



COMMISSION AGENDA  
Thursday, March 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. Public Comment.
5. Approval of minutes for February 24, 2011.
6. Election of Chair and Vice Chair.
7. Public Hearing/Discussion/Decision: To amend sections 5-5, 8-2, 8-5A, 8-6, of the Morgan County Code to allow for kennels in the RR-1 zone, and to address related administrative provisions.
8. Public Hearing/Discussion/Decision: To amend sections 8-5, 8-2, and/or 8-6 of the Morgan County Code to allow for the ability to build a residential structure or main building on any portion of a lot that is split by zoning designations.
9. Discussion/Decision: Snelson Temporary Use Permit Request for approval of a Construction Office and Equipment Shed in the CD zone, located at approximately 5031 W Old Hwy Rd.
10. Discussion: Amendment of Planning Commission By-Laws.
11. County Council / Staff update.
12. Adjourn.

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

**MEMBERS PRESENT**

Trevor Kobe  
Roland Haslam  
Jared Anderson  
Adam Toone  
Darrell Erickson  
Alvin Lundgren  
Chris Hales

**STAFF PRESENT**

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

**MEMBERS ABSENT**

**COUNTY COUNCIL PRESENT**

Tina Kelly

**\*\*\* MINUTES \*\*\***

**1. Call to order – prayer.**

Member Anderson offered the prayer.

**2. Approval of agenda.**

**Member Anderson moved to approve the agenda. Second by Member Erickson. The vote was unanimous. The motion carried.**

**3. Declaration of conflicts of interest.**

There were no conflicts of interest declared.

**4. Public Comment.**

**Member Anderson moved to open the public comment period. Second by Member Hales. The vote was unanimous. The motion carried.**

Debbie Sessions – comment with regard to agenda #9

- Very familiar with equipment that will be used.

- Concern of heavy equipment on the roads.
- Maybe charge a fee to make up for the damage to the roads.
- Could access the canal road which would keep them on the State highway and not on County roads.

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

**5. Approval of minutes for February 24, 2011.**

**Member Anderson moved to table the minutes until March 31, 2011 when Members Kobe and Member Toone are present. Second by Member Hales. The vote was unanimous. The motion carried.**

**6. Election of Chair and Vice Chair.**

**Member Erickson moved to modify the agenda to postpone this until Member Lundgren and Member Toone are present. Second by Member Anderson. The vote was unanimous. The motion carried.**

This portion of the discussion of Agenda item #6 took place after agenda Item #9.

**Member Lundgren moved to table the election of the chair and vice chair until March 31, 2011 so that the commission could have as many members present as possible. Second by Member Hales.**

**Member Lundgren moved to rescind his motion.**

**Member Erickson moved to elect the past Vice Chairman, Member Kobe, to the position of Temporary Chairman and that Member Haslam be elected as vice chairman. Second by Member Hales. The vote was unanimous. The motion carried.**

**7. Public Hearing/Discussion/Decision: To amend sections 5-5, 8-2, 8-5A, 8-6, of the Morgan County Code to allow for kennels in the RR-1 zone, and to address related administrative provisions.**

Jack Reynolds.

- Seems odd that on an acre of land he can have 4 horses but not four dogs that weigh between 4 – 12 pounds.
- The dogs he has are indoor dogs and it should not be a problem.
- This maybe should be a code for the city but not the County.

Member Lundgren arrived at 6:47 p.m.

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

Rose Reynolds –

- They would like to be in compliance with the regulations laws within their area. Normally people who have three or four dogs will not increase their amount because they become expensive.
- Usually the only time a dog will bark is when there is an intruder within their territory.
- They are in a rural area and not a residential.

Debbie Sessions –

- Only concern is the RR-1 zone.
- Kennels and household pets are two different things. When you are breeding dogs that is agricultural.
- If you have two dogs and those two dogs have pups you can have over 20 dogs up to one year of age on one acre.
- Problematic to allow kennels on one acre. Kennels should only be allowed on larger lots.

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

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

Member Anderson asked what the maximum number of dogs could be allowed. Mr. Ewert noted there are no standards at this time so there is no maximum number.

Member Erickson asked if the code has a definition of what a kennel is. Mr. Ewert noted Title five Health and Safety specifically calls it a business. Title Eight Land Use Planning says it does not have to be a business; but basically anything that can be done with an animal.

Member Erickson noted in the summary statement it states that the sheriff's office was issuing permits. He noted that seems odd and maybe it should be issued through the County Clerk's office. Mr. Ewert noted it looked like the authority was on the Sherriff's shoulders in title five. In title eight it appears to be the authority of the County Council; how to bring that together is part of the struggle.

Temporary Chairman Haslam noted there is a typo in the staff report it should read RR-10. There was discussion between the difference of household pets and household kennels.

Member Anderson noted on page four of the staff report there is Sherriff's comments. This gives the sheriff's recommendation on this issue.

Terrie Peterson, Animal control officer.

- Believe that the kennel ordinance needs to be addressed.
- Current ordinance is too restrictive.
- Does not believe it should go over four. Over four dogs, an individual should definitely have to get a kennel permit.
- She has numerous people that are in violation of the county ordinance. It does need to be looked at.
- A big difference between a business kennel and a personal domestic kennel.
  1. Business kennel.
    - Need to break down and be very specific on numbers if it is for a business.
    - Will need to have regulations on them.
  2. Domestic kennel.
    - Does not know if a County can force residents to spay and neuter.
    - Should not need to get a conditional use permit.

Member Lundgren noted if we open up RR-1 for kennels it will cause more problems. Kennels are not well defined. It makes no sense to have residential kennels/business kennels.

Member Erickson agreed with Member Lundgren, but he would like to add eliminating kennels from the RR-1 and raise the number allowed; that seems to address both the issues.

Member Anderson clarified that all we need to do is amend section 8-2-1 in reference to kennels and change the number to a higher number.

**Member Anderson moved to table this decision on kennels and recommend that staff write a paragraph based on input given from the commission tonight. Second by Member Lundgren.**

Member Lundgren requested to amended the motion keeping the existing limitation on cats and dogs in residential zones of R1-20 or less but to allow for more cats and dogs in more rural zones of RR-1 or higher.

Member Anderson requested to amend the amendment to give staff a number to work with. Three or four on the number of domesticated animals. Mr. Lundgren noted he would like to save that discussion for the next meeting so that the planning commission can think of where to put that number; it is somewhat arbitrary. Staff can suggest a number but the planning commission makes the decision on what recommendation to pass on to the county council. He noted the planning commission has already said two, so the next number would be three and we could have a discussion at that time how many would be appropriate for that particular zone.

Member Anderson withdrew the amendment of the amendment.

Member Lundgren suggested the planning commission vote and see if they have a consensus on the number on a supplemental motion.

**Temporary Chairman called for a vote on the amendment to the motion made my Member Lundgren. The vote was unanimous. The amendment to the motion carried**

The Temporary Chairman called for a vote of the main motion.

**Member Anderson moved to table the decision on kennels until our next meeting March 31, 2011 and recommend that staff write a paragraph based on input given from the commission tonight. Keeping the existing limitation on cats and dogs in residential zones of R1-20 or more dense, but to allow for more cats and dogs in more rural zones of RR-1 or greater. Second by Member Lundgren. The vote was unanimous. The motion carried.**

**8. Public Hearing/Discussion/Decision: To amend sections 8-5, 8-2, and/or 8-6 of the Morgan County Code to allow for the ability to build a residential structure or main building on any portion of a lot that is split by zoning designations.**

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

Kipp Adams –

- Governing factors of the RR-1 zone are lots size and frontage. The majority of the RR-1 lots within Morgan County are required to have a minimum of 1.5 acres to accommodate a septic system. Due to this requirement is it truly an RR-1 zone? It is his understanding, of this new amendment, is that the governing factors of an RR-1 zone which is are the lot size and frontage requirements will still be the governing factors to determine the number of homes which is a single home in and RR-1 zone on such a lot that is in an area where the zone is split.
- In consideration of this amendment it will allow land owners to possible have better use of their property and also continue to maintain the general characteristics of surrounding areas which are in an RR-1 zone and also help maintain a rural atmosphere. He would be in support of such an amendment.
- Would also recommend that the Planning Commission take adequate time to consider this so that it can be a benefit to all. Even those that are not located within the RR-1 zone.

Bill Holyoak –

- Would encourage the ability to build in back of the RR-1 zone to allow people their privacy.
- Noted several locations in the County that are built off the road that takes advantage of views and privacy.

Debbie Sessions –

- Believes this gets rid of tunnel zoning; is in favor of the ordinance.

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

Robert McConnell, Legal counsel for the applicant -

- Carver's situation is a split zone; RR-1 in front and A-20 in back. Due to the conditions on the lot, it is best to locate the home more towards the back where it is just over the boundary in to the A-20 zone. Obviously they don't have sufficient acreage to have the residents on that lot. Therefore, there were two options discussed (1) A development agreement because they did not want to deviate from the general plan and change the zoning (2) Put a lot on the back - would that leave opportunity later to come back and put an additional home in the front of the lot; The Carver's wanted to avoid that scenario.
- He noted after speaking to staff, they indicated it may be better to try to do an amendment to the zoning ordinance and that is what the Carver's decided to propose.
- He believes this helps this type of situation on a County-wide basis. He noted there was at least one Councilmember who said it would be beneficial to have a tool in the ordinance to deal with this situation. Therefore, they presented something that he believed was a useful tool for taking care of that. They have suggested two options, as presented in the staff report.
  - Option 1 – is more restrictive and in discussion with staff they believed the later part could be simplified by indicating that once someone builds a home on a lot that has a split zone designation, than any further subdivision of the lot would need to be compliant with a all applicable land use and subdivision regulations. i.e.: Once you have built a home on a lot with split zoning designation then any further subdivision of the lot would need to be compliant with all applicable land use and subdivision regulations. If you have a lot with a split zoning designation that had enough for an RR-1 lot in the front and enough for an RR-5 lot in the back you could ultimately get, assuming you could comply with the other ordinances, two homes and you could come in for a subdivision and do that. However, in a situation like the Carver's where there is RR-1 in the front and A-20 in the back; once you make the election to put the home back on the A-20 section then, unless the zoning ordinance has changed to allow greater density, you are not going to have sufficient in the front to come in and request another home. He believed they had addressed the concerns.
  - Typographical error correction. The change to 8-5a-4 was just something he noticed in reviewing the use tables. It indicated the minimum lot area says 1 or 60 acres. He had to believe that was a typographical error; that is what the staff believed as well, so they proposed that change at the same time.
  - The example is RR-1/A-20, but the amendment they are proposing applies in any situation for a residential lot where you have split zoning designation.

Jeremy Carver, Applicant's son –

- Would like to point out a couple of point that he believed are good for Morgan County with this proposal.
  - Allowing people to be further from the street, increases public safety for residents and drivers.
  - If the County desires to widen roads in the future, the further from the street a home is the better.
  - Decreases noise pollution.

- The proposal makes sure there would be no possible increase in houses or density. Grateful to be in an area of lower density.

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

- Eliminate “*or 60 acres*” in the use table. He noted that was a typo. Staff could not find any record where it was meant to say you could pick 1 or 60 acres in the RR-1 zone. Somehow in the general plan codification that happened last year this must have been accidentally put in. They believe it is a non-issue and would recommend that change be forwarded to the County Council regardless of the outcome on the main question.
- Believes current code is clear in that main uses and dwellings need to meet the minimum lot standards in the area in which they are located.
- What happens here, regardless of outcome, will certainly help the zoning administration and applicants of property owners know what the actual rule is. It has been debatable as to what “most restrictive” means. It is not actually in the County code; this will really assist that.
- Went through an analysis of how this will affect the County and it appears to be, in theory, a density-neutral scenario.
- The discussion that surrounded the general plan process was that the County needs some options for flexible subdivisions. This is an option that allows for that without having to go into a PRUD ordinance.
- Staff recommended moving forward with option #2. Believes it advances the goals that the general plan sets out in providing new options for individuals and does not significantly change the density scenario that the area plans and the general plan use map presented.
- Clarification of staff’s recommendation exhibit A – Staff took the applicant’s option two and added a paragraph that yard and setback requirements shall be administered based on the zoning district in which the structure is located so that if you are in the A-20 you will still need to centrally locate your structure based on the setbacks of that zone because maybe those were the expectation for location in that area.

Temporary Chairman Haslam –

- As planners we are suppose to be looking at “potentials”. He noted part of his concern is that the Carvers could acquire the back piece of property from Adam’s and make two lots. They would have to bring the road up County specifications to do this. Right now they have no intent of doing that but everyone’s life changes in a moment sometimes; the potential is there. Mr. Crowell noted if they meet the standards that would be correct. He further noted that for staff’s analysis of this proposed amendment they acknowledged that the Carver’s were the applicant, but this was an application for the entire County. Staff took a step back and looked at it as a whole. There is a lot of ways to acquire land and do something so staff did not specifically look at this for just the Carver’s.
- It is not much different than how the County was going for years with the PRUD/PUD which was density based allowing the ability to move lots all around. This is a simpler approach than the PRUD scenario.

Robert McConnell, legal counsel for the Carvers–

- Noted the applicant did not have any objection to staff's proposed additional language requiring the setback requirement; the ones being applicable in the larger zone.
- To address the concern generally. The Carver's would have to put the home in place, and then acquire enough additional acreage so that they could have an entire separate lot that was 20 acres in size. Then after doing a new subdivision, where their front lot met the requirements of the RR-1 zone, they would have a whole other lot with frontage and access that was at least 20 acres in size. If that is objectionable to the County he would ask why, because they have met the zoning standard; they have a 20 acre lot in the A-20 zone.

Temporary Chairman Haslam stated once a road is established up Woods Creek and re-zone the front acre RR-1, that would still leave their home in the A-20 which turns things around. Mr. McConnell noted they could not do that because then they are subdividing. He noted the difference from option one and two was the simpler version. He read option one: *"From and after the construction of a dwelling structure or other main building on any such lot, the lot may not be further subdivided unless upon such subdivision the existing such dwelling structure or other main building are located in all lot meeting the area height, coverage width, and frontage requirements applicable in the zoning district requiring the smallest minimum lot acre."* He noted in this case, an acre. *"Any additional lot created upon such subdivision meets the requirements of zoning district requiring the largest minimum lot area within any such portion that the lot is located."* He noted under option one that could not be done. Option two the same limitation isn't there so you could theoretically, if you had the A-20 in the back and an acre in front you could do that.

**Member Toone arrived at 8:03 p.m.**

Mr. Crowell noted, for clarification regarding a question that was brought up earlier, the RR-1 zone does not go very far up Woods Creek Road.

Member Lundgren noted he likes the proposal put forth by the applicant and staff. It makes a lot of sense and adds some great flexibility to development of land parcels. It has never made sense to him that the County has allowed homes to be built right up to the roads and we have not provided for some setback. He further noted that lots that sit back provide a lot more ambiance and rural nature. It would seem that the goal of the County would be to maintain the rural nature and by setting homes back off the highway it visually presents a better visual scape and more rural nature. In reading between the two proposals he believed he liked proposal B a little bit better. He believed it was worded with a little more clarity and makes it absolutely clear that once a home is built on a lot that there would never be a future subdivision of that lot and it would make it difficult, if not impossible to get around that portion of the ordinance. He would support option B.

**Member Erickson moved to accept option two as presented by the staff and also clarification of the 8-5a-4 chart, deleting of "or 60 acres". Second by Member Lundgren.**

Member Toone asked if this includes the amendment that the staff recommended. Temporary Chairman stated no it just includes option two and clarification of "or 60 acres".

**Temporary Chairman Haslam called for a vote. Members Hales, Lundgren, Erickson voted for and Member Toone abstaining because he was absent for the discussion.**

Teresa Rhodes asked for clarification on the motion. It had been moved to accept option two as presented by staff and also clarification of 8-5a-4 as written, which there is an insert in that paragraph of “*yard and setback requirements shall be administered based on the zoning in which the structure is located*”. She asked if that is what Member Erickson wanted. Member Erickson stated “yes”.

The motion was corrected to state “option two of page 3”

**Member Erickson moved to accept option two, of page 3 as presented by the staff and also clarification of the 8-5a-4 chart, deleting of “or 60 acres”. Second by Member Lundgren. The vote was unanimous with Members Hales, Lundgren, Erickson for and Member Toone abstaining because he was absent for the discussion. The motion carried.**

**9. Discussion/Decision: Snelson Temporary Use Permit Request for approval of a Construction Office and Equipment Shed in the CD zone, located at approximately 5031 W Old Hwy Rd.**

It was noted there was not a public hearing required in the code for this.

John Kennedy, Snelson Company- Mr. Snelson noted the following:

- Equipment shed is for tools
- Parking area for workers.
- Most equipment will be out on the line.
- Activity - Equipment and trucks will be out before the school bus runs through the area.
- Majority of people employed will be local.

Member Erickson noted there was public comment early with regard to routing. Do they have a route? Mr. Kennedy stated they will go toward Peterson and stay on Questar’s right of way.

The Members each commented as follows:

Temporary Chairman Haslam -

- Entrance will be asphalted. Mr. Kennedy stated it would.
- Debris fencing – ask if they were doing anything with the debris. Mr. Kennedy stated they would have dumpster. There would be no fencing.
- Equipment – Mr. Kennedy noted there will be an office trailer and the equipment at the end of the project will be three excavators, two dozers, and three side booms.
- Time frame – Mr. Kennedy noted it will take about three months. They will need to come back in the fall (October) because there is one area of the canal that they can only do when it is dry. Ten months total.
- Road cleanup – Mr. Kennedy noted right now they are just using brooms and a sweeper to brush it off.

Member Toone –

- Storage of diesel and various construction chemicals would be regulated under OSHA. Mr. Kennedy stated that was correct.

Mr. Ewert presented his staff report (please see attached exhibit C)

Member Toone –

- Will there be any draw on Sherriff services due to diesel being stored. Mr. Ewert noted they currently do have a fence going around the property and they are in the process of securing lighting for the parameter but he was not aware of any further security efforts.

Member Lundgren –

- Damage to Old Highway may need to be addressed. Mr. Crowell noted there is a \$1,000 bond in place. Member Lundgren asked if it was within the Planning Commission's parameters to restore Old Highway to the condition that it is in presently. Mr. Ewert noted the County could propose a higher bond. Member Lundgren asked if that would be regulated by our engineer. Mr. Ewert noted that they would need to clearly document the current condition of the road which has a new overlay and then clearly document the wear and tear.

Member Erickson –

- Any concern for hazardous material spills? Mr. Crowell noted there are containment requirements for the containers per OSHA. Mr. Erickson noted he would be more concerned about the Abatement. Mr. Ewert noted that concern could be added as a condition.

Temporary Chairman Haslam –

- Which way is staff leaning? Mr. Ewert noted more restrictive with the governing body approval.
- Is there a need for turnouts – Mr. Crowell noted they did not anticipate turn outs due to the volume proposed. He noted that staff had not called for a formal traffic study.

**Member Lundgren moved to approved as outlined in the staff report and subject to the recommendation made by staff and based upon the finding and conditions as follows: Staff recommends approval of the Temporary Use Permit Request of a Construction Office and Equipment Sheds in the CD zone, based on the following conditions plus two additional conditions:**

1. That approval shall be based on the site plan submitted February 15, 2011, and as specified in conditions herein.
2. That the parking area on site for employees be covered with compacted road base, and shall be limited to the designated parking area as delineated on the site plan.
3. That the number of parking spaces on the site for construction and maintenance vehicles shall be limited to the area delineated as "lay down area" on the site plan.
4. That the parking area will be provided with a clean off area such that no vehicles will track mud, dirt, or debris into the public right of way. The County may impose a street sweeping requirement on the applicant, at the applicant's expense, if there is mud, dirt, or debris tracked into the public right of way from the site.
5. That an access approach to Old Highway Road shall be designed to specifications as approved by the County Engineer, and installed prior to any other activity on the site.
6. That portable restroom facility shall be obscured from the public right of way behind the

- contractor's office.
7. That effluent shall be removed from these facilities on a regular basis so as not to emit odor onto surrounding properties.
  8. That the lighting for the contractor's trailer shall be of design and wattage output so as not to emit more light than that of a traditional residential porch light.
  9. That the lighting for the van trailers shall be designed to be compatible with the lighting of the surrounding commercial uses. It shall be shielded and directional, and not emit light directly onto adjacent properties.
  10. Hours of operation shall be limited to 6:00 am to 6:00 pm.
  11. That a \$1,000.00 cash bond be deposited with the County treasures office for assurance of cleanup and restoration of the site back to current conditions, in a manner acceptable to the Zoning Administrator, along with an executed performance agreement.
  12. A recommendation that the county engineer specifically review additional lanes required for ingress/egress. If required, the applicant pays for the construction of those additional lanes.
  13. The County Engineer determine a criteria to determine whether road damage may occur to Old Highway Road and establish some type of parameters that if the applicants equipment is responsible for damaging conditions to the highway that the applicant be required to pay for that.

**This recommendation is based on the following findings:**

1. That County ordinance administratively provides for temporary use permits.
2. That surfacing the parking area with compacted road base will provide a cleaner parking area that will help mitigate the tracking of mud, dirt and debris into the public right of way.
3. That requiring street sweeping will also help mitigate the tracking of mud, dirt and debris into the public right of way.
4. That the removal of effluent from the site on a regular basis and the regulations for lighting will protect surrounding property owners from the nuisance of odors and light disrupting the peaceful enjoyment of property.
5. That a cash bond is necessary to ensure that the site returns to an acceptable state after the temporary use is terminated.

**Second by Member Toone.**

Temporary Chairman called for discussion.

Member Toone was concerned with the additional conditions. He noted he would feel more comfortable that it is not an issue after the fact. He noted he has doubts to be able to say what damage may be caused on Old Highway Road; if it is limited to the turn out/turn in he can see where that might be feasible.

Member Lundgren commented on Member Toone's concerns and noted he would be ok with giving the County Engineer a time limitation to make the determination of lanes. He would like to leave

the requirement in that the County engineer establishes some kind of criteria. He noted he does not want the applicant arbitrarily punished. The burden would be on the engineer to come up with some type of criteria. He would further recommend that the engineer come up with those criteria in the same amount of time as the turn out.

Member Lundgren accepted Member Toone's amendment.

**Member Lundgren moved to approved as outlined in the staff report and subject to the recommendation made by staff and based upon the finding and conditions as follows: Staff recommends approval of the Temporary Use Permit Request of a Construction Office and Equipment Sheds in the CD zone, based on the following conditions plus two additional conditions:**

1. That approval shall be based on the site plan submitted February 15, 2011, and as specified in conditions herein.
2. That the parking area on site for employees be covered with compacted road base, and shall be limited to the designated parking area as delineated on the site plan.
3. That the number of parking spaces on the site for construction and maintenance vehicles shall be limited to the area delineated as "lay down area" on the site plan.
4. That the parking area will be provided with a clean off area such that no vehicles will track mud, dirt, or debris into the public right of way. The County may impose a street sweeping requirement on the applicant, at the applicant's expense, if there is mud, dirt, or debris tracked into the public right of way from the site.
5. That an access approach to Old Highway Road shall be designed to specifications as approved by the County Engineer, and installed prior to any other activity on the site.
6. That portable restroom facility shall be obscured from the public right of way behind the contractor's office.
7. That effluent shall be removed from these facilities on a regular basis so as not to emit odor onto surrounding properties.
8. That the lighting for the contractor's trailer shall be of design and wattage output so as not to emit more light than that of a traditional residential porch light.
9. That the lighting for the van trailers shall be designed to be compatible with the lighting of the surrounding commercial uses. It shall be shielded and directional, and not emit light directly onto adjacent properties.
10. Hours of operation shall be limited to 6:00 am to 6:00 pm.
11. That a \$1,000.00 cash bond be deposited with the County treasures office for assurance of cleanup and restoration of the site back to current conditions, in a manner acceptable to the Zoning Administrator, along with an executed performance agreement.
12. A recommendation that the county engineer specifically review additional lanes required for ingress/egress within 45 days of commencement of work. If required, the applicant pays for the construction of those additional lanes.
13. Within 45 days of commencement of work that the County Engineer determine a criteria to determine whether road damage may occur to Old Highway Road and establish some type of parameters that if the applicants equipment is responsible for damaging conditions to the highway that the applicant be required to pay for that.

This recommendation is based on the following findings:

1. That County ordinance administratively provides for temporary use permits.
2. That surfacing the parking area with compacted road base will provide a cleaner parking area that will help mitigate the tracking of mud, dirt and debris into the public right of way.
3. That requiring street sweeping will also help mitigate the tracking of mud, dirt and debris into the public right of way.
4. That the removal of effluent from the site on a regular basis and the regulations for lighting will protect surrounding property owners from the nuisance of odors and light disrupting the peaceful enjoyment of property.
5. That a cash bond is necessary to ensure that the site returns to an acceptable state after the temporary use is terminated.

Member Toone asked about amending the bond amount. Member Lundgren noted they cannot determine a cost for that.

**The motion was not unanimous with Member Toone, Member Lundgren, and Member Hales for and Member Erickson against. The motion carried with a vote of three to one.**

Member Toone questioned about this going to the County Council.

There was discussion on the motion and whether it was meant to approve to forward to the County Council. Member Lundgren noted it was his opinion that this should stand.

The motion stands. Mr. Crowell noted that they would let the motion stand. It was noted that 8-8-16 gives the Planning Commission parameter to do that.

There was discussion of addressing agenda item # 6 since Member Anderson had left early. (Please refer to agenda item #6 for discussion/motion)

#### **10. Discussion: Amendment of Planning Commission By-Laws.**

Mr. Crowell referred to the attached draft of the bylaws (Please see attached exhibit D) What we are doing is making things more clear and to help the meetings function better.

Temporary Chairman noted there seemed to be a debate as to whether Robert's rule of Order or the current Morgan County Planning Commission bylaws took precedence.

The members reviewed the proposed DRAFT Planning Commission by-laws (please see attached exhibit D)

**11. County Council / Staff update.**

- Joint meeting with County Council
- K & K subdivision was approved.
- Snow Basin sketch plan books have been given to each planning commission member. They are to keep and mark up. The sketch plan process will begin discussion in April.
- Land use training for new members. E-mail sent out periodically for resources on-line or training that is available.

**12. Adjourn.**

Member Toone moved to adjourn.

DRAFT

Exhibit A – Agenda item # 7 Public Hearing/Discussion/Decision: To amend sections 5-5, 8-2, 8-5A, 8-6, of the Morgan County Code to allow for kennels in the RR-1 zone, and to address related administrative provisions.

**STAFF REPORT**

March 7, 2011

**To:** Morgan County Planning Commission  
Business Date: March 17, 2011

**From:** Charles Ewert, Planner

**Re:** **Zoning Text Amendment Request Regarding Kennels in the RR-1 Zone**

Application No.: 11.003  
Applicant: Jack T. and Rose M. Reynolds  
Request: To amend Morgan County Code Section 8-5; and possibly 5-5, 8-2, and 8-6 regarding Kennel provisions in the Rural Residential Zones.

**SUMMARY & BACKGROUND**

Preceding a pending pet adoption, the applicants recently attempted to gain confirmation from Morgan County that they can license another dog to their residence, which is in the RR-1 zone. The applicants already have other dogs licensed to the residence, and were denied their licensing request by the Sheriff's department because current Morgan County Code (MCC) allows a maximum of two dogs per residence without a kennel permit, and a kennel is not a permitted use in the RR-1 zone.

Prior to late 2009, kennels were allowed in the RR-1 zone by conditional use permit. Because of a 2009 conditional use permit request for a cat adoption center, the County initiated a text amendment to MCC 8-5A-3 and other sections of the code to prohibit kennels in this zone, and to refine the definition of a kennel.

The applicants desire to change the code back to allow kennels in the RR-1 zone, so they can proceed with their pet adoption plans.

**ANALYSIS**

**General Plan.** The General Plan does not specifically address the keeping of household pets or future ordinance parameters for kennels. It does address encouraging land uses that promote the rural residential and agricultural character of the County. When evaluating this request, the Planning Commission should assess whether the keeping of household pets or the provisions for kennels corresponds with the rural residential or agricultural character of Morgan County.

**Land Use Ordinance Provisions.** MCC 8-5A-3 permits kennels in the MU-160, F-1, A-20, RR-1 and RR-5 zones by conditional use permit, but prohibits them in the RR-1 zone. MCC 8-5A-1(D) identifies the purpose of the rural residential districts as:

- 1. The purposes of providing a rural residential district are:*

- a. To promote and preserve in appropriate areas conditions favorable to large lot family life;
- b. Maintaining a rural atmosphere;
- c. The keeping of limited numbers of animals and fowl; and
- d. Reduced requirements for public utilities, services and infrastructure.

2. These districts are intended to be primarily residential in character and protected from encroachment by commercial and industrial uses. (2010 Code)

Item "c" indicates that there should be parameters around the number of animals and fowl. The number of household pets allowed in the rural residential zone without a kennel permit does have parameters. MCC 8-2-1 defines:

**HOUSEHOLD PETS:** *Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats and other common household pets, but not any animals which are likely to inflict harm or endanger the health, safety or welfare of any person or property. This definition shall not include a sufficient number of dogs or cats as to constitute a "kennel", as defined in this section.*

Kennels are regulated by both Title 8 (Land Use Regulations) and Title 5 (Public Safety and Traffic) of the Morgan County Code. There are slight variations between both regulations:

5-5-6(A): **KENNEL:** *Any business which is involved with the boarding of pet animals.*

8-2-1: **KENNEL:** *Any premises where three (3) or more dogs, or five (5) or more cats, older than four (4) months, are kept for the purpose of boarding, keeping, breeding, buying, grooming, holding for adoption, letting for hire, training for profit, or selling.*

The foremost difference between the two is that Title 8 essentially defines kennels as any place that keeps more than a certain amount of dogs and/or cats, whereas Title 5 is exclusive to businesses. Taken alone, the provisions of Title 5 as applied to kennels in the RR-1 zone would only regulate kennel home occupation businesses, but the provisions of Title 8 further define and prohibit kennels altogether in the RR-1 zone.

For this request, the Planning Commission is being asked to re-review whether the use of a kennel is appropriate in the RR-1 zone. Previously, the County allowed it by conditional use permit, but no specific standards were required from which the County could apply objective evaluative criteria or standards to kennel permit requests. In the case of the 2009 kennel permit (cattery) request, the lack of evaluative standards created some ambiguity, which led to a denial by the County Council that was later overturned by the Board of Appeals. MCC 5-5-6(B) says:

*The county, for the purpose of protecting the health and welfare of the public and of the animals under its charge, shall adopt, and from time to time amend, standards, rules and regulations for the implementation of the licensing and operation of animal shelters, kennels, pet grooming shops, pet*

*hospitals and pet shops.*

No such standards for kennels were ever adopted. The County is not without standards for agricultural animal units in the Rural Residential zones, or general criteria for conditional use permits. MCC 8-2-1 provides a definition for standards for animals commonly associated with agricultural uses:

***FAMILY FOOD PRODUCTION:*** *The keeping of animals and fowl on the premises intended for family use. The numbers of such animals shall not exceed the following:*

- A. One unit per fifteen thousand (15,000) square feet of pasture or comparable area for animals and fowl on a lot that is at least one-half (1/2) acre in size after subtracting the primary residence and its required setbacks from the residence.*
- B. An animal/fowl unit equals one group of each of the following: one cow, five (5) sheep, five (5) goats, ten (10) rabbits, fifteen (15) chickens, fifteen (15) pheasants, five (5) turkeys, five (5) ducks, five (5) geese, or ten (10) pigeons. A horse may be substituted for a cow.*

Pursuant to MCC 8-5A-3, Family Food Production is a permitted use in all three Rural Residential zones. The applicant asserts that according to this law, approximately three agricultural animal units are permitted on his one and a half acre lot, but no more than two dogs are allowed.

Further, Title 5 (MCC 5-5-6(C)) indicates that kennels must receive a “kennel license,” for which the “Planning and Zoning Administration” must submit approval. This reference does not specify whether the Planning and Zoning administration is the Zoning Administrator, or the Planning Commission, but considering that this reference is a relic from previous decades, it can probably be assumed that it is referring to the Planning Commission because that was their function prior to an official zoning administrator; and the reference to a “kennel license” may be indicating the need for a business license, which is a function of the Morgan County Clerk, not the Planning Commission or Zoning Administrator. Regardless, the provisions of Title 5 and Title 8 should be rectified to eliminate dissonance.

Given that agricultural animal units are defined and permitted in the rural residential zones, the Planning Commission may desire to permit kennels in the RR-1 zone as long as adequate standards for approval are applied to each request. If this is the case, the Planning Commission may want to consider changing the use of a kennel in the MU-160, A-20, RR-10, and RR-5 zones from a conditional use to a permitted use, and apply general standards for approval.

**Sheriff’s Comments:** The Sheriff’s Department has identified four source issues that are the root of animal control issues in the County.

1. Noise: Dogs tend to bark in a repetitive and annoying manner that can be detrimental to the quiet enjoyment of surrounding land uses.
2. Running at large: Animals that are not properly restrained or detained cause a burden on other property owners, which causes additional burden on animal control.
3. Odor: Animals produce odor that can be detrimental to the enjoyment of surrounding properties. The concentration of animal fecal matter can greatly affect this.
4. Animal neglect: improper treatment of animals imposes an obligation for County resources to

alleviate the problem.

All of these issues are currently regulated by MCC 5-5-4 (attached). The Sheriff further indicated that he feels the current allowance of only two dogs without a kennel permit is too restrictive throughout the County, and is placing an undue burden on enforcement, as there are many pet owners who have more. He recommends changing the requirement for getting a kennel permit from three or more to four or more dogs, and allowing them to occur in the RR-1 zone.

**Staff Comments:** This is a very simple request that has brought to light many issues in our code. Additional parameters for kennel permitting may provide a more proactive and objective approach to those issues that the Sheriff has identified, as well as the issues that the County Council experienced with the last kennel conditional use permit. Specific kennel standards can be used as a tool to help reduce each, but providing standards sufficient to alleviate these issues is another problem in and of itself. Additional standards will lead to the need for additional application review time, additional review personnel, and additional enforcement tools and people. There is also an issue with providing each of these reviewers with adequate kennel and animal control training to provide a fair and objective review. If the Planning Commission desires to permit kennels in any zone, then there should not only be adequate standards to apply to them, but also adequate County resources to administer them.

Another question the Planning Commission may ask is who should be in charge of kennel licensing. Should this be a responsibility for planning and zoning, should it be strictly animal control, should it be a function of business licensing, or should it be a hybrid between various departments? MCC 5-5-6(C) makes it appear that the Sheriff's Department currently issues kennel licenses for commercial kennels upon approval from Planning Administration, in a manner similar to the County's current business licensure process. But by allowing kennels in certain non-commercial zones, as MCC 8-5A-3 does, kennel permitting becomes an administrative land use function of the County Council, upon recommendation from the Planning Commission. Currently, it appears that the Sheriff's Department is allowing the Council to make that determination for initial kennel licensure, and then administering annual license renewals thereafter.

In summation, kennel permitting/licensing requirements are unclear. There are not objective evaluative criteria, there is not a clear process, and there is not a clear line of authority from which a kennel permit request may be evaluated. If the County could rectify all of these issues, there is still the issue of allocating County resources for kennel permit administration. If the Planning Commission chooses to provide a positive recommendation for this request, possible solutions to all of these issues should be considered.

**Text Amendment:** A text amendment is a *legislative* action. The Planning Commission may choose to recommend approval, denial, or table for further discussion. The Planning Commission may act on this request as proposed, direct staff and the Sheriff's department to conduct further study on the matter, or deny the request. If the Planning Commission chooses to act on the proposed text amendment its results would be indicated in the following table. The text with red strikeouts is proposed to be eliminated, and the text with blue underline is proposed to be added:

### **8-5A-3: USE REGULATIONS:**

MU-160 F-1 A-20 RR-10 RR-5 RR-1

Household pets	P	P	P	P	P	P
Kennel	C	-	C	C	C	<del>P</del>
Mine, quarry, gravel pit, rock crusher, concrete batching plant or asphalt plant, oil and gas wells, steam wells, test borings for exploration, etc.	C	C	C	-	-	-

**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:

**8-3-4: PROCEDURES FOR AMENDMENTS AND REZONINGS:**

- A. *Governing Body: The governing body may amend this title pursuant to subsection 8-3-2C of this chapter.*
- B. *Residents and Interested Persons: Any resident or other person having an equitable interest in the county may petition the county for an amendment or rezoning.*
- C. *Application: The person seeking to amend this title or zoning map shall make application for such amendment by taking required actions and filing the following information and documents with the planning commission:*
  - 1. *A written application describing the change desired and the reasons therefore;*
  - 2. *A nonreturnable amendment application fee;*
  - ...
- E. *Planning Commission Review: The planning commission shall review the application and make its recommendations concerning the proposed amendment to the governing body within thirty (30) days from receipt of the amendment application in a regularly scheduled meeting. The planning commission shall recommend adoption of a proposed amendment only when the following findings are made:*
  - 1. *The proposed amendment is in accordance with the comprehensive general plan, goals and policies of the county.*
  - 2. *Changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes stated in this title.*

**NOTICING**

The requested change has been noticed in accordance with County and State law as a code text amendment to Morgan County Code 8-5A, and possibly 5-5, 8-2, and 8-6.

## **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 amendments regarding kennel provisions in the Morgan County Code, application 11.003, based on the findings presented in the Staff report dated March 1, 2011.”

1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation for the proposed land use regulations text amendments regarding kennel provisions in the Morgan County Code, application 11.003, based on the following findings.”

1. List any additional findings...

## **SUPPORTING INFORMATION**

Applicants Letter

Staff reports for 2009 text amendment – CC and PC

Minutes for 2009 text amendment – CC and PC

MCC 5-5-4: Keeping Animals; Regulations and Requirements

MCC 5-5-6: Kennels, Pet Grooming Shops, Pet Shops, Pet Hospitals

**Exhibit B – Agenda item # 8 - Public Hearing/Discussion/Decision: To amend sections 8-5, 8-2, and/or 8-6 of the Morgan County Code to allow for the ability to build a residential structure or main building on any portion of a lot that is split by zoning designations.**

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**Planning and Development Services**

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

**STAFF REPORT**

11 March 2011

**To:** Morgan County Planning Commission  
Business Date: 17 March 2011

**From:** Grant Crowell, AICP  
Planning and Development Services Director

**Re: Text Amendment to the Morgan County Code**

Application No.: 11.010

Applicant: Dean and Linda Carver

Request: To amend Morgan County Code by creating a new Section 8-5-6 and amending table 8-5A-4, regarding lots located in two or more zoning districts and clarify the area requirements in the RR-1 zone.

**SUMMARY & BACKGROUND**

Throughout Morgan County, many properties are located within two or more zoning districts. The historical Morgan Valley Loop of Morgan Valley Drive and Old Highway Road, for example, is primarily Rural Residential zoning (RR-1), with A-20, Agricultural, zoning in the rear of the property, approximately 300 feet from the center line of the roads. This is a prevalent condition throughout the County, and the standards of each zone impact the location of building pads for dwellings and other main uses.

The inclusion of the “or 60 acres” minimum lot area in the RR-1 zoning area regulations table appears to be a mistake.

**PROPOSAL**

Having found themselves one of the myriad property owners with split zoning, the Carvers are proposing the following amendments to the Morgan County Code to address the situation throughout the County:

**Addition of New Section 8-5-6**

**Option 1**

**8-5-6: LOTS LOCATED IN TWO OR MORE ZONING DISTRICTS:**

If a lot is located within the boundaries of two or more zoning districts, then the area, height, coverage, width and frontage regulations applicable to such lot shall be the regulations applicable to the zoning district requiring the smallest minimum lot area; provided, however, in no event shall there be located on such lot more than one dwelling structure or other main building. From and after the construction of a dwelling structure or other main building on any such lot, the lot may not be further subdivided unless, upon such subdivision: (a) the existing dwelling structure or other main building are located on a lot meeting the area, height, coverage, width and frontage regulations applicable in the zoning district requiring the smallest minimum lot area, (b) any additional lot created upon such subdivision meets the requirements of the zoning district requiring the largest minimum lot area within which any portion of such lot is located, and (c) the proposed subdivision otherwise meets all other applicable land use and subdivision regulations.

**Option 2**

If a lot permitting residential uses is located within the boundaries of two or more zoning districts, then a dwelling structure may be located anywhere on such lot and the area, height, coverage, width and frontage regulations applicable to such lot shall be the regulations applicable to the zoning district requiring the smallest minimum lot area. In no event shall there be located on such lot more than one dwelling structure. From and after the construction of a dwelling structure on any such lot, the lot may not be further subdivided except in accordance with all then applicable land use and subdivision regulations.

**Clarification of 8-5A-4**

Eliminate “or 60 acres” from the last column under RR-1 so as to clarify that the minimum lot area in acres in the RR-1 zoning district is 1 acre.

**8-5A-4: AREA REGULATIONS:**

	Districts					
	MU-160	F-1	A-20	RR-10	RR-5	RR-1
The minimum lot area in acres for any main use in the districts regulated by this article shall be:	160	1/4 section	20	10	5	1 <del>or 60</del> acres

**ANALYSIS**

**General Plan.** The Morgan County General Plan does not address specifically the administration of lots with split zoning. In fact, by designating future preferred zoning boundaries, it may continue to promulgate this situation. The General Plan discusses many goals and objectives for development such as: provide flexibility to respond to market changes; protect Morgan County’s agricultural heritage; limit impacts of development as it pertains to natural resources and agricultural operations; adopt new regulations for flexible subdivisions; provide flexibility in lot sizes and encourage better subdivision design; and discourage residential rezoning in agricultural areas remote from village centers and other identified growth areas.

This proposal would allow a property owner to locate a home where they see fit, based on their personal preferences, the topography and site specific conditions and restrictions, without rezoning property. It would also clarify the zoning administration of this prevalent site condition throughout the County. The base density allowed is based on mapped zoning district boundaries, so the theoretical base density for development should not change with this proposal. It is difficult to say definitively if the new requirement, applied County-wide, would result in additional homes or be neutral. Some creative designs may be figured out to allow an additional home in some locations, but the basic lot area requirements determines the County-wide home potential, and is not changed.

Addressing assumptions about home location may affect the perception of the public in some geographic locations within the County – if they believed that a home could not be put back further on a property than 300 feet - but the idea of where a home is allowed in a split zoning scenario has not been administered consistently for years. While the current zoning administrator believes that the County Code is clear in that main uses and dwellings need to meet the minimum area of the zone in the actual proposed location of the structure, Staff is aware of several subdivisions in various areas of the County where this has been allowed alternatively by previous administrations. Some of these subdivisions went as far as amending zoning setbacks of other zones by notes on the recorded plat, and homes have been constructed in A-20 zones without 20 acres where the RR-1 zone was used for the basis of subdivision approval. Addressing this code proposal will perhaps once and for all bring clarity to this issue.

**Land Use Ordinance Proposal.** Of the two options presented by the applicant, Staff recommends option two for further consideration. It is simple and to the point, and does not create a complicated exception scenario, which needs to have accompanying illustrations created. Option two is clear in all but the setback requirements. Staff recommends that option two be amended to clarify setbacks as shown below:

#### **Option 2**

If a lot permitting residential uses is located within the boundaries of two or more zoning districts, then a dwelling structure may be located anywhere on such lot and the area, height, coverage, width and frontage regulations applicable to such lot shall be the regulations applicable to the zoning district requiring the smallest minimum lot area. [Yard and setback requirements shall be administered based on the zoning district in which the structure is located.](#) In no event shall there be located on such lot more than one dwelling structure. From and after the construction of a dwelling structure on any such lot, the lot may not be further subdivided except in accordance with all then applicable land use and subdivision regulations.

Staff also recommends the changes in the area requirements table (8-5A-4) to remove the “or 60 acres” requirement in the RR-1 zone, as we believe that is an inadvertent mistake that was placed in the code during codification and is not in accordance with the standards, goals, and objectives of the RR-1 zone.

**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 lots located in two or more zoning districts and area standards in the RR-1 zone, application 11.010, as recommended in Staff's Exhibit A, and based on the following findings:

1. That the amendments are necessary to clarify ambiguity regarding zoning administration in properties that are located within two or more zoning districts and to remove an erroneous reference in the area regulations table for RR-1.
2. That the amendments will not negatively affect the integrity of the single family character of the County's rural residential areas.
3. That no zoning designations are being changed with this proposal
4. That the lot area or subdivision requirements are not being modified.
5. That the amendments conform to the recommendations of the County General Plan to create more flexible lot standards.
6. 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 amendments regarding lots located in two or more zoning districts and area standards in the RR-1 zone, application 11.010, based on the findings presented in the Staff report dated March 11, 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 lots located in two or more zoning districts and area standards in the RR-1 zone, application 11.010, based on the following findings:"

1. List any additional findings...

**Staff Recommendation Exhibit 'A'**

Add new Morgan County Code Section 8-5-6, as follows:

If a lot permitting residential uses is located within the boundaries of two or more zoning districts, then a dwelling structure may be located anywhere on such lot and the area, height, coverage, width and frontage regulations applicable to such lot shall be the regulations applicable to the zoning district requiring the smallest minimum lot area. Yard and setback requirements shall be administered based on the zoning district in which the structure is located. In no event shall there be located on such lot more than one dwelling structure. From and after the construction of a dwelling structure on any such lot, the lot may not be further subdivided except in accordance with all then applicable land use and subdivision regulations.

AND

Modify Table 8-5A-4 as follows:

**8-5A-4: AREA REGULATIONS:**

	Districts					
	MU-160	F-1	A-20	RR-10	RR-5	RR-1
The minimum lot area in acres for any main use in the districts regulated by this article shall be:	160	1/4 section	20	10	5	1 <del>or 60</del> acres

**Exhibit C – Agenda item #9 - Discussion/Decision: Snelson Temporary Use Permit Request for approval of a Construction Office and Equipment Shed in the CD zone, located at approximately 5031 W Old Hwy Rd.**

**STAFF REPORT**

March 1, 2011

**To:** Morgan County Planning Commission  
Business Date: March 17, 2011

**Prepared By:** Charles Ewert, Planner

**Re:** Temporary Use Permit for Construction Office and Equipment Sheds

Application No.: 11.009  
Applicant: Snelson Companies, Inc/Soderby (Property Owners)  
Project Location: Approximately 5031 W Old Highway Road  
Zoning: Central Development (CD) Zone  
Acreage: Approximately 13.69 Acres  
Request: Temporary Use Permit Request for approval of a Construction Office and Equipment Sheds in the CD zone.

**SUMMARY**

This request is for a temporary use permit for a construction office and equipment buildings. The applicants have been contracted by Questar Gas to work on their ongoing pipeline update project. The pipeline is being updated in the Mountain Green area, the Peterson area, and in the Henefer area of Summit County. The site will be used for a contractor's office, and will be the main location from which business will be located for the duration of the pipeline construction (no more than one year).

The property is located between the Nyes Glass Building and First Bank in the Mountain Green area. The County has been given verification of consent by the landowner. The use is listed as requiring a temporary use permit in all zones, and there are specific standards that must be adhered to. The County can also add standards that are reasonably necessary to mitigate harmful impact to the public.

**ANALYSIS**

Zoning. The ordinance defines requirements and standards for this type of request. They are listed below. The italicized text is ordinance, and the non-italicized text are Staff comments.

Pursuant to Morgan County Code (MCC) 8-6-16(B), the request is permitted in all zones as a temporary use, and requires a temporary use permit.

*B. Temporary Use Permit Required: A temporary use permit shall be required for the following:*

...

*3. Construction office and equipment sheds; permitted in all zones.*

Pursuant to MCC 8-6-16 (A), the purpose and intent of the temporary use ordinance is identified as follows:

*The purpose and intent of the temporary use permit is to allow within the county certain uses which are transitory in nature, as either accessory or seasonal uses, in a manner that will assure compatibility with the zone district and adjacent properties. See also definition of "temporary uses", defined in section 8-2-1 of this title.*

Pursuant to MCC 8-2-1 defines a temporary use as:

***TEMPORARY USE:*** *Any use of land which, in the determination of the planning commission, and approved by the governing body, shall not extend beyond two (2) years from inception of such land use. A determination as to whether or not a land use is temporary shall be based solely upon facts submitted to the planning commission at the time of application for a conditional use permit for a temporary use. Unless found to be temporary, any use of the land shall be presumed to be permanent. Such uses include construction facilities, emergency facilities as well as interim uses of land and buildings awaiting ultimate use, i.e., pasture for a few months before construction begins, a carnival, fair, sports field, staging area, etc. Temporary uses are exempt from a conditional use permit.*

This reference specifies that the County Council is the Land Use Authority for this request. It further identifies that this type of request is exempt from the conditional use permit requirements of MCC 8-8.

Process. The ordinance gives a specific process from which temporary uses may be evaluated. MCC 8-6-16(C) states the following:

*Application For Temporary Use Permit: An application for a temporary use permit shall be made to the planning department at least fifteen (15) days prior to the date of requested review by the planning commission. The planning commission may deny an application or issue a temporary use permit. In authorizing a temporary use, the planning commission shall impose such requirements and conditions as considered necessary for the protection of adjacent properties and the public welfare in conformance with standards as provided in this section.*

There are some obvious conflicts between who this ordinance delegates as the Land Use Authority for temporary use decisions and who MCC 8-2-1 delegates. Because MCC 8-2-1 gives authority to the County Council, staff recommends that the Planning Commission review the request, and offer the Council a recommendation.

Standards. MCC 8-6-16(C) enables the County to impose additional conditions on a temporary use permit beyond the listed standards. Pursuant to 8-6-16(G), those standards are as follows, with staff comments below each:

1. *Acceptable space shall be available for any off street parking and traffic circulation generated by the use.*

The applicants indicate that they will need parking for approximately 80 employees. The parking area proposed on the site is sufficient to hold 80 vehicles, but may require some land clearing. Staff recommends the parking area be covered with compacted road base.

The applicants also propose to locate an unspecified number of pickup trucks, one ton flatbed trucks, tractor-

trailers, fuel trucks, and mechanic trucks on the site. There are also various construction vehicles, such as bulldozers, backhoes, and side-booms that will be stored onsite. The site plan delineates a "lay down area for these vehicles. Without a specific number of vehicles that will be stored onsite, staff recommends limiting the number to an amount that can reasonably fit within the designated parking area on the site.

- 2. Sanitary facilities shall be available for waste disposal for protection of community health and safety, as approved by the county and the county health department.*

There are portable restrooms proposed to be located on the site; two near the construction office, three near the parking area, and two behind van trailers. Staff recommends requiring these facilities to be obscured from the public right of way behind the contractor's office. Staff further recommends that effluent be removed from these facilities on a regular basis so as not to emit odor onto surrounding properties.

- 3. Night lighting shall be compatible with adjacent uses.*

There is one porch light proposed to be located on the contractor's trailer. Such lighting should be of design and wattage output so as not to emit more light than that of a traditional residential porch light, and it should be shielded and downward facing so as not to directly emit light onto surrounding properties. The applicants may desire to also install streetlights near the van trailers on the site for protection and safety of equipment and employees. Such lighting should be designed to be compatible with the lighting of the surrounding commercial uses, and not emit light directly onto adjacent properties.

- 4. Hours of operation shall be compatible with adjacent uses.*

Activity onsite is proposed to begin at 6:00 am and end at 6:00 pm. It is proposed to occur six days a week. Employees will arrive onsite prior to 7:00 am, then leave the site shortly thereafter with the equipment and supplies necessary for work at the actual construction site for that day.

- 5. Only wall signs will be allowed and must be approved by staff.*

No signs are being proposed. If the applicant desires to locate a sign onsite, it will need to conform to the signage requirements of MCC 8-10.

- 6. No use shall be placed in the public right of way; display areas shall be limited and applications shall comply with the regulations of the business licensing department.*

There is no proposal to use the right of way, or for any type of display area. The applicants have provided the Clerk's office with verification of a business license for Snelson Companies Inc. The Clerk's Office is satisfied that business licensing requirements have been met.

Access. The applicant proposes to access the site from Old Highway Road. They will need to construct a driveway approach from Old Highway Road to the parking and lay down areas. Specific construction drawings have not been submitted for a drive approach, but it should be designed and compacted in a manner that can be approved by the County Engineer. Specific plans should be presented and approved by the County Engineer prior to the commencement of work on the site. The drive approach should be installed prior to any other activity on the site.

Expiration. Pursuant to MCC 8-6-16(E) specifies that the duration for a temporary use permit for a contractor's office is limited to one year.

Bond. MCC 8-6-16 requires a \$1,000 cash bond for this type of temporary use permit. The bond should be secured to ensure the cleanup and restoration of the land at the end of the permit's allowed timeframe.

Noticing. Pursuant to Morgan County Code, a temporary use permit does not have specific public notice or hearing requirements. The meeting agenda with this item on it has been noticed in accordance with State and County law.

### **STAFF RECOMMENDATION**

Staff recommends approval of the Temporary Use Permit Request of a Construction Office and Equipment Sheds in the CD zone, based on the following conditions and findings:

1. That approval shall be based on the site plan submitted February 15, 2011, and as specified in conditions herein.
2. That the parking area on site for employees be covered with compacted road base, and shall be limited to the designated parking area as delineated on the site plan.
3. That the number of parking spaces on the site for construction and maintenance vehicles shall be limited to the area delineated as "lay down area" on the site plan.
4. That the parking area will be provided with a clean off area such that no vehicles will track mud, dirt, or debris into the public right of way. The County may impose a street sweeping requirement on the applicant, at the applicant's expense, if there is mud, dirt, or debris tracked into the public right of way from the site.
5. That an access approach to Old Highway Road shall be designed to specifications as approved by the County Engineer, and installed prior to any other activity on the site.
6. That portable restroom facilities shall be obscured from the public right of way behind the contractor's office.
7. That effluent shall be removed from these facilities on a regular basis so as not to emit odor onto surrounding properties.
8. That the lighting for the contractor's trailer shall be of design and wattage output so as not to emit more light than that of a traditional residential porch light.
9. That the lighting for the van trailers shall be designed to be compatible with the lighting of the surrounding commercial uses. It shall be shielded and directional, and not emit light directly onto adjacent properties.
10. Hours of operation shall be limited to 6:00 am to 6:00 pm.
11. That a \$1,000.00 cash bond be deposited with the County treasures office for assurance of cleanup and restoration of the site back to current conditions, in a manner acceptable to the Zoning Administrator, along with an executed performance agreement.

This recommendation is based on the following findings:

6. That County ordinance administratively provides for temporary use permits.
7. That surfacing the parking area with compacted road base will provide a cleaner parking area

- that will help mitigate the tracking of mud, dirt and debris into the public right of way.
8. That requiring street sweeping will also help mitigate the tracking of mud, dirt and debris into the public right of way.
  9. That the removal of effluent from the site on a regular basis and the regulations for lighting will protect surrounding property owners from the nuisance of odors and light disrupting the peaceful enjoyment of property.
  10. That a cash bond is necessary to ensure that the site returns to an acceptable state after the temporary use is terminated.

### **MODEL MOTION**

Sample Motion for a *Positive* Recommendation – “I move we forward a positive recommendation to the County Council for the Temporary Use Permit Request of a Construction Office and Equipment Sheds in the CD zone., application #11.009, based on the findings and conditions listed in the Staff Report dated March 1, 2011, and as modified by the conditions below:”

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 Temporary Use Permit Request of a Construction Office and Equipment Sheds in the CD zone., application #11.009, based on the following findings:”

1. List any additional findings...

### **SUPPORTING DOCUMENTS**

- Application
- Site Plan

**Exhibit D – Agenda item #10 - Discussions: Amendment of Planning Commission By-Laws  
DRAFT**

**This exhibit is not available online but is available with the official recorded minutes in the County Clerk's Office.**

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