



PLANNING COMMISSION AGENDA
Thursday, November 17, 2011
Morgan County Council Room
6:30 PM

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

1. Call to order – prayer.
2. Approval of agenda.
3. Declaration of conflicts of interest.
4. Approval of minutes from October 13, 2011, October 27, 2011, and November 3, 2011.
5. Public Hearing/Discussion/Decision: To amend Morgan County Code 8-13C pertaining to the coverage regulations in the Coventry Cove PUD Overlay District.
6. Public Hearing/Discussion/Decision: To amend the Morgan County Code by amending sections 8-2, 8-3, 8-4, 8-5, 8-5F (Article F, Chapter 8-5), 8-6, and 8-12 to repeal the Master Planned Development Reserve (MPDR) and all references thereto.
7. Public Hearing/Discussion/Decision: To amend portions of section 8-5 and to create a new section 8-5J as Article J of section 8-5 of the Morgan County Code pertaining to Resort Special Districts.
8. Staff Reports.
9. Adjourn.

**MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY November 17, 2011 – 6:30 P.M.**

MEMBERS PRESENT

Trevor Kobe, Chairman
Roland Haslam
Brandon Anderson
Assistant
Darrell Erickson
Chris Hales

STAFF PRESENT

Grant Crowell, Director
Charlie Ewert, Planner
Teresa Rhodes, Planning Commission

MEMBERS ABSENT

Alvin Lundgren
Adam Toone

COUNTY COUNCIL PRESENT

Tina Kelly

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

1. Call to order – prayer.

Chairman Kobe called the meeting to order.
Member Anderson offered the prayer.

2. Approval of agenda.

Member Haslam moved to approve the agenda. Second by Member Hales. The vote was unanimous. The motion carried.

3. Declaration of conflicts of interest.

There were no conflicts of interest declared

4. Approval of minutes from October 13, 2011, October 27, 2011, and November 3, 2011.

**Member Haslam moved to accept the minutes of October 13, 2011 with the noted corrections.
Second by Member Hales. The vote was unanimous. The motion carried.**

Member Anderson moved to approve the minutes of October 27, 2011 as typed. Second by Member Erickson. The vote was unanimous. The motion carried.

Member Anderson moved to approve the minutes of November 3, 2011 as typed. Second by Member Erickson. The vote was unanimous. The motion carried.

5. Public Hearing/Discussion/Decision: To amend Morgan County Code 8-13C pertaining to the coverage regulations in the Coventry Cove PUD Overlay District.

Dee Wilkinson, Applicant, Mtn. Green. –

1. Would like to allow 50% home coverage on the lots.
2. The footprint of the home he is trying to put on there is .41, a little less than half.
3. Two homes are actually over the 25% allowed now under the County ordinance.
4. The way he understands it is that it is County ordinance and not a PUD ordinance.
5. On lots 1 & 11 you cannot meet the CC&R's under this current ordinance.
6. Does not understand why they would allow the 5' side yards if they were not going to allow getting a bigger home on these lots.

Member Haslam –

Asked where Mr. Wilkinson got the 1200 sq foot minimum? Mr. Wilkinson noted it is in the CC&R's. Member Erickson noted it was also in the Staff report; page 2. Mr. Crowell noted they do not typically include the CC&R analysis in the county code analysis because those are private regulations and private contracts between owners that the County does not enforce. On occasion a development agreement says that you have to have an architectural committee sign off before a building permit can be granted and that is really the only interface the County has with the CC&R enforcement. It is not uncommon requirement to have a minimum square footage or require for a garage in the CC&R's.

1. Member Anderson noted on page 2 of the staff report it states the following:
 1. "The smallest lot in the subdivision is 5100 sq feet applying the 25% minimum lot coverage requirement would allow a building footprint on the lot of no more than 1275 sq. feet". It is not saying there is a minimum it is saying the maximum you could put.

Mr. Crowell presented his staff report (Please see attached exhibit A)

2. Seems clear they were creating small lots and to do so would be very difficult to maintain the same ratio's on the setbacks.
3. If the CC&R's are applied to the analysis, and it is 1200 sq feet and you have 400 foot garage that puts you at about 30% coverage.
4. The space argument, distance between homes, is really negated by that fact that the setbacks were reduced.
5. Drainage is supplemented by open space.
6. Staff considers this to be an oversight; it is not an unusual one and staff has seen it on some other projects. One observation is that in years past, the staff was not always looking at the coverage as part of their standard analysis and checklist; staff is doing that now.

7. Preferable approach on a variance because it is a subdivision wide approach.
8. Ordinance overlay agreement, and then development agreement. If it is not in either of the agreements then staff has to refer back to the County ordinance.
9. This variance will only apply to Coventry Cove. 45% would still address it for this case. Maximum on lot 11 would then be a 1275 sq foot building, including garage.

Member Haslam noted the way he sees this is that Mr. Wilkinson has two options (1) single story home with a minimum of 1200 sq. feet of viable space on the main floor. (2) Build a two story with a minimum of 800 sq. feet. If 1200 won't fit than 800 needs to be built. Mr. Wilkinson noted it is not really conducive to cost to build a two story home; he has to build the cheapest home he can.

Member Haslam asked what the side yards would be once the proposed home is placed on the lot. Mr. Wilkinson noted his side yards are exactly what the CC&R's are. He would have 15' on the west side and the front, 5 on the other side, and 15 on the back. He would actually have 15' on three sides where the inside lots only have 5'. He noted he did not know the 25% existed when he purchased the lot. His lot is 6,300 square feet and his footprint is 2100 square feet and then the garage; 2700 sq feet total.

Mr. Haslam noted the 41% takes you to 2703 including garage.

Mr. Crowell noted some of these questions sound like we are doing a variance analysis and this is a policy question. It is for the eight remaining lots in Coventry Cove and whether or not it would be fair and reasonable to create a standard in Coventry Cove. Mr. Wilkinson happens to be pioneering this effort but it is on behalf of the remaining eight lots including his own. The Planning Commission may want to look at it in that manner because the County may be faced with it again; two story homes don't seem to be the norm these days.

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

There was no public comment.

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

Member Anderson moved to forward a positive recommendation to the County Council for the proposed land use regulations text amendments regarding the lot coverage regulations in the Coventry Cove PUD Subdivision application 11.087 based on the following findings presented in the staff report dated November 9, 2011.

1. **That the amendments are necessary to clarify lot coverage regulations for the development.**
2. **That the reduced lot sizes and required open space yields similar overall density as would be required in a traditional subdivision in the R1-20 zone, but that the lot coverage regulations of the R1-20 zone are too restrictive for the smaller lot sizes of the development.**
3. **That the amendments are not detrimental to the County's health, safety, and**

welfare.

Second by Member Haslam.

The Chairman called for discussion.

Member Anderson noted staff has done a good job. This does limit the property owners. Does not know when the developer and County approved this subdivision if they had the forethought to see all these little things so this is one way to work through it. He believed staff has reviewed this enough and believes it is a good recommendation to resolve an issue that maybe was not foreseen.

Member Haslam stated it was his opinion that the County did not do their homework when these lots were developed. He does not want to penalize Mr. Wilkinson because now the County has staff that is doing their homework. He is not convinced that 50% is where the County wants to go.

On the smaller lots the home would be right on every setback; backyards would be 15 feet, etc.

Member Erickson noted he agrees with Member Haslam. If you look at lot 11 which is 5100 sq. feet and then take off the setbacks which are 15', 5', 5', and 15', the largest home you could get on that lot, which is 50%, is 1000 square foot house; making that lot almost un-buildable. Even over the gross you would be at 25.5%.

Chairman Kobe would like to understand the purpose of this development. He believed that the original intent was to provide small lots for people to be building smaller homes that are more affordable. Chairman Kobe offered some figures based on lot and setback size. In the future he would recommend that the County does not allow the argument of affordable housing to get more lots.

Mr. Wilkinson noted Rex Wilkinson's intention was a slab on grade home. He was looking at more affordable housing and not necessarily the size.

Member Haslam discussed outside storage and noted he would have to agree with Member Anderson on the 50% mainly because when he reads that portion of the CC&R's it restricts anything from being stored or parked outside. This would allow them to build something big enough that they can park their vehicle in and get the recreational vehicle in.

Chairman Kobe asked if an ordinance could have a restriction on total size of the home. Mr. Crowell noted if the planning commission believed there was some merit they could put a restriction on home size.

Member Anderson noted he went with the 50% percent that staff proposed but if the planning commission feels otherwise, he is ok with amending his motion. It was noted the above discussion was just discussion and not an amendment to the motion.

The Chairman called for a vote.

The vote was unanimous. The motion carried.

4. **Public Hearing/Discussion/Decision: To amend the Morgan County Code by amending sections 8-2, 8-3, 8-4, 8-5, 8-5F (Article F, Chapter 8-5), 8-6, and 8-12 to repeal the Master Planned Development Reserve (MPDR) and all references thereto.**

Mr. Crowell presented his staff report (Please see attached exhibit B)

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

There was no public comment.

Member Erickson moved to close a public hearing. Second by Member Anderson. The vote was unanimous. The motion carried.

Member Haslam moved to forward a positive recommendation to the County Council for the text amendments to repeal the MPDR zoning district, application 11.069, based on the following findings:

1. **That the MPDR ordinance is too complex, confusing, and rigorous for the general public to find useful and it has rarely been used.**
2. **That the County maintains legislative discretion in creating its land use ordinances and is not required by statute to have a MPDR ordinance.**
3. **That the property owners in Morgan County currently have other zoning and subdivision procedures available to them.**
4. **That the County is currently in the process of developing alternative ordinances which will address master planned developments.**
5. **That this code amendment does not unzone any previously approved MPDR zoning district.**
6. **That the amendments are not detrimental to the County's health, safety, and welfare.**

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

7. Public Hearing/Discussion/Decision: To amend portions of section 8-5 and to create a new section 8-5J as Article J of section 8-5 of the Morgan County Code pertaining to Resort Special Districts.

Mr. Crowell presented his staff report. (Please see attached exhibit C)

1. New zoning tool – resort special district
 1. Enabling tool that lays out the framework for how someone would apply to create a new development for a resort.
 2. This is the result of some committee work of the Snow Basin work group and just the first step of that work.
 3. Very flexible ordinance. Approach is not to prescribe how to lay it out, but to lay out some minimum frameworks that they have to have when they submit their application; consider the application a zoning application so that we maintain legislative discretion. It is not administrative like the PRUD was so basically it has to be approved. It puts the Planning Commission, County Council, and staff in a negotiating roll or collaborative roll with those individual; it gives a lot of flexibility. He noted the Snow Basin working group has forwarded a recommendation to try this approach.
 4. Few particulars:
 1. Applicant has to have a large piece of land just to apply. Because of all the potential for bonuses and flexibility there needs to be enough land so the community has an opportunity to get some things back such as open space; minimum 60% open space. Snow Basin is currently around the 80% mark.
 2. Going through the general plan process.
 1. Development agreement.
 2. Transportation impact.
 3. Fiscal impact.
 3. Will result in a text and map amendment to the zoning code.
 4. Complete different paradigm from the MPDR.

Chairman Kobe - is this something, if they meet the requirements, it has to be approved or is this zoning action that the planning commission could look at and say, "It is not the right time." Mr. Crowell noted they have to go to the general plan first to see if they have enough land then they have to start going through the particulars.

Member Haslam asked how we come up with 1280 acres.

1. Mr. Crowell noted the following:
2. He originally threw out 5000 acres to open the discussion with the committee. It was moved back to 640 acres. Then they went back and talked to Becky Zimmerman and the committee bumped it up a section. He believed you have to have a minimum threshold. The committee wanted to make it so it was a resort and not just a bunch of land owners.
3. Resort environment usually has a lot of open space, golf courses, trails, ski runs.
4. This is not the PRUD replacement; it has to be resort focused in order to qualify for this.

Chairman Kobe – when we talk about the 80% open space has there been any calculation on what is considered buildable? Mr. Crowell noted Snow Basin has calculated it and as it has

been written we are talking about the gross; property boundaries and what is covered. It is a different conversation than what is buildable area. He noted Snow Basin has been very specific on what they want such as golf to unit ratio and those types of things. For them it worked out to 80% but they have a lot of steep areas on their mountain.

Chairman Kobe noted since these are major developments that are happening he is more inclined to push it to what the County knows works for what they believe will be a world class developments. If someone else comes in with a world class idea and we have to change the enabling code and lower it that can always be done. He would rather start high because he believes that really does set the standards for what you get with some of these developments.

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

Debbie Sessions –

1. Most of the time when development has come forward in the past it is kind of a slow acceleration. First there is a re-zone, then the subdivision concept and approvals are given along the way. In this process, would you go and get approval as a resort under the general plan or is this the first step that has to be gone through. Are there baby steps or is this the full thing?
2. Open space – 75%/25% is always a good mix

Clint Ensign, Senior Vice President of the Sinclair Companies.

3. Kent Lyons, general manager and Vice President of Snow Basin Resort
4. Here in support of this ordinance change. Believes it is a very forward and positive thing to bring the County up to date and prepare for major resorts that could come
5. In response to Mrs. Session's question, he noted one step a resort does take, is to be identified in the general plan as a resort.
6. Thanked Mr. Crowell. He has been very professional and good to work with as Snow Basin tries to work through this process as well as the members of the County Council and Planning Commission.
7. They want a development agreement that is very specific but unique to the area.
8. Mr. Holding's approach at everything they do at Snow Basin is to do it the best way that they know how and that is what we are doing here.
9. With respect to 60/80% he can assure you that they don't build things at Snow Basin where we just cram the development in. The amount of acreage, even for townhomes, is spread out. You will see that at Sun Valley. The esthetics needs to work. It needs to be sustainable and beautiful. We look at the land and let the land dictate what we should put there. We want the wildlife and want it to be a special place.

Grant Crowell –

1. Believe the general plan means something and it should not be jumped over.
2. Establishment of RSD zones, page 5 of the staff report. Page 3 on the exhibit. *"The RSD is intended to utilize only where the general plan future land use map has identified property for the master plan community designation."* He believes that means it is the preceding step.

There was discussion on the step process.

Debbie Sessions-

1. Just because you put something on the land use map it would not be fair to assume it is on there and assume the political body will ok it. There needs to be a green light that says you can move ahead with this designation.

Mr. Crowell noted it is a big risk for someone to invest the time and engineering on studies if they don't feel comfortable that they are at least on the right track. He believed if the County gives another green light so to speak then he believed the County would begin to lose some of their legislative control and discretion. The legislative discretion does include denying their request. If the County is Willy/Nilly, arbitrary, consider your future applicants goodbye, consider this County continuing to be a place that is not friendly for development and consider the future resort developers to start approaching this politically different and the County will have different ordinances that they will get passed eventually; that is how it works if we never approve any resort in the County. The more prescriptive we get the more we move back toward the PUD. The County may want to discuss that a little more, but he believed there is a lot of risk here for the applicant. Even though the PUD overlay was like writing your own zone, the stakes are a lot higher here.

Chairman Kobe noted in this specific case the applicant knows this will be a code they can work with and they feel comfortable meeting the requirements, as stated here, to get this zone approved.

Mr. Crowell noted if Snow Basin gets an approval and Durst Mountain Ranch comes in with 6000 acres and they do everything Snow Basin did and then we say, we just don't like you. Arguable it is legislative but he would hope the County has good reasons on the record why we are not allowing them the same opportunities.

Member Anderson did not believe this enabling ordinance limits people. The first paragraph says it has to be "Resort focused". Believes it can also be done on a smaller scale and an applicant could still look into a resort development without the huge costs. Believes the ordinance is accomplishing the goal they are looking for.

Chairman Kobe noted this is a big enough deal that if an applicant can't plan and capitalize what it takes to initially do this are they really someone the County wants to be planning a resort with.

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

Member Anderson moved to forward a positive recommendation for the text amendments regarding Resort Special Districts, application 11.071, based on the following findings in the November 14th Staff report:

1. **That the amendments provide additional options for large property owners seeking to develop master planned resorts.**
2. **That existing regulations, such as the MPDR, do not serve the purposes that they were originally intended to.**
3. **That the amendments advance the goals of the Morgan County General Plan.**
4. **That this code amendment does not actually rezone any property.**
5. **That the amendments are not detrimental to the County's health, safety, and welfare.**

Second by Member Erickson.

Member Anderson noted there is a lot to it but as we have stated we have had a lot of input. Designed workshops, work meetings. Good recommendations. Believes it is not too restrictive but a good enabling ordinance.

Member Erickson – agreed. As long as the key elements continue to be addressed and moved to agreements then he is satisfied this will be a good edition

Member Haslam amended the motion on 8-5-j-2b to increase from 60% to 80% of the gross acreage.

Second by Member Erickson.

Member Haslam noted he believed it would be easier to start high and go down on the open space requirements on that type of project.

All the members agreed. The Chairman called for a vote on the amendment.

The vote was unanimous. The motion carried.

The Chairman called for a vote on the original motion with the one amendment.

The vote was unanimous. The motion carried.

6. Staff Reports.

Mr. Crowell presented the survey results on the flexible subdivision. He noted staff would look at these results and would begin looking at the flexible subdivision discuss around the first of the year.

7. Adjourn.

Member Anderson moved to adjourn. Second by Member Erickson.

Exhibit A – Agenda item #6 - To amend Morgan County Code 8-13C pertaining to the coverage regulations in the Coventry Cove PUD Overlay District.

Planning and Development Services

48 West Young Street
Morgan, UT 84050
(801) 845-4015

STAFF REPORT
November 9, 2011

To: Morgan County Planning Commission
Business Date: November 17, 2011

From: Charles Ewert, Planner

Re: **Text Amendment Regarding Coverage Regulations of Lots in the Coventry Cove PUD Subdivision.**

Application No.: 11.087
Applicant: Dee Wilkinson
Request: To amend Morgan County Code Section 8-13C to allow a greater maximum lot coverage for lots within the Coventry Cove PUD Subdivision.

SUMMARY & BACKGROUND

The applicant has submitted an application for a building permit for lot one of the Coventry Cove Subdivision. Coventry Cove is in a PUD overlay zone, which has specific regulations that govern development in the subdivision. Where specific development topics are not addressed in the PUD overlay zone text, the ordinances for the base zone (R1-20) govern. The proposed residence will cover approximately 41.4% of the 6,593 square foot lot. The overlay zone does not specifically address coverage limits, but the R1-20 zone limits lot coverage to 25%. The building permit application was denied on October 27, 2011, due to this discrepancy. Upon notice of the denial, the applicant filed this petition to amend the code to provide for greater coverage regulations in the Coventry Cove Subdivision.

ANALYSIS

Land Use Ordinance Provisions. Development in the Coventry Cove PUD is governed by MCC 8-13C and the Coventry Cove PUD Development Agreement. As a PUD, the subdivision was awarded increased density in exchange for open space. In creating the PUD overlay zone and development agreement considerations were given for alternative setback regulations, open space preservation, sensitive areas and frontage. However, no consideration in the regulations was given for alternative coverage. Without specificity of alternative lot coverage regulations the regulations of the base zone governs, which in the

R1-20 zone is a maximum of 25%.

Given the fact that Coventry Cove was platted with additional density in mind and was also granted reduced setback requirements (15 feet for front and rear and five feet for sides) it is reasonable to assume that the omission of an alternative coverage regulation was an oversight. The smallest lot in the subdivision is 5,100 square feet (lot 11). Applying the 25% minimum lot coverage requirement would allow a building footprint on the lot of no more than 1,275 square feet, which includes any proposed garage, covered porches, or patios.

The purpose for lot coverage is different in different applications. From a building code standpoint building coverage can mean all areas of a lot covered in hard surface for which rain water runoff drainage should be provided. Title 8 is not this specific. It does not specify what the purpose of coverage is, but a reasonable explanation is that it is intended to regulate the dispersal of buildings over a given area. This difference in purpose may affect how the Planning Commission desires to review the proposal.

It is not immediately clear in the record whether drainage calculations were specifically provided in the original design of the subdivision; however the preliminary drawings do show drainage detention facilities. It is unclear with the information provided how drainage may be affected by the proposal.

As for building dispersal, it can be observed that the standard minimum lot size in the R1-20 zone is 20,000 square feet, and 25% of that equals a 5,000 square foot building footprint. Because Coventry Cove was granted smaller lot sizes in exchange for open space it can be observed that the overall acreage of the site when compared to density is similar to what would be required from a standard subdivision, thus it is reasonable to expect similar density and land coverage from the smaller lot sizes as one would find in a standard subdivision when reviewing the entire site as a whole. In other words, the exchange of open space seems sufficient to allow similar home sizes as would otherwise be allowed in a traditional subdivision.

The remaining question is to what limit should coverage be governed for this subdivision? At the very least, if coverage were waived altogether the setback regulations provide some lot coverage limitations. The applicant is suggesting a conservative minimum coverage requirement of 50%, which for some lots does not come close to what is allowed by the 25% minimum in a standard R1-20 subdivision. Perhaps the Planning Commission will desire to allow greater than 50%.

If adopted as is, the text amendment would be as follows:

8-13C-6: DEVELOPMENT STANDARDS:

H. Sensitive Areas: The Coventry Cove PUD overlay district is required to preserve sensitive areas in open space. Sensitive areas include, but are not limited to, ridgeline/viewshed areas, areas of special interest or beauty, wetlands, fault zones, stream corridors, important wildlife areas, unstable soils, or any other environmental concern addressed in this article, as detailed within the development agreement.

I. Frontage: Frontage requirements for each lot shall be as detailed on the final plat.

[J. Lot Coverage: The maximum building coverage for any lot shall be 50%.](#)

Procedures for adopting amendments to Title 8 of the Morgan County Code. Title 8—Land Use Regulations—sets out the required procedures for adopting and amending the land use requirements of the County Code:

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

1. The governing body may amend:
 - a. The number, shape, boundaries or area of any zoning district;
 - b. Any regulation of or within the zoning district; or
 - c. Any other provision of the zoning ordinance.
2. The governing body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its approval, disapproval or recommendations.
3. The governing body shall comply with the procedure specified in subsection B of this section, in preparing and adopting an amendment to the zoning ordinance or zoning map.

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

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

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a positive recommendation to the County Council for the proposed land use regulations text amendments regarding the lot coverage regulations in the Coventry Cove PUD Subdivision, application 11.087, based on the following findings:

8. That the amendments are necessary to clarify lot coverage regulations for the development.
9. That the reduced lot sizes and required open space yields similar overall density as would be required in a traditional subdivision in the R1-20 zone, but that the lot coverage regulations of the R1-20 zone are too restrictive for the smaller lot sizes of the development.
10. That the amendments are not detrimental to the County's health, safety, and welfare.

MODEL MOTION

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the County Council for the proposed land use regulations text amendment regarding the lot coverage regulations in the Coventry Cove PUD Subdivision, application 11.087, based on the findings presented in the Staff report dated November 9, 2011:”

1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the County Council for the proposed land use regulations text amendments regarding the lot coverage regulations in the Coventry Cove PUD Subdivision, application 11.087, based on the following findings:”

1. List any additional findings...

ATTACHMENTS

1. MCC 8-13C: Coventry Cove PUD Overlay District
2. Coventry Cove Recorded Plat

Exhibit B – Agenda item #7 - Public Hearing/Discussion/Decision: To amend portions of section 8-5 and to create a new section 8-5J as Article J of section 8-5 of the Morgan County Code pertaining to Resort Special Districts.

STAFF REPORT

14 November 2011

To: Morgan County Planning Commission
Business Date: 17 November 2011

From: Grant Crowell, AICP
Planning and Development Services Director

Re: **County Initiated Text Amendment – Repeal of the Master Planned Development Reserve Zoning District**

Application No.: 11.069
Applicant: Morgan County
Request: To amend portions of Morgan County Code (MCC) Sections 8-2, 8-3, 8-4, 8-5, 8-5F (Article F, Chapter 8-5), 8-6, and 8-12 to repeal the Master Planned Development Reserve Zoning District and all references thereto.

SUMMARY & BACKGROUND

As a result of ongoing discussions regarding the implementation of new flexible subdivision regulations, the resort special district code, and the Snowbasin proposal, the Planning Commission requested that Staff move forward with a text amendment to repeal the Master Planned Development Reserve (MPDR) zoning district ordinance (Chapter 8-5F, Morgan County Code). The MPDR ordinance, which is used to create a new zoning district, has only been used once in the County to create the Rivala project.

Snowbasin began the pre-application phase of the MPDR process (sketch plan review) in early 2011, but has since urged the Planning Commission and County Council to consider a different zoning tool more tailored to the needs of a large, master planned resort. Staff is currently working with a committee to create this new approach, entitled the Resort Special District. Given the length (57 pages) and complexity of the MPDR process, Staff can see why this tool was not used to create other projects in the County and why the PUD and PRUD were used to create projects such as Rollins Ranch, the Cottonwoods, Whisper Ridge, and the Ridges. The MPDR's requirements for extensive detail leave much of the flexibility out that is necessary for long term projects like resorts and large master planned communities. Given the way it is constructed and implemented, it would be difficult for Staff to recommend the MPDR process to any customers, property owners, or County decision makers. Snowbasin has stated that they have no intention of pursuing a project using the MPDR in Morgan County.

While prescriptive and inflexible, the MPDR does contain requirements for items that are not found anywhere else in the County Code. Being that there is only one adopted MPDR, these requirements have not been implemented throughout the County. Some may have merit for future ordinance inclusion, including use within new RSD's or in amendments to the subdivision or sensitive area regulations. Others may no longer be a priority of the County. Some key topics addressed in the MPDR Morgan County Planning Commission Meeting Minutes November 17, 2011 unapproved FINAL 012612

include: viewsheds, neighborhood recreation, open space, affordable housing, parks and trails, public facilities, sensitive areas, fiscal impact, traffic impact, architecture, lighting, signage, common area maintenance, landscaping, street trees, grading, utilities, level of service, wildfire hazards, habitat, parking, road design, school impact, garbage, and public safety.

Having items of importance to the County in an ordinance that is not used, however, has no value. The County should continue to express their concerns about issues that are important and continue to work on replacement ordinances to address those concerns.

Text Amendments. To implement the repeal of the MPDR, Staff went through the code and identified the existing references to the MPDR zone. In addition to repealing the MPDR regulations in their entirety, the corresponding references need to be removed as well. This will not affect the existing entitlements for the Rivala project, as they are stated in their executed development agreement. All of the amendments necessary to repeal the MPDR are attached to this report in Exhibit A.

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

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

1. The governing body may amend:
 - a. The number, shape, boundaries or area of any zoning district;
 - b. Any regulation of or within the zoning district; or
 - c. Any other provision of the zoning ordinance.
2. The governing body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its approval, disapproval or recommendations.
3. The governing body shall comply with the procedure specified in subsection B of this section, in preparing and adopting an amendment to the zoning ordinance or zoning map.

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

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

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a positive recommendation to the County Council for the text amendments to repeal the MPDR zoning district, application 11.069, based on the following findings:

3. That the MPDR ordinance is too complex, confusing, and rigorous for the general public to find useful and it has rarely been used.
4. That the County maintains legislative discretion in creating its land use ordinances and is not

required by statute to have a MPDR ordinance.

5. That the property owners in Morgan County currently have other zoning and subdivision procedures available to them.
6. That the County is currently in the process of developing alternative ordinances which will address master planned developments.
7. That this code amendment does not unzone any previously approved MPDR zoning district.
8. That the amendments are not detrimental to the County's health, safety, and welfare.

MODEL MOTION

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the County Council for the text amendments to repeal the MPDR ordinance, application 11.069, based on the findings in the November 14, 2011, Staff report...”

1. List any additional findings...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the County Council for the, text amendments to repeal the MPDR ordinance, application 11.069, based on the following findings...”

1. List all findings...

Exhibit C – Staff Report - Public Hearing/Discussion/Decision: To amend portions of section 8-5 and to create a new section 8-5J as Article J of section 8-5 of the Morgan County Code pertaining to Resort Special Districts.

STAFF REPORT

14 November 2011

To: Morgan County Planning Commission
Business Date: 17 November 2011

From: Grant Crowell, AICP
Planning and Development Services Director

Re: **County Initiated Text Amendment – Creation of Resort Special District Zoning Code**

Application No.: 11.071
Applicant: Morgan County
Request: To amend portions of Morgan County Code (MCC) Sections 8-5 and create a new section 8-5J as Article J of section 8-5 pertaining to Resort Special Districts.

SUMMARY & BACKGROUND

With the adoption of the 2010 Morgan County General Plan, the County Council set in motion several objectives for the development of master planned communities and flexible subdivision regulations. First, a new land use category titled Master Planned Community was created which is described as:

“The intent of this use designation is to provide for planned developments and resorts that offer a mix of residential and non-residential land uses. Potential development locations would capitalize on good transportation, the physical amenities of the area, and recreational opportunities. The Master Planned Community designation allows for flexibility in land uses in order to encourage property assemblage and coordinated infrastructure and access. Resorts require adequate infrastructure and necessary services for each development. The assignment of this land use category should precede zoning designations to Master Planned Development Reserve (MPDR) or other similar resort or planned development zoning designations.”

An immediate implementation of this category was the designation of the Rivala and Snowbasin property to this category with the initial adoption of the Future Land Use Map of the General Plan in December 2010. Rivala had been previously approved as a Master Planned Development Reserve zoning district. For Snowbasin, this designation was placed in anticipation of future zoning map amendments and in recognition of the significant amount of master planning and site analysis that had already been done for their property in Morgan and Weber Counties.

Additionally, multiple land use policies, goals, and objectives in the General Plan support the concept of new resort specific ordinances in the County Code, such as:

1. Adopt new regulations for master planned communities, town center mixed use developments, and compact or flexible subdivisions.
2. Discourage residential rezoning in agricultural areas remote from village centers and other identified growth areas.
3. Encourage new development to take place in or adjacent to villages and identified growth areas, rather than dispersed throughout the County's agricultural areas.
4. Adopt development regulations that require infrastructure improvements for development in villages and village centers.
5. Encourage new developments to locate where infrastructure already exists, is planned, or will be provided.
6. Manage and guide growth in a manner that promotes economic development and efficient use of services.
7. Plan for orderly and sustainable growth.
8. Guide town-scale development to Morgan City, Mountain Green, master planned communities, or villages as shown on the Future Land Use Map.
9. Require new subdivision development to provide adequate infrastructure and services, including, but not limited to, water, sewer, roads, and emergency services. The County should also require more secure methods of financial security from developers for required improvements.
10. Encourage the use of existing water and sewage systems in preference to individual wells and septic.
11. Limit the impacts of residential development in the Agricultural and Natural Resource and Recreation land use categories by encouraging compact development that allows for viable agricultural operations and avoids sensitive natural lands through the use of planned development ordinances, incentives, and other techniques.
12. Require large scale development, if remote from existing infrastructure, to be developed as a master planned community, and to provide adequate infrastructure and services for the development

In 2011, the Planning Commission has continued to study and discuss possible changes to the Morgan County Code regarding flexible subdivision regulations in order to implement some of the recommendations of the General Plan. During the same period of time, Snowbasin applied for a sketch plan review under the provisions of the Master Planned Development Reserve code. While discussing the specifics of the long range master plan for Snowbasin, the Planning Commission recommended that a committee be formed to work on creating a new ordinance framework for resort development. This committee – which began its work in August 2011 - consists of three County Council members and three Planning Commission members, with assistance provided from the Snowbasin ownership and design team and County Staff.

The recommendation of the group was to create a Resort Special District (RSD) zoning approach where a specific ordinance would be created to address the unique circumstances of each master planned resort. It is a completely flexible approach, which is vastly different from the prescribed approach of the Master Planned Development Reserve zoning district. It is anticipated that, if the RSD code is adopted, Snowbasin would be the first applicant for an RSD and that the resulting new zoning district could serve as a model for other future resort developments in Morgan County.

The code amendment proposal creates a new zoning district application process where a zoning code is written for each

resort project. Each application for an RSD will be required to submit a certain amount of information which describes their project. An adopted RSD will change the County zoning map, create specific zoning text applicable only to the RSD, and also satisfy the concept plan process from the subdivision ordinance. In conjunction with the RSD, a development agreement is required to be submitted. Through the development of the RSD and development agreement, the County maintains all of its legislative discretion to approve or deny any zoning changes. If an RSD doesn't meet the County's goals and objectives, it can be denied or re-shaped. This is not an administrative process.

The County and applicants need to agree use the RSD process in good faith and maintain communication through negotiation and collaboration. In this way, the RSD can be used to create great new communities in Morgan County. Adopting this code which enables the creation of future site specific RSD's does not place the RSD designation on any specific parcel or parcels of land. To do that, a separate application, hearing and adoption process needs to occur.

To create the RSD provisions, a new zoning code needs to be established in Chapter 8-5 of the Morgan County Code (please also refer to Exhibit A). First, a reference to the new code needs to be placed in the zoning district establishment section (this amended section also acknowledges the pending application to remove the MPDR district):

8-5-1: ESTABLISHMENT OF ZONING DISTRICTS:

For the purposes of this title, the territory of the county, which has adopted this title, is divided into one or more of the following listed zoning districts as shown on the zoning maps on file in the county office:

Multiple use, agriculture and rural residential districts:		
	MU-160	Multiple use district
	F-1	Forestry district
	A-20	Agriculture district
	RR-10	Rural residential district
	RR-5	Rural residential district
	RR-1	Rural residential district
Residential and multiple-family residential districts:		
	R1-20	Residential district
	R1-12	Residential district
	R1-8	Residential district
	RM-7	Multiple residential district

	RM-15	Multiple residential district
Commercial and industrial districts:		
	CB	Commercial buffer district
	C-N	Neighborhood commercial district
	C-S	Commercial shopping district
	C-H	Highway commercial district
	C-G	General commercial district
	M-D	Manufacturing - distribution district
	M-G	General industrial district
<u>Special Districts and Overlay Zones:</u>		
CD	Central development district	
SA	Sensitive area district	
MPDR	Master planned development reserve district	
ROZ	Redevelopment overlay zone	
AOZ	Airport overlay zone	
GHO	Geologic hazards ordinance	
<u>RSD</u>	<u>Resort Special District</u>	

Next, the new code section needs to be added to the County Code:

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ARTICLE J. RESORT SPECIAL DISTRICTS

8-5J-1. Purpose.

The purpose of each Resort Special District (RSD) zone is to permit a compatible, master-planned mix of various types of residential and commercial land uses in combination with open space and recreational components on land that has characteristics that warrant customized development requirements. Although residential dwelling type and development size will vary from location to location, each development is intended to consist of well-designed, architecturally integrated structures which are appropriately landscaped and buffered from surrounding land uses.

8-5J-2. Establishment of RSD Zones. Each RSD zone is intended to allow a master-planned, resort- focused development where customized zoning requirements apply in order to permit flexibility and initiative in site development. The RSD is intended to be utilized only where the General Plan Future Land Use Map has identified property for the Master Planned Community Designation. The following requirements shall apply to the establishment of any RSD zone.

1. Each RSD shall be at least 1280 acres in size.
2. Each RSD shall dedicate a minimum of 60% of the gross acreage of the project in perpetual open space. Each RSD application shall submit an open space management and maintenance plan.

C. To establish a RSD zone an application shall be submitted for a text and zoning map amendment as provided in this Title:

1. Proposed zone name and legal description for the subject property;
2. Proposed zone text which shall include:
 - a. Permitted, conditional, and accessory uses;
 - b. Proposed development standards, including the following:
 - (i) Land use standards establishing mix of land use types, location and density
 - (ii) Lot standards establishing requirements for lot area and dimensions.
 - (iii) Building setback standards for front, side, and rear yards;
 - (iv) Design standards addressing building height, building orientation, common and private open space, natural resource protection, architectural design; and
 - (v) Landscaping and buffering standards.
 - (vi) Signage standards.
 - (vii) Parking standards.
 - c. Proposed process for approval of development in the RSD zone;
3. A conceptual land use plan which shows the following:
 - a. Location of proposed uses;
 - b. Location, arrangement and configuration of open space.
4. A proposed project specific development agreement for the RSD.
5. A project specific transportation study, prepared by a licensed professional engineer.
6. A project specific fiscal impact analysis, prepared by a professional economist.
7. An infrastructure master plan with descriptive text and maps, prepared by a licensed professional engineer, which addresses at least the following utilities:
 - a. Culinary and irrigation water.
 - b. Sanitary sewer.
 - c. Storm water.

- d. Transportation plan, layout and proposed road cross sections.
- e. Electricity provision.
- f. Natural gas.
- g. Renewable energy.

D. In considering a petition for an RSD zone, the proposed zone text and zoning map amendments may be modified by the County to meet the intent of this Title and may include regulations and standards other than those proposed by the applicant.

E. A proposed RSD text and zoning map amendment and schematic development plan shall be approved only if, in the opinion of the County Council, development proposed on the property will:

- 1. Conform to applicable provisions of the County's General Plan.
- 2. Conform to applicable provisions of this Title and County Code.
- 3. Better preserve the property and neighborhood by integrated planning and design than would be possible under other zoning regulations of this Title.
- 4. Establish that development of the property will contribute positively to the County's long term economic stability.
- 5. Present an infrastructure plan that will not be detrimental to the County's health, safety, and welfare.

F. Upon approval, each RSD zone shall be given a unique name following the designation "RSD-" and shall be independent of any other RSD zone.

G. After approval of an RSD zone and schematic development plan, and prior to the issuance of any building permits, applications for conditional use permits, site plan approval, subdivision approval, and any other needed permits shall be submitted as needed to implement the schematic plan.

H. Amendments to an approved schematic development plan shall be obtained only by following the County's procedures for zoning text and map amendments, and are considered an amendment to the RSD zone.

Some of the fundamental concepts in developing the RSD ordinance were (in no particular order):

- 1. That the RSD was likely to replace the MPDR
- 2. That resorts are unique land uses with a mix of uses
- 3. That open space is an important element in a resort master plan
- 4. That there should be a minimum threshold for planning a resort
- 5. That we need to understand the project and its impacts in the original submittal
- 6. That a development agreement is necessary to implement large, complex, and unique projects
- 7. That the RSD is a zoning approval, not an administrative approval
- 8. That maximum flexibility is necessary to achieve a positive outcome
- 9. That an RSD can propose any code amendments to address the specific needs of the resort
- 10. That specifics, such as building design, do not need to be completely defined at the zoning level
- 11. That the General Plan designation should precede the application to become a RSD

Staff understands that this proposal is quite different from the MPDR, and previous versions of the PRUD and PUD Overlay District. We will not fully know how this process will manifest itself in the real built environment until we approve the first RSD and see it construct and develop over a long time frame. It is extremely important to make sure that any adopted RSD addresses those items and concerns that Morgan County is really interested in, and which advance the goals and objectives of the General Plan and county budget. Staff believes that the possibilities that this

flexible code brings warrant further consideration.

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

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

1. The governing body may amend:
 - a. The number, shape, boundaries or area of any zoning district;
 - b. Any regulation of or within the zoning district; or
 - c. Any other provision of the zoning ordinance.
2. The governing body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its approval, disapproval or recommendations.
3. The governing body shall comply with the procedure specified in subsection B of this section, in preparing and adopting an amendment to the zoning ordinance or zoning map.

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

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

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a positive recommendation to the County Council for the text amendments regarding Resort Special Districts, application 11.071, based on the following findings:

12. That the amendments provide additional options for large property owners seeking to develop master planned resorts.
13. That existing regulations, such as the MPDR, do not serve the purposes that they were originally intended to.
14. That the amendments advance the goals of the Morgan County General Plan.
15. That this code amendment does not actually rezone any property.
16. That the amendments are not detrimental to the County's health, safety, and welfare.

MODEL MOTION

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the County Council for the text amendments regarding Resort Special districts, application 11.071, based on the findings in the November 14, 2011, Staff report...”

1. List any additional findings...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the County Council for the, text amendments regarding Resort Special districts, application 11.071, based on the following findings...”

17. List all findings...