

PLANNING COMMISSION AGENDA
Thursday, June 14, 2012
Morgan County Council Room
6:30 PM

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

1. Call to order – prayer.
2. Approval of agenda.
3. Declaration of conflicts of interest.
4. Approval of minutes from May 24, 2012.
5. Public Meeting/Discussion/Decision: William York CUP application: To consider granting a conditional use permit for an addition to a nonconforming residential use at 2329 W Spring Hollow Road.
6. Staff Reports.
7. Adjourn.

**MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY June 14, 2012 – 6:30 P.M.**

MEMBERS PRESENT

Roland Haslam, Chairman
Darrell Erickson
Alvin Lundgren
Steve Wilson
Adam Toone
Debbie Sessions
Shane Stephens

STAFF PRESENT

Blaine Gehring, Director
Teresa Rhodes, Planning Commission Assistant

MEMBERS ABSENT

COUNTY COUNCIL PRESENT

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

1. Call to order – prayer.

Chairman Haslam called the meeting to order.
The prayer was offered by Member Wilson

2. Approval of agenda.

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

3. Declaration of conflicts of interest.

Member Sessions requested that it be placed on the record that she did have a conversation with Mr. York regarding his current conditional use permit. She was not declaring a conflict of interest.

There were no conflicts of interest declared

4. **Approval of minutes from May 24, 2012.**

Member Erickson moved to approve the minutes of May 24, 2012 with then noted minor spelling corrections. Second by Member Sessions. The motion passed with Member Lundgren abstaining due to being absent at that meeting.

5. **Public Meeting/Discussion/Decision: William York CUP application: To consider granting a conditional use permit for an addition to a nonconforming residential use at 2329 W Spring Hollow Road.**

Member Erickson moved to open a public hearing for discussion/decision William York CUP application: To consider granting a conditional use permit for an addition to a nonconforming residential use at 2329 W Spring Hollow Road. Second by Member Lundgren. The vote was unanimous. The motion carried.

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

William York, applicant – Mr. York noted he has lived at this residence since 1996. They would like to finish the basement and extend out the back of the house about 27 -28 feet and about 24 feet wide.

Member Sessions noted, for public record, the little house that was to be storage as per the conditional use permit in 1995, currently has a family in it. She asked if Mr. York could clarify the present situation.

Mr. York stated he understood this is a touchy situation. He noted this family, that is living there, is from Tonga. A few years ago when they moved in, things were in a dynamic change on Spring Hollow Road and the lots above them had been recently re-zoned RR-1 and they had over 400 feet of frontage; because of that they thought they could get RR-1 if they went through the process. Two years prior, he noted there was a new home built above them and re-zoned RR-1. At that time the county engineer was on record stating that the road met basic county standards and at the same time there was a mother-in-law ordinance on the books. They moved this family in believing that they would make it right with the County by applying for a mother-in-law apartment to make it legal and then they got lazy and didn't take the necessary steps. When they did decide to do it that ordinance was no longer on the books.

Mr. York noted, because of this, they have notified the family that they may have to move, because it is illegal that they are in there. He further noted if they do go they would like to give them a few months to look for something.

He noted they have been paying property taxes on the little house, so that they were not cheating the County.

Member Toone asked if this is related to what is before the Planning Commission at this time.

Member Sessions noted that the conditions of the first conditional use permit required that this small home be converted to storage when the new home was built. This is a second conditional use permit being taken on the home.

Julie Croft – stated they live on a non-conforming lot just like Mr. York and she hopes this is granted because she believes this will make their home even better.

Member Wilson moved to close the public comment for William York Conditional Use permit. Second by Member Toone. The vote was unanimous. The motion carried.

The Chairman called for a vote.

Member Erickson moved to grant a conditional use permit to William York, application 12.052, for an addition to a nonconforming residential use at 2329 W Spring Hollow Road with the six findings indicated in the staff report dated May 10, 2012 as follows:

1. A small home was built on the property in 1960 establishing a legal lot of 4.37 acres. the existing home was built in 1995.
2. the house and property were rezoned to Multiple Use (MU-160) in 1977. The 4.37 acre lot is below the minimum lot size required in the MU-160 zone and the lot house became are legal nonconforming uses.
3. As an existing non-conforming use, the house is in compliance with the general plan.
4. The house with the addition, meets or exceeds minimum lot coverage and setback requirements for the MU-160 zone.
5. Section 8-7-5 (C.2) of the Morgan County Code allows for the addition or enlargement of a non-conforming use with the granting of a conditional use permit by the planning commission after a public hearing.
6. A public hearing was properly noticed on June 4, 2012 and held June 14, 2012 by the Morgan County Planning Commission.

Second by Member Toone.

The Chairman called for comment.

Member Erickson stated that it looks like the application is correct for the current circumstance. However, the County might want to look into the conditions for the 1995 conditional use permit but believes that would be a separate issue that the County wants to deal with.

Member Wilson asked if the Planning Commission wanted to open the County up to situations like this; should we put a time limit on this, that when the family moves it is converted back to storage. How do we protect ourselves from this happening again and say the same thing on their conditional use permit.

Chairman Haslam –

- Because they are in MU-160 there was an existing home.
- In 1995 they came in for a conditional use permit to construct the new home. One of the conditions was that the existing home be turned into storage.
- 2012, they want an additional conditional use permit to add on to the existing home.
- Not currently in compliance with their first 1995 conditional use permit.
- The way to correct it and avoid any problem is to make them come into compliance.

Member Toone requested to amend the motion that the applicant comply with the one condition listed in the staff report be complied with. The condition is as follows: those applicants comply with section 8-5I-9 of the Morgan County Code when filing for a building permit.

Member Lundgren noted this is a requirement they have to do anyway in order to get a building permit; the amendment would be irrelevant.

Motion died due to lack of second.

Mr. Gehring noted we can treat this as a code enforcement issue which staff is aware of and the applicant is aware. Staff can work with them on resolving that issue and not tie it to this conditional use permit.

Member Lundgren asked if the planning commission can grant a conditional use permit when the current applicant and property is in violation of the code and its own conditional use. Mr. Gehring noted he was going to try to talk with Jann Farris, but when he found out the applicant was in the process of trying to resolve this he did not. He does not have a legal opinion on it at this time. He further noted if staff is in the process of working with them to resolve the issue and by the time the certificate of occupancy is granted for this addition that is brought into compliance he did not see a problem.

Member Lundgren moved to amend the motion before the Planning Commission with the following condition:

- 1. Before a certificate of occupancy is granted on this property that the prior conditional use permit be brought into compliance with the code.**

Second by Member Sessions.

Mr. Gehring noted we probably have a four month window before these individuals are bumped out.

Chairman called for a vote on the amendment.

The vote was unanimous. The motion carried.

The chairman called for a vote on the original motion.

The vote was unanimous. The Motion carried.

6. Staff Reports.

Mr. Gehring noted the following:

- Building permits are up and moving in a positive direction; the office is staying busy.
- They expect some type of application from Snow Basin within the next month.
- Staff is working with Wayne Johnson to move things forward on his property.

Member Lundgren asked about the small piece of property next to Rollins Ranch.

Mr. Gehring noted that is Mr. Sedgewick's property and he does have an application to divide that property into three lots. There has been a lot of confusion with what is going to be required. Staff has met with Mark Miller to discuss what needs to be done and will be meeting with Mr. Sedgewick in the near future to discuss.

Member Toone asked about the status of the fencing ordinance.

Mr. Gehring noted that will go before the County Council on June 19, 2012.

7. Adjourn.

Member Sessions moved to adjourn. Second by Member Toone.

The vote was unanimous. The motion carried.

Exhibit A – Staff report - William York CUP application: To consider granting a conditional use permit for an addition to a nonconforming residential use at 2329 W Spring Hollow Road.

STAFF REPORT
May 10, 2012

To: Morgan County Planning Commission
Business Date: 6/14/2012

Prepared By: Blaine Gehring, AICP
Planning and Development Services Director

Re: York Conditional Use Permit Request for Addition to a Nonconforming Use

Application No.: 12.052
Applicant: Bill & Jill York
Project Location: 2329 W. Spring Hollow Road
Zoning: MU-160 Zone
Acreage: 4.37 acres

SUMMARY

This application is a request to build an addition on to a nonconforming use, a single family dwelling, in a Multiple Use (MU-160) Zone. The applicant is requesting a conditional use permit as required by Section 8-7-5(C.2) of the Morgan County Code (MCC). This section allows for the addition or enlargement of a nonconforming use, building or structure *upon issuance of a conditional use permit by the planning commission after a public hearing.*

Utah State law Section 17-27a-510 (2) (a) allows counties to “provide for ... the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance.” Section 8-7-5(C.2) of the MCC outlines that process and designates the planning commission as the land use authority.

BACKGROUND

The MU-160 Zone was placed on this property in 1977. That zone requires a lot to be a minimum of 160 acres in size. The tax record shows that a small home (576 sq. ft.) was built on the property in 1960 before any zoning existed. This would have created the legal non-conforming lot of 4.37 acres that currently exists. The existing home was built in 1995. Because the lot is nonconforming as to size in the MU-160 Zone, the use and structures become nonconforming as well. Thus, the York home is considered a legal, nonconforming use because it was legal when it was built on a legal nonconforming lot.

The applicants want to construct a 696 sq. ft. addition to their home. The addition would consist of a family room and office. (See floor plan attached) A single family home in a residential zone would be

allowed a maximum of 25% coverage. However, there is no specified lot coverage in the MU-160 Zone and with 4.37 acres of lot area, this home would not even come close to exceeding a reasonable lot coverage. The home with the addition will meet or exceed the minimum required setbacks in the MU-160 Zone.

ANALYSIS

General Plan and Zoning. The General Plan calls for the property to be developed as rural residential. The use as a single family residence complies with the general plan.

Ordinance Evaluation. Section 8-7-5 (C.2) allows for the planning commission to grant a conditional use permit for an addition to a nonconforming use following a public hearing. The following conditional use review criteria should be considered:

Property Layout. (See attached site plan) There is an existing home on the lot which will be added to. No other structures are being proposed for the lot which does not currently exist.

Roads and Access. The lot is located on and fronts Spring Hollow Road (currently a private road) and has legal access from that road. No additional improvements to the road will be required.

Grading and Land Disturbance. There will be limited grading or land disturbance associated with this addition. It will be confined to the area directly adjacent to the house.

Water Source. The house is connected to an approved water source.

Fire Protection. The home is already covered by adequate fire protection and is not located in the Urban Wildfire Interface Zone.

Sewer Systems. The house is connected to an approved sewer system.

Storm Water. The small amount of impervious roof area being added will not affect the current run off on this property.

Geologic and Geotechnical Evaluations. This home is in a Qafy geologic hazard study area as defined by Section 8-5I-4 of the MCC. Section 8-5I-3 of the MCC states that "... the remodeling of existing structures designed for human occupancy may occur without compliance with this article *if no expansion of the existing building footprint is proposed.*" (Italics added) This addition will increase the footprint of the building and the geologic hazard requirements will apply. The Yorks will need to comply with Section 8-5I-9 of the MCC in filing for their building permit.

Utilities. The home is connected to all utilities at present and will continue to be served by those utilities.

STAFF RECOMMENDATION

Staff recommends approval of the Bill and Jill York request for an addition to their nonconforming use with the condition that they comply with Section 8-5I-9 of the Morgan County Code when filing for their building permit.

MODEL MOTION

Sample Motion for a granting of the conditional use permit: – “I move we grant a conditional use permit for addition to the nonconforming use known as the Bill and Jill York home located at 2329 W. Spring Hollow Road with the following findings:

1. A small home was built on the property in 1960 establishing a legal lot of 4.37 acres. The existing home was built in 1995.
2. The house and property were rezoned to Multiple Use (MU-160) in 1977. The 4.37 acre lot is below the minimum lot size required in the MU-160 Zone and the lot house became are legal nonconforming uses.
3. As an existing nonconforming use, the house is in compliance with the general plan.
4. The house with the addition meets or exceeds minimum lot coverage and setback requirements for the MU-160 Zone.
5. Section 8-7-5 (C.2) of the Morgan County Code allows for the addition or enlargement of a nonconforming use with the granting of a conditional use permit by the planning commission after a public hearing.
6. A public hearing was properly noticed on June 4, 2012 and held June 14, 2012 by the Morgan County Planning Commission.

SUPPORTING INFORMATION

Exhibit A: Bill and Jill York Conditional Use Permit Application

Exhibit B: 1977 Zoning Map

Exhibit C: County Property Map

Exhibit D: Geologic Hazard Map

Exhibit E: York Addition Site Plan

Exhibit F: Proposed Addition Floor Plan

Exhibit G: Proposed Building Elevations