



PLANNING COMMISSION AGENDA

Thursday, May 26, 2011

Morgan County Council Room

6:30 PM

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

1. Call to order – prayer.
 2. Approval of agenda.
 3. Declaration of conflicts of interest.
 4. Approval of minutes April 14, 2011 and May 12, 2011.
 5. Public Hearing/Discussion/Decision Brice and Heidi Anderson, rezone approximately 3.07 acres located at approximately 2635 West Old Highway Road from A-20 and RR-1 to R1-20.
 6. Public Hearing/Discussion/Decision: To amend portions of sections 8-2, 8-5A, and 8-6 of the Morgan County Code pertaining to County fairgrounds uses.
 7. Discussion regarding General Plan implementation pertaining to flexible subdivision types, options, and concerns.
 8. Staff Reports.
 9. Adjourn.
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**MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY April 14, 2011 – 6:30 P.M.**

MEMBERS PRESENT

Trevor Kobe, Chairman
Brandon Anderson
Darrell Erickson
Alvin Lundgren
Chris Hales

STAFF PRESENT

Grant Crowell, Director
Teresa Rhodes, Planning Commission Assistant

MEMBERS ABSENT

Roland Haslam
Adam Toone

COUNTY COUNCIL PRESENT

Tina Kelly
Howard Hansen
Ned Mecham

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

1. Call to order – prayer.

The prayer was offered by Member Lundgren.

2. Approval of agenda.

Member Lundgren moved to approve the agenda as typed. Second by Member Anderson. The vote was unanimous. The motion carried.

3. Declaration of conflicts of interest.

There were no conflicts of interest declared.

4. Approval of minutes April 14, 2011 and May 12, 2011.

Member Erickson moved to approve the minutes of April 14, 2011 with the noted minor corrections. Second by Member Anderson. The vote was unanimous. The motion carried.

Member Erickson moved to approve the minutes of May 12, 2011 with the noted minor corrections. Second by Member Hales. The vote was unanimous with Member Lundgren abstaining because he was not present. The motion carried.

5. **Public Hearing/Discussion/Decision Brice and Heidi Anderson, rezone approximately 3.07 acres located at approximately 2635 West Old Highway Road from A-20 and RR-1 to R1-20.**

Applicant presentation:

Brice and Heidi Anderson, applicant

- Will be re-locating as part of Mr. Anderson's job, but would like to have this property when they come back.
- They would like to sell the home that is on the three acre parcel and then take part of the land, divide it off and build a home on it when they return.
- There are others, in the area, along Old Highway that have done similar things with their property.
- Requesting to re-zone because of frontage requirements of the parcel. They have 296 and they need 200 for 1 acre and 100 for ½ acre. Re-zoning it to ½ acre they would be able to build on the two acre parcel.
- They have done some research in the area within 1000 feet and have found there are 17 lots under one acre so they would have to be zone ½ acre for that to happen; it is very common in the area.

Mr. Crowell presented Charlie Ewert's staff report (please see attached exhibit A)

- This application requires the Planning Commission's recommendation. However, this is a legislative decision and will be decided by the County Council.

Member Lundgren moved to open a public hearing for Brice and Heidi Anderson. Second by Member Erickson. The vote was unanimous. The motion carried.

David Potter – His property adjoins property on the back side of proposed re-zone. Very concerned, at the present time and in the present state, about the following:

- Spring Hollow road does not line up with the access road that goes down through Bill Mortensen's who has the property immediately adjacent to the property.
 - Pie shaped piece of property is a very big concern to this project. The Winn family has been paying taxes on this for quite some time.
 - Bill Mortensen has the roadway and next to the fence is Spring Hollow ditch that has plugged up the culvert that runs under Old Highway three times this year. The County has cleaned it out once; he has cleaned it out twice. It runs down the fence line and parallels and goes into their property where it goes into a pipe and goes down to the Stoddard/Enterprise ditch. Could be a real situation if someone were to build a house in that area; it could cause a lot of damage.
 - Going further towards church, the Potter Ranches have a 25' right of way. Deeded in 1968. Part of this goes through the corner of the pie shaped piece of property.
 - The applicant seems to have a good workable plan but they already said that they may have to leave the area and may have to do it again. Should this be rezoned there could be the possibility that there may be six homes in the area.
 - The alluvial flow out of Spring Hollow is basically cobble rock. All of the water runs in the direction of the river. This aquifer would head that direction to the river. It is a short
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distance from the house to the fence. It is an even shorter distance from the fence on Potter Ranches until it drops off nearly 20 feet.

- If there were an allowed five more homes this would put sewage on their roadway going in.
- Mentioned that there are 17 houses in the area that don't have sufficient lot sizes for the one acre zoning, these are grandfathered and listed as non-compliance lots.
- Believe it would be foolish to create a health hazard on a geologic area that would not be suitable on something like this without someone looking at it and making a wise decision on it.

Debbie Sessions –

- Believes an appropriate place for a re-zone. All concerns of Mr. Potter will be addressed at the sub-division level.
- The Enterprise area has a good area plan in place.

Teresa Rhodes noted there had been three letters submitted regarding this application. All Members had been e-mailed those letters (Please see attached letters)

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

Member Lundgren – Asked the applicant why they would like to rezone the property now if they are planning to leave. Brian Anderson noted, due to economic times, their intent is to sub-divide the property into two lots, sell the existing home because they would not be living in it, and then they could have the lot for when they come back.

Member Erickson – referenced exhibit C in the staff report that shows the difference between the various zoning and uses. He asked about conditional uses that could occur on the property. Mr. Crowell noted that the subdivision is just a division of land. If someone wanted to do something on the property they would need to apply separately for a conditional use. He noted there are less total uses allowed in the R1-20. It is a more restrictive zone as far as uses and a less restrictive zone as far as minimum lot sizes and frontages. It is geared toward housing, development, and smaller lots. Whatever is allowed on one lot there would be a potential for more of that with more lots.

Chairman Kobe – Asked about timing. If the center isn't filled in, from a good development perspective, do we try to re-zone things in any kind of center out pattern or because the future land use maps shows how things should be re-zoned, if someone comes in and wants to re-zone to RR-5 do we pocket re-zone as people request. Mr. Crowell noted the area plan is an appendix to the general plan. There has been a presumption that there have been some thought previously on these issues. Work has been done by the County Council and appointed advisors but that does not mean staff and planning commission should not go out and take a look at the proposed property. With regard to timing, it is feasible to assume that this area could eventually be served by a public water system and a septic system could be possible; these are subdivision questions.

The Enterprise area plan is recent work that has been debated. It has the village parameter, the map is complete, and it should probably tell a story. Utilities will always dictate some sequencing, but

what is for sale will also dictate some sequencing. Things may not always fill in a lineal pattern. If you say you have to start here before you get there; that is somewhat of a growth boundary scenario. It is a big model in Oregon where you can't get to the outside until you fill in first; it creates a struggle. If you take up to the 30,000 square foot level what you have said is, "We are developing Enterprise before we are developing the land between Enterprise and Peterson". It depends on the scale.

Member Erickson – are we restricted to having restrictions to what we approve? Mr. Crowell noted that conditional zoning has been discouraged by the County Attorney and the Property Rights Ombudsman in some specific cases as they have applied to our County. As was discussed with the Carver zoning, that was a concern. If we re-zone to RR-1 could there be another lot. He believed there is a mechanism where an applicant could work with a legislative body to volunteer into a development agreement that applies to a piece of land and make some restrictions under the zoning; it is a little complicated. He noted he is not going to recommend to the County Council or the Planning Commission that the County has 100 different development agreements on properties throughout the county because we have to track them all; but it is an option we may need to discuss. However, to just say you're going to re-zone to R1-20 with the condition that the applicant only do one lot that has been discouraged.

Member Lundgren moved to forward a positive recommendation to the County Council for the Brice and Heidi Anderson, rezone, approximately 3.07 acres located at approximately 2635 West Old Highway Road application #11.026, re-zoning approximately 3.07 acres of property from RR-1/A-20 to R1-20, based upon the following findings listed in the staff report dated May 18, 2011:

- 1. That the proposed amendment is in accord with the County's General Plan.**
- 2. That the future land use map recommends a change in land use for this area of the County, which merits the changed or changing conditions as required by ordinance.**
- 3. That the changing conditions promote land uses for the purpose of providing low density, single-family residential neighborhoods of spacious and un-crowded character.**
- 4. That allowing the rezone will provide the property owners their desired use of the land.**
- 5. That this zoning does not constitute subdivision approval.**

And based on the following condition:

- 1. that the applicants enter into a development agreement with the County Council restricting development on the future use of that property to no more than two residential dwellings.**

Chairman called for discussion:

Member Lundgren noted he was really impressed with the thought that the Anderson's put into their reason for doing their re-zoning now. He noted he would have probably voted no if they were going to come pack in 8 -15 years and then maybe not ever come back because no one has a crystal ball. Based upon their representation that their intent is only to build one additional home and that the only means that they can make this feasible is by selling the existing home, I think the planning

commission provide a very equitable solution to their future plans for the property without burdening the area with more home than perhaps the neighboring property owners would like to see. A conditional re-zone is a balancing of equities. The County is protected and their future use of the, as they have expressed a desire, is guaranteed and it is financially feasible for them at this time.

Member Hales had no comment other than what Member Lundgren had stated.

Member Anderson – disagreed. He believes that we are going down the road of conditional zoning and he does not believe the County wants to go there. If the County is going to restrict the zoning on that property, when it has already been identified in the general plan that it is a low density area, then it will make a mess. His recommendation would be that we allow the zone change and when the applicant comes forward with subdivision plans then we address the items that Mr. Potter is concerned with and the conditions are done at the subdivision level and not the rezone level.

Member Erickson also agreed with Member Anderson view. Believed all of the conditions should happen later when the correct application comes in and then you do the evaluation.

Chairman Kobe – Asked if the hesitation people may feel is timing. They agree that maybe it is going to be denser in the future, but maybe not now is the time. This could be sold the day after it is re-zoned to someone who wants to try and develop six homes there. Member Anderson noted it could be but he did not believe the Planning Commission could restrict a land owner rights in that way.

Member Lundgren – Noted he respects Member Anderson’s concern and understands the background from which it comes; he just has a different opinion. He likes conditional zoning because it is well exemplified by the awkward situation the Anderson’s are in. Their intent is now and the desire for the property is to have two homes on the property but because they do not have sufficient frontage, they are restricted from doing that. Because of the inequities and the lack of flexibility in our own zoning ordinance they are forced to go into a situation that causes all of us just a little bit of concern where we are very comfortable as a group to have two homes on the lot we are not so comfortable tonight having six homes on the lot. Conditional zoning allows for some flexibility to meet the needs, the wants, and the desire of the property owner for future use and development and solving problems such as what we have. It is a philosophical point of view. He noted the Planning Commission has received four objections tonight (three letters and Mr. Potter) and they are all saying they don’t want high density in this location but they are ok with two homes. Mr. Potter did articulate several problems but he would speculate that most of those problems could be fairly easily dealt with for a two lot subdivision. With a six home subdivision they are magnified five times. Again, it is a philosophical point of view.

Chairman Kobe noted his thoughts are also that the objections people have had is not the plan of two homes, the question and concern is the “What if” scenario if this is re-zoned and then you wind up with more than two homes. He would like to refer to agenda item #7. He noted this is a really good segway into what we are talking about with flexible subdivisions. He believed there are a lot of times when there are members of the community, who because of topography, shape of land, or frontage, are not desiring to put in zoning that allows for that kind of density but they want the

flexibility to say it is a one acre lot that we desire but the code is so ridged that it is forcing that. If there was a flexible way to allow one home most people would prefer that. Mr. Crowell noted what they really need is a flag lot but those are very controversy.

Member Anderson agreed with the comments that have been made by the Members and see the concerns of those in the community but he does not think those concerns are addressed at the re-zone level. He believed the County opens itself up to potential problems and lawsuits if we voice our opinion that we want to stop this subdivision because of our worries over subdivision type rules when we are not at the subdivision level.

Member Erickson noted he believed we should not be looking into the future; things happen in life. A year from now if something happens and they really don't want to do that anymore but the county has restricted them and they don't have property right because all they can do is the one thing. Give them the oppportunity to do what they want to do but do not mandate that in the approval.

Member Lundgren noted nothing in the future would preclude the Anderson's from coming back and saying things have changed and request the restriction be removed; that is certainly something the County could take a look at in the future. It is not something cast in concrete, but it gives the County initial protection at this time, which is they proceed with their plans they will have their two lot subdivision and the County won't have to worry about a six lot subdivision.

Member Anderson stated if we are worrying about things that have not happened yet, maybe he should ask the color of shingles on the home they plan to build because he might be opposed to the color. If there are concerns that need to be addressed in the subdivision level then address them there, not here at the re-zone level.

Chairman Kobe – He noted he feels a little constrained because agenda item #7, flexible subdivisions, has not been addressed yet. He believed if the County had the flexible option right now the applicant would not even be before them tonight.

Chairman Kobe called for a vote on the motion and second.

The vote was not unanimous with Members Hales, Lundgren, and Chairman Kobe for. Members Anderson and Erickson against. The motion carried with a vote of three to two.

6. Public Hearing/Discussion/Decision: To amend portions of sections 8-2, 8-5A, and 8-6 of the Morgan County Code pertaining to County fairgrounds uses.

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

Member Lundgren asked why paragraph D Site Plan review was deleted. Mr. Crowell noted because most of the special events and use at the fairgrounds never had any requirement for site plan review or either it's in conjunction with the fair. If someone enters into a lease agreement the County Council holds the authority to negotiate however they see fit on the exhibits for their lease. They can determine whether they want a detailed site plan review and what it entails as part of the

lease negotiations. Third, we have no actual standards for site plan review. He further noted site plan standards should probably be looked at for future commercial development.

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

Debbie Sessions – Noted some punctuation be added for clarity.

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

Member Erickson moved to recommends that the Planning Commission forward a positive recommendation to the County Council for the proposed land use regulations text amendments regarding County fairgrounds uses, application 11.029, based on the following findings in the staff report dated May 19, 2011:

- 1. That the amendments are necessary to formally acknowledge the existing historical use of the County fairgrounds.**
- 2. That the amendments are necessary to allow the County Council to maintain flexibility in administering and using the County Fairgrounds facility.**
- 3. That the amendments do not conflict with the County General Plan.**
- 4. That the amendments are not detrimental to the County's health, safety, and welfare.**

Second by Member Anderson.

There was no discussion.

The vote was unanimous. The motion carried.

7. Discussion regarding General Plan implementation pertaining to flexible subdivision types, options, and concerns.

Jim Carter, Logan Simpson Design.

Mr. Carter noted the last time he met the planning commission asked staff for the following:

1. Provide some flexibility in lot standards to allow for small scale subdivisions in residential areas.
2. Provide for more efficient residential uses in agricultural and low density residential areas without requiring a re-zoning of the property.
3. Encourage good subdivision design that accommodates the natural features of the property and provides appropriate amenities for subdivision residents.
4. Avoid the creation of isolated "open spaces" that have little practical use.

The following was discussed in length:

- Flag lots and various scenarios of flexible subdivisions.
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- Trails and open space.
- TDR's
- Ridgeline ordinance.

Mr. Carter believed it was good for a county have a good substantial size subdivision ordinance. Some communities are finding that negotiation is the best tool for dealing with the larger developments. He would recommend looking at all the questions and scenarios to address the downsides and risk and then tackle it to address some level of security and 30 year build out.

8. Staff Reports.

Mr. Crowell noted some ideas from the joint meeting. They were as follows:

- Land use authority.
- Snow Basin
- Temporary uses – conditional use table.
 - Matrix of land use decision. Planning Commission and County Council role.

Snow Basin open houses went well. Approximately 60 attended the open house at Earl's Lodge at Snow Basin. About 50 attended the open house at the County Court House.

Member Anderson asked for clarification under duties of the chairman bullet point I – recognize speakers. Different ways things are being done and believes there needs to be some consistency. In order to follow the by-laws properly he believed there needed to be some clarification.

Chairman Kobe noted he could be as formal or informal as the commission would like.

9. Adjourn.

Member Erickson moved to adjourn. Second by Member Hales. The vote was unanimous.

Exhibit A - Discussion/Decision Brice and Heidi Anderson, rezone approximately 3.07 acres located at approximately 2635 West Old Highway Road from A-20 and RR-1 to R1-20.

STAFF REPORT
May 18, 2011

To: Morgan County Planning Commission
Business Date: May 26, 2011

Prepared By: Charles Ewert, Planner

Re: Rezone Request for Brice and Heidi Anderson

Application No.: 11.026
Applicant: Brice and Heidi Anderson
Project Location: Approximately 2635 W. Old Highway Road
Zoning: RR-1 and A-20
Acreage: Approximately 3.07 Acres
Request: Request for approval to rezone two contiguous properties from RR-1/A-20 to R1-20 in the Enterprise Area.

SUMMARY

The applicants desire to rezone their 3.07 acre property located directly Southwest of the intersection of Spring Hollow Road and Old Highway Road. The property is currently split by the RR-1 (rural residential one acre) and A-20 (agricultural 20 acre) zones, and the request is to rezone the entire property to the R1-20 (residential 20,000 sq ft) zone.

When evaluating rezones the Planning Commission should determine whether the proposal is in accordance with the County's General Plan, and that changed or changing conditions make it reasonably necessary to carry out the purposes of adopted land use regulations. This request is in accordance with the 2010 General Plan and the Future Land Use Map, which designates the property as Village Low Density Residential (which is up to two units per acre).

The applicants have indicated the rezone is for the purpose of developing the property so that another home can be located on it. It is important to note that this request is not a proposal to subdivide the property; that request will come at another time. If granted, this will allow them to propose a development in accordance with the terms of the R1-20 zone rather than the RR-1/A-20 zones. Thus, it is important for the Planning Commission to assess the effect that a R1-20 rezone will have on the property. If the property is rezoned, the owner will be entitled to the full allowances of the new zone.

The Planning Commission should evaluate the differing uses between the RR-1/A-20 zones and the R1-20 zone and how their impact will affect the property. The Planning Commission should have an understanding of how development on the property may impact not only the property, but also the surrounding area. Criterion for this evaluation include: potential density, culinary water resources, sewage disposal, flood hazards, potentially hazardous geologic units, access, fire protection, and topographic features. The property's potential for rezoning should be weighed against the ability to mitigate potential harmful impact of the allowed uses of the proposed zone.

BACKGROUND

The property is comprised of two contiguous parcels, one 2.78 acre parcel, and one 0.32 acre parcel. The 2.78 acre parcel has a home located on it which, according to County tax rolls, was built in 1968. The applicants have recently acquired the property with the hope to add an additional home to the site, which will likely require an approved subdivision plat.

ANALYSIS

Planning Commission Responsibility. Pursuant to Morgan County Code (MCC) 8-3-3, the Planning Commission shall review the [zoning map] amendment application and certify its recommendations concerning the proposed amendment to the governing body within forty five (45) days from receipt of the amendment application in a regularly scheduled meeting. The Planning Commission shall recommend adoption of a proposed amendment only where the following findings are made:

1. The proposed amendment is in accord with the master plan of the county.
2. Changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of [Title 8].

The Planning Commission will find that the request does conform to the 2010 General Plan as shown in Exhibit "A" and further described below. To determine whether the request merits changed or changing conditions that are necessary to carry out the purposes of Title 8, the Planning Commission should address whether there are in fact changed or changing conditions, and determine what relevant *purposes* of Title 8 should be considered. The following information is an analysis of the General Plan and Title 8 that may help the Planning Commission make this determination.

General Plan. The 2010 General Plan, adopted December 21, 2010, establishes a Future Land Use Map for the entire County. The plan outlines the County's desire to locate growth in village centers. This property is located at the center of the Enterprise Village, as identified in the 2007 Enterprise Area Plan. The future land use designation for the property is Village Low Density Residential, which allots a residential density maximum of two units per acre. The request to rezone the property to the R1-20 zone complies with the future land use designation. The R1-20 zone limits the minimum lot size to 20,000 square feet (approximately half acre).

Morgan County Code Title 8 identifies the *purpose* of the General Plan accordingly (8-3-10(A)):

1. The governing body and the Planning Commission shall prepare and adopt a comprehensive general plan for:
 - a. The present and future needs of the county; and
 - b. The growth and development of the land within the county or any part of the county.
 2. The plan may provide for:
 - a. Health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, and recreation, educational and cultural opportunities;
 - b. The reduction of waste of physical, financial or human resources that result from either excessive congestion or excessive scattering of population;
 - c. The efficient and economical use, conservation and production of the supply of food and water, and of drainage, sanitary, and other facilities and resources;
 - d. The use of energy conservation and solar and renewable energy resources;
 - e. The protection of environmental values and open spaces; and
 - f. The protection of urban development.
 3. The governing body and the planning commission may determine the comprehensiveness, extent and format of the general plan.
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Zoning. Currently, the property is split between the RR-1 and A-20 zones (see Exhibit "B"). The *purposes* of the RR-1 zone are to promote and preserve in appropriate areas conditions favorable to large lot family life; to maintain a rural atmosphere; to promote the keeping of limited numbers of animals and fowl; and to promote requirements for public utilities, services and infrastructure. The RR-1 zone is intended to be primarily residential in character and protected from encroachment by commercial and industrial uses.

The *purposes* of the A-20 zone are to promote and preserve in appropriate areas conditions favorable to agriculture and to maintain greenbelt spaces. These districts are intended to include activities normally and necessarily related to the conduct of agriculture and to protect the district from the intrusion of uses inimical to the continuance of agricultural activity.

The *purpose* of the proposed R1-20 zone is to provide areas for very low density, single-family residential neighborhoods of spacious and un-crowded character.

When evaluating a rezone, critical criteria to consider is the potential for land use changes that the proposed zone permits and/or conditionally permits. However unlikely, it is appropriate to evaluate the rezone as if the property is being used to the fullest extent allowable by County land use ordinance. A comparison of the use regulations from MCC 8-5A-3 and MCC 8-5B-3 reveals that uses more incidental to large lot family life and agriculture are more permissive in the RR-1 and A-20 zones than they are in the R1-20 zone. For a more specific review please see review these tables in Exhibit "C."

When evaluating the potential use of the property under the proposed zone, the Planning Commission will find it helpful to assess the potential impact of development. The following eight criteria should be evaluated:

1. Potential density: Assessing the property with a simple density calculation may help the Planning Commission explore the possible density increase that could incur due to the rezone request. If calculated based solely on acreage requirements, a 3.07 acre property could support 6.6 20,000 sq. ft. properties. This density calculation does not assess the need for space for a road system or septic drain fields and well head protection zones, nor does it explore actual lot geometry or financial feasibility of a potential subdivision. It is a simple calculation intended to illustrate a possibility of increased density.
 2. Culinary Water Resources: There is currently a well head and well house on the property that could serve potential development. The health department has specific parameters governing shared water systems. Alternatively, the property is in the Central Enterprise Water coverage area and could propose water services from that system. The property developer will be required to provide that County evidence of proof of water rights and availability prior to developing.
 3. Sewer: Currently the only form of waste water disposal in the Enterprise area is by means of septic system. When the property is further developed, approval of a waste water disposal system will be required by the Weber-Morgan Health Department.
 4. Flood Plain: Spring Hollow Creek runs along the south eastern portion of the property. There is an "A" flood zone buffering the stream. The "A" flood zone denotes areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas, no depths or base flood elevations are shown within these zones. Any proposed development will be required to demonstrate that flood hazards are mitigated. See Exhibit "D."
 5. Geologic Hazards: According to adopted geologic hazards maps there is a potentially hazardous geologic unit on the property. The Qafy geologic unit encumbers the south eastern portion of the lot. A full
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geologic hazards study will be required when the property is further developed, and the developer will be required to demonstrate reasonable safety from geologic issues. See Exhibit "E."

6. Access: The two properties combined have roughly 300 feet of frontage along Old Highway Road. The R1-20 zone requires a minimum of 50 feet of frontage per lot.
7. Fire Protection: The property is not in the Wildland Urban Interface Area, so a specific fire protection plan is not required. When it is developed it will still be required to have certain fire suppression as defined by the subdivision ordinance. See Exhibit "F."
8. Topographic Features: The property is fairly level. It gradually slopes from front to rear and from west to east.

Additional Information. More information to consider is that the property encompasses a portion of original lots from the Enterprise town site, including a possible right of way thoroughfare for Spring Hollow Road, which is now shown as parcel area. This is information more relevant to subdivision application, but may have implication on the impact regarding access to the property located behind this property. More information regarding this will be necessary at subdivision evaluation. See Exhibit "G."

Noticing. The MCC 8-03-3 requires a public hearing for a rezone when the County Council's hears the rezone request. State law 17-27a-205 requires the first public hearing (whatever body is hearing it) to be noticed on the County's website and published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing, and mailed to the property owner affected by the change, as well as adjacent property owners within parameters specified by the county (which is 1000 feet in Morgan County). As part of the application process the applicant was responsible for identifying these property owners and for providing the County with a mailing list. The County sent notices to all individuals on the mailing list.

This public hearing notice was posted at a minimum within the State and County requirements in the following manner:

1. Posted to the County website within 10 days prior to this meeting.
2. Published in the Morgan County News within 10 days prior to this meeting.
3. Mailed to property owners within 1000 feet of the affected property, as identified by the applicant.
4. Mailed to the property owner.
5. Mailed to affected entities
6. Posted in the foyer of the Morgan County Courthouse.

STAFF RECOMMENDATION

Staff recommends approval of the Anderson rezone. This recommendation is based on the following findings:

6. That the proposed amendment is in accord with the County's General Plan.
7. That the future land use map recommends a change in land use for this area of the County, which merits the changed or changing conditions as required by ordinance.
8. That the changing conditions promote land uses for the purpose of providing low density, single-family residential neighborhoods of spacious and un-crowded character.
9. That allowing the rezone will provide the property owners their desired use of the land.
10. That this zoning does not constitute subdivision approval.

MODEL MOTION

Sample Motion for a *Positive* Recommendation – "I move we forward a positive recommendation to the County

Council for the Anderson rezone request, application #11.026, rezoning approximately 3.07 acres of property at approximately 2635 W Old Highway Road from RR-1/A-20 to R1-20, based on the findings listed in the staff report dated May 18, 2011, and as modified by the findings below:"

1. List any additional findings...

Sample Motion for a *Negative* Recommendation – “I move we forward a negative recommendation to the County Council for the Anderson rezone request, application #11.026, rezoning approximately 3.07 acres of property at approximately 2635 W Old Highway Road from RR-1/A-20 to R1-20, based on the following findings:

1. List findings...

EXHIBIT

Exhibit “A”: 2010 General Plan Excerpt and Future Land Use Map

Exhibit “B”: Current Zoning

Exhibit “C”: Use Tables: MCC 8-5A-3 and 8-5B-3

Exhibit “D”: Flood Zone Map

Exhibit “E”: Geologic Hazards Maps

Exhibit “F”: Wildland Urban Interface Map

Exhibit “G”: Plat Map

DRAFT

Exhibit B- Public Hearing/Discussion/Decision: To amend portions of sections 8-2, 8-5A, and 8-6 of the Morgan County Code pertaining to County fairgrounds uses.

STAFF REPORT

19 May 2011

To: Morgan County Planning Commission
Business Date: 26 May 2011

From: Grant Crowell, AICP
Planning and Development Services Director

Re: County Initiated Text Amendment Regarding County Fairgrounds Uses

Application No.: 11.029
Applicant: Morgan County
Request: To amend portions of Morgan County Code (MCC) Sections 8-2, 8-5A, and 8-6 regarding County fairground uses

SUMMARY & BACKGROUND

On February 17, 2009, the Morgan County Council adopted a small set of regulations for fairground use permits, which became codified as section 8-6-36 of the Morgan County Code. Since that time, the County has adopted a Fairgrounds Master Plan, discussed various uses including a motocross venue, and held two County fairs and numerous other events at the fairgrounds. Early in 2011, Barefoot Tubing, LLC, negotiated a lease agreement with the County Council and is in the early stage of establishing their business at the fairgrounds.

It was during the review and lease approval process for Barefoot Tubing that the County Council directed the Planning Staff and County Attorney to work on an ordinance agreement that would clarify and streamline the use approval process at the fairgrounds. This ordinance reflects the direction that Staff was given regarding this issue. The proposal clarifies that the County Council is the land use authority over all uses at the County fairgrounds, including adding an additional definition to the County Code and establishing the use in the zoning ordinance use table for the zone in which it resides. As a County public property facility, the County Council will administer the use and development of the fairgrounds directly. Traditional advisory boards, such as the Fair Board and Fairgrounds Board remain available to the County Council; this ordinance does not alter their role.

Current uses of the County fairgrounds include (not a comprehensive list): pasturing of animals, equipment storage, special events, rodeos, County Fair, Barefoot Tubing, cellular tower, utility substation, public access to the Weber River, etc.

ANALYSIS

General Plan and Zoning. While the General Plan does not specifically address the use of the County Fairgrounds, it sets out many goals which could arguably be advanced through the continued facilitation of development and utilization of the County fairgrounds, such as: the preservation of the County's agricultural heritage, economic development and tourism, and the utilization of regional facilities for parks and recreation. This ordinance proposal acknowledges the existing land use of the County fairgrounds and eliminates procedural obstacles that would limit the County's ability to flexibly utilize this facility to advance the community's interests.

This is a proposal to amend the text of the County Code. The County fairgrounds are currently located on parcels of land zoned as Agricultural (A-20), and no zoning map change is necessary or proposed. As this location has been in existence for many years, it is appropriate to add it to the list of permitted uses in the A-20 zone, with a specific clarifying definition to supplement the use table.

Land Use Ordinance Proposal. As referred to above, this text amendment will address several sections of the MCC. First a definition was absent from the previous ordinance adoption and is necessary to specifically tailor this code to only the County owned fairgrounds. Secondly, this use category needed to be added to the use regulations table to reflect the fact that it is already there and considered a previously permitted uses. Finally, the amendments to 8-6-36 clarify the Council’s intent for permitting, process, and requirements.

Modifications to this section appear in strikeout form.

[8-2 Add New Definition](#)

County Fairgrounds Uses: Those uses of land undertaken on the property commonly referred to as the Morgan County Fairgrounds, and which are undertaken solely on property owned by Morgan County by Morgan County or by an authorized user or approved lessee of Morgan County. County Fairgrounds uses shall be undertaken in accordance with Morgan County Code section 8-6-36, and may include temporary and permanent uses and special events.

8-5A-3: USE REGULATIONS:

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained in the multiple use, agricultural or rural residential districts, except as provided in this article.

Add new line in use table:

	Districts					
	MU-160	F-1	A-20	RR-10	RR-5	RR-1
<u>County Fairgrounds Uses</u>	-	-	<u>P</u>	-	-	-

8-6-36: COUNTY FAIRGROUNDS USE PERMITS:

The eCounty fFairgrounds provides a unique site for the events which may beare considered beneficial to the health, welfare, property values and entertainments of the eCounty. The following standards shall be applied to all uses of the County fFairgrounds:

- A. ~~Permit~~Approval Required: All special events, temporary or permanent uses are considered permitted County fairgrounds uses and shall only require approval from the Morgan County Council. No public hearings are required to establish a County fairgrounds use.~~a fairgrounds use permit.~~ Approval may take the form of a lease agreement, approved budget request, special event approval, or other mechanism allowed by law.

B. Temporary ~~Events, Uses and Special Events~~: Temporary ~~events or uses and special events are considered County fairgrounds uses and~~ shall only require ~~a use permit~~ approval from the Morgan County Council, ~~which shall be reviewed and approved by the fairgrounds administrator, or a designee appointed by the county council.~~ Approved special events and temporary uses should ~~all~~ be in accord with ~~the any~~ adopted County policy for fairgrounds arenas and facilities.

C. Permanent Events, Uses ~~a~~ And Facilities: Permanent events, uses and facilities are considered County fairgrounds uses and shall may be approved through negotiation of a lease agreement with the Morgan County Council or designee, as determined necessary by the Council. ~~Uses approved shall be in accord with t~~The adopted County Fairground Mmaster Pplan should be used as a guide by the Morgan County Council during lease and approval negotiations.

~~D. Site Plan Review: Upon successful negotiation or in conjunction with negotiation of a lease agreement with the county council, the applicant shall submit a site plan to the planning commission for approval. The planning commission shall review the site plan for efficient design layout, landscaping, traffic circulation, parking and architectural design. (2010 Code)~~

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 County fairgrounds uses, application 11.029, based on the following findings:

1. That the amendments are necessary to formally acknowledge the existing historical use of the County fairgrounds.
2. That the amendments are necessary to allow the County Council to maintain flexibility in administering and using the County Fairgrounds facility.
3. That the amendments do not conflict with the County General Plan.
4. 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 County fairgrounds uses, application 11.029, based on the findings presented in the Staff report dated May 19, 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 County fairgrounds uses, application 11.029, based on the following findings...”

1. List all findings...
-

Exhibit C - Discussion regarding General Plan implementation pertaining to flexible subdivision types, options, and concerns.

**Planning Commission
General Plan Implementation Discussion
May 26, 2011
Agenda and objectives for tonight's discussion**

We would like to follow up on our discussions of April 10th and offer some ideas about how to address/resolve some of the issues that emerged during the General Plan update process. The overall objective appears to be to provide some flexibility in the land division standards and process to do several things:

- 1) Provide some flexibility in lot standards to allow for small scale subdivisions in residential areas.
- 2) Provide for more efficient residential uses in agricultural and low density residential areas without requiring a re-zoning of the property.
- 3) Encourage good subdivision design that accommodates the natural features of the property and provides appropriate amenities for subdivision residents.
- 4) Avoid the creation of isolated "open spaces" that have little practical use.

Suggested Approach

In looking at the overall implementation objectives, there are a number of implementation techniques that other counties have used that vary in levels of complexity and administrative effort. We suggest beginning the discussion by looking at alternative approaches based on their level of complexity, starting with simpler ideas and moving to the more complex.

Land divisions in residential areas

Likely the simplest techniques are those that would provide additional flexibility in allowing land divisions in areas that are already zoned and planned for residential uses. We heard about parcels of land that are zoned for residential use, but have features such as limited road frontage that prevent subdivision under current regulations. Some approaches that would allow small-scale subdivision of parcels that are large enough to meet the minimum lot size standards of the zone could include:

- 1) Flag lots – Many jurisdictions allow for the waiver of minimum lot frontage standards to allow the stacking of two residential parcels on a street, with one residence in the front and one in the back, by allowing the creation of a single flag lot behind a lot that meets the minimum frontage requirement. The only issue that needs to be addressed is emergency vehicle access to the rear lot. Driveway access onto the adjacent street can be limited to place the driveways side-by-side to reduce the number of individual accesses to the road.
- 2) Shared driveways or private lanes – Jurisdictions also allow a small number of individual residential lots (typically no more than four) to share a single driveway or private lane where the parcel will accommodate multiple lots. Like the flag-lot approach, emergency access must be provided for lots away from the street. This approach results in a single street access, rather than two or more individual driveways, reducing the potential for traffic conflicts on the adjoining street.

Flag lots and shared lanes can also be design features in conventional subdivisions where topography or other site constraints limit conventional subdivision design.

Residential uses in low-density zoned areas

Current regulations allow for one residence for each 20 acres in the A-20 zone, which results in a de-facto 20-acre minimum lot size. It has been suggested that a 20-acre lot may be too large for most residential uses, but there is currently no way under the Code to allow smaller lot sizes without re-zoning the property. While not agricultural, other rural residential and residential zones in the county have 5, 10 and 20-acre effective minimum lot sizes. Some approaches to encouraging more efficient residential use without re-zoning to higher densities include:

1) Allow for the creation of small residential parcels in agricultural areas – Some rural jurisdictions allow for the creation of ½ to 2-acre residential lots in agricultural areas by “clustering” the allowed residential density on the land into a residential node close to road access and other services. For example, a property owner with 60 acres of A-20 land in Morgan County could be allowed to create three 1-acre residential lots in one corner of the land by agreeing that the remaining 57 acres has no more residential development potential unless it is re-zoned to a higher density. The approval is typically documented with a record of survey map for the whole 60 acres that creates the lots with notes on the map that describe the process and that no further development is allowed without re-zoning. A separate contract or development agreement could also be signed and recorded. This approach allows for some level of residential use without requiring the larger parcel to be broken up, and tends to support continued agricultural uses.

2) Allow for “clustering” without common open areas – One approach to clustering residential structures on a parcel without creating common open areas is to configure large area lots so as to place the structures near the subdivision streets, but make the lots “deep” away from the street. This results in private open space that is part of each owner’s lot. Regulations can limit the total buildable area for each lot, and limit the removal of vegetation to ensure an open feel for the development. Fencing, outbuildings and property maintenance would also need to be addressed and policed.

3) Allow for PUD-type development with common open areas – This approach is similar to the County’s old PRUD ordinance, and works best for larger development project of 12 or more lots. The number of lots allowed would be determined by the base density times the number of developable acres in the parcel. Density bonuses could be offered for specified additional contributions by the developer, such as recreation amenities, land dedications and the like.

The main challenge with conventional PUD-type developments is managing the common open areas. The key to successful common open areas is beneficial use and effective management. Common open areas need to have identified purposes and parties responsible for maintenance and management in order to be successful. Owner’s association recreation areas, public trails and parks, and working farmlands are all good uses of open space. Natural open spaces must be contiguous and quite large in order to be successful without active maintenance.

4) Re-zoning – Although the General Plan policies discourage it, one approach would be to simply re-zone agricultural and other low-density lands in areas remote from town centers for higher density residential uses. Not recommended, but a relatively simple option.

Encourage good project design

The County could pursue good subdivision design more directly by encouraging (through incentives) or requiring identified actions and design standards. Some approaches include:

1) Encourage/require PUD-type development for all projects above a set size – Some jurisdictions require all residential projects of a set size and all commercial and industrial projects to be master-planned, with required open space, landscaping and amenities. For projects 50 acres and larger, for

example, required open areas could be large enough to provide for recreation and other common uses. Incentives could include density bonuses, modified street or setback standards, and flexibility in lot size standards. Requirements could include site design to avoid sensitive areas and regulations on colors and materials to reduce visual impacts.

2) Create a mixed-use type zone district for town centers and resort developments – Many jurisdictions create separate special-purpose zoning districts for such uses as downtown mixed uses, suburban mixed uses, resort development, master-planned residential communities and similar mixed-use land uses. A simpler approach is to create a master-planned development overlay that allows flexibility in design and use by identifying potential impacts of a proposed development and developing conditions of approval to address them. These kinds of projects generally require development agreements to document the approval and conditions, but are usually simpler to administer than detailed design standards and regulations.

3) Prepare a county-wide park, trails and open space plan - We discussed the importance of the rural atmosphere of the County due, in large part, to the extensive open areas. We also discussed areas of importance to County residents like the Weber River and mountain backdrop. A trails and open space plan can identify what the County's objectives are with regard to the outdoors and recreation, as well as identify important features, how to preserve them and how to implement the County's objectives. It can also describe what open space means to Morgan County, and determine what steps are appropriate to achieve the County's objectives.

4) Develop a sensitive lands ordinance – This ordinance would regulate development on hillsides, and floodplains and other potentially hazardous areas. It could also establish standards for development on visible hillsides and near ridgelines to minimize visual impacts. Implementation could require review of visual simulations of projects.

DRAFT

