



PLANNING COMMISSION AGENDA
Thursday, December 15, 2011
Morgan County Council Room
5:30 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. Dinner
2. Call to order-Prayer
3. Approval of agenda.
4. Declaration of conflicts of interest.
5. Staff Reports
6. Discussion/Decision: 2012 Planning Commission Calendar
7. Public Hearing/Discussion/Decision: To amend portions of sections 8-3, 8-4, and 8-8 of the Morgan County Code pertaining to conditional uses and related noticing provisions.
8. Public Hearing/Discussion/Decision: To amend portions of sections 8-2 and 8-12 of the Morgan County Code pertaining to private lane standards in subdivisions.
9. Discussion; 2012 Planning Commission Work Program
10. Adjourn.

**MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY December 15, 2011 – 6:30 P.M.**

MEMBERS PRESENT

Trevor Kobe, Chairman
Roland Haslam
Adam Toone
Brandon Anderson
Darrell Erickson
Alvin Lundgren
Chris Hales

STAFF PRESENT

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

MEMBERS ABSENT

COUNTY COUNCIL PRESENT

Tina Kelly
Howard Hansen

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

1. **Dinner.**
2. **Call to order-Prayer**

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

The Members took a one hour break at this time for dinner.

3. **Approval of agenda.**

Chairman Kobe requested that agenda item #9 be moved after item #6 in order to take care of other business prior to the scheduled public hearing.

Member Erickson moved to approve the agenda with changes to address the agenda items in the following order: agenda items 6, 9, 7, 8, and 10 in order to accommodate those individuals in attendance for the public hearing. Second by Member Haslam. The vote was unanimous. The motion carried.

4. Declaration of conflicts of interest.

There were no conflicts of interest declared.

5. Staff Reports

Mr. Crowell noted that this would be his last planning commission meeting. He had accepted a job with another community and will be starting that job in January 2012. He thanked the members for their support and noted it had been a really good 2 1/2 years for him at Morgan County. He believed that a lot had been accomplished.

Mr. Crowell reviewed what the County Council had discussed and passed recently.

- Rees re-zone - denied with the understanding that a committee look at it in a little broader context.
- 2012 Budget was passed.
- MPDR repealed as recommended and did adopt the RSD with one minor change to put the 80% back to the 60%.
- UDOT funding for next year. County will use the funds for improving the Y at Young Street and the Y at Cottonwood Road and Old Highway. Repair and rehabilitation of road on South Morgan Valley Drive.

6. Discussion/Decision: 2012 Planning Commission Calendar

Member Anderson moved to approve the 2012 Planning Commission Calendar. Second by Member Toone. The vote was unanimous. The motion carried.

(Agenda item #9 was discussed at this time as per the motion stated in agenda item #3)

7. Public Hearing/Discussion/Decision: To amend portions of sections 8-3, 8-4, and 8-8 of the Morgan County Code pertaining to conditional uses and related noticing provisions.

Mr. Crowell noted when the subdivision ordinance was revised in 2010 there were portions of six chapters that were amended. One of those items was to consolidate the noticing provisions into a noticing section of the County code, the accessory dwelling text amendments, and procedure requirements for conditional use permits. He noted staff had been reviewing the state code as to what requires public hearings and what does not. In the research they found that in the state code there are only a few items that require public hearings at the planning commission;

- Zoning text amendment
- Zoning map amendments
- General plan map and text amendments

All other things should be heard in a public meeting but are not necessarily public hearings. He noted the desire in the County is to make sure public comment still exists in all forms that it did previously and to not change any of that but to clarify some things in the code such as "what is a hearing" and what is just a "public comment" item. He noted things such as subdivisions, issue permits, and future site plans will still be mailed out to people and have a sign put up but will not go into legal notices of the paper. Legal notices of the paper are for Zoning text amendment, zoning map amendments, general plan map and text amendments. Everything else will be put on the Morgan County website, the Public Notice website, but not the paper. Agendas are not required to be printed in the paper but are required to be sent to the newspaper. The County does the best they can to put them in the paper.

He noted this draft goes through and tries to clarify and rectify some of the issues that are unclear.

In the conditional use there are some things that are unclear such as the statement "the planning commission 'could' decide whether to hold a public hearing on a conditional use permit". They have tried to clear that up.

Chairman Kobe called for discussion.

Member Erickson referenced the staff report, page 2, second paragraph under text amendment and asked Mr. Crowell to explain what "*run with the land*" means. Mr. Crowell gave an example of a parcel having approval for a car wash. If the land changes ownership the use is specific to the parcel not specific to the owner.

Member Erickson also asked about conditional uses going forward to the County Council. Mr. Crowell noted the state law says that the county needs to designate a land use authority to approve things. The land use authority can be the planning commission, county council, zoning administrator, board of appeals. The State code no longer says that land use authority is particular things. In zoning text amendments, zoning map amendments, and general plan it says the planning commission has to be involved. He noted the county council could be involved. In many other communities the planning commission does the approvals of conditional use permits or site plans or even subdivision lots. The current county council has indicated, to the current staff that at this time they are interested in continuing their role in the conditional use permit approval. The planning commission could ask them for a different approach if they would like. He believed it could lead to streamlining and believes it has worked successfully in other communities he's been involved with.

Member Lundgren moved to open a public hearing. Second by Member Anderson.

There was no public comment at this time.

Member Erickson moved to close the 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 amendment regarding conditional use permits 11.075 with one text amendment on page 5c to have inserted the word "of" so that it reads, "the time and place of such meetings".
Second by Member Toone.**

**Member Lundgren moved to amend the motion to insert language that would give the planning commission authority to approve conditional use permits.
Second by Member Erickson**

The Chairman called for discussion.

Member Lundgren presented his thoughts. He noted that the planning commission does a lot of advisory work, but the county has a well staffed planning commission. We have the same access to the staff that the county council does. He believed the planning commission is fully competent to enter into those decisions on conditional uses; It is a limited scope. The Council itself is under requirement to approve them so long as mitigating factors can be resolved. That factor would not change. The planning commission would still and are required to approve without mitigating language. The only thing the county council does is to review the mitigating language; whether or not the planning commission has done their job well enough. He believes the planning commission is fully capable of doing that job and meeting the needs of the County and it would do two things. (1) Enhance the roll of the Planning Commission and gives them more involvement in decision making capabilities and help reduce the burden on the County Council. (2) It would reduce the burden on citizens who are seeking conditional use permits and take a potential month off of the time frame of what they have to go through. He does not see any downside to this. In some respects he believed the Planning Commission was better equipped to make that decision than the County Council because the planning commission is always focused on land use issues

Member Haslam asked for clarification on the conditional use permit. Is it something that the planning commission can do or is it a legislative action? Mr. Crowell noted it is an administrative action and it is not required by State code to have the legislative body of Counties or Cities make that action. It is a choice that has been made by the County's governing body and how they prefer it to be done; it is not a requirement. If it were changed in the County code it would not violate any aspect of state code to have the planning commission be that authority.

Member Toone noted item #D on page 6 "*Granting the exception will not be detrimental to the environment.*" He question whether that was too vague. He believes that could be beyond their expertise to mitigate and didn't know how a finding could be made whether it is going to be or not going to be detrimental to the environment. He asks if the members believed it was vital to leave in.

Chairman Kobe noted that would be an additional amendment and requested that the discussion to Member Lundgren amendment be addressed first and then the members could discuss Member Toone's concern.

Member Anderson noted he is ok with the amendment to send back to staff.

Member Erickson noted one of his major objectives for doing this is for the people that are coming in to get approvals; the process takes so long it is not right.

Member Hales concurred with the other member's comments.

Member Haslam believed it was the consensus to send back to staff to re-word some things. He withdrew his motion and referred to Member Lundgren to make a motion to send it back to staff. Chairman Kobe noted he liked the points that Member Lundgren has made and would put them as findings. The conditional use permits is not "we like it or we don't", there is a conditional use there and as long as we can mitigate any harmful impact then it is his understanding that it almost has to be a yes. It has to be reviewed to the strict sense of having met the criteria to mitigate against that; (1) Its a very narrow scope to what we are deciding on (2) It really streamlines the process. Do we really want our citizens to take the extra month and meeting time it takes to get those decisions in place? Believes it makes a really clear case as to why we are recommending this.

Member Lundgren withdrew his amendment to Member Haslam's motion.

Member Lundgren moved to return the language of this section back to staff and request that staff also make additional changes to give the planning commission authority to issue conditional use permits based upon following considerations:

- **Allowing the planning commission to grant conditional use permits would expedite the process for the citizens**
- **The planning commission is already endowed with individuals who have training and expertise in land use matters.**
- **By allowing the planning commission to make these decisions it would reduce the time and burden to the council.**

Second by Member Erickson.

Mr. Crowell requested to address the environmental issue that Member Toone brought up. He noted he has always been troubled by the blanket exception provision nested inside the code underneath the conditional use permit. A couple of years ago subdivisions were listed in the code as a type of conditional use permit; they are not anymore. However, that is how an applicant in the county got his first exception to get a non-standard bridge; he used the provision inside the CUP to get it in the subdivision. Other people might say that is more appropriate as a variance. He is not aware of it being used in another case, but if it were to ever be used the planning commission may want to think hard about using a finding about environmental detriment on that because it is still nested under the legal premise that a conditional use permit should be approved. If the County has a code that said you should approve it and then there is a code that says you can approve exceptions as part of the CUP then you may have to get the lawyers involved and he can see that being really pushed. He suggested the planning commission take a look at this and decide whether it is really necessary to have in there.

Member Lundgren requested they also look at the sentence that talks about environmental impact; either find some way of tightening that up to some specificity or maybe removing it entirely in paragraph FD.

Member Lundgren withdrew his amendment to the motion.

Member Lundgren moved to return the language of this section back to staff and request that staff also make additional changes to give the planning commission authority to issue conditional use permits based upon following considerations:

- **Allowing the planning commission to grant conditional use permits would expedite the process for the citizens**
- **The planning commission is already endowed with individuals who have training and expertise in land use matters.**
- **By allowing the planning commission to make these decisions it would reduce the time and burden to the council.**

And that staff review section FD and consider removing that or bringing more specificity to that sentence.

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

8. Public Hearing/Discussion/Decision: To amend portions of sections 8-2 and 8-12 of the Morgan County Code pertaining to private lane standards in subdivisions.

Mr. Crowell reviewed the proposed draft and noted the following:

- up to four lots
- all weather surface
- minimum right-of-way 24 feet
- Meet fire code and hold a fire truck - loading and turnaround.
- Part of the subdivision process but provides an option for some individuals and property owners to develop a few lots without having to do a full standard.

He also believed it could provide potential benefit of maybe having much request of conversion to public road because they are not being told they have to build to the full standard, but we are still concerned about public health and safety in administering the fire code and making sure there is no problem with emergency vehicles.

He believes main policy goal is that the County needs more options. In the community a lot of people that come to the county are just trying to figure out how to do two or three lots tops. It is easy to work with a large project because they have already planned to do the full streets. It is more difficult from a land planning and cost basis to work with the smaller owners and this may buy some options. He noted he tried to address some discussion on easements and maintenance which need to be considered when sharing a right-of-way with neighbors as private; these would be, under this proposal, considered as required frontage.

Member Erickson -

- Believed the term “all weather” on page 3 (1-b) should be taken out because no one knows what that means. It has to meet all the criteria so 'all weather' does not add to it.
- Asked about private roads versus public roads and at what point the private might become public. There was a lengthy discussion on small subdivision, larger subdivisions and the roads within each.

- Concerned about the definition of an easement. Members agreed that it would be beneficial to have the language clarified so that there is a grantor and the beneficiaries are the grantees of the easement are the owners of the lots proposed.

Chairman Kobe -

- Clarification on setbacks discussed in #8.

Member Toone -

- Private lane, section 1-a. Asked if there was any clarification where a private lane ties into a public road just so that we are not out in the middle of nowhere and there is a 1000 foot private lane that begins nowhere and ends nowhere but creates frontage for four lots; Would recommend that 66 feet be required for the public road frontage regardless if the lane is 24 feet or not.

Member Anderson -

- Private lane for road frontage - Asked Mr. Crowell if he knew of any counties similar to Morgan where they use a private lane for road frontage? Mr. Crowell noted in other counties the concern was really based on safety issue. It would be simple to do a survey of other counties and give the results to the planning commission.
- Is there a way to incorporate private lanes into subdivisions? Mr. Crowell noted the intent of the ordinance is to make it easier for property owners to have options to do subdivisions. This was clearly allowed in the last version of the PUD coupled with the 50% open space conservation easement. Mr. Anderson noted he would be ok to allow that private lane to be able to count as frontage if it was connected. However, if the County starts allowing it then they need to consider all these little stubs that have been formed everywhere because they have not been able to have one. The County has not allowed this for years and now we are going to allow it. It would seem like a slap in the face to all those residents that had to figure out another way. He did not believe it was good planning. Mr. Crowell noted one thing staff has found is that a lot of the existing private roads have been built 14 - 16 feet. They have tried to find ways to balance the private road versus county road. He noted there is no rush on this; let's make it workable.

Member Haslam -

- It was his understanding when they begin this it was to address a single family being able to access their property and now this is at four; we just created two flag lots and couple of others is his concern.
- On lane parking - if it is a private lane then don't tell someone what to park on it; according to this someone can't park what they want on it. Member Toone noted, the owner is in charge of enforcement. What is being said is that it shouldn't be done and if a fire happens and someone has parked a horse trailer on it and the fire truck can't get to the house then the owner is responsible. Member Anderson wondered what happens when one of the owners park their horse trailer and the fire truck can't get to someone else's house; but all four own the road. Member Anderson noted that alludes to the whole point that the county is opening themselves up to a lot more.

- We have issues now in the county with regard to private streets. The developer has built them with the least expense to him, and now because they have a right the landowner is saying they pay just as much taxes and the County should take them over. He does not agree with this; if it is going to be a public street than the owner needs to build it to public streets standards from the beginning. He is not a big fan of private streets because the County has this issue all over; one being in Peterson when the developer wanted his private road to cut corners and not spend the extra money and now wants the County to take them over. He is not in favor of that and is not sure this is the direction that the County needs to be going.

Member Lundgren -

- Lane shall not exceed 1000 feet - believes it would not hurt to have some language in there to allow an extension because there is always a guy that needs 1002 feet. He believed the County was working with arbitrary numbers. Could a conditional use requirement be added for an extension; have a base standard and then have to come up with some mitigating situation if it is going to be longer than that. He would like to see something discussed on this issue.
- Was not sure he was in favor of the change of private right-of-way public. We are granting somebody an exception from road standards and that should be clear up front. If someone is going to try to attempt to change. He believed the County wanted at least that many requirements, and maybe more, to make sure the entire roadway is up to engineering and other County standards.

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

Debbie Sessions –

- Believes the concept has merit. On principle she agrees with a private lane; a private lane is just a small private road. It does not change anything. All it does is lessen the requirements and the burden to a landowner. This allows families the opportunity to build homes for children on a smaller road that does not require as much money up front. If they had to build the full standard county road they may need to subdivide more of their property to pay for the road which maybe they don't want to do and maybe it is not in the best interest of the community to have a full blown subdivision that enables just for their kids to come home. She can see where it can be used for good.

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

**Member Lundgren moved to direct staff to take the private lane ordinance and reformulate this based on the discussion tonight, incorporate the ideas that were brought up and bring back at the next meeting for review.
Second by Member Erickson.**

Member Toone believed we were going in the right direction and can see a lot of benefits that the residents of the County can have with this ordinance. Believes it would be important to tie it into a public road for that reason.

Member Anderson noted he liked a lot of the concepts but would like to see this private lane standard inter twined with the flexible subdivision ordinance. His reasoning for this is that if the County is talking about a better way to do a subdivision and be more flexible for landowners then we need to tie it into that. He would like to see it brought back with the PUD or flexible subdivision and believed it would be good to use it within that. What he believed was being talked about is basically a subdivision so why not tie that into a flexible subdivision so that the County gets all the benefit rather than just the developer or the landowner getting the benefit out of it. It is a useful tool but because of how it could be used it would be helpful to have this incorporated within a flexible subdivision ordinance so that there are other guidelines around it; then the County is getting something out of it.

The Chairman called for a vote.

The vote was not unanimous with Member Anderson opposed and Members Hales, Lundgren, Haslam, Erickson, and Toone for. The motion carried with a vote of five to one.

9. Discussion: 2012 Planning Commission Work Program. (This agenda item was discussed after agenda item #6 as per the motion stated in agenda item #3)

The Members discussed future agenda items that should be discussed in 2012.

- Round Valley Study - this is a master planning study.
- Stoddard area study.
- Flexible subdivision PRUD.
- Streamline use table.
- Temporary uses.
- Ordinance re-writes projects started in 2009.
- Definition of zoning administration.
- Chapters of the residential code.
- Snow Basin project.
 - Code development and writing in the spring.

10. Adjourn.

Member Toone moved to adjourn. Second by member Anderson.

Approved: _____
Chairman

Date: _____

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

Date: _____