

PLANNING COMMISSION AGENDA
Thursday, January 10, 2013
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 October 25, 2012, November 8, 2012, and November 29, 2012.
5. **Public Hearing/Discussion/Decision:** Text Amendment Regarding the Minimum Area of Lots within Subdivisions which have a Private Lane.
6. **Public Hearing/Discussion/Decision:** Brown Rezone; a request to rezone 10.187 acres of property from the R1-20/A-20 zones to the RR-1 zone at approximately 4396 Cottonwood Canyon Road.
7. Discussion/Decision: Adoption of Planning Commission Resolution 13-01, a resolution establishing the Planning Commission’s 2013 meeting dates and times.
8. Staff report.
9. Adjourn.

*The Planning Commission will be meeting for their annual Planning Commission Dinner prior to the formal start of the meeting. The dinner will start at 5:30 PM.

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Thursday, January 10, 2013
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MEMBERS PRESENT

Roland Haslam, Chairman
Darrell Erickson
Debbie Sessions
Adam Toone
Shane Stephens

STAFF PRESENT

Charles Ewert, Planner
Ronda Kippen, Assistant Planner Tech
Teresa Rhodes, Transcription

MEMBERS ABSENT

Alvin Lundgren
Steve Wilson

COUNTY COUNCIL PRESENT

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

1. Call to order – prayer.

Chairman Haslam called the meeting to order.

Prayer was offered by Member Stephens.

2. Approval of agenda.

Member Sessions moved to approve the agenda with the addition of the approval of the October 25, and November 8th, and November 29th meeting minutes to be approved at the end of the meeting following agenda item 7. Second by Member Stephens. The vote was unanimous. The motion carried.

3. Declaration of conflicts of interest.

There were no conflicts of interest declared.

4. Approval of minutes from October 25, 2012, November 8, 2012, and November 29, 2012.

This was addressed at the end of the meeting as amended in the agenda.

Member Sessions moved to approve the minutes of October 25, 2012 as amended. Second by Member Erickson. The vote was unanimous. The motion carried.

Member Erickson moved to approve the minutes of November 8, 2012 as amended. Second by Member Sessions. The vote was unanimous. The motion carried.

Member Stephens moved to approve the minutes of November 29, 2012 as amended. Second by Member Sessions. The vote was unanimous. The motion carried.

5. Public Hearing/Discussion/Decision: Text Amendment Regarding the Minimum Area of Lots within Subdivisions which have a Private Lane.

Mr. Ewert noted this is an application driven by a resident who wants to change the Morgan County code. The applicant was not present at the meeting. Mr. Ewert presented his staff report (Please see attached exhibit A)

Chairman Haslam – what will the negative impact be to change this? Part of the concern was the creation of flag lots if they are smaller than 5 acres.

- Mr. Ewert noted it is subjective and what someone wants to define as negative.
 - Noted that the Council's reasoning for restricting lots to 5 acres was to avoid perception of flag lots.
 - One implication and change is that under current ordinance you would not be able to get one acre lots in the front, it would change the number of dwelling units you would be able to get out of the subdivision if you are proposing a private lane. If you are not proposing a private lane, the zone would give you RR-1 and you would be able to get all the homes out of it. Essentially what the applicant is saying is let me get my density from the zone and let me also do a private lane so that I can get 5 acre minimum lots out of the higher zone.
 - One of the ideas behind private lanes was to give large landowners the option to subdivide their property, perhaps help existing land owners from Morgan County to give property to their kids. They did not want to see it turned out to be used for huge subdivisions, they wanted it to be used for smaller subdivisions. That is why there is a restriction in the current private lane ordinance that no more than 4 dwelling units can be located on it and it can't be more than 1000 feet. Essentially, what this developer would get if the ordinance were to be changed would be all their lots plus 4 more up top which they would normally have to install a full size road for.

Member Toone –Would the same subdivision covenant and design standards apply to the entire subdivision? Mr. Ewert noted if there were some. The County does not require that an HOA or design standards exist. A developer could take a subdivision, divide it in half and say this half

gets these design standards, this half gets another. The County does not currently get involved in that.

Member Sessions asked if under existing ordinance the land owner could still do this without a change. i.e.: developer does a subdivision along existing county road of one acre lots, but leaves a 24 foot right of way between houses. Could they come back, at a later date, abandon the subdivision and put the private lane in and the lots in the back without the county changing the ordinance?

Mr. Ewert stated the answer is complicated. Every piece of property has to be accounted for within the boundary. The boundary is a legal description of the subdivision. There cannot be a remaining parcel. It has to be part of open space or a legal portion of a lot. Then if someone wanted to change it at a later date, staff would have to look at the entire boundary. Under current code it could not be done because there would be lots less than one acre in the subdivision.

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

Paul Freed – Mr. Freed noted he has a piece of property at the end of Island Circle that 1 acre zoning has been approved on. He is now interested in extending a public lane, a lane that is already there and that has been approved for many years now, a little further. He noted it seems if the property is already zoned and they are staying within the zone, you can have a road that goes 1000 feet from a public road. It seems like it would make sense to adopt that for all these types of things. Would like to speak in favor of changing the ordinance where we can extend the private lanes and not be restricted to only five acre minimums. That we can go down to the zoning that has been approved on these private lanes.

Mark Walker – Mr. Walker noted for simplicity purposes it seems it would be more logical to control growth by zoning instead of complicated lane extensions. If a property has been zoned RR-1 then that should be the density of the homes. We already have the 1000 foot lane back there to keep from extending really long private lanes. He would be in favor of controlling it by the zoning standard rather than the private lane.

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

Member Session moved to suspend the rules and go into discussion. Second by Member Stephens. The vote was unanimous. The motion carried.

Member Sessions noted her concern is when the planning commission forwards the ordinance to the County Council. The Council changed it because they did not want the appearance of flag lots. It appears this gives a greater appearance of flag lots now. This change would do exactly what the Council does not want to happen.

Member Stephens asked about the private lane. Chairman Haslam noted if you put in a private lane you can go 1000 feet from the cul-de-sac.

Chairman Haslam noted that part of the concern was Morgan Valley Drive where all the frontage is zoned RR-1. The reason it was created was to prevent people from putting in one acre lots back into the A-20 zone off of a private lane.

There was a brief discussion on zoning, private lanes, and private roads.

Member Erickson arrived at this time.

Member Stephens moved to forward a negative recommendation for the proposed land use regulations text amendment regarding the minimum area of lots within subdivisions with a private lane, application 12.118 based on the following finding:

- 1. Smaller/one acre lots were a concern brought forth by the County Council, during their discussions, and that this ordinance should be for the use of the large land owners with the intent to keep the County more rural -agricultural in nature.**

Second by Member Sessions.

Chairman called for comments. There was none.

The vote was unanimous. The motion carried.

6. Public Hearing/Discussion/Decision: Brown Rezone; a request to rezone 10.187 acres of property from the R1-20/A-20 zones to the RR-1 zone at approximately 4396 Cottonwood Canyon Road.

Charlie presented his staff report (Please see attached exhibit B)

Chairman Haslam asked why the church would like the RR-1 zone. Mr. Ewert noted it is his understanding that the church would actually like to see a church in this location. In order to apply they are going to have to do a subdivision between their property and Mrs. Brown's property.

Currently the church can go ahead and build a building there without doing a re-zone. They are not re-zoning so the church can locate.

There was discussion on the airport overlay zone. It was noted that when you read the airport overlay it sounds like they can stop a church from going in, but it is subjective.

Member Erickson asked about the lot line adjustment.

Member Toone asked about the Nance property and if this would create a hardship for them for the corrals. If a new road is built would that jeopardize a legal use; because we do not know where a new road may be built at this time.

Mr. Ewert explained existing uses.

The Chairman requested the applicant come forward to answer any questions or address concerns she may have.

Tony Pantone; Pantone, Bott Architects.

- Church intends to eventually develop this parcel of property for a future meetinghouse site; approximately 4 acres.
- Triangular portion extends across the frontage of the church property. The church has entered into a preliminary agreement with Mrs. Brown to purchase the triangular piece and exchange it for a portion along the back of the church property to Mrs. Brown.
- Never intended to re-zone the portion of the Church property. They are fine with this modification. They have a meeting scheduled with the County engineer and Mr. Ewert the first of next week. He noted Mrs. Brown has a few concerns that will need to be addressed at that meeting. There is some concern of the overlay zone and the ramifications that may have with regard to future use of her property.

Member Sessions asked Mrs. Brown if she understands the general plan will allow her to request a ½ acre zone request and she is just requesting the one acre? Mrs. Brown stated she was aware of that, but would like to gather more information at the upcoming meeting; at this time that is her request.

Member Erickson asked if the church's intent was to own the smaller triangle piece and the access to the property would be at that point? Mr. Pantone stated that was correct. He further noted there would be an outlet from the future church's parking lot to access the recreation portion of the property.

Chairman Haslam asked if Mrs. Brown had some concern.

Bonnie Brown –

- Mr. Brown noted she would just like to clarify the rights she would retain going from an A-20 to an RR-1. Would like the assurance that if she continues as "status quo" it would not hamper her operation.
 - Chairman Haslam stated it is his understanding from Charlie's explanation that because it is currently an existing use it would not change.

- Mr. Ewert noted the question would be that expanding that use may or may not be allowed depending on what zone is chosen. If she wanted to expand to an agri-business at some point there may be some concern.

Member Sessions moved to open a public hearing. Second by Member Erickson.

Mike McConvill, neighbor –

- Have no objections to what Mrs. Brown is doing.
- Has concern with regard to the intersection. It has been identified as being hazardous and recommended to be modified if traffic increases on Cottonwood Creek Drive. Would like to request the Council take the intersection into consideration if this were to be approved.
 - Chairman Haslam noted the County is currently in the process of re-working that intersection. It will come up and square into Old Highway and will no longer be a Y intersection.

Craig Walker, Browning Arms

- Property is currently zoned A-20. Mrs. Brown made comment that she has no intent of changing the use of the property; then why the re-zone. If there is intent, what is the intent? How many homes could be built there?
 - Mr. Ewert stated because of the non-conforming manner which the property was divided in the past, the church cannot do a lot line adjustment. They cannot do a subdivision for the property because there is currently non-conformity in the zone. Second answer is what the resulting acreage of the property is. Mr. Ewert noted he does not know at this time because of survey accuracy. It would be less than what was. It would also bring her existing acreage into conformity because at this point it is a non-conforming lot.

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

Chairman Haslam asked if Mrs. Brown was comfortable with what has been presented tonight or would she rather clarify any concerns that she has first and then have the Planning Commission bring this back for a vote at a later date?

Mrs. Brown stated she would like a few things clarified. Mr. Pantone noted he was fine with Mrs. Brown's decision to postpone.

Chairman Haslam stated he would recommend postponing until the January 24, 2013 meeting, in order to clarify with Mrs. Brown and make sure she is comfortable with what the planning commission will be voting on.

Member Erickson stated if the property is purchased by the church, what will the zoning of the property be? Mr. Ewert noted the majority of the property would become A-20. It will be swallowed into the larger portion above and become a part of the A-20 zone.

Member Toone moved to postpone a decision on the Brown Rezone; a request to rezone 10.187 acres of property from the R1-20/A-20 zones to the RR-1 zone at approximately 4396 Cottonwood Canyon Road. Application 12.118 until January 24, 2013 to allow time for staff and the applicant to discuss future use and ramifications of the rezone. Second by Member Stephens. The vote was unanimous. The motion carried.

7. Discussion/Decision: Adoption of Planning Commission Resolution 13-01, a resolution establishing the Planning Commission's 2013 meeting dates and times.

The Members reviewed the proposed meeting agenda. Member Sessions asked if staff was ok with one meeting in February. Mr. Ewert noted all applicant have been made aware of just one meeting being scheduled for February. He noted it may create a larger meeting in March.

Member Erickson moved to approve the Planning Commission resolution 13-01 Second by Member Sessions. The vote was unanimous. The motion carried.

8. Staff report.

- Planning Department has hired a new part-time secretary, Carol Squires
- Department has hired a new planning assistant; Ronda Kippen.

- The County has selected and hired a planning consultant for Snow Basin. He has been a former planner for another jurisdiction with resort development experience. Bruce Parker has worked with Beaver County, Juab County, Dagat County, and small counties with low population but has also worked on large master plan developments.

- Planning Commission will be addressing Snow Basin's application within the next several months.

- The Johnson proposal will be on agenda in two weeks.

Agenda item # 4 was addressed at this time.

9. Adjourn.

Member Sessions moved to adjourn. Second by Member Erickson.

Approved: _____ Date: _____
Chairman

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

Exhibit A – Text Amendment Regarding the Minimum Area of Lots within Subdivisions which have a Private Lane.

STAFF REPORT
December 26, 2012

To: Morgan County Planning Commission
Business Date: January 10, 2013

From: Charles Ewert, MPA
Planner

Re: **Text Amendment Regarding the Minimum Area of Lots within Subdivisions with a Private Lane**

Application No.: 12.118
Applicant: Ken Rindlesbach
Request: To amend portions of sections 8-12 of the Morgan County Code regarding the minimum area of lots within subdivisions with a private lane.

EXECUTIVE SUMMARY

Current code requires that in order to gain the use of the more flexible private lane ordinance a developer must provide lots with a minimum area of five acres within the subdivision. The code specifies that all lots within the subdivision boundaries shall meet this minimum standard even if there are lots being proposed that will have frontage and access from other streets, and not obtain frontage or access from the proposed private lane.

This proposal is a request to amend the code to allow for the use of a private lane within a subdivision with lots of various sizes, including ones that are smaller than the five acre minimum. The proposal restricts those smaller lots from obtaining access or frontage from the proposed private lane. In other words, lots gaining access and frontage from the private lane will still be required to meet the five acre minimum acreage requirement, while other lots in the subdivision may be smaller if provided a more conventional form of frontage (i.e., public/private street meeting county standards).

The proposal does not change the requirement for a subdivision to be a minimum of 20 acres in order to gain the use of a private lane, nor does it change any of the other requirements listed in Morgan County Code (MCC) 8-12-44(P).

Staff have also provided a minor administrative clarification at the end of MCC 8-12-44(P), rearranging a paragraph into its proper order.

BACKGROUND

The applicant has an existing subdivision that he desires to amend in which some existing and proposed lots do not meet this five acre minimum. The applicant desires to use the private lane ordinance to obtain the required frontage for only his approximately 30.31 acre lot, while still using previously existing County rights-of-ways to provide the required frontage for the other lots.

ANALYSIS

General Plan. One of the purposes of the General plan is to provide guiding assistance when these kinds of questions arise. By looking to the County’s 2010 General Plan we may find the guidance we need to provide adequate policy revisions.

Some recommended policies from the general plan are as follows, with staff comments in italics:

Goals, Objectives, and Policies (Pg 14)

Goal 1: Manage and guide growth in a manner that promotes economic development and efficient use of services.

Objective 1: Plan for orderly and sustainable growth

Policy 7: Adopt new regulations for master planned communities, town center mixed use developments, and compact or flexible subdivisions.

This policy is one of the only supporting policies in the General Plan that may support the request. The Plan calls for flexible subdivision regulations. Providing the availability of the flexible private lane ordinance to more developers may assist in achieving the intent of the associated goal.

Land Use Ordinance Provisions.

The section that regulates private lanes is MCC 8-12-44(P). Staff’s proposed amended language is as shown in Exhibit A. It provides for the use of private lanes in subdivision with lots less than five acres as long as all lots gaining access and frontage from the private lane are still the minimum five acres.

Staff have also moved the current MCC 8-12-44(S) to MCC 8-12-44(P)(8) where it was intended to be placed when the ordinance was adopted earlier this year.

In evaluating the pros and cons of this change, the Planning Commission should consider the context from which the private lane ordinance originated, and the discourse that was had at the time it was adopted. It originated from the Planning Commission on concerns that some land owners may experience difficulties developing larger lot properties without some greater flexibility in the ordinance. A concern brought forth by the County Council during discussions was that this ordinance should be for the use of the large land owners with the intent to keep the County more rural agricultural in nature – thus the five acre lot restriction and 20 acre subdivision boundary restriction. The Planning Commission should consider whether this request aligns with these concerns.

Procedures for adopting amendments to Title 8 of the Morgan County Code. Title 8- Land Use Regulations (formerly Title 16- Land Use Management Code) 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:

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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 if the Planning Commission can find that the requested text amendment addresses a legitimate concern or deficiency in the ordinance that it makes a positive recommendation to the County Council for the text change, with the following findings:

1. That the amendment is in conformance with the proposed policies of the 2010 General Plan.
2. That the amendment provides flexible improvements requirements for certain types of rural subdivisions which are reasonable and practical given their respective impact on the community.
3. That the amendments are necessary to provide objective evaluative criteria from which to evaluate the use of a private lane.
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 the minimum area of lots within subdivisions with a private lane, application 12.118, based on the findings presented in the Staff report dated December 26, 2012:”

1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation for the proposed land use regulations text amendments regarding the minimum area of lots within subdivisions with a private lane, application 12.118, based on the following findings:”

1. List any additional findings...

SUPPORTING INFORMATION

Exhibit A: Proposed ordinance changes

Exhibit B – Brown Rezone; a request to rezone 10.187 acres of property from the R1-20/A-20 zones to the RR-1 zone at approximately 4396 Cottonwood Canyon Road.

STAFF REPORT

January 3, 2012

To: Morgan County Planning Commission
Business Date: January 10, 2013

Prepared By: Charles Ewert, Planner

Re: **Brown Rezone**

Application No.: 12.162
Applicant: Bonnie Brown
Project Location: 4396 Cottonwood Canyon Road
Zoning: A-20
Acreage: Approximately 10.187 Acres
Request: Request for approval to rezone approximately 10.187 acres of property from R1-20 and A-20 to RR-1.

SUMMARY

The applicant, in partnership with the Church of Jesus Christ of Latter-day Saints, is requesting to rezone a portion of both her and the Church's property from the R1-20/A-20 zone to the RR-1 zone. The purpose of the rezone is to facilitate a land exchange between the applicant and the Church so that the Church may pursue the possibility of a Church development. As an incidental benefit, if granted the rezone will bring the applicants currently nonconforming property into conformity with the requested zone's area requirements, and could help facilitate later development as well.

Rezoning is a legislative decision. To make a positive recommendation the Planning Commission needs to make two primary findings: that the proposed amendment is in accord with the master plan of the county; and that changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of adopted ordinances.

To evaluate the merit of the request against the need for these findings, having an understanding of the recommended use of the property as provided for in the future land use map and an understanding of the existing zoning map, ordinances, and area uses are imperative.

It is also imperative to understand the maximum use of the property under the new requested zone. Some objective evaluative criteria to consider are: the potential resulting density, access to the property, traffic circulation, culinary water resources, sewer services, flood plain proximity, fire protection, topographic features, and the potential for geologic hazards. Each of these criteria is explored in this report.

Staff makes the findings herein that the request does not precisely align with the future land use map and the adopted Airport Overlay Zone (AOZ). In as much as staff could not find substantial negative impact with the other above listed objective criteria, it is recommended that the Planning Commission recommend those portions of the requested rezone that complies with the Future Land Use Map and AOZ for approval to the County Council, as provided graphically in Exhibit I: Staff Recommended Rezone; Comparison.

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BACKGROUND

The subject property is located along the north side Cottonwood Canyon Road, approximately 0.14 Miles from the intersection of Old Highway Road and Cottonwood Canyon Road (see Exhibit A). The property has a mixed use of agriculture and residential. From the inception of what is currently all of the Brown's two contiguous parcels (parcel #03-005-034-04, approximately 3.269 acres, and 03-005-034-08, approximately 0.994 acres – the home site), there have been parcel divisions that have not complied with the subdivision requirements or the minimum zoning requirements of the A-20 zone, and there has not been any evidence presented that these divisions were condoned by the County in accordance with adopted processes. The current owner has recently become aware of the problems this may cause and is desirous to bring the property into compliance with zoning requirements by rezoning it to a zone that better fits the current parcel configuration and meets the minimum recommendations of the County's Future Land Use Map.

The above issue was brought to light after the LDS Church approached the applicant with a proposal to purchase a portion of the subject property in order to gain more sufficient frontage and access for a potential future church development site on adjacent property (see Exhibit B). On further consultation with the County it became clear that a lot line adjustment could not be executed between the parcels because it would make the Brown parcels even more non-conforming, which is not allowed by MCC 8-12.

Both parties are now in cooperation in petitioning the County to rezone the property. This is the first step to bringing it into conformance with County requirements in order to make potential future development(s) possible. The 10.187 acre "**subject property**," as referenced herein, is a combination of the applicant's property and a portion of the Church's adjacent property.

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 this title.

General Plan. The first finding that the Planning Commission must make in order to make a positive recommendation for this rezone is that it is in accord with the master plan of the County. The 2010 General Plan and accompanied Future Land Use Map (as amended) is the County's master plan. The following is an excerpt from the plan that is relevant in evaluating this request (italics added for emphasis):

Both the text of the General Plan and the Future Land Use Map must be considered when making decisions about future development or redevelopment. Zoning changes should be in conformance with the Future Land Use Map. (Pg. 7)

According to the Future Land Use Map (see Exhibit D for how the Future Land Use Map relates to the property) the designation for the subject property is twofold. For both of the Brown parcels the future land use designation is "Village Low Density Residential," which is designed for:

The Village Low Density Residential designation provides for a lifestyle with planned single

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family residential communities, which include open space, recreation and cultural opportunities, including schools, churches and neighborhood facilities located in established village areas (formerly area plan boundaries) or master planned communities. *The residential density is a maximum of 2 units per acre.*

The petition to rezone Brown portion of the subject property appears to be in conformance with the maximum recommendation for residential density of two units per acre in that the RR-1 zone only permits one residential unit per acre.

For the portion of property belonging to the LDS Church the future land use designation is “Recreation.” There appears to be two different types of “recreation” planned for in the 2010 General Plan. There is the “Natural Resources and Recreation” designation, which is represented on official maps with a green shade and recommends a minimum of 160 acres per property, and there is simply the term “Recreation” which is only shown on the Mountain Green Area Detail Map on page 11 of the plan, with no other specific qualifiers regarding its use elsewhere in the plan. When questions arise about the 2010 General Plan with respect to a specific area, Page 2 of the General Plan directs us to seek greater information from the local area plan, as incorporated into the 2010 General Plan by Exhibit. Section 2.27 of the Mountain Green Area Plan indicates some information about recreation areas in Mountain Green, and includes the LDS Church’s subject property in it – which is likely where the designation of the current Future Land Use Map originated – however it does not provide specific future recommendations for new policies or objectives related to the rezoning of property that are so designated.

Because the County does not have a specific zoning designation for parks and recreation adopted into ordinance, it may be assumed that the appearance of this designation on the Future Land Use Map may be a prompt for the County to develop such zoning designation as the need arises in the future. What is clear is that the portion of the Church property included in this rezone request to be rezoned to a rural residential zone does not comply with the General Plan’s recommendation for the property to be considered as recreational property in the future. Staff’s recommendation does not include rezoning this portion of the subject property.

Zoning. The Planning Commission should evaluate the request based on the potential changes in use and compatibility with existing conditions. To begin the evaluation, it is important to know the purpose of each zone and how they relate to each other.

The property has been noticed as a rezone from A-20/R1-20 zones. The R1-20 has been included because it appears according to zoning map overlays upon aerial photography that a small part of the northwest portion of the subject property is designated as R1-20 (see Exhibit C). The application is to rezone the entire provided legal description to RR-1, and the affect the request may have on the small R1-20 designation of the area may be negligible and is not further explored great detail in this report.

The purposes of the A-20 zone are:

[T]o 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 purposes of the rural residential (RR-1) zones are:

- To promote and preserve in appropriate areas conditions favorable to large lot family life;
- Maintaining a rural atmosphere;

- The keeping of limited numbers of animals and fowl; and
- Reduced requirements for public utilities, services and infrastructure.
- These districts are intended to be primarily residential in character and protected from encroachment by commercial and industrial uses.

The minimum lot size requirement in the RR-1 zone is one acre. The minimum lot size requirement in the A-20 zone is 20 acres. The sizes and uses of properties adjacent to the subject property vary. To the south and east (across Cottonwood Canyon Road) there are established subdivisions with lots that are in some cases smaller than half-acre. To the north and west are properties of recreation grounds, agricultural grounds, and rural residential uses. To the north and east is the Mountain Green Commercial Park. The eclectic uses of property in the area primes this property for many types of uses; it may be found that the RR-1 designation will suit the area well.

The property is also located in the Airport Overlay Zone, and a portion of the subject property is located under the "Approach Surface" as defined by MCC §8-5H-3 (see Exhibit E). MCC §8-5H-4 indicates that rezones under this area of the approach surface should not be considered favorably for a rezone. Thus, staff's recommendation does not include rezoning this portion of the subject property either.

When evaluating a rezone, it is critical to evaluate 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 differences in the allowed uses between the proposed RR-1 zone and the A-20 zone is a useful method to determine the potential changes the rezone may have on the area (see Exhibit J).

The following nine criteria should be evaluated when determining the impact of the potential rezone:

1. **Potential density:** The applicant has provided a survey level accurate description of the 10.187 acre subject property, which could result in approximately 10.187 dwelling units. The current combination of A-20/R1-20 zoning would only allow approximately 1.027 dwelling units (staff estimates that approximately 0.24 acres exists in the R1-20 designation). This yields total potential increase of 9.160 units. However, given the Future Land Use Map Designation and the Airport Overlay Zone restrictions, staff's recommendation for approval includes much less land. It is not known precisely how much at this time. If the Planning Commission recommends approval, a new legal description with total acreage of the recommended rezone will be required from the applicant prior to the Council's final adoption.
2. **Access:** The subject property has roughly 1,242.73 feet of frontage along Cottonwood Canyon Road. Isolating only frontage as a review criteria, the applicant could potentially develop six lots along the frontage of the road as a result of the proposal given that the minimum frontage in the RR-1 zone is 200 feet, and in the A-20 zone is 330 feet, (MCC §8-5A-5). Given staff's recommended rezone, this potential is reduced to five, with frontage of approximately 830.76 feet in the RR-1 zone and the remaining approximately 411.97 feet in the A-20 zone.
3. **Circulation:** Cottonwood Canyon Road is a thoroughfare that provides connections to and passed the subject property and other public streets in the County. Circulation to the property does not appear to be an issue.
4. **Culinary Water Resources:** Private culinary water systems serve the culinary water needs of the area. There is also the option for private wells. The applicants will need to provide indication from a local water company of their willingness to serve the property or provide water right information, well log information, and Health Department approval if the property will be served by a private well prior to development on the property.

5. Sewer: The property falls within the boundaries of the Mountain Green Sewer Improvement District. They will be required to seek the district's approval to connect to the system prior to developing.
6. Flood Plain: A small portion of the northwest part of the property is located in the "AE" zone of the FEMA flood plain maps (see Exhibit F). The definition of the "AE" designation is:

Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply. (<http://www.fema.gov/national-flood-insurance-program-2/zone>)

If development is proposed in this flood plain area, the harmful impact of flooding issues or high ground water will need to be properly addressed. Development can occur in the flood plain, but only if the lowest floor elevation of buildings designed for human occupancy is one foot above the base flood elevation.

7. Fire Protection: The property is exempt from Wildland Urban Interface requirements, so a specific fire protection plan is not required. If/when it is developed it may still be required to have certain fire suppression as required by the local Fire Official.
8. Topographic Features: The property is fairly flat. Topography does not seem to be a concern for potential future development.
9. Geology: The property appears to be in the "Qal" geologic unit designation, which is not listed in MCC §8-5I as a hazardous unit (see Exhibit F).

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. Posted on the subject property within 10 days prior to this meeting.
4. Mailed to property owners within 1000 feet of the affected property, as identified by applicant.
5. Mailed to the property owner.
6. Mailed to affected entities
7. Posted in the foyer of the Morgan County Courthouse.

STAFF RECOMMENDATION

Staff recommends that if the Planning Commission can make the following findings for approval of the Brown rezone request that it does so:

1. That the request does not precisely align with the Future Land Use Map and the Airport Overlay Zone (AOZ), and should only be granted in the part that it does comply (as graphically represented in Exhibits

- H and I of this report) in order to observe the purposes of these documents.
2. That allowing the rezone will promote the property owner's desired use of the land.
 3. That the uses listed in the proposed zone are harmonious with existing uses in the area.
 4. That the recommended amendment is in accord with the County's General Plan.
 5. That the recommended amendment is in accord with the County's OAZ.
 6. That any future development on the property will require aviation and hazards agreements to run with the land, as required by the current MCC 8-5H-7.
 7. That changed or changing conditions makes the proposed amendment reasonably necessary to carry out the purposes of County ordinances.

MODEL MOTION

Sample Motion for a *Positive* Recommendation – “I move that we forward a positive recommendation to the County Council for the Brown Rezone Request, application #12.162, rezoning property at approximately 4396 Cottonwood Canyon Road from A-20/R1-20 to RR-1, on the basis that the legal description for the property is amended to reflect what has been graphically represented in Exhibits H and I of this report, based on the findings listed in the staff report dated January 3, 2013, 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 Brown Rezone Request, application #12.162, rezoning approximately 10.187 acres of property at approximately 4396 Cottonwood Canyon Road from A-20/R1-20 to RR-1, based on the following findings:

1. That the specific request does not meet the requirements of the Airport Overlay Zone (AOZ).
2. That the current condition of the area does not merit changed or changing conditions. The area is not yet ready for the rezone request.
3. That the proposal does not conform to the Morgan County 2010 General Plan Future Land Use Map (as amended).
4. List any additional findings...

ADDITIONAL INFORMATION

Exhibit A: Vicinity Map

Exhibit B: Parcel Boundaries and Proposed Subject Property Rezone

Exhibit C: Zoning Map and Proposed Subject Property Rezone

Exhibit D: Future Land Use Map and Proposed Subject Property Rezone

Exhibit E: Airport Overlay Zone and Proposed Subject Property Rezone

Exhibit F: Flood and Geologic Hazards

Exhibit H: Staff Recommended Zone Change

Exhibit I: Staff Recommended Rezone; Comparison of Request

Exhibit J: Comparison of allowed uses between the A-20 and RR-1 zones.