existing dwelling unit to an accessory structure is permitted.
2. That pursuant to MCC 8-6-33 the creation of an accessory structure in an accessory building is permitted by conditional use permit.
3. That MCC 8-8-5 requires the completion of conditional uses within two years.
4. That MCC 8-8-5 requires approval of new septic systems by Weber Morgan Health Department.
5. That MCC 8-8-4 requires the submittal of a performance agreement and a bond in a form sufficient to attain completion of required standards and conditions of the Morgan County Code and the conditional use permit.
6. A precedence set in the county based on June 5, 2007- Stephen ford application #7.042; May 3, 2005 - Joel labored application #5.022; and July 6, 1995 – Planning Commission decision concerning bill York application.
7. There are multiple industry standards for measuring total finished floor area. One most popular is the ANSI Z765-2003 Standard, which measures total finished floor area from the outside of exterior walls, including areas such as stair wells, and excluding areas that are not finished or heated the same as the rest of the house. The ANSI standard excludes any sub-grade floor area, whether finished or not, from the total calculated finished floor area of the residence. When measured with this standard, the total finished floor area of the Snyder house is 1,023 square feet. MCC 8-6-33(E)(6) requires the total floor area to be limited to 1,000 square feet unless in the opinion of the Planning Commission a greater or lesser amount of floor area is warranted by the circumstances of the particular building.

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

10. Discussion/Decision: Concept Approval for the Heiner Estates Subdivision.

Mr. Ewert presented his staff report (Please see attached exhibit B). Mr. Ewert noted in the heading line of the staff report it states *preliminary it is not* preliminary subdivision approval at this point; it is *concept* approval and was a mis-print.

Chairman Wright asked why the two existing homes are involved in this subdivision request. Mr. Ewert noted there is a relationship there; originally staff received a PRUD subdivision request which would have required additional density to even allow the subdivision to move forward. The original designs were based off of a PRUD design. That may have been part of the reason. Another substantial reason is that lot two actually comes down and goes all the way over to the edge of the property. In order for the back property to get it's frontage to it, they have to extend a road. That road should not traverse other private property. The applicant is actually requesting that piece of property be theirs and in return they are giving the owners of the surrounding lots additional property. He believed it was personal preference as well as the requirement for frontage for lot three.

Member Weaver asked about the slopes – Mr. Ewert noted it gets pretty steep rather quickly. He noted to mitigate slope hazards the applicant proposed building envelopes and within those they have verified that there are no slopes over 25%. Because of the TN soil unit, geology unit and QM geology unit that underlies the property they will require both geotechnical and geologic review. The Heiner's have been made aware of this requirement.

Member Kobe- the changes that are in place now they just need to find a geologist that will sign off. Mr. Ewert noted that was correct. They will need to find a geologist that will give some indication and signature that reasonable hazards have been mitigated. Member Kobe asked if there was a plan for a future subdivision because he sees where the road T's off. Mr. Ewert noted the T-off is required by the fire department due to the length of the private road that dead ends; same is true for the top of the driveway where there is a circular turn around.

Member Toone – was this all one lot previously or are we subdividing several times over. Mr. Ewert noted only the two front lots are in a recorded platted subdivision. The rest of it whether it was divided previously or not by meets and bounds, to get a building lot on it, it needs to be subdivided. To his knowledge, it was the larger piece in the beginning that the front two lots were broken off from, so this is actually rectifying that.

Chairman Wright asked if this conforms to all the ordinances in the Morgan county land use code, concept requirements. Mr. Ewert stated that was correct; it conforms to concept requirements in the land use code. Preliminary and final there will be additional requirements just to insure health, safety, and welfare.

Member Kobe noted that going through the recommendations it states that a new concept subdivision application will be submitted to replace the out-dated PRUD application. He asked for

clarification. Mr. Ewert noted staff currently has the former application. He noted he has asked a couple of times for a new updated one. It is one of the items that need to be submitted. Staff just needs that in the file so that there is some indication of what the application was or is for. What is before us today will be based on the new concept subdivision application that is required after this is approved today. Mr. Ewert noted that is correct. Staff has been working forward on the assumption that there was already an application. He noted in going back through the file before he brought it before the Planning Commission tonight he discovered that there was still the old PRUD application.

Chairman Wright asked if there was too much outstanding work. Mr. Ewert stated staff would not accept a preliminary plat application until every single one of the concept conditions are taken care of. If the Planning Commission is not comfortable with it, it is appropriate to request they be fixed before concept approval.

Member Weaver moved to recommend to the county council approval of the Heiner Estates Subdivision concept plan requested by Alan Heiner, application #9.017 subject to the following conditions and findings listed in the staff report dated July 5, 2010.

- 1. That a new Concept Subdivision Application be submitted to replace the outdated PRUD application currently on file.**
- 2. That all requirements of the Morgan County Code are met and adhered to.**
- 3. That the private road be redesigned to provide a 4% slope for a distance of 50' from the intersection of Morgan Valley Drive**
- 4. That curb and gutter be shown on the construction drawings on both sides of the private road.**
- 5. That a note on the plat be revised to exclusively restrict the use of the private road to the owners of lot three.**
- 6. That an additional note on the plat be required to indicate the responsibility of the owner of lot three to keep the driveway clear of obstructions restricting emergency vehicle access to the home site, including snow removal.**
- 7. That the private road details on the construction drawings be updated to display a "Rural Local Road" section.**
- 8. That a storm water drainage plan be submitted at preliminary application in a form acceptable to the County Engineer.**
- 9. That proof of water right from the State Division of Water Rights and the well log for a neighboring well is submitted at preliminary plat application.**
- 10. That all contracted services fees are paid to the County in full prior to preliminary plat application. Such fees are broken out as follows:**
 - Outstanding engineering fees: \$464.25**
 - Outstanding surveying fees: \$242.50**

This recommendation is based on the following findings listed in the staff report dated July 5, 2010:

- 1. The nature of the subdivision is in conformance with the current and future land uses of the area.**
- 2. The subdivision fronts a Rural Major Collector Street, so curb, gutter, and sidewalk should not be required along Morgan Valley Drive.**

3. **The proposed amendments will bring the concept plan into conformity with adopted County ordinances**
4. **That preliminary and final plat review requirements will address the remaining items and concerns.**

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

11. Discussion regarding the 2010 Morgan County General Plan.

- Updated vision statement
- Draft goals, objectives, and policies
- Draft Plan
 - Mid August
- Open house- General plan workshop
 - End of August
- Planning commission hearing
 - Mid to late September

Member Toone moved to adjourn for a five minute recess.

12. Public Hearing/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 the amendment come about through direction from the County Council to re-work the Land Use Management Code. There was an ordinance committee that was established to undergo this task. That committee worked on the subdivision ordinance in detail. Believes the subdivision ordinance is the biggest part of re-write because it encompasses so many aspect of the code.

Member Kobe moved to open a public hearing 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. Second by Member Toone.

Debbie Sessions –

- Water – Believed this should be forwarded to the County water board to look over. They and the County should be on the same page. It was noted Mark Babbitt is on the water board.
- Would request that this be put online – It is a nice feature to be able to locate and review on the County website.
- Landscaping and trees in park strips – Believed this is writing the directions to our destination but we don't know where we are going yet. Concerns:
 - Section 8-12-470 talks about landscaping in park strips. What zones will they be required in.
 - Road cross sections – have not been written or designed yet.

- Irrigation system – she interprets this as residents will have to have drip irrigations systems in all subdivisions now because the trees will be required in all subdivisions.
- Culinary water used for this irrigation if that is the only source of water since trees are not required.

Member Kobe moved to close the public hearing.

It was discussed to set a work meeting for July 28th

Motion by member Kobe to have staff coordinate and schedule a work meeting for July 28, 2010 to review and work on the subdivision ordinance. Second by Member Weaver.

13. Discussion regarding the Zoning Ordinance update.

There was not discussion at this time.

14. County Council update.

Mr. Crowell noted the County Council had a special meeting at the end of June and appointed Don Mathews to fill the vacancy left by Council Member Gardiner.

15. Motion review and approval.

Member Weaver moved to approve the motions. Second by Member Kobe. The vote was unanimous.

Motion by member Toone to adjourn.

Approved: _____
Chairman

Date: _____

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

Date: _____

Exhibit A – Agenda #9 - 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.

Brief bullet point list in the staff report of how the applicant has proposed to meet those designed qualifications to make a similar design approach.

- *The fronts are of similar design with main door in the middle, and steps leading up to a porch.*
- *Garages are attached to the side.*
- *Both structures feature chimneys.*
- *Both structures will be of similar color: exterior painted areas of existing structure will be similar to exterior paint of the proposed main dwelling.*
- *Brick of existing structure will blend with exterior of proposed main dwelling.*
- *The existing structure is subservient in size and appearance to the proposed main dwelling. It is a single-story structure, with a footprint of 900 sq. ft., compared to a proposed two-story structure, with a 1300 sq. ft. footprint.*
- *The setback of the existing structure is more than ten feet greater than setback of the proposed main dwelling.*

Exhibit B – Agenda #10 - Concept Approval for the Heiner Estates Subdivision

STAFF REPORT

5 July 2010

To: Morgan County Planning Commission
Business Date: 8 July 2010

Prepared By: Charles Ewert, Planning Technician

Re: **Preliminary Subdivision Approval Request**

Application No.: 9.017
Applicant: Alan D. Heiner
Project Location: Approximately 140 South Morgan Valley Drive
Zoning: RR-1/A-20 Zone
Acreage: Approximately 40.79 Acres
Request: Request for concept subdivision plan approval for Heiner Estates Subdivision in the RR-1/A-20 zone.

SUMMARY

This application is a request for approval of a concept subdivision plan for approximately 40.79 acres located at approximately 140 South Morgan Valley Drive. The property is currently zoned RR-1/A-20.

The subdivision request conforms to zoning, frontage, and area requirements. The required frontage needed for a three lot subdivision does not currently exist; this concept plan proposes frontage uniquely created by a new private road. The private road should have curb and gutter on each side in order to protect the wellhead protection zone of lot two from potential contamination. The proposed hammer head style turnaround at the end of the road is designed for safer emergency vehicle turnaround.

The driveway of lot three is required to meet certain fire safety standards because of the home sites distance from a private/public road. It is required to be designed for consideration regarding slopes, capacity rating, turnouts, and turnarounds.

This subdivision is proposed to amend two already existing approved one lot subdivisions: the David Bell Subdivision (lot two), and the Shupe Minor Subdivision (lot one). The proposal adds property to each of these lots.

The subdivision is on land with extreme topography. Most of the property has slopes in excess of 25%. Slopes are addressed using proposed building envelopes. A review of adopted geology maps indicates potentially hazardous geology units onsite. A geologic hazards report and geotechnical report will be required at preliminary plat application. The property is in the Wildland Urban Interface Area. A fire protection plan designed in accordance with the Wildland Urban Interface Code will also be required at preliminary plat application.

The proposed water sources and septic system have been reviewed by the Weber-Morgan Health Department. Well heads with protection zones are indicated on the plat. Proposed new drainage fields are also displayed on the plat. More information will be required at preliminary plat application.

BACKGROUND

Heiner Estates is a new subdivision that amends two previously approved subdivisions—Shupe Minor Sub, and David Bell Sub—into one, while also adding a third lot. The original application was submitted as a PRUD request a little over a year ago. It did not conform in substantial form to the requirements of the PRUD subdivision ordinance. After some months of discussion with the applicant's Engineer, the County received a revised plat that creatively addressed some issues of nonconformity.

Subdivision review is not as much about the size of a project as it is the complexity. Applying current ordinances to the nature of the current configuration, topography, zoning, location, frontage, (etc), of this subdivision introduced a level of design complexity that has been difficult to overcome. Due to these complexities, certain additional requirements, submittals, and revisions were necessary to get the overall plan into conformity with concept subdivision and zoning requirements. If the staff recommended conditions of approval listed herein are applied, the concept proposal will conform to the requirements of the subdivision ordinance.

ANALYSIS

General Plan and Zoning. The property lies within the Milton Area Plan portion of the Morgan County General Plan. In February of this year, the County Council approved the latest version of the Milton Area Plan, which goals indicate an emphasis on preserving the rural atmosphere of the area. The proposed subdivision increases the area of lot one and two, and creates a large 20 acre parcel for lot three. The large lots proposed are in conformance with the area plan.

The property has been assigned the RR-1/A-20 zoning classifications, supporting approximately one dwelling unit per acre in the RR-1 zone, and one dwelling unit per 20 acres in the A-20 zone. Lots one and two currently have homes located near Morgan Valley Drive in the RR-1 zone. The proposal extends the rear of their properties further into the A-20 zone. Lot three is proposed to have a home located in the A-20 zone near the rear of the lot.

The purposes of the RR-1 zone are to promote and preserve in appropriate areas conditions favorable to large lot family life; to maintain a rural atmosphere; for the keeping of limited numbers of animals and fowl; and to reduce requirements for public utilities, services and infrastructure. The purposes of the A-20 zone are to promote and preserve in appropriate areas conditions favorable to agriculture and to maintain greenbelt spaces. The proposed subdivision conforms to these purposes.

All proposed lots and building areas meet the minimum requirements for lot size and dimensions in the RR-1 and A-20 zones. Lots one and two are restricted by the zoning ordinance to only build future buildings in the RR-1 zone—where slope allows, and lot three could build future buildings anywhere that slope allows. However, because the ordinance does not allow development on slopes greater than 25%, and many areas of each lot have slopes in excess of 25%, the applicant is proposing building envelopes to limit buildable areas on each lot.

Morgan County Code (MCC) 8-12A-6(C) requires all concept plans located in the sensitive area district to be submitted for review and approval by the Planning Commission. The County Council will not review the development until the preliminary plat stage of the process. If the conceptual plan is acceptable to the Planning Commission, the developer may proceed to the preliminary approval stage. Concept plan approval shall not vest

the project in question, but shall only allow the developer to proceed to the preliminary plat application. Concept approvals based upon incorrect data or submittals, shall in no way bind the county to approve projects which do not conform to the requirements of this title.

Subdivision Layout. The subdivision has enough frontage on Morgan Valley Drive to give lots one and two sufficient street frontage. The subdivision encompasses land that extends behind and across the rear of the neighboring north-westerly lots. The western boundary abuts the rear of two properties that front Deep Creek Road. The subdivision extends from Morgan Valley Drive south approximately 1000' up the hillside. (See Appendix 1, Concept Plan)

The subdivision has a private road extending a portion of the way up lot three towards the proposed building envelope. The design of the private drive is a unique solution to the lack of frontage that would otherwise exist for this project. The road cuts across the current David Bell Subdivision, which portion is proposed to become part of lot three. The private road also cuts across the well head protection zone for lot two. The Weber Morgan Health department has expressed concern regarding this design, and has recommended curb and gutter on both sides of the private road in order to protect the well head from hazardous contamination originating from the roadway, and has also requested this road be restricted exclusively to the use of the owner of lot three.

The driveway accessing lot two crosses a portion of lot one. A cross access easement is proposed in order to protect this continued use.

Slope. All three lots have been designed with building envelopes due to slopes greater than 25%. Development in these buildable areas will be subject to geotechnical evaluation because they are on slopes between 15% and 25%.

The maximum slope of the private road—140 South—is 12% which is the maximum allowable. In order for this road to be considered as frontage for lot three, it is required by MCC 8-12B-14 to adhere to County adopted design standards. The creation of this road requires large cuts and fills from the natural hill slope. These cuts and fills will require revegetation in order to control erosion, ensure slope stability and integrity, and provide aesthetic repair. (See Appendix 2, Construction Drawings)

At the intersection of Morgan Valley Drive the proposed road rapidly inclines to 12% slope. For safety reasons, MCC 8-12B-13(G) requires the road to slope no more than 4% for a distance of 50' from the intersection. The current plans do not indicate this. Bringing this intersection into conformance with this ordinance will require even greater cuts and fills than indicated.

The driveway on lot three extends from the end of the private road to the estimated home site. The maximum driveway slope is proposed to be 12%. Cuts and fills are required for this construction. Revegetation is critical for the aforementioned reasons.

Circulation. The subdivision has frontage along Morgan Valley Drive, a Rural Major Collector street. According to ordinance #CO-07-05, Rural Major Collectors do not require the curb, gutter, and sidewalk that are called for in MCC 8-12A-20(A). Any land interest that lots currently hold in the County right of way is required to be dedicated to the County.

The subdivision will increase the local population density by one single family dwelling unit. This can be expected

to increase traffic on Morgan Valley Drive by approximately 10 vehicle trips per day.

Water Source. The applicant proposes to serve all lots with individual wells, and has illustrated well head protection zones on the plat. Lots one and two currently have functioning well systems. Lot three will be required to produce further verification of water sources and volume with the preliminary plat application.

As previously mentioned, the Weber Morgan Health department has expressed concern regarding the private road traversing the well head protection zone of lot two, and has recommended conditions to mitigate potentially hazardous incidents.

Septic Systems. It is proposed that all lots be served by individual septic systems. Lots one and two currently have functioning septic systems. Lot three has proposed two possible locations for a septic system drainage field. Approval of these systems is under the authority of the Weber-Morgan Health Department. Verification of this approval is required during platting and building permitting.

Site Geology. The applicant's engineers have indicated that the site may be encumbered by Qm and Tn soil units as delineated on the Coogan and King 30X60 Ogden Quadrangle geology map. Both of these soils are identified by MCC 8-5E-5 as potentially hazardous geologic units. A site specific geologic hazards and geotechnical study is required to be submitted at preliminary plat application to help mitigate the potential hazards. (See Appendix 3, Geologic Units Map)

Fire Protection. The subdivision is in the Wildland Urban Interface Code. Preliminary application submittal requires a fire protection plan pursuant to that code. (See Appendix 4, Wildland Urban Interface Boundary)

The driveway is designed with two turnouts and a terminus turnaround for fire apparatus maneuverability. The driveway will be required to be designed to support a 75,000 lbs fire apparatus.

Landscaping and Lot Coverage. Vegetation requirements may be restricted by the aforementioned site specific geologic hazards and geotechnical report. Vegetation that requires irrigation measures could pose hazardous to unstable soils. A vegetation plan will also be an element required by the aforementioned fire protection plan.

REVIEWS

Planning and Development Services Review Comments.

1. The plat should be revised accordingly:
 - a. Better indication on the plat that lot two is prohibited from accessing the private drive.
 - b. The cross access easement proposed to protect the continued use of the driveway of lot two across part of lot one should be clearly identified on the plat and/or separate recorded legal instrument. An alternative is altering the lot lines on the plat so lot two encompasses the driveway serving it.
 - c. A note on the plat should indicate the responsibility of the owner of lot three to maintain the driveway free of emergency vehicle obstruction, including snow removal.
2. The construction drawings should be updated to include curb and gutter on both sides of the road.
3. The private road needs to be redesigned to no greater than a 4% slope for a distance of 50' from the intersection of Morgan Valley Drive.
4. The original application on file was for a PRUD. This application should be replaced in the file with a

concept subdivision application.

Engineering Review Comments.

1. County Ordinance requires that the private road meet the public road standards. The narrowest public road standard (adopted by the County in April of 2007) is the "Rural Local Road" section labeled as 1A. Construction drawings should be revised accordingly.
2. The conceptual storm water layout is indicated and noted on the plan, but calculations will need to be submitted to insure that the detention area is large enough for the expected runoff. A note indicates that runoff is insignificant (which may be the case), but we will need to review calculations to be consistent with our ordinance requirements. The runoff is all directed to Morgan Valley Drive east of the development. More detail on the downstream drainage should be assessed to assure the County that they won't exceed the downstream capacity of ditches and culverts. Accordingly, storm drainage plans should be submitted when final construction drawings are submitted.
3. Morgan County's Subdivision Design Standards, MCC 8-12B-7 requires information on site geology, area hydrogeology and the proven wet water by the drilling of one or more test wells for the proposed production well. Well logs are to be submitted for depth and yield of wells. These are to be provided prior to preliminary approval in accordance with MCC 8-12B-7(a). Proof of water right from the State Division of Water Rights and the well log for a neighboring well may be adequate to satisfy this requirement. MCC 8-12B states that a well of sufficient capacity should exist prior to issuance of building permit. Accordingly, additional water well information should be submitted to our office for review.

County Surveyor Comments. All concerns for concept application have been met by current plans.

Fire Chief Comments. All concerns for concept application have been met by current plans.

Weber Morgan Health Department Review. The Weber-Morgan Health Department express reservations regarding the design of the private road through a well head protection zone, but indicate their approval as long as both sides of the road have curb and gutter to contain any hazardous contamination that would otherwise affect the well head, and as long as the private road is restricted to the exclusive use of the owners of lot three.

STAFF RECOMMENDATION

Staff recommends approval of the Heiner Estates Subdivision concept plan requested by Alan Heiner, application #9.017 subject to the following conditions:

6. That a new Concept Subdivision Application be submitted to replace the outdated PRUD application currently on file.
7. That all requirements of the Morgan County Code are met and adhered to.
8. That the private road be redesigned to provide a 4% slope for a distance of 50' from the intersection of Morgan Valley Drive
9. That curb and gutter be shown on the construction drawings on both sides of the private road.

10. That a note on the plat be revised to exclusively restrict the use of the private road to the owners of lot three.
11. That an additional note on the plat be required to indicate the responsibility of the owner of lot three to keep the driveway clear of obstructions restricting emergency vehicle access to the home site, including snow removal.
12. That the private road details on the construction drawings be updated to display a “Rural Local Road” section.
13. That a storm water drainage plan be submitted at preliminary application in a form acceptable to the County Engineer.
14. That proof of water right from the State Division of Water Rights and the well log for a neighboring well be submitted at preliminary plat application.
15. That all contracted services fees are paid to the County in full prior to preliminary plat application. Such fees are broken out as follows:
 - a. Outstanding engineering fees: \$464.25
 - b. Outstanding surveying fees: \$242.50

This recommendation is based on the following findings:

1. The nature of the subdivision is in conformance with the current and future land uses of the area.
2. The subdivision fronts a Rural Major Collector Street, so curb, gutter, and sidewalk should not be required along Morgan Valley Drive.
3. The proposed amendments will bring the concept plan into conformity with adopted County ordinances
4. That preliminary and final plat review requirements will address the remaining items and concerns.

MODEL MOTION

Sample Motion for *approval*– “I move we approve the Heiner Estates Subdivision Concept Plan, application #9.017, based on the findings and conditions listed in the Staff Report dated 1 July 2010, and as modified by the following conditions:”

1. List any additional findings and conditions...

Sample Motion for *denial*– “I move we deny the Heiner Estates Subdivision Concept Plan, application #9.017, based on the following findings:

1. List any additional findings...

- Attachments:**
- 1. Concept Plan Plat**
 - 2. Construction Drawings**
 - 3. Geology Map**
 - 4. Wildland Urban Interface Map**
 - 5. Submitted Fiscal/Environmental Impact Assessment [Exhibits Omitted]**