



PLANNING COMMISSION AGENDA

Thursday, August 23, 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 June 28, 2012.
5. Public Meeting/Discussion/Decision: Devmer Morgan Development CUP: to consider a conditional use permit for a single family residence in the MU-160 zone located at approximately 5650 South Highway 66.
6. Public Hearing/Discussion/Decision: To consider amending portions of sections 8-6-18 and 8-12-46 of the Morgan County Code relating to underground utilities and section 8-11-6 of the Morgan County Code to discuss the potential for changes to hard surface parking
7. Public Hearing/Discussion/Decision: To amend portions of sections 8-2 and 8-12 of the Morgan County Code pertaining to preliminary and final subdivision plat submittal requirements for drainage detention facilities; and to provide clarification regarding half street requirements and related administrative provisions.
8. Staff Reports.
9. Adjourn.

**MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY August 23, 2012 – 6:30 P.M.**

MEMBERS PRESENT

Roland Haslam, Chairman
Alvin Lundgren
Adam Toone
Debbie Sessions

STAFF PRESENT

Blaine Gehring, Director
Charles Ewert, Planner
Teresa Rhodes, Planning Commission Assistant

MEMBERS ABSENT

Steve Wilson
Darrell Erickson
Shane Stephens

COUNTY COUNCIL PRESENT

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

1. Call to Order.

Chairman Haslam called the meeting to order.
The prayer was offered by Chairman Haslam.
Members Wilson, Stephens, and Erickson were excused.

2. Approval of agenda.

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

3. Declaration of conflicts of interest.

There were no conflicts of interest declared.

4. Approval of Minutes.

Member Sessions moved to postpone the approval of the minutes of June 28, 2012 until the September 13, 2012 because the members present to vote tonight were not present at the June 28th meeting. Second by Member Lundgren. The vote was unanimous. The motion carried.

5. Public meeting/discussion/decision: Devmer Morgan Development CUP: to consider a conditional use permit for a single family residence in the MU-160 zone located at approximately 5640 South Highway 66.

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

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

Member Toone asked if there were any mitigating conditions.

Mr. Gehring noted there was not. The one concern was the wild land interface and there has been an extensive report done on that and approved by the fire chief. Member Toone asked if the re-vegetation plan addresses most of the conditions that the planning commission would have to worry about. Mr. Gerhing stated that was correct.

Member Sessions asked if the property had been combined. Mr. Gehring noted the property has been re-combined and a variance granted for its size by the appeal authority.

Craig Call, representative for the Arnold Family Mr. Call noted he is assisting the Arnold Family with their application for a single family residence. He noted the name for the company is a combination of the first names of the couple that lead the family; Mervin and Devana. There was absolutely no way the family could be in attendance tonight.

Mr. Call noted the packets are extensive and answer the questions thoroughly. Mr. Gehring has explained it in his recommendation. Mr. Call asked if there were any questions from the Planning Commission. There were no questions.

Chairman Haslam opened the discussion up to public comment.

Robert Workman – owns the property that surrounds the Arnold Ranch; Tifi Ranch. He noted he has met with the Arnolds and talked through any impact they may have and they fully support their applications. Believes they will be good County citizens and neighbors.

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

Member Lundgren moved to forward a favorable recommendation for the Devmer Morgan Development CUP: to consider a conditional use permit for a single family residence in the MU-160 zone located at approximately 5640 South Highway 66 with the following findings listed in the staff report dated July 31, 2012.:

1. A variance was granted on March 21, 2012 making the property a legal non-conforming lot in the MU-160 zone.
2. Section 2-8-5A-3 of the Morgan County Code lists a single family dwelling as an allowed conditional use.
3. The applicants have shown there are no negative impacts which will be associated with the construction of a single family home on their property.
4. The proposed dwelling will meet all minimum required setbacks according to the Morgan County Code.
5. A Public meeting was properly noticed on August 10, 2012 and held August 23, 2012 by the Morgan County Planning Commission.

Second by Member Sessions

Member Lundgren believed staff did an excellent job putting together the information. He sees no reason not to go forward with this. Everything appears to be in order and it seems to be the best and proper use of the property. Believed if we did not approve this the property owner will be deprived the beneficial use of his property.

The Chairman called for a vote.

The vote was unanimous. The motion carried.

6. Public Hearing/Discussion/Decision: to consider amending portions of sections 8-6-18 and 8-12-46 of the Morgan County Code relating to underground utilities and section 8-11-6 of the Morgan County Code to discuss the potential for changes to hard surface parking.

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

Mr. Gehring presented his staff report (Please see attached exhibit B) He noted recommendations from previous discussion have been addressed and reflected in the new draft ordinance.

Member Toone stated the following concerns:

- Is there anything we can do, regarding crossing the roadways, with new construction?
- Much of the code is directed toward housing and commercial development but we still have some agricultural practices, what can we do to help the farmers in regard to wells, etc.
 - a. Mr. Gehring noted staff is referring to new construction and development in subdivisions; someone adding a pump house on their property would probably not fall under this and would be able to run their lines overhead. Mr. Gehring stated that it appears staff may need to more clearly clarify. He would recommend tabling and allowing staff to look at it more clearly.
- Parking lots.
 - a. The County has many parking lots that are not paved. We may want to look at some type of mitigation. There is currently a double standard in the County. We require business to put in paved parking, but the County has many facilities that are not paved. He would like to see the code changed so that County facilities are in compliance and by changing the code, it puts them into compliance without making it forced. Compliance may be at least a dust free parking.

Member Sessions:

- Utility lines – Agriculture/location exemptions may need to be considered. Her concern is regarding lines being placed under the road in areas where lines are already above and in place. In a new subdivision it should be required.

Member Lundgren:

- Concurs with Both Members Toone and Sessions.
- The language in 8-12-46, if that applies solely to subdivision then it is ok. In 8-6-18 *all utilities lines for new construction* is pretty broad and can be arbitrarily administered. Believes if we refined the language we could accomplish what has been expressed tonight and still keep the encouragement for underground utilities in other appropriate areas.
- Parking lot – sympathetic with Member Toone’s argument but the reality is that someone is going to come into the County and build a new building and they need to put in the pavement. It does not make sense to put in a new building and not pave the parking lot.

Chairman Haslam asked if there was a way to exempt the existing parking lots right now. Member Lundgren noted the County properties that are currently not paved are grandfathered in. There was no ordinance in place when they were created, the ordinances are being created after the fact; they are grandfathered in. That is the way grandfathering works.

Member Toone

- Home occupation class 1, class 2, and class 3. With any of those you need to specify parking spaces and with this we are doing the same thing even if the building exists we are requesting an area that needs to be paved. He noted he does not have a solution; so he doesn’t believe he has a fight either on the parking lot. He is just noting his concern.

Chairman Haslam –

- Underground utility concern – Morgan County has a window from November to March because of the cold. How do we get through that weather window if we are requiring all utilities underground?
 - Mr. Gehring noted most developers do not do anything in the window anyway because it is just too cold. There are some additional things staff needs to discuss especially going over roads. The concerns he heard at the council meeting dealt with replacing and altering things. These have been new concerns brought up in this meeting. He would like to take this back and do some further review with Charlie.

Chairman Haslam:

- 8-6-18 could we consult the engineer so that this could be worded in a way that the location would determine the feasibility to go overhead instead of underground; look at each situation?

Chairman Haslam called for any further public comment. There was none.

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

Member Sessions moved to postpone amending portions of sections 8-6-18 and 8-12-46 of the Morgan County Code relating to underground utilities to September 13, 2012 to allow staffs time to re-work the amendments. Second by Member Toone.

Member Toone noted that he would be happy as long as there was any tool for discretion whether it goes all the way to the County Council or handled in the office. Chairman Haslam asked if he would like to add that as an amendment. Member Toone stated he believed that Members Sessions motion was clear enough.

The Chairman Called for a vote.

The vote was unanimous. The Motion carried.

Mr. Gehring asked is those who have concern could e-mail their concerns to staff as soon as possible so that they have those to review by Tuesday August 28, 2012.

7. Public hearing/Discussion Decision: To amend portions of section 8-2 and 8-12 of the Morgan County Code pertaining to preliminary and final subdivision plat submittal requirements for drainage detention facilities and to provide clarification regarding half street requirements and related administrative provisions.

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

Charlie presented his staff report (please see exhibit C)

- Built into a previous text amendment that was for alternative improvement requirements for subdivisions. Staff found an issue in the code that did not protect the county all the way when it came to drainage and flood control. Most jurisdictions require a 100 year flood plan and a drainage system that will accommodate a 100 year event. Morgan did not have that written into their new subdivision code; an oversight.
- Changes were proposed to put that in as a requirement of preliminary plat. As that was brought forward to the planning commission there was some concern that too much information was being asked for at the preliminary plat phase. One example is orifice plates which require in depth engineering to understand that kind of information. After some discussion with the County Engineer he stated that it is not uncommon to have that information submitted at final plat.
- Noted he spoke to the author of the subdivision ordinance and it was noted that it was the County's desire to have as much information as possible in order to be working on the best information when preliminary approval was granted.
- Noted that Mark Miller, County Engineer, is confident that he can catch the issues up front because he has done so many of these. He further noted that preliminary approval is the green light for developers and money. They want to receive that green light before they go and invest tons of money in a project. Developers will then come back with final plat with all the drainage calculations proving that preliminary works. One negative consequence of that is if their calculations do not prove that 100 lot subdivisions is worth 100 lots.
- The burden has been lifted to final stage. If there is any issue with this it can be discussed.

- When the County Council heard the exception rule they had concern that the language was not clear on facilitation of vehicle traffic. They made a quick decision to change the ½ street requirements in the subdivision code as well. What is being discussed here is existing public road. A developer is only required to develop his half and that is what the County Council wanted to see. The way the ordinance was changed it makes it sound like the developer can propose a brand new road that is only ½ width wide and the County does not want that to happen. We want developers to come in and develop full roads in order to provide safe vehicular travel for two way traffic. So the language was added in to try to mitigate that and provide for better facilitation of vehicle traffic.
- It was noted that there was some 100 year flood issues that did show themselves in 2011.

There were no questions from the planning commission or public.

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

Member Sessions moved to forward a positive recommendation to the County Council for the proposed land use regulation text amendments regarding subdivision drainage detention facilities submittal requirements in provisions for street half width. Application 12.066 based on the finding listed in the staff report dated August 1, 2012 as follows:

- 1. That the amendments are necessary to help mitigate the harmful impact that potential 100 year storm events have on the community.**
- 2. That the amendments are necessary to provide greater financial feasibility to the subdivision process.**
- 3. That the amendments are necessary to clarify to requirements of half streets.**
- 4. That the amendments are necessary to provide for and promote better infrastructure planning throughout the County.**
- 5. That the amendments promote to the County’s health, safety, and welfare.**

Second by Member Lundgren.

There was no discussion.

The vote was unanimous. The motion carried.

8. Staff reports –

- **Several Conference calls with Snow Basin. They have sent a draft to the Holdings and are waiting for a response from them. As soon as they get feedback they will move forward.**

9. Adjourn.

Member Toone moved to adjourn. Second by Member Sessions.

Approved: _____
Chairman

Date: _____

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

Date: _____

Exhibit A – Agenda item #5 - Public meeting/discussion/decision: Devmer Morgan Development CUP

STAFF REPORT

July 31, 2012

To: Morgan County Planning Commission
Business Date: 8/23/2012

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

Re: **Devmer Morgan Development, LLC Conditional Use Permit Request for a Single Family Dwelling in the MU-160 Zone**

Application No.: 12.074
Applicant: Devmer Morgan Development, LLC
Project Location: 5650 S. Highway 66
Zoning: MU-160 Zone
Acreage: 37.27 acres
Request: Conditional use permit to construct a single family dwelling in the MU-160 Zone.

SUMMARY

This application is a request to build a single family dwelling in the MU-160 Zone as required by Section 8-5A-3 of the Morgan County Code (MCC). One of the purposes of the multi-use district is “to establish areas in mountain, hillside, canyon, mountain valley, desert and other open and generally undeveloped lands *where human habitation should be limited in order to protect land and other open space resources.*” (MCC 8-5A-1A., emphasis added) A conditional use permit for a single family dwelling in this district ensures that this purpose is being met. Devmer Morgan Development is a married couple who want to build a home in this location “so that they can more fully enjoy the unique setting and the beauty of the surrounding mountains “ and “to be able to spend time with their grandchildren in such a beautiful environment.” (see application) Staff finds the request for conditional use permit to be within the requirements and intent of the general plan and land use regulations of Morgan County. The required public meeting has been properly noticed.

BACKGROUND

Devmer Morgan Development, LLC owns 37.27 acres of land in East Canyon. The property is located in an MU-160 Zone about 1.4 miles northwest of the East Canyon Dam. They would like to build a single family home which is a required conditional use in the MU-160 Zone.

(Mervyn B. and Devonna Arnold (Devmer Morgan Development, LLC) are the owners of the property and applicants for the conditional use permit. They have owned this property for many years and are getting closer to retirement age. They would like to build a home on the property so that they can more fully enjoy the unique setting and the beauty of the surrounding mountains. One of the main reasons they would like to build a single family home is to be able to spend time with their grandchildren in such a beautiful environment.

Several years ago, the applicants purchased two contiguous properties in the area just west of the East Canyon Reservoir dam along Highway 66, in the MU-160 zone. The minimum lot area in the MU-160 zone is 160 acres. The property was in two separate parcels, neither of which conformed to the minimum acreage requirement.

As staff reviewed the background of how these parcels were created, evidence was submitted that indicated that the two lots were previously combined, along with additional property on the north side of Highway 66, a parent parcel that pre-dated the County's adopted zoning regulations. The divided property was a result of a 1979 land division that did not conform to minimum area requirements at the time of its division, and also a 1990 takings action conducted by the State of Utah. Staff then recommended that if the two properties were recombined to the size and configuration of the parent parcel minus the land taken by the State, the request could be evaluated as a variance for a lot of record that was made non-conforming as a result of a single takings action.

On March 28, 2012, the applicants received a variance from the Morgan County Appeal Authority so a single family residence could be built on the property. The variance was granted with two conditions attached. The first was that the two lots be recombined through the county's lot line adjustment process. That lot line adjustment was completed on June 21, 2012. The requirements, criteria and relevant process as required by Moran County, State and Federal law. This request for a conditional use permit is part of the process to meet that second condition. (The full text of the Appeal Authority's decision is attached.)

ANALYSIS

General Plan and Zoning. The future land use map designates this area as "Natural Resources and Recreation." The 2010 General Plan explains this designation as, "...managed primarily to maintain the resource, recreation, ranching, grazing, and open space uses and value of the lands. Residential uses that are incidental to and don't interfere with the primary use may be allowed. The maximum density is 1 residential unit per 160 acres." The applicants state in their letter that a main purpose in building a residence is for their family's enjoyment of the beautiful area. Staff feels that the use of the property as a dwelling unit supports the General Plan's encouragement for recreational uses. The requirement of 1 residential unit per 160 acres has been met with the variance that was granted.

Ordinance Evaluation. Section 8-5A-3 lists a single family residence as a conditional use in the MU-160 Zone. This requires the Planning Commission to make a recommendation to the County Council for their final approval and granting on a conditional use permit.

Property Layout. (See attached site plan) The site plan as presented meets all of the minimum setback requirements of the MU-160 Zone.

Roads and Access. The lot fronts Highway 66 and has legal frontage and 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 limited to the area shown on the site plan. The construction of the dwelling will not impact the creek or the creek beds and falls well outside the flood plain. The area extended surrounding the dwelling does not exceed 15% slope which is well below the 30% slope that is considered "hillside" in the Morgan County Code. Extra measures will not need to be taken when grading the site. Upon completion of the grading and construction the property will be re-vegetated with natural grasses that are native to Utah and that are better for limiting fire from spreading.

Water Source. The house will be connected to an approved water source.

Fire Protection. A Wildland Urban Interface Fire Protection Plan has been approved by the Morgan County Fire Department. The proposed driveway meets fire access requirements as well.

Sewer Systems. The house will be connected to an approved septic system.

Storm Water. Drainage and run off from the driveway and house can be absorbed by the adjacent ground.

Geologic and Geotechnical Evaluations. The property is not in a designated geologic hazard area.

Utilities. The home will be connected to all required utilities.

STAFF RECOMMENDATION

Staff recommends the Planning Commission send a favorable recommendation for approval of the Devmer Morgan Development conditional use request to the County Council with no specific conditions attached.

MODEL MOTION

Sample Motion for a recommendation of the conditional use permit for approval: – “I move we send a favorable recommendation to the County Council to grant a conditional use permit for a single family dwelling in the MU-160 Zone at 5650 S. Highway 66 for Devmer Morgan Development with the following findings:

1. A variance was granted on March 21, 2012 making the property a legal non-conforming lot in the MU-160 Zone.
2. Section 8-5A-3 of the Morgan County Code lists a single family dwelling as an allowed conditional use.
3. It has been shown by the applicants that there are no negative impacts which will be associated with the construction of a single family home on their property.
4. The proposed dwelling will meet all minimum required setbacks as per the Morgan County Code.
5. A public meeting was properly noticed on August 10, 2012 and held August 23, 2012 by the Morgan County Planning Commission.

Sample Motion for a recommendation of the conditional use permit for denial: – “I move we send an unfavorable recommendation to the County Council to grant a conditional use permit for a single family dwelling in the MU-160 Zone at 5650 S. Highway 66 for Devmer Morgan Development with the following findings:

List of findings

SUPPORTING INFORMATION

Devmer Morgan Development LLC Conditional Use Permit Application
Morgan County Appeal Authority Final Decision Cerrito LLC Variance Request
Vicinity Map
Devmer Morgan Development Site Plan
Proposed Building Elevations

Exhibit B – Agenda item #6 - Discussion/Decision: to consider amending portions of sections 8-6-18 and 8-12-46 of the Morgan County Code relating to underground utilities and section 8-11-6 of the Morgan County Code to discuss the potential for changes to hard surface parking.

STAFF REPORT
August 1, 2012

To: Morgan County Planning Commission
Business Date: 8/23/2012

Prepared By: Blaine Gehring, AICP, Department Director

Re: **Text Amendment Regarding Utilities and Parking Lot Paving Standards Revisions as Requested by County Council**

Application No.: 12.073

BACKGROUND AND SUMMARY

As the County Council was considering the fencing standards amendments at public hearing, public comments were made concerning a couple of sections of the Morgan County Code that were part of what was being considered. These sections are 8-11-6 regarding parking lot maintenance and 8-6-18 regarding utilities.

The first concern expressed dealt with the maintenance of parking lots and the requirement that parking lots be paved with hard surface materials. The comment was that there should be other materials allowed which could provide a dust free surface but weren't as expensive as hard surface materials.

The other concern was regarding the requirement that utilities be put underground and specifically that all utilities needing to be repaired, upgraded, replaced or relocated be put underground as well.

The Council asked me to look into these comments and recommend any changes to the code as might be appropriate.

STAFF RECOMMENDATION

There are two main reasons hard surfacing is required for parking lots. First is that a hard surface does not allow dust, dirt or gravel to be tracked out in to the public street to create a hazard. Second, the hard surface provides for better overall runoff drainage. So, as I have done some online research of other counties' ordinances, those that do specify a requirement specify hard surfacing. The one exception was Sanpete County which reads: "Surfacing of the parking areas shall be as required for the adjacent street." Inasmuch as Morgan County requires all streets to be paved with either asphalt or concrete, this would not apply. My recommendation is that no changes be made to Section 8-11-6 and it be allowed to stand as amended with the fencing standards being moved to another section of the code.

The reason Section 8-6-18 came up in the discussion was we were taking out language relating to fencing around the utilities. But, because the section was included in the amendments, there was discussion by the Planning Commission regarding the underground requirements. As part of your recommendation, you wanted to remove the phrase "and no pole or support structure therefore shall be erected, altered or replaced."

Unfortunately, while I included it in my staff report to the Council, I neglected to specify its removal in the ordinance that was adopted. However, in doing my research on this issue by looking at other counties' ordinances, I found that most require utilities to be placed underground in the development of a new subdivision but no mention was made as to putting repaired, replaced or relocated utilities underground. Also the concern has been that new construction be required to put utilities underground where possible. The Morgan County Code in Section 8-12-46 requires that new subdivision utilities be put underground while Section 8-6-18 deals more with new construction and transformers, substations, etc. I, therefore, recommend the following amendments to these two sections:

8-6-18: UTILITIES:

All utility lines for new construction shall be placed underground in designated easements. No pipe, conduit, cable, line for water, gas, sewage, drainage, steam, electricity or any other energy or service shall be installed, and no pole or support structure therefor shall be erected, ~~altered or replaced,~~ upon any lot (outside of any building) above the surface of the ground, except for hoses, movable pipes used for irrigation or other purpose during construction.

A. Transformers, substations, transmission, pump and/or related generator facilities shall be grouped with other utility meters where possible and screened or fenced in accordance with Section 8-6-37 of this Title. Gas meters and electric service meters and panels shall be located on the side of the building. Buildings greater than one hundred twenty (120) square feet shall be reviewed for architectural compliance by the zoning administrator, and shall present a color scheme which is earth toned in color. Lighting shall be focused and downward directional.

~~1. Approved solid fencing types must be at least six feet (6') in height and include only black vinyl coated chainlink with slates, solid concrete panel or masonry wall, or tan colored vinyl fencing. Where open fencing is allowed, it shall consist of black vinyl coated chainlink or wrought iron.~~

21. The maximum height of any building is twenty feet (20'), as measured to the bottom of the eave, except as specifically provided for in other sections of this title.

(The rest of this section will remain as is.)

8-12-46: UTILITIES:

A. Unless the County Council determines, upon application by the subdivider, supported by the recommendation of the county engineer, that it is not feasible to do so, all utilities shall be provided through underground facilities. All utilities must be developed in provided easements and shall extend to the property line of every lot within the subdivision. All underground utilities specified in this section shall be installed prior to the installation of road base, surfacing, curbs, gutters and sidewalks. Underground utilities shall be installed only after streets have been rough graded to a line and grade approved by the county engineer. If underground utilities are not installed prior to street surfacing sleeves shall be required. No transformers or aboveground utility boxes shall be placed within the public right of way. Inspections shall be required at intervals determined by the county engineer.

(The rest of this section will remain as is.)

MODEL MOTION

Sample Motion for a *Positive* Recommendation – “I move we forward a positive recommendation to the County Council for the text amendments to Sections 8-6-18 and 8-12-46 as presented by staff.

Sample Motion for a *Negative* Recommendation – “I move we forward a negative recommendation to the County Council for the text amendments to Sections 8-6-18 and 8-12-46 as presented by staff.

Exhibit C – Agenda item #7 - Discussion Decision: To amend portions of section 8-2 and 8-12 of the Morgan County Code pertaining to preliminary and final subdivision plat submittal requirements for drainage detention facilities and to provide clarification regarding half street requirements and related administrative provisions

This staff report is not available online but may be found in the application file in the Planning and Development office.