



PLANNING COMMISSION AGENDA
Thursday, August 22, 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. Public Comment

Administrative Items

5. Discussion/Decision: Anderson Estates Subdivision
6. Discussion/Decision: D&N Porter Subdivision
7. Discussion/Decision: LDS Mtn Green Cottonwood Canyon Road
8. Discussion: Flexible Subdivision Survey Results

Legislative Items

9. Hearing/Discussion/Decision: Karen House Trust Rezone
10. Staff Report.
11. Approval of minutes from June 27, 2013
12. Approval of minutes from August 8, 2013
13. Adjourn.

Morgan County, in compliance with the Americans with Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance. Persons requesting these accommodations should call Keryl Squires at 801-845-4015, giving at least 24 hours notice prior to the meeting. A packet containing supporting materials is available for public review prior to the meeting at the Planning and Development Services Dept. and will also be provided at the meeting. Note: Effort will be made to follow the agenda as outlined, but agenda items may be discussed out of order as circumstances may require. If you are interested in a particular agenda item, attendance is suggested from the beginning of meeting.



Planning and Development Services

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

STAFF REPORT

August 15, 2013

To: Morgan County Planning Commission
Business Date – August 22, 2013

From: Charles Ewert/Ronda Kippen

Re: **Anderson Estate Subdivision; an Amendment to the Enterprize Estates Subdivision**

Application No.: 12.040

Applicant: Brice and Heidi Anderson

Location: Approximately 2635 W Old Highway Road

Current Zoning: R1-20 and RR-5 Zones

Acreage: Approximately 2.865 acres (124,799.4 Sq. Ft.)

Request: Final plat approval for a two lot standard subdivision, which will amend the existing Enterprize Estates Subdivision.

SUMMARY & BACKGROUND

The applicant is seeking approval of a two lot subdivision. The two lots will amend lot 1 of the existing Enterprize Estates Subdivision. The subject property currently has one single family dwelling unit on it, and the subdivision has been planned to preserve the required setbacks of the R1-20 zone for this structure. The proposal is both an amendment to an existing subdivision and a re-subdivision of land, and was reviewed for process steps and standards of both, and required by code.

The applicants had the property rezoned to the current zoning¹ on September 6, 2011² to facilitate the proposal. The County subsequently vacated any public interest from an adjacent right of way, part of which is included within the boundary of this subdivision plat.

With the requested conditions herein, the request appears to meet the requirements of the zoning ordinance and the subdivision ordinance, and staff are recommending approval. Staff's evaluation of the request is as follows.

ANALYSIS

General Plan and Zoning. The subject property is located at the intersection of Old Highway Road and Spring Hollow Road in the Enterprise Area of unincorporated Morgan County. The 2010 Morgan County General Plan has designated this area as a maximum of 2 dwelling units per acre (DUA) area³, which is

¹ See Exhibit B for the zone map of the area

² See CO-11-09

³ See Exhibit A for the future land use map of the area

considered a Village Low Density Residential designation. The purpose of the Village Low Density Residential designation is⁴:

The Village Low Density Residential designation provides for a lifestyle with planned single 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 proposal is in compliance with the general plan by providing density under this limit.

The current zoning designations on the property are R1-20 and RR-5. There are approximately 1.080 acres of the 2.856 acre property in the R1-20 zone. There are approximately 1.776 acres in the RR-5 zone.

The purpose of the R1-20 zone are⁵:

To provide areas for very low density, single-family residential neighborhoods of spacious and uncrowded character.

The purpose of the RR-5 zone are⁶:

1. The purposes of providing a rural residential district are:
 - a. To promote and preserve in appropriate areas conditions favorable to large lot family life;
 - b. Maintaining a rural atmosphere;
 - c. The keeping of limited numbers of animals and fowl; and
 - d. Reduced requirements for public utilities, services and infrastructure.
2. These districts are intended to be primarily residential in character and protected from encroachment by commercial and industrial uses.

The proposal is in compliance with these purpose statements.

The purpose statements in the General Plan and Zoning Ordinance do not provide actual development regulations, but present the zoning context in which the proposed subdivision is located. The specific regulations found in the adopted County Code govern development of the subject property.

Layout. The Subdivision is two lots at the intersection of Spring Hollow Road and Old Highway Road⁷. Lot one is approximately 2.321 acres of land, and lot two is approximately 0.535 acres of land. Even though lot one presents a configuration like a “flag” lot, which is not allowed by code, its frontage and

⁴ See 2010 Morgan County General Plan

⁵ MCC §8-5B-1

⁶ MCC §8-5A-1

⁷ See Exhibit D for a copy of the final plat with staff's redlines

width at the front setback line complies with adopted laws, and is therefore not technically definable as a “flag” lot. There is currently a home the proposed lot two. The proposed lot lines appear to present that the new lot conforms to existing R1-20 standards for lots, including setbacks and coverage.

Roads and Access. Old Highway Road will serve as access to both resulting lots, with no changes from what is in existence today. Old highway road is not built to current County standards⁸ in this area, and rather than extending the width of the right of way at this time, as is in most cases required of development approval where the road is not built to County standards, the applicant has opted to execute a “Deferral Agreement” as allowed by 8-12-44(D)(1)⁹. For the project to qualify for a deferral agreement the County must find the following:

The deferred improvements are not necessary at this time to protect the public’s health, safety, and welfare, and the required improvements would create a negative impact on abutting unimproved properties.¹⁰

If the Planning Commission cannot make this finding, as provided in the staff recommended findings, then the applicant should be required to install the improvements that are required at this time.

Previous Platting. The property was originally divided as the Enterprize Estates Subdivision¹¹.

Grading and land disturbance. The land has a gradual negative grade from Old Highway Road extending southward toward the rear of the lots. Minor grading of the lots can be expected, but none so much that it will trigger the excavation review thresholds. Any land owner choosing to re-grade the resulting lots may need additional review and engineering of the proposal at that time.

County Engineer. The County Engineer has reviewed the proposal and the associated deferral agreement and is recommending approval.

Surveyor. The County Surveyor has reviewed the proposal and is recommending approval.

Fire Chief. A letter from the Fire Chief was submitted on May 7, 2013 indicating that it meets all terms of the IFC.

Sensitive Areas, Geology, and Geotechnical Considerations. A geologic hazards assessment and geotechnical report has been submitted for the County’s consideration. The County Engineer has not indicated that site geology or geotechnical issues are a concern at this point. There appears to be an alluvial fan deposit (Qafy) on the front of both lots, and within the designed building pad of lot two. Because of this, staff are recommending that the applicant’s geologist, geotechnical engineer, and civil engineer provide the certifications required by MCC 8-5I-12 (A) prior to plat recording to bring the project into compliance with this ordinance.

Utilities. The County has received will serve letters from Rocky Mountain Power and Questar Gas. Both were conditional letters of approval. The applicant should satisfy all relevant requirements of those entities, and approval of this application should be conditioned on such.

Water to the existing home on the proposed lot two is currently being provided by the Central Enterprise

⁸ See CR-11-01 for current ROW cross section standards

⁹ See Exhibit E for the proposed deferral agreement

¹⁰ MCC 8-12-44(D)(1)(b)

¹¹ See Exhibit C for a graphic depiction of the Enterprize Estates Subdivision

Water Company. The water company has also provided a conditional will serve letter for lot two, but the Health Department has indicated their approval of a new onsite well. It appears that the applicant could be served by either or both companies as long as sufficient shares/rights are available. It is not immediately clear whether water rights/shares are available for the culinary uses, and approval should be contingent on proof of paper water. The plat has been designed for the signatures of the water company and the health department.

Staff recommends that a note be placed on the plat that indicates the water rights/shares being provided to each lot, the service provider, and the required flow for each culinary use (800 gallons per day¹²) is placed on the plat. Staff also recommends that if a well will be provided that proof of well permit is submitted prior to plat recording.

Secondary water will be provided to lot one by an existing non-culinary well. There is limited information that indicates that secondary water may also be provided to lot two by the same well. If so, the irrigation rights/shares being provided for each lot for irrigation uses should be annotated on the plat as well as the amount of water flow and allowed irrigable acreage.

The Weber-Morgan Health Department has reviewed the plat for septic system considerations and has offered their acceptance of site conditions. Final septic approval occurs simultaneous with building permitting.

Flood Plain. There is a flood plain that traverses a portion of lot one. Development in the flood plain is regulated by adopted flood plain ordinances, and a note should be placed on the plat alerting future viewers of the plat of the presence of such flood plain.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a positive recommendation to the County Council for the Anderson Estates Final Subdivision Plat, an amendment to the Enterprise Estates Subdivision, application 12.040, subject to the following conditions:

1. That all final administrative items as may be required by respective reviewers are addressed prior to plat recording.
2. That an approved and executed deferral agreement meeting the approval of the County Attorney is recorded prior to final plat recording.
3. That all certifications from a licensed geologist, geotechnical engineer, and civil engineer are received in compliance with MCC 8-5I-12 prior to plat recording.
4. That a note is placed on the plat that indicates the water rights/shares being provided to each lot, the service provider for each lot (as applicable), and the required flow for each culinary use (800 gallons per day) is placed on the plat.
5. That if a well will be used for lot one that proof of well permit is submitted prior to plat recording.
6. That the irrigation rights/shares being provided for each lot for irrigation uses should be annotated on the plat as well as the amount of water flow and allowed irrigable acreage.
7. That a note is placed on the plat indicating the presence of a flood plain on a portion of lot one, and that all development shall conform to adopted flood plain ordinances.
8. That inasmuch as the Central Enterprise Water Association, Questar Gas, and Rocky Mountain Power have all given conditional will serve letters for the proposal, approval of the plat amendment is conditioned on the fulfillment of the various requirements of those entities. Failure

¹² MCC 8-12-46(B)(1)

- to comply may result in voidance of this approval.
9. That an updated title report is submitted with the final mylar.
 10. That staff can make a positive finding that all administrative corrections and information has been received upon completion of the above conditions.

This recommendation is based on the following findings:

1. The nature of the subdivision is in conformance with the current and future land uses of the area.
2. The proposal complies with the Morgan County 2010 General Plan.
3. The proposal complies with current zoning requirements.
4. That certain conditions herein are necessary to ensure compliance with adopted laws prior to subdivision plat recording.
5. The deferred improvements are not necessary at this time to protect the public's health, safety, and welfare, and the required improvements would create a negative impact on abutting unimproved properties.
6. That the proposal is not detrimental to the health, safety, and welfare of the public.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the County Council for the Anderson Estate Final Subdivision Plat, an amendment to the Enterprize Estates Subdivision, application 12.040, subject to the conditions and based on the findings presented in the staff report dated August 15, 2013, and as modified by the conditions below:”

1. List any additional findings and/or conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the County Council for the Anderson Estate Final Subdivision Plat, an amendment to the Enterprize Estates Subdivision, application 12.040, based on the following findings:”

1. List all findings...

SUPPORTING INFORMATION

Exhibit A: Future Land Use Map
Exhibit B: Zoning Map
Exhibit C: Enterprize Estates Subdivision
Exhibit D: Final Plat with Staff Redlines
Exhibit E: Proposed Deferral Agreement
Exhibit F: Flood Plain Boundaries
Exhibit G: Wildland-Urban Interface

Exhibit A: Future Land Use Map

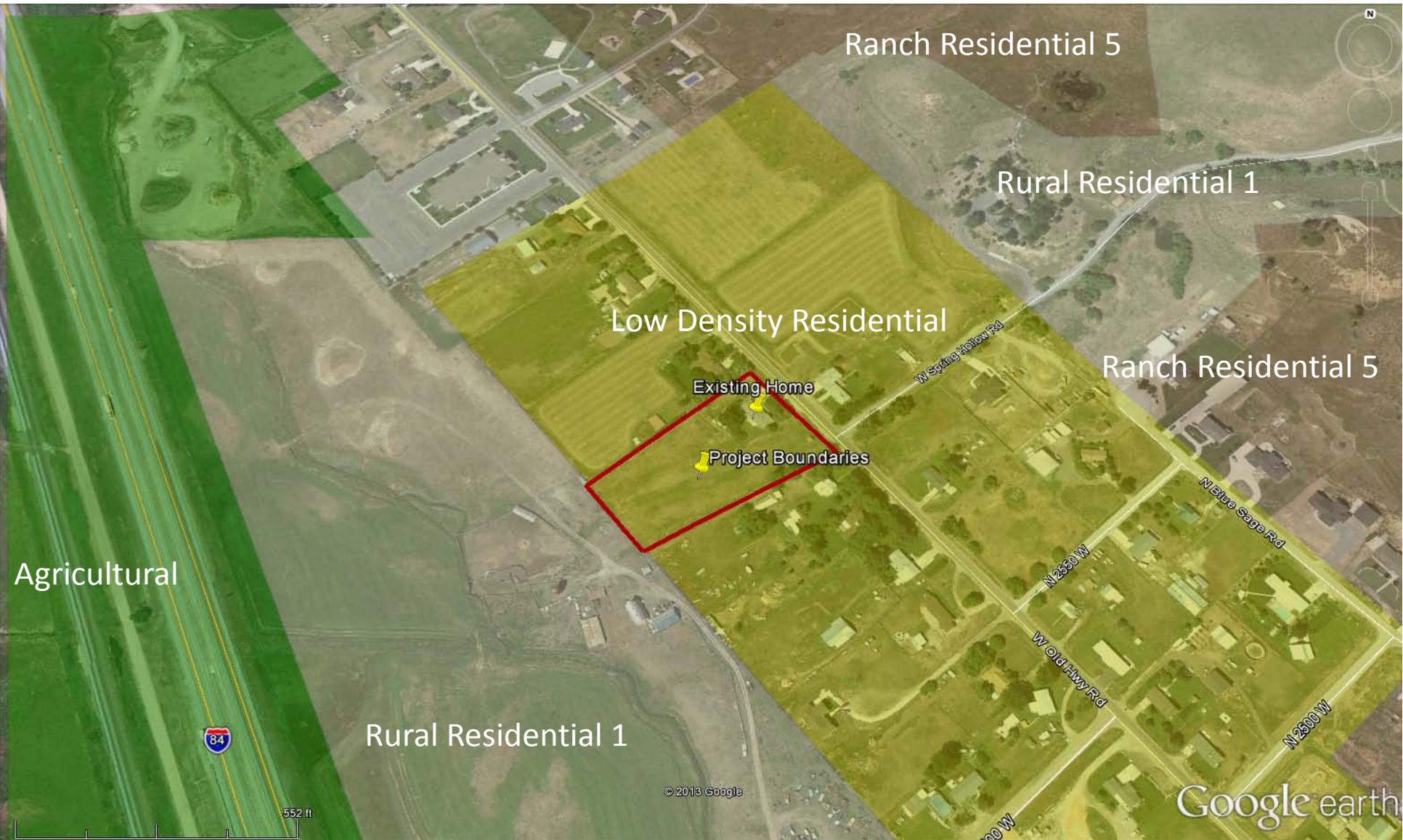


Exhibit B: Zoning Map



Entry No. 35148 Book M-3
 RECORDED 8-24-68 2:15 P.M. Page 30
 REQUEST of Verly, Ed
 FEE \$ 5.00 By Juan P. Carter
 Mary O. Mechem, Morgan Co. Recorder

ENTERED
 INDEXED
 RECORDED
 PROOF READ
 ABSTRACT
 ASSESS. CARD

Entry No. 35906 Book M-3
 RECORDED 11-18-68 at 11:45 A.M. Page 313
 REQUEST of Great Basin Survey
 FEE \$ 5.00 By Juan P. Carter
 Mary O. Mechem, Morgan Co. Recorder

ENTERPRIZE ESTATES

PART OF THE NE. 1/4 OF SEC. 8, T4N, R2E, S.L.B. & M., U.S. SURVEY

MORGAN COUNTY,

UTAH

JULY, 1968

SCALE 1" = 100'

SURVEYOR'S CERTIFICATE

I, Kent Gene Arave, a registered land surveyor in the State of Utah, do hereby certify the plat of Enterprize Estates in Morgan County, Utah has been correctly drawn to the designated scale and is a true and correct representation of the following description of lands included in said subdivision based on data compiled from records of the Morgan County Recorder's Office and of a survey made on the ground.

BOUNDARY DESCRIPTION

A part of the NE. 1/4 of Section 8, T4N, R2E, S.L.B.&M., U.S. Survey. Beginning at a point on the West Line of County Road and North Line of Existing R.O.W. said point being East 5303.84 ft. and South 630.05 ft. from the N.W. Corner of Said Section 8, running thence S 49° W along the North Line of Existing R.O.W. 391.50 ft. Thence S 59° 51' W 752.22 ft., thence N 49° E 490.00 ft. to the West Line of County Road, thence S 39° 17' E 771.00 ft. along County Road to Point of Beginning.

7-18-68 2679 Kent Gene Arave
 Date License No. Signature

OWNER'S DEDICATION

The undersigned owners of the above described tract of land do hereby set apart and subdivide the same into lots, streets, and utility easements as shown on the plat thereof which is hereby made a part hereof, and assign to the lands included in said plat the name of Enterprize Estates. The undersigned owners further dedicate, grant and convey to Morgan County all those portions or parts of said tract of land designated on said plat as streets, the same to be used as public thoroughfares forever and grant and dedicate a perpetual right of way and easement over and under the land designated on the plat as public utility easements, the same to be used for the installation and maintenance and operation of public utility service lines as may be authorized by Morgan County.

Done by W. Wynn Luzanne G. Wynn
Bobby W. Wynn & W.P. Suzanne G. Wynn
Raymond J. Van Tassell Linda Kay Van Tassell
Lee Gines & W.P. Connie Gines

ACKNOWLEDGEMENT

State of Utah
 County of Morgan
 On the 2 day of July, 1968, personally appeared before me, the undersigned Notary Public, in and for said County of Morgan in said State of Utah, the signers of the attached Owners Dedication, in number, who duly acknowledged to me they signed it freely and voluntarily and for the purposes therein mentioned.
Feb. 9 - 1970 Verl J. Pelt
 Commission Expires Notary Public

State of Utah
 County of Morgan
 On the ___ day of ___, 19___, personally appeared before me the undersigned Notary Public, in and for said State and County, ___ and ___ and after being duly sworn acknowledged to me they are ___ and ___ of said Corporation and that they signed the Owners Dedication freely, voluntarily and in behalf of said Corporation for the purposes therein mentioned.

Commission Expires Notary Public

COUNTY ENGINEER

I hereby certify that I have carefully investigated the lines of survey of the foregoing plat and legal description of the land embraced therein, and find them to be correct and to agree with the lines and monuments on record in this office.
Carl D. Hanna
 Date Signature

COUNTY APPROVAL

This is to certify that this plat and dedication of this plot were duly approved and accepted by the ___ County of Morgan, Utah this 21 day of Aug, 1968.
Alexander M. Lincoln James
 Title County Clerk Chairman

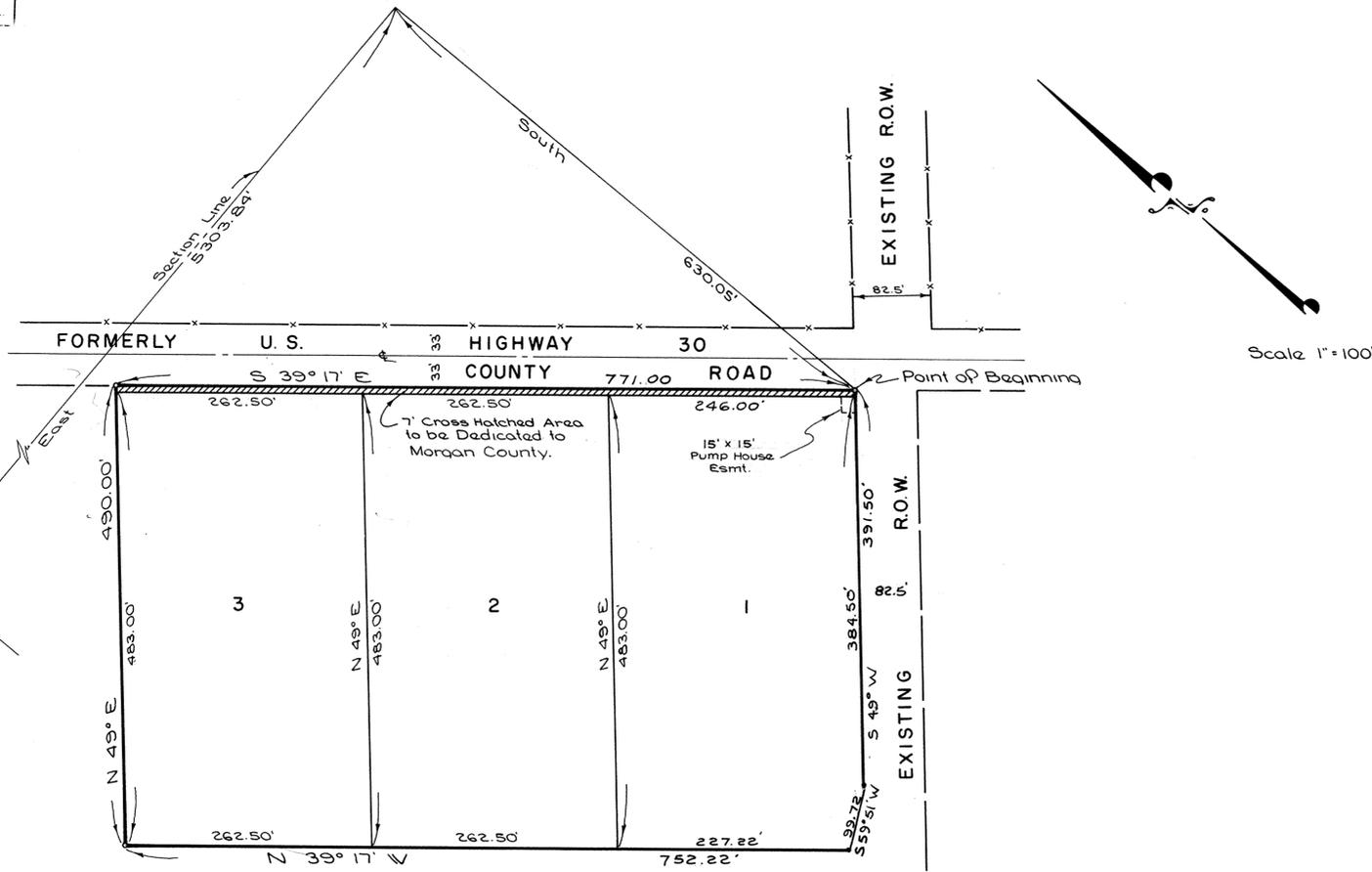
PLANNING COMMISSION

Approved by the Morgan County Planning Commission on the 17 day of July, 1968.
Frank W. Bohman
 Chairman

COUNTY ATTORNEY

I have examined the proposed plat of the Enterprize Estates and in my opinion it conforms with the county ordinances applicable thereto and now in force and effect.
 Date 7/21/68 Verly, Ed
 County Attorney

PREPARED BY:
 GREAT BASIN ENGINEERING & SURVEYING INC.
 Ogden, Utah



N.W. Corner of Section 8, T4N, R2E, S.L.B.&M.

DRAWING NUMBER ENTERPRIZE ESTATES SUB

DRAWING NUMBER

DRAWING NUMBER

SAPCO PRODUCTS • NEW HOPE, MINNESOTA REPRODUCED BY PART NUMBER 8552

Exhibit D: Final Plat With Staff Redlines

Anderson Estate Subdivision

Amended of Lot 1 Enterprize Estates Subdivision

A part of the Northeast Quarter of Section 8, T4N, R2E, SLB&M, U.S. Survey: Morgan County, Utah

NARRATIVE:

This survey was requested by Mrs. Heidi Anderson, for the purpose of subdividing this parcel into two residential lots.

A Brass Cap monument was found at the Southeast corner, and a Nail was found at the Northeast corner of Section 8, T4N, R2E, SLB&M, U.S. Survey.

A line bearing North 0°25'30" East between the brass cap and the Nail was used as the basis of bearings.

The original Enterprise Township plat referred to in title documents and other writings has determined to have been lost after extensive research by Mountain View Title, Morgan County Staff and the Land Surveyor.

An drawing was found in the Morgan County Records Office titled "Exhibit Map Showing the Property of Earl Jerry Morgan ET AL and that portion required for Highway Purposes". This drawing depicts a portion of Block 5, and Blocks 6, 7, & 8 of the Enterprise Township, in relationship to the Existing U.S. Highway 30, which is now known as Old Highway Road.

An ownership map depicting Block 23, and the 80 foot access road titled "An Amendment to Lot 2, Block 23, ORIGINAL PLAT OF ENTERPRISE TOWNSHIP" believed to have been done by Mountain Engineering, was also found to be on file in the Morgan County Recorder's Office. This map depicts the relationship between the 80 foot access road, Spring Hollow Road and the Northeast and Southeast corners of the Section.

Two rebar & caps "Set End" were found and three rebar & pipes were found along the Northern right of way line of Old Highway road and their locations were checked against the Lot Amendment plat/and honors.

The property was located and described using these documents other occupation evidence depicted on this drawing.

Property corners will be placed at a future date, once the entire parcel has been configured.

SURVEYOR'S CERTIFICATE

I, Andy Hubbard, a Registered Professional Land Surveyor in the State of Utah, do hereby certify that this plat of Anderson Estate Subdivision in Morgan County, Utah has been correctly drawn to the designated scale and is a true and correct representation of the herein described lands in said subdivision based on data compiled from records in the Morgan County Recorder's Office and from a survey made on the ground.

Signed this day of _____, 2015.

CENTRAL ENTERPRISE WATER COMPANY
Central Enterprise Water Company
Approval
Signed this day of _____, 2015.

WEBER MORGAN HEALTH DEPARTMENT APPROVAL
Weber Morgan Health Department
Approval
Signed this day of _____, 2015.

MORGAN COUNTY ATTORNEY
I have examined the foregoing plat and description of Anderson Estate Subdivision, and in my opinion it conforms with the County Ordinances applicable thereto and now in force and effect.
Signed this day of _____, 2015.

MORGAN COUNTY ENGINEER
I hereby certify that the requirements of all applicable statutes and ordinances prerequisite to County Engineer approval of the foregoing plat and dedication have been complied with.
Signed this day of _____, 2015.

MORGAN COUNTY PLANNING COMMISSION
Recommended Approval by the Morgan County Planning Commission on the day of _____, 2015.

MORGAN COUNTY SURVEYOR
I hereby certify that the Morgan County Surveyor Office has reviewed this plat for mathematical correctness, section corner data and for harmony with lines and monuments on record in the Morgan County Offices. The approval of this plat by the Morgan County Surveyor does not relieve the licensed land surveyor who executes this plat from the responsibilities and/or liabilities associated therewith.
Signed this day of _____, 2015.

Zoning Tabulations
2.858 Acres or 24,407 sq. ft.
Lot 1
0.548 Acres in R 1-80 Zone
1.776 Acres in RW-G Zone
Lot 2
0.855 Acres in R 1-80 Zone

MORGAN COUNTY APPROVAL
This is to certify that this plat and dedication of this plat along with the dedication of all streets, easements and Public Improvement Guarantees were duly approved and accepted by the County Council of Morgan County, Utah this day of _____, 2015.

BORDER DESCRIPTION

A part of Lot 1; & all of lot 4, and the vacated portion of Enterprise Township Survey in Morgan County Utah, and All of Lot 1, Enterprise Estates, a subdivision in Morgan County, Utah also being a part of the Northeast Quarter of Section 8, Township 4 North, Range 2 East, Salt Lake Base and Meridian, U.S. Survey.

Beginning at a point on the Southwesterly right of way line of Old Highway Road, as dedicated to Morgan County on said Enterprise Estates, said point being 747.00 feet North 39°17' West and 7.00 feet South 49°00'00" West from the intersection of the Southerly right of way line of Old Highway Road (Formerly U.S. Highway 30) and the Westerly right of way line of an 80.0 foot access road (2500 West Street); said point is also 4822.69 feet North 0°25'30" East along the Section line and 39.34 feet North 89°34'30" West from the Southeast corner of said Section; and running thence South 39°20'41" West 428.17 feet along an existing fence line to the Southwesterly line of said Lot 1; thence North 39°17'00" West 213.94 feet along said Southwesterly line to the Southwesterly corner of said Lot 1; thence North 49°00'00" East 482.87 feet along the Northwesterly line of said Lot 1 & 4, to said Southwesterly right of way line of Old Highway Road (Formerly U.S. Highway 30); thence South 39°17'00" East 301.64 feet along said Southerly right of way line to the point of beginning.

Contains 2.858 Acres

OWNER'S DEDICATION

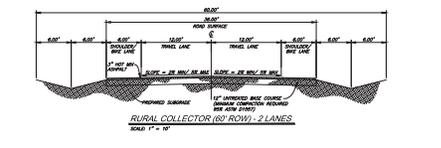
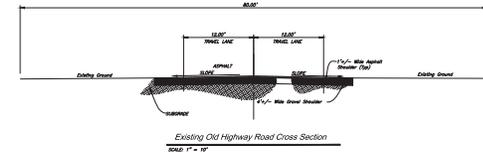
I, the undersigned owner(s) of the above described tract of land, having caused said tract to be subdivided into lots and streets to be hereafter known as Anderson Estate Subdivision do hereby dedicate to Morgan County the Spring Hollow Drainage easement for perpetual use of the public oil drainage, parcels of land, other utilities, or easements shown on this plat as intended for public use. In witness whereof, we have hereunto set our hands this day of _____, 2015.

ACKNOWLEDGEMENT

State of Utah
County of _____

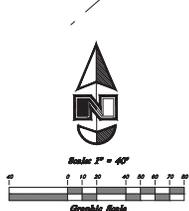
On the _____ day of _____, 2015, personally appeared before me, the undersigned Notary Public, the signers of the above Owner's Dedication, Brice Anderson and Heidi Anderson, who duly acknowledged to me they signed it freely and voluntarily and for the purposes therein mentioned.

Residing At: _____ A Notary Public commissioned in Utah
Commission Number: _____
Commission Expires: _____
Print Name



MORGAN COUNTY RECORDER

ENTRY NO. _____ FEE PAID _____
RECORDED _____ AT _____
_____ IN BOOK _____ OF OFFICIAL RECORDS, PAGE _____ RECORDED FOR _____
MORGAN COUNTY RECORDER
BY: _____ DEPUTY



20 Foot Setback. Please Revise

50 Foot Setback. Please Revise

Change to "Residential Building Envelope"

- NOTE:**
- Morgan County restricts the occupancy of buildings within developments as outlined in the adopted building and fire codes. It is unlawful to occupy a building located within any development without first having obtained a certificate of occupancy issued by the county.
 - Installation of the driveway approaches and aprons will be the responsibility of the property owner. The property owner will be required to obtain a right-of-way permit, and a paved apron is required to be installed prior to a certificate of occupancy being granted.
 - 10' public utility easement (PUE) each side of property line as indicated by dashed lines, except as otherwise shown.
 - An engineered site plan is required to be submitted with the building permit for the storm drain/retention pond on Lot 1.
 - During excavation and construction of buildings contractor/owner should consult with a Geotechnical Engineer as outline in the Geotechnical report.
 - A footing land drain system is recommended around the footings per the geotechnical report.

GREAT BASIN ENGINEERING

5746 SOUTH 1475 EAST OGDEN, UTAH 84403
MAIN (801)394-4515 B.L.C (801)521-0222 FAX (801)392-7544
WWW.GREATBASINENGINEERING.COM



AGREEMENT Deferring Public Improvements

Agreement is entered into this _____ day of _____, 20__, (Property Owners hereinafter referred to as "Owners") and Morgan County ("County"), a County organized and existing according to the law of the State of Utah.

WHEREAS, Owners have a development called Anderson Estates Subdivision in unincorporated Morgan County more particularly described below; and

WHEREAS, Owners understand they are required to install certain public improvements for the Anderson Estates Subdivision, but desire to defer improvements to a later time; and

WHEREAS, The County agrees to allow the Owners to defer the construction of the required improvements for the Anderson Estates Subdivision; and

WHEREAS, The Owners, including all successors, heirs, and assigns, agree to install the required improvements at a later time when the County shall deem such improvements necessary; and

NOW, THEREFORE, in consideration of the mutual term, covenants, and promises contained herein, the parties agree as follows:

1. Owners are the present owners of property whose legal description is as follows:

All of Lot 1 and Lot 2 of the Anderson Estate Subdivision, amended of Lot 1 Enterprize Estates Subdivision, as recorded in the office of the Morgan County Recorder.

2. Owners, their heirs, successors, and/or assigns, agree to make any and all public improvements to the property at their sole cost and expense, according to the then existing County Ordinances and standards, including but not limited to the following:
 - A. Then improvements include subsurface and surface material and grading, curb, gutter and sidewalk along the frontage of Lot 1 and Lot 2 of the Anderson Estate Subdivision, amended of Lot 1 Enterprize Estates Subdivision, as recorded in the office of the Morgan County Recorder.
 - B. The improvements shall be constructed in strict accordance with the Morgan County Design and Construction Standards that are current at the time of the improvements installation and as adopted by the County.
3. The County agrees to allow deferral of the improvements to a later date upon request of the County or as otherwise required by the County, such date may be at anytime so deemed appropriate by the County.
4. This agreement is a covenant running with the land described in paragraph 1, and shall be recorded with the Morgan County Recorder.

5. Owners agree to fully participate in any Special Improvement District that includes the property described in paragraph 1. Owners agree not to protest against the creation of the Special Improvement District. In the event a Special Improvement District is created, Owners will pay for the improvements according to the requirements of the Special Improvement District.
6. This agreement is binding upon the heirs, successors and or assigns of the parties to the agreement.
7. If the Owners, their heirs, successors, and or assigns fail to install the improvements at the time or in the manor described above, Owners agree to immediately provide a cash escrow in an amount necessary to complete the improvements as determined by the County Engineer. The Escrow agreement shall give the County full authority to withdraw funds for payment of the required improvements.
8. If the Owners, their heirs, successors, and or assigns shall default or fail to abide by the terms, covenants, or conditions of this agreement, they shall pay all costs, expenses (including engineering expenses), and attorney fees incurred by the County to enforce this agreement.

DATED this _____ day of _____, 20__

(Owner)

(Owner)

STATE OF UTAH)
 :SS
COUNTY OF)

On this _____ day of _____, 20__ personally appeared before me _____ and _____, the signers of this agreement, who dully acknowledged to me that they executed the same.

NOTARY PUBLIC
Residing at:

By: (County)
Its: County Council Chair

ATTEST:

County Clerk

Exhibit F: Flood Plain Boundaries



Exhibit G: Wildland-Urban Interface





STAFF REPORT

July 30, 2013

To: Morgan County Planning Commission
Business Date: 8/22/13

Prepared By: Ronda Kippen, Planning Technician

Re: Karen House Trust Rezone

Application No.: 13.049
Applicant: Karen House Trust
Project Location: 1675 W Deep Creek Road
Zoning: A-20
Acreage: 20 Acres
Request: Request for approval to rezone 20 acres of property located at 1675 W Deep Creek Road from A-20 to RR-10.

SUMMARY

The applicant is requesting to rezone their property from the A-20 zone to the RR-10 zone. The purpose of the rezone is to facilitate the development of the property in the future. The property that has been identified to be rezoned to RR-10 is primarily residential with some agricultural use. Historically, the zoning in the Deep Creek area has been A-20 however in 2010 the area plan was amended to allow for 10 acre zoning and the Kearsley property was the first rezone in the vicinity from A-20 to RR-10 zoning.

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 accordance with the master plan of the County; and that changed or changing conditions make the proposed amendment reasonably necessary to carry out the purpose 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 crucial 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 has provided a recommendation for approval with certain findings for the Planning Commission to consider herein.

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 are excerpts from the plan that may be relevant in evaluating this request (italics added for emphasis):

One municipality (Morgan) and six village centers are located in Morgan County; Mountain Green, Peterson, Enterprise, Stoddard, Croydon, and Porterville. Most of these areas have identified future growth areas. The majority of future development in Morgan County is anticipated to occur in or near these areas. (Pg. 5-7)

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. In many cases the Future Land Use Map will need to be amended or updated prior to consideration of zoning map changes. (Pg. 7)

The Future Land Use Map does recommend changes for the Deep Creek area (see Exhibit A) from Agricultural to Ranch Residential 10 which:

“accommodates rural large lot development with generous distances to streets and between residential dwelling units and viable semi-rural character setting. Livestock privileges are a part of this character. Areas in this category are generally larger lots with accessory structures that may be used for livestock. The residential density is a maximum of one unit per 10 acres.” (Pg. 6)

The 2010 General Plan encourages that all rezones conform to the Future Land Use Map. It appears according to this that the Planning Commission may find that the proposal may conform to the intent of the County's master planning efforts.

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 purpose of the A-20 zone is:

“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 RR-10 zone is:

- 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-10 zone is 10 acres. The majority of existing land uses in the area are in accordance with large lot rural residential uses and/or agricultural uses (see Exhibit B).

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-10 zone and the A-20 zone is a useful method to determine the potential change the rezone may have on the area (see Exhibit C).

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

1. Potential density: The rezone request is for the entire 20 acres of property owned by the Karen House Trust. According to County records, the amount of land currently in the A-20 zone is 20 acres, which has a zoning density calculation of one unit. A 20 acre zone change from the A-20 zone to RR-10 zone could result in a density of two residential units, an overall development right difference of approximately one additional single family residence.
2. Access: The property has 500 feet of frontage along Deep Creek Road. Currently, the frontage is in A-20 zone. The rezone will give the property the full 500 feet of frontage. The RR-10 zone requires 330 feet of frontage for a buildable lot. If further development on this parcel is proposed in the future, additional frontage will need to be created.
3. Circulation: Deep Creek Road is a dead end road. Its nearest connection to a through street is 2,450 feet, or 0.46 miles, away. The street infrastructure does not currently meet County standards; however, given the current use of the road, it is likely that a traffic study would yield an adequate level of service for existing uses. Two questions the Planning Commission must ask is whether a zoning density increase of one single family unit will result in a harmful impact to street infrastructure capacity, and whether it is good policy to allow additional density along long stretches of dead end roads.

First, regarding capacity, in the State of Utah there is an average of ten vehicle trips per day per household. A direct calculation on traffic demand when compared to density increases yields a potential increase of 10 vehicle trips per day as a result of the rezone. Ten daily vehicle trips may be a negligible increase considering existing street capacity.

Second, regarding dead end street policy, current subdivision regulations do not allow new dead end roads in excess of 1000 feet. The purpose for this is to maintain two emergency egresses from an area. Current code is silent regarding how to approach additional density along existing dead end roads. There are no County established thresholds from which to determine the harmful impact of allowing density increases along dead end roads. Perhaps the one additional dwelling unit proposed by this application does not merit further discussion on the matter; however it could prove beneficial for the County to discuss a density thresholds policy in the future.

4. Culinary Water Resources: Wells serve the culinary water needs of the area. The applicants will need to provide proof to the County that water is available during the development process, should they develop.

5. Sewer: Currently the only form of waste water disposal in the Deep Creek area is by means of septic system. If/when the property is further developed, approval of waste water disposal system(s) will be required by the Weber-Morgan Health Department.
6. Flood Plain: The property is in the FEMA Flood Zone “X”(see Exhibit D). It does appear that the majority of the property falls somewhat within a natural drainage/runoff area. If/when the property is developed the harmful impact of runoff/flooding issues will need to be addressed.
7. Fire Protection: The property is in the Wildland Urban Interface Area, so a specific fire protection plan is required. If/when it is developed it may be required to have certain fire suppression as required by the local Fire Official.
8. Topographic Features: The property is mainly hillside. It appears that the property is encumbered by two Geologic Hazard Study areas identified as Qm and Tn (see Exhibit E). Topography could be a concern for potential future development.

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 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 that if the Planning Commission can make the following findings for approval of the Karen House Trust rezone request that it do so:

1. That allowing the rezone will provide the property owners their desired use of the land.
2. That the uses listed in the proposed zone are harmonious with existing uses in the area.
3. That the potential for a traffic increase along Deep Creek Road will not be detrimental to current traffic flows.
4. That the proposed amendment is in accord with the County’s General Plan.
5. That changed or changing conditions makes the proposed amendment reasonably necessary to carry out the purposes of this title.

MODEL MOTION

Sample Motion for a *Positive* Recommendation – “I move we forward a positive recommendation to the County Council for the Karen House Trust Rezone Request, application #13.049, rezoning 20 acres of property at 1675 West Deep Creek Road from the A-20 zone to the RR-10 zone, based on the findings listed in the staff report dated July 30, 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 Karen House Trust Rezone Request, application #13.049, rezoning 20 acres of property at 1675 West Deep Creek Road from the A-20 zone to the RR-10 zone, based on the following findings:

1. The current condition of the area does not merit changed or changing conditions. The area is not yet ready for the rezone request.
2. That without a secondary egress, the harmful impact of allowing additional density along an existing dead end road over 1000 feet cannot be adequately mitigated.
3. That the topographic features of the property will not allow for additional development.
4. List any additional findings...

ADDITIONAL INFORMATION

Exhibit A: Morgan County Future Land Use Map

Exhibit B: Current Zoning and Aerial Picture Showing Uses

Exhibit C: Comparison of Land Use Permission Differences between A-20 and RR-10

Exhibit D: FEMA Flood Plain

Exhibit E: Geologic Hazard Study Area

Exhibit A-Future Land Use Map



Google earth



Exhibit B-Current Zoning & Aerial Picture Showing Uses



Google earth



Exhibit C: Use table comparison for the A-20 and RR-10 zone

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.

	Districts	
	A-20	RR-10
Accessory buildings and uses customarily incidental to conditional uses	C	C
Accessory buildings and uses customarily incidental to permitted agricultural uses; provided, however, that such accessory buildings are a minimum of 100 feet from the street on which the primary building fronts and 100 feet from any dwelling	P	P
Except that any pen or corral for the keeping of animals or fowl shall be located the minimum distance of 150 feet from any public road or approved private road	P	P
Accessory buildings and/or uses customarily incidental to permitted uses, other than those listed above	P	P
Accessory buildings for the housing of animals customarily incidental to permitted agricultural uses, which buildings, including pens and corrals, are located not less than 150 feet from any county or approved private road, and 100 feet from any residence	C	C
Agricultural and forestry:		

	Agribusiness	C	C
	Agriculture, including grazing and pasturing of animals; the tilling of the soil, the raising of crops, horticulture and gardening	P	P
	Apiary and aviary	P	P
	Family food production	P	P
	Farms devoted to raising and marketing chickens, turkeys or other fowl or poultry, fish or frogs, mink, rabbits, including wholesale and retail sale	P	P
	Forest industry, such as a sawmill, wood products plant, etc.	-	-
	Forestry, except forest industry	P	P
	Fruit/vegetable stand	C	C
	Bed and breakfast inn	-	C
	Child daycare centers, subject to regulations as set forth in section 8-6-39 of this title	C	C
	County fairgrounds uses	P	!
	Dams and reservoirs	C	C
	Dude ranch, family vacation ranch	C	C
Dwellings:			
	Accessory apartment	C	C
	Homes or mobile homes on bona fide farms or for worker housing	C	!
	Recreation dwelling (shall not utilize the same minimum lot	C	!

	area as a main dwelling)		
	Residential facilities for handicapped or elderly	C	C
	Single-family dwelling	P	P
	Home occupation	P	P
	Household pets	P	P
	Kennel	C	C
	Land excavations	C	C
	Mine, quarry, gravel pit, rock crusher, concrete batching plant or asphalt plant, oil and gas wells, steam wells, test borings for exploration, etc.	C	!
	Power generation	C	C
	Private park or recreational grounds, or private recreational camps or resorts, including accessory or supporting dwellings or dwelling complexes, and commercial service uses which are owned or managed by the recreational facility to which it is accessory	C	C
	Public and quasi-public uses. Exception: Public school	C	C
	Airports	C	!
	Specialized correction facilities	C	C
	Public facilities or public service facilities. Exception: Governmentally operated essential service facilities such as police, fire, ambulance substations, and animal control facilities	C	C

Public schools and governmentally operated essential service facilities	P	P
Public stable, riding academy or riding ring, horse show barns or other equestrian facilities under single management	C	C
Railroad facilities and rights of way	C	C
Temporary buildings for uses incidental to an approved construction project, including temporary living quarters, which buildings must be removed upon completion or abandonment of the construction work	C	C
Temporary gravel pit, crusher, subject to the provisions of section 8-5A-11 of this article	-	C
Temporary meteorological monitor tower, subject to regulations in section 8-5A-12 of this article	C	!
Temporary uses	Subject to regulations in section 8-6-16 of this title	

(2010 Code; amd. Ord. 10-11, 6-15-2010; Ord. 10-16, 12-14-2010; Ord. 10-17, 12-14-2010; Ord. 11-10, 6-21-2011; Ord. 11-11, 9-20-2011; Ord. 11-15, 11-1-2011; Ord. 12-01, 3-6-2012

Exhibit D-FEMA Flood Plain



Google earth



Exhibit E-Geologic Hazard Study Areas



Google earth





Planning and Development Services

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

STAFF REPORT

August 15, 2013

To: Morgan County Planning Commission
Business Date – August 22, 2013

From: Charles Ewert, Planning Director

Re: **LDS Mt. Green Cottonwood Canyon Road Subdivision Concept Plan**

Application No.: 13.041
Applicant: LDS Church
Location: Approximately 4390 Cottonwood Canyon Road
Current Zoning: RR-1 and A-20 Zones
Acreage: Approximately 8.296 acres
Request: Concept Subdivision Plan recommendations

SUMMARY & BACKGROUND

The applicant is seeking approval of a four lot subdivision conceptual plan. The subject property currently has one single family dwelling unit on it, and several outbuildings. The subdivision as proposed does not comply with setback requirements of the RR-1 zones for all structures, but staff feel that there are sufficient viable alternatives available for the applicant to easily overcome the issue for preliminary plat application. The proposal is being reviewed for conceptual design standards as required by County Ordinances

With the requested recommendations herein, the request appears to meet the minimum requirements for conceptual subdivision planning of the zoning ordinance and the subdivision ordinance. It is important to note that because this is a concept plan there may be some compliance issues with certain sections code. Positive recommendations for Concept approval should not be construed as subdivision approval or vesting in any way¹. Any noncompliance herein shall be resolved at preliminary plat. Staff's evaluation of the request is as follows.

ANALYSIS

Procedure. Considering the non-routine nature of this concept plan the Zoning Administrator has chosen to require the standard concept plan review before the Planning Commission and County Council².

General Plan and Zoning. The subject property is located a few hundred feet east of the intersection of Old Highway Road and Cottonwood Canyon Road in the Mountain Green Area of unincorporated Morgan County. The 2010 Morgan County General Plan has designated this area as both Village Low

¹ MCC 8-12-19(C)
² MCC 8-12-20 (A)

Density Residential and Recreational. The purpose of the Village Low Density Residential designation³ is:

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

There is not currently a listed purpose for the recreational designation of the Future Land Use Map in the 2010 General Plan, an oversight that staff are currently working to correct for our pending 2014 General Plan Update⁴.

The proposal is in compliance with the general plan by providing density under this limit.

The current zoning designations on the property are RR-1 and A-20. The purposes of the RR-1 zone are⁵:

1. The purposes of providing a rural residential district are:
 - a. To promote and preserve in appropriate areas conditions favorable to large lot family life;
 - b. Maintaining a rural atmosphere;
 - c. The keeping of limited numbers of animals and fowl; and
 - d. Reduced requirements for public utilities, services and infrastructure.
2. These districts are intended to be primarily residential in character and protected from encroachment by commercial and industrial uses.

The purpose of the A-20 zone are⁶:

The purposes of providing an agriculture district 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 proposal is in compliance with these purpose statements.

The purpose statements in the General Plan and Zoning Ordinance do not provide actual development regulations, but present the zoning context in which the proposed subdivision is located. The specific regulations found in the adopted County Code govern development of the subject property.

Layout. The Subdivision as proposed has four lots, each having frontage and gaining access from Cottonwood Canyon Road⁷.

- Lot one is currently vacant land. As proposed it has sufficient acreage, frontage, and width for the RR-1 zone, and it is completely within the RR-1 zone.
- Lot two currently has a residence with several outbuildings. As proposed it has sufficient acreage,

³ See 2010 Morgan County General Plan

⁴ Which at this point is intended to address the missing recreational designations, update the future streets map, and provide for better coordination between Morgan City's future annexation plan and surrounding County designations.

⁵ MCC §8-5A-1

⁶ MCC §8-5A-1

⁷ See Exhibit C for the proposed concept plan

frontage, and width for the RR-1 zone, and it is completely within the RR-1 zone. The outbuildings on lot two do not appear to meet current rear setback requirements. If the owner of the buildings can produce evidence that they are legal non-conforming, meaning that their establishment did not violate any land use laws at the time, then they may be considered legal non-conforming for the purposes of this subdivision approval. It is the owner's obligation to prove this; if it cannot be proven then something alternative must be proposed – perhaps amended lot boundaries between the land owner and the adjacent property owner on the rear to provide for the 10 foot setback requirement. The two existing buildings that are currently dissected by a new proposed lot boundary is also a violation of setback regulations. The applicant was advised several times in pre-application meetings to ensure that the lot boundaries are configured so as not to allow this. An alternative proposal must be provided (i.e. reconfiguration of lot lines, elimination of a lot, removal of buildings, etc)

- Lot three has several existing outbuildings as well. Like lot two there is no evidence provided proving their legal non-conforming setback status. As with lot two, there are buildings that straddle the lot line. The plan for overcoming this will be imperative to the success of this proposed subdivision. There is no evidence provided with the submitted information that lot three has sufficient acreage within the RR-1 zone to constitute a building lot. Staff assumes that the lot boundaries have been configured in such a manner to provide for this, but in the event this assumption proves wrong then the subdivision should be revised to provide for it. The remainder of lot three is in the A-20 zone.
- Lot four is completely within the A-20 zone. The concept plan narrative indicates that lot four is for church development, which is allowed by conditional use permit in the A-20 zone⁸. Church development does not require the minimum acreage of the A-20 zone⁹, but it appears due to a specific omission it will be required to comply with setback standards¹⁰ of that zone. Because of the leniency of the acreage requirements for church development, it is important to ensure the plat has sufficient use restrictions for other uses, lest church development not materialize on lot four and other uses evolve onsite in contradiction of the minimum acreage requirements of the A-20 zone.

It appears that the proposed subdivision boundaries only encompass a portion of a larger adjacent unsubdivided parcel that is also owned by the LDS Church. The entire boundary of that larger parcel is required to be included within the bounds of the subdivision¹¹. Preliminary plat should be designed to include this portion of land. Preliminary plat will also be required to provide a method of preserving that additional ground in perpetuity as either recreational or agricultural grounds as is required by either the 2010 General Plan in association with §8-12-5(C) or current zoning requirements, whatever the case the applicant may choose. The existing use of the property currently is recreational in nature.

Roads and Access. All four development lots are being proposed access off of Cottonwood Canyon Road. The project surveyor has provided indication that the current right of way of the road meets the County's 60 foot width requirement, and no land will be required to be dedicated. The proposal does indicate infrastructure improvements along the road. The road will be required to be brought to up to County standards the entire length of the subdivision, including curb, gutter, and sidewalk – improvements that are essential given the public nature of the Church development.

⁸ Churches can be found as defined as a "Public and Quasi-Public Use" in MCC 8-2-1, which according to the Use Table of MCC 8-5A-3 is identified as allowed by Conditional Use Permit in the A-20 zone.

⁹ See MCC 8-6-35(A)

¹⁰ MCC 8-6-35(B) only identifies alternative setback requirements for commercial and residential zones, and does not specify anything more specific for church development in the A-20 zone, therefore the setback requirements of 8-5A-6 are applicable (30 foot front, 60 foot sides and rear).

¹¹ See MCC 8-12-43(J)

Because the larger unsubdivided parcel has not been shown within the plat boundaries it is not immediately clear where or how the access will be provided for it. This issue should be addressed in the preliminary plat design.

Grading and land disturbance. No specific grading plan has been presented, and none is expected. There may be minor site preparation prior to residential building. Any cut or fill on the residential lots that rises to the level of requiring an excavation permit will need a CUP. The future church development will be required to go through the CUP process, and more specific grading and drainage will be addressed at that time.

Sensitive Areas, Geology, and Geotechnical Considerations. The Coogan and King Ogden 30x60 Geologic Quadrangle indicates that the entire property is either in the Qal or Qa[p] geologic units, which are not known hazard study areas.

A site specific geotechnical report was submitted. Site conditions will be further evaluated at preliminary plat review.

Utilities. Culinary water is proposed as being provided by Cottonwood Mutual Water Company. The water company will be required to provide proof of adequate shares/rights, and adequate water flow for each use. The water company will also be required to commit to providing fire flow and fire flow infrastructure maintenance.

No proposal for irrigation shares have been provided. The irrigation water plan should be provided with the preliminary plat application.

The property is in the Mountain Green Sewer Improvement District Boundaries, and will be required to provide a will serve letter from them at preliminary plat application.

It is assumed that Rocky Mountain Power and Questar Gas will provide the power and heat for the structures. Will serve letters will be required from them at preliminary plat as well.

Utility laterals will be required to be shown on proposed construction drawings when the time comes as well.

Flood Plain. The project surveyor indicates that a small portion of the rear of lot one is in the AE flood plain¹², as is the larger parcel northward that staff is recommending be included in the subdivision. The preliminary plat should address how development in the flood plain will be addressed, in compliance with MCC Title 9.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission provide the following recommendations for the LDS Mt. Green Cottonwood Canyon Road Subdivision Concept Plan, application 13.041:

1. That it appears that the general configuration of the subdivision can conform to zoning and subdivision requirements provided that the comments herein can be adequately addressed on a preliminary plat application. If substantial reconfiguration of the subdivision is necessary to do so then those revisions should be resubmitted as an amendment to the concept plan and re-reviewed

¹² See also Exhibit D for the flood plain boundaries.

for final concept recommendation by the Zoning Administrator prior to preliminary plat application.

2. A preliminary plat will not be accepted with the disclaimer of note #6. The applicant of the subdivision, and all existing landowners therein shall take full responsibility for the entire subdivision and any required dedications and/or improvements. The applicant shall identify an approach that unifies the responsibility for dedications and improvements prior to preliminary plat application, and submit such plan with the preliminary application.
3. We assume that sufficient acreage exists for lots 1-3 in the RR-1 zone. Please provide an acreage table on the preliminary plat that confirms this assumption. If this assumption is incorrect then the subdivision shall be reconfigured and resubmitted for concept plan re-review.
4. There are many existing buildings on lots 2-3 that do not conform to setback requirements, and no evidence has been submitted indicating their legal establishment. Either adjust the subdivision boundaries with the adjacent land owner to correct the violations, or propose an alternative plan acceptable to the County.
5. Lots 2-3 have a proposed lot line dividing an existing building. This does not meet setback requirements. Please propose a method of correcting it.
6. It appears that the division is only a portion of a larger unsubdivided parcel. The entire boundaries of that larger parcel is required to be included within the bounds of the subdivision, pursuant to MCC 8-12-43(J). Please provide this revision with the preliminary plat application, and provide a method of preserving that additional ground in perpetuity on the plat the recreational or agricultural nature of the use of the property, as is required by the 2010 General Plan in association with §8-12-5(C) and/or current zoning, whatever the case may be.
7. Please include a note on the preliminary plat that indicates the code reference that exempts lot 4 from minimum zoning acreage requirements (MCC 8-6-35) as long as it is used for church/institutional development. Please also propose a plat restriction for the uses on lot four. Limiting it to church and institutional development only.
8. That access to the adjacent larger church property shall be addressed with the preliminary plat design.
9. That all easements for ditches within the boundaries of the plat are provided on the preliminary submittal, with applicable ownership.
10. That proof of culinary shares (800 gallons per day) and irrigation shares (3 gallons per minute) are provided for each lot at preliminary plat application. The allowed irrigable acreage should also be indicated on the preliminary/final plat.
11. That a residential building envelope is provided on lots 1-3.
12. There are several errors or incomplete items on the plat. Please review MCC 8-12 closely prior to submitting preliminary/final plat application so that you may submit a complete application.
13. That all other local, state, and federal laws are adhered to.

This recommendation is based on the following findings:

1. The nature of the subdivision is in conformance with the current and future land uses of the area.
2. The proposal complies with the Morgan County 2010 General Plan.
3. With the above recommendations, the proposal complies with current zoning requirements.
4. That additional work is necessary to make the proposal comply with preliminary plat requirements.
5. That the proposal is not detrimental to the health, safety, and welfare of the public.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – “I move we provide the recommendations for the LDS Mt. Green Cottonwood Canyon Road Subdivision Concept Plan, application 13.041, as listed in the

August 15, 2013 staff report, and as modified by the additional recommendations below:”

1. List any additional recommendations...

Sample Motion for a denial – “I move we deny the LDS Mt. Green Cottonwood Canyon Road Subdivision Concept Plan, application 13.041, with the following findings:”

1. Because of the existing noncompliance issues regarding outbuilding setbacks and adjacent property not proposed within the bounds of the plat, it does not seem reasonably feasible for the proposed plat to be brought into compliance with adopted regulations, and a complete redesign is likely necessary to meet County zoning and subdivision requirements.
2. List additional findings...

SUPPORTING INFORMATION

Exhibit A: Future Land Use Map
Exhibit B: Zoning Map
Exhibit C: Proposed Concept Plan
Exhibit D: Flood Plain Map

Exhibit A: Future Land Use Map

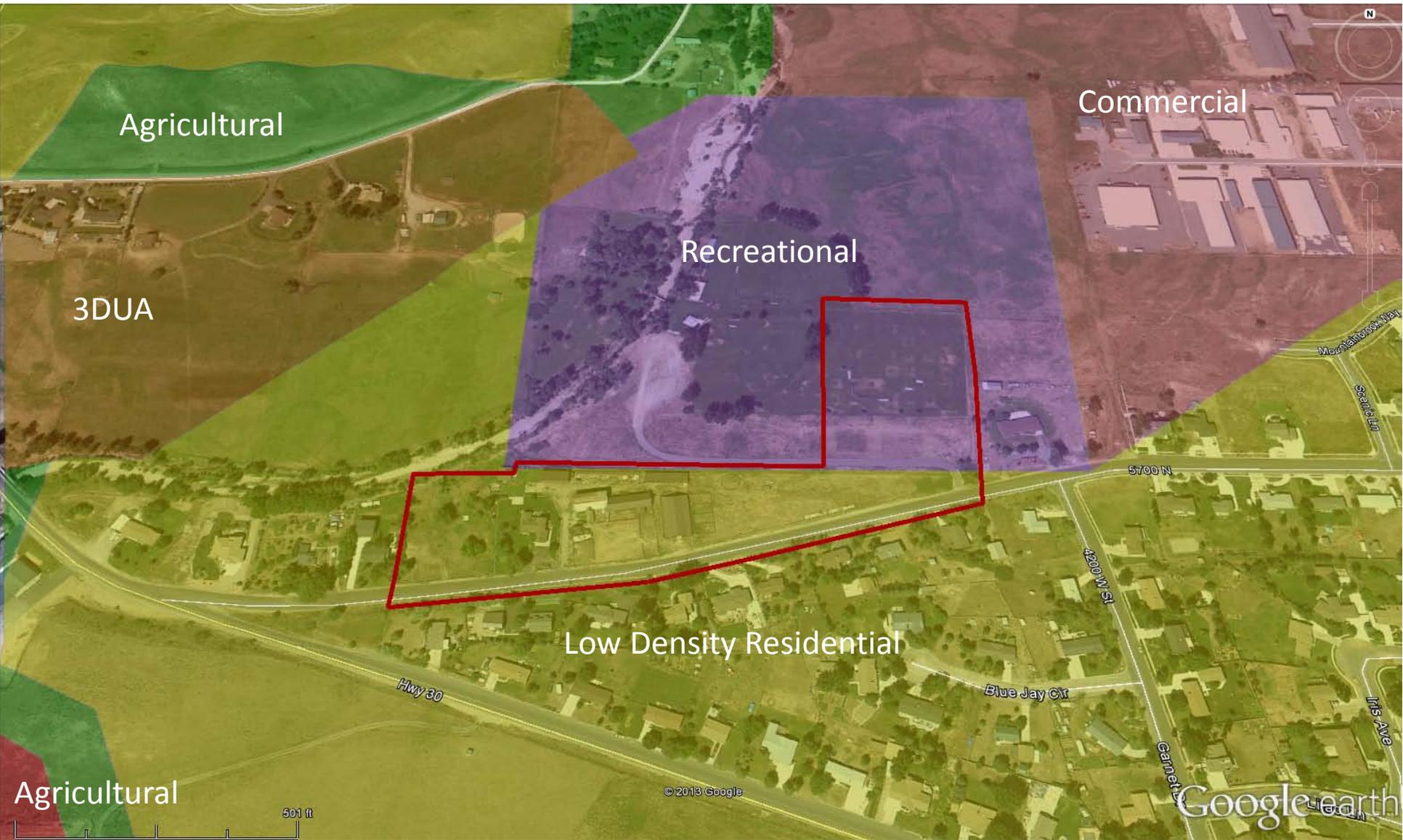


Exhibit B: Zoning Map



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Google earth

LDS Mt. Green Cottonwood Canyon Road Subdivision

A part of Section 25, T5N, R1E, SLB&M, U.S. Survey
Morgan City, Morgan County, Utah
April 2013

The Northeast corner of Section 25,
T5N, R1E, SLB&M, U.S. Survey (Found
Rebar w/Mountain Engineering Cap)

2643.62'
(2649.62' Rec.)

BOUNDARY DESCRIPTION

A part of the East Half of Section 25, Township 5 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;
Beginning at a point on the North right of way line of Cottonwood Canyon Road said point being 358.78 feet South 89°42'00" West along the Quarter Section Line and 10.32 feet South 03°13'00" West from the East Quarter corner of said Section; and running thence two (2) courses along said North right of way line as follows: (1) South 75°16'00" West 742.54 feet; and (2) South 83°42'00" West 504.75 feet; thence due North 248.10 feet to said Quarter Section line; thence North 89°42'00" East 220.32 feet along said Quarter Section line; thence North 00°35'00" East 31.18 feet to an Existing Fence line; thence South 88°40'45" East 665.20 feet along said Existing Fence line; thence North 02°31'57" East 476.83 feet; thence South 87°19'19" East 340.33 feet; thence South 03°13'00" West 481.99 feet to the point of beginning.
Contains 8,296 acres.

ACKNOWLEDGMENT

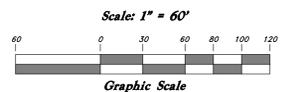
State of Utah)
County of) ss
On the _____ day of _____, 20____, personally appeared before me, _____, personally know to me to be the Authorized Agent the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah Corporation sole, who acknowledged before me that he signed the foregoing instrument as Authorized Agent for the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, a Utah Corporation sole, and that the seal impressed on the with instruments is the seal of said corporation; and that instrument is the free and voluntary act of said Corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on the behalf of said corporation, and that said corporation executed the same.

ACKNOWLEDGMENT

State of Utah)
County of) ss
On the _____ day of _____, 20____, personally appeared before me, the undersigned Notary Public, the signers of the Owner's Dedication, two, in number, who duly acknowledged to me they signed it freely and voluntarily and for the purposes therein mentioned.

GEOTECHNICAL REPORT

Geotechnical and Soils Information taken from a geotechnical evaluation report prepared by AGEC, (project #1120696) dated November 7, 2012.
1. The general site is covered with 1-2 feet of fill overlying sand and gravel, which extends roughly 15 feet below the ground surface (maximum depth investigated)
2. No subsurface water was encountered, on the date of investigation October 23, 2012.
3. Site is mostly vegetated with Sod, with several trees scattered across the site, an irrigation ditch, and a pasture with grasses.



SURVEYOR'S CERTIFICATE

I, Andy Hubbard, do hereby certify that I am a Registered Professional Land Surveyor in the State of Utah, and that I hold Certificate No. 6242920 in accordance with Title 58 Chapter 22, Professional Engineers and Land Surveyors Licensing Act. I also do hereby certify that LDS Mt. Green Cottonwood Canyon Road Subdivision in Morgan County, Utah has been correctly drawn to the designated scale and is a true and correct representation of the following description of lands included in said subdivision, based on data compiled from records in the Morgan County Recorder's Office, and of a survey made on the ground in accordance with Section 17-23-17. Monumented Lot corners have been set as shown on this drawing.
I also certify that all the lots within LDS Mt. Green Cottonwood Canyon Road Subdivision meet the frontage and area requirements of the Morgan City Zoning Ordinance.
Signed this _____ day of _____, 2013.

Andy Hubbard

NARRATIVE:

This ALTA Survey was requested by Mr. Tony Pantone of Batt Pantone Architects in Behalf of the LDS Church, for the purpose of gathering information for the construction of a future church site.
Section corners were found at the North 1/4 corner, the Northwest corner the Northeast corner and the Center of Section 25, T5N, R1E, SLB&M, U.S. Survey. The East 1/4 corner of the section was established using information on the Cottonwood Subdivision plat and the Mountainbrook Estates Subdivision plat.
A line bearing North 89°49'56" West between the North 1/4 corner and the Northwest corner was used as the basis of bearings.
The North line of Cottonwood Subdivision, was used as the South right of way line of Cottonwood Canyon Road. According to this plat a 66.00 foot right of way is reserved for this street.
A rebar & Isaccson Engineering aluminum cap was found along the North right of way line of Cottonwood canyon road. Its location was checked against the 66.00 right of way width and it fits that dimension.
Property corners were monumented as depicted on this drawing.

OWNER'S DEDICATION

We, the undersigned owners of the hereon described tract of land, hereby set apart and subdivide the same into lots and streets as shown on this plat, and name said tract LDS Mt. Green Cottonwood Canyon Road Subdivision, and do hereby dedicate, grant and convey to Morgan City, Morgan County, Utah, all those parts or portions of said tract of land designated as streets, the same to be used as public thoroughfares forever, and also dedicate to Morgan City those certain strips as easements for public utility and drainage purposes as shown hereon, the same to be used for the installation, maintenance and operation of public utility service lines and drainage, as may be authorized by Morgan City.
Signed this _____ day of _____, 20____.

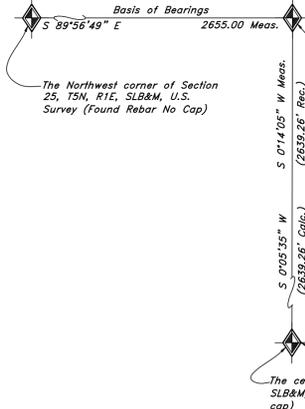
Corporation of the Presiding Bishop of
The Church of Jesus Christ of Latter Day Saints,
a Utah Corporation Sole

Print Name Authorized Agent

OWNER'S DEDICATION

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Signed this _____ day of _____, 20____.

Print Name Authorized Agent



Blaine D. Austin & Wf
Diane
N 89°42'00" E 220.32'
N 0°35'00" E 31.18'

The Church of Jesus
Christ of Latter Day
Saints
S 88°40'45" E 179.42'
665.20'

Russell Nance & Wf
Viviana
S 3°13'00" W 481.99'

Mountainbrook
Estates Subd.
S 0°04'58" W
(S 0°07'26" E Calc.)

**MOUNTAIN GREEN SEWER
IMPROVEMENT DISTRICT APPROVAL**
Mountain Green Sewer Improvement District
Approval.
Signed this _____ day of _____, 2013.

By: _____
Title: _____

**MOUNTAIN GREEN SEWER
IMPROVEMENT DISTRICT APPROVAL**
Waste Disposal System Approval
this _____ day of _____, 2013.

District Chairman

MORGAN COUNTY APPROVAL
This is to certify that this plat and dedication of this plat along with the dedication of all streets, easements and Public Improvement Guarantee were duly approved and accepted by the County Council of Morgan County, Utah this _____ day of _____, 2013.

HIGHLANDS WATER WATER COMPANY
Water System Approval
this _____ day of _____, 2013.

Council Chair

MORGAN COUNTY PLANNING COMMISSION
Approved by the Morgan County Planning Commission
on the _____ day of _____, 2013.

Chair

MORGAN COUNTY ATTORNEY
I have examined the foregoing plat and description of LDS Mt. Green Cottonwood Canyon Road Subdivision, and in my opinion it conforms with the County Ordinances applicable thereto and now in force and effect.
Signed this _____ day of _____, 2013.

County Attorney

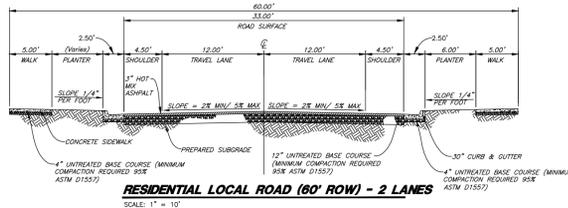
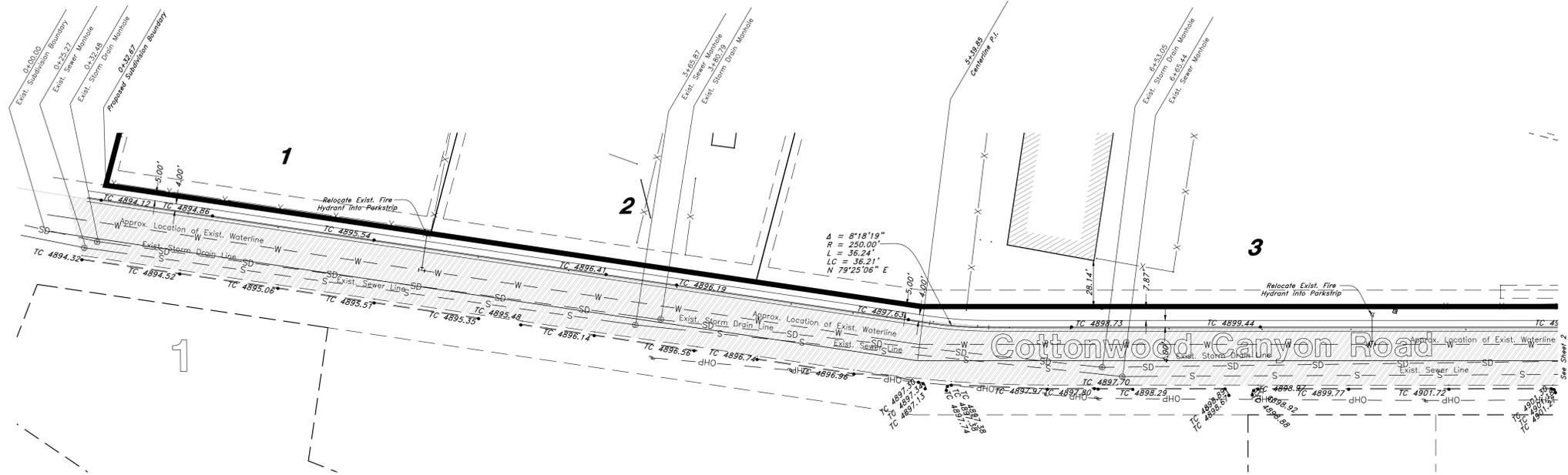
MORGAN COUNTY ENGINEER
I hereby certify that the requirements of all applicable statutes and ordinances prerequisite to County Engineer approval of the foregoing plat and dedication have been complied with.
Signed this _____ day of _____, 2013.

County Engineer

- LEGEND**
- ▲ Set Nail & Washer
 - Set Rebar & GBE Cap
 - w/ Fencepost
 - Set Hub & Tack
 - ⊙ Monument to be set
 - ⊙ Existing Fence Line
 - ⊙ Found Rebar & Cap
 - Radial Line
 - (N/R) Non-Radial Line
 - Meas. Measured Distances
 - Zone Boundary Line

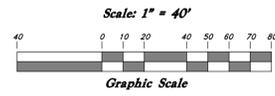
MORGAN COUNTY RECORDER
ENTRY NO. _____ FEE PAID _____
RECORDED _____ FILED FOR RECORD AND
RECORDED _____ AT _____
IN BOOK _____ OF OFFICIAL
RECORDS, PAGE _____, RECORDED
FOR _____
WEBER COUNTY RECORDER
BY: _____ DEPUTY





Cottonwood Canyon Road

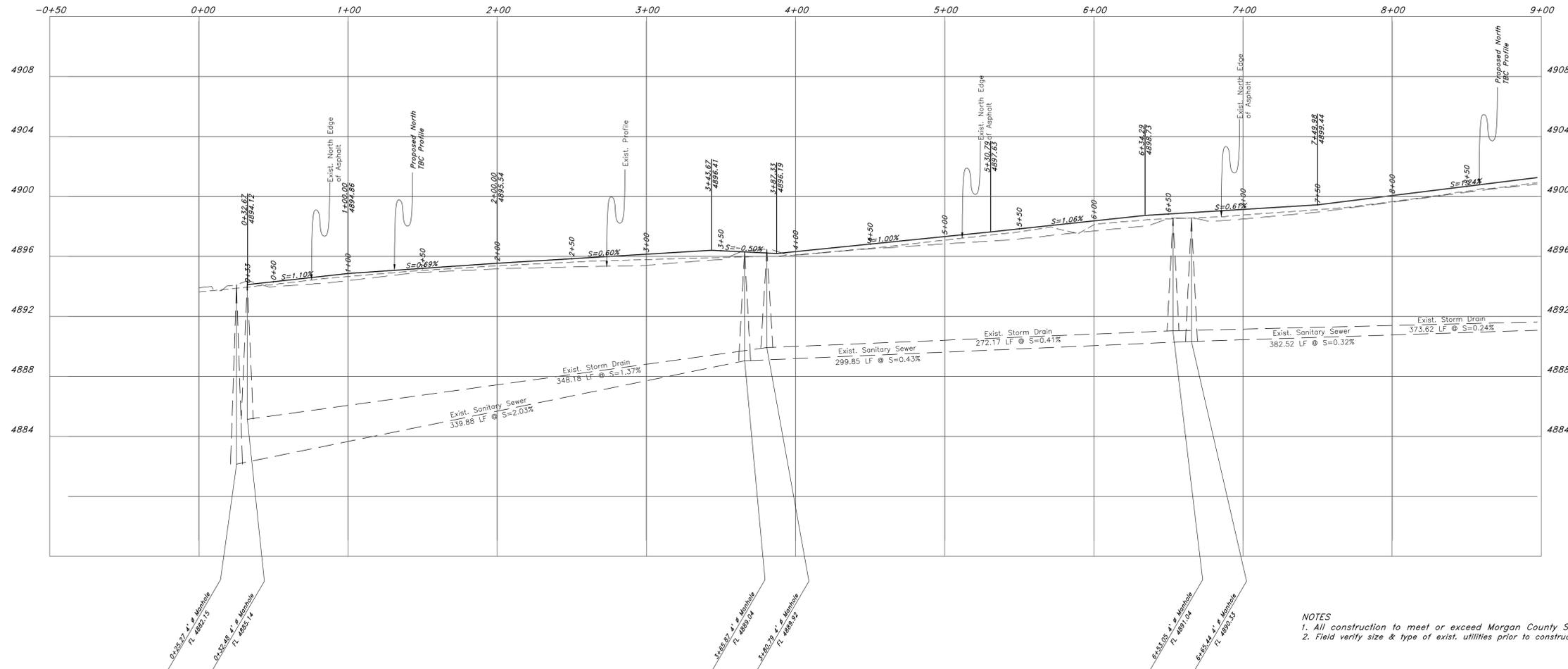
Benchmark:
Isaacson Engineering Rebar and Cap Located on the North Right of Way of Cottonwood Canyon Road in Front of Lot 4.
Elevation 4903.80



Legend

(Note: All items may not appear on drawing)

- San. Sewer Manhole
- Water Manhole
- Storm Drain Manhole
- Electrical Manhole
- Catch Basins
- Exist. Fire Hydrant
- Fire Hydrant
- Exist. Water Valve
- Water Valve
- Sanitary Sewer
- Culinary Water
- Gas Line
- Irrigation Line
- Storm Drain
- Telephone Line
- Secondary Waterline
- Power Line
- Fire Line
- Land Drain
- Power pole
- Power pole w/guy
- Light Pole
- Fence
- Flowline of ditch
- Overhead Power line
- Corrugated Metal Pipe
- Concrete Pipe
- Reinforced Concrete Pipe
- Ductile Iron
- PVC
- Top of Asphalt
- Edge of Asphalt
- Centerline
- Flowline
- Finish Floor
- Top of Curb
- Top of Wall
- Top of Walk
- Top of Concrete
- Natural Ground
- Finish Grade
- Fire Department Connection
- Finish Contour
- Exist. Contour
- Finish Grade
- Exist. Grade
- Ridge Line
- Direction of Flow
- Existing Asphalt
- New Asphalt
- Heavy Duty Asphalt
- Concrete
- Spill Curb & Gutter
- Demo Tree



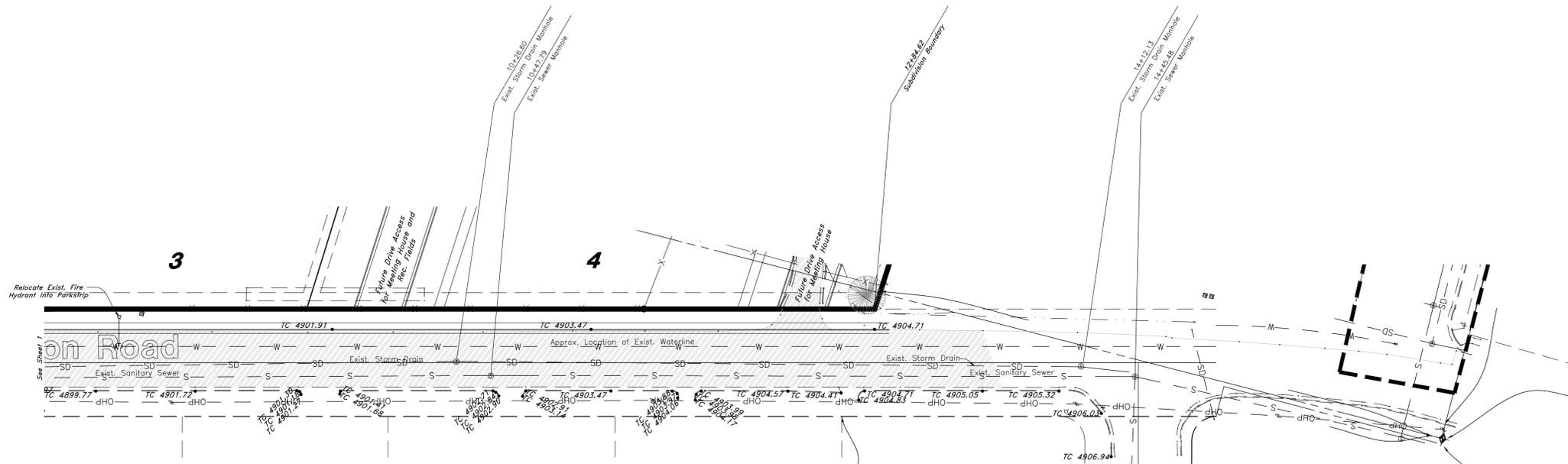
NOTES
1. All construction to meet or exceed Morgan County Standards and Specifications.
2. Field verify size & type of exist. utilities prior to construction of laterals.

GREAT BASIN ENGINEERING
5746 SOUTH 1475 EAST OGDEN, UTAH 84403
MAIN (801)592-7544 FAX (801)592-7544
WWW.GREATBASINENGINEERING.COM

Plan/Profile
LDS Mt. Green Cottonwood Subdivision
Morgan City, Morgan County, Utah
A part of Section 25, T5N, R1E, S16&M, U.S. Survey

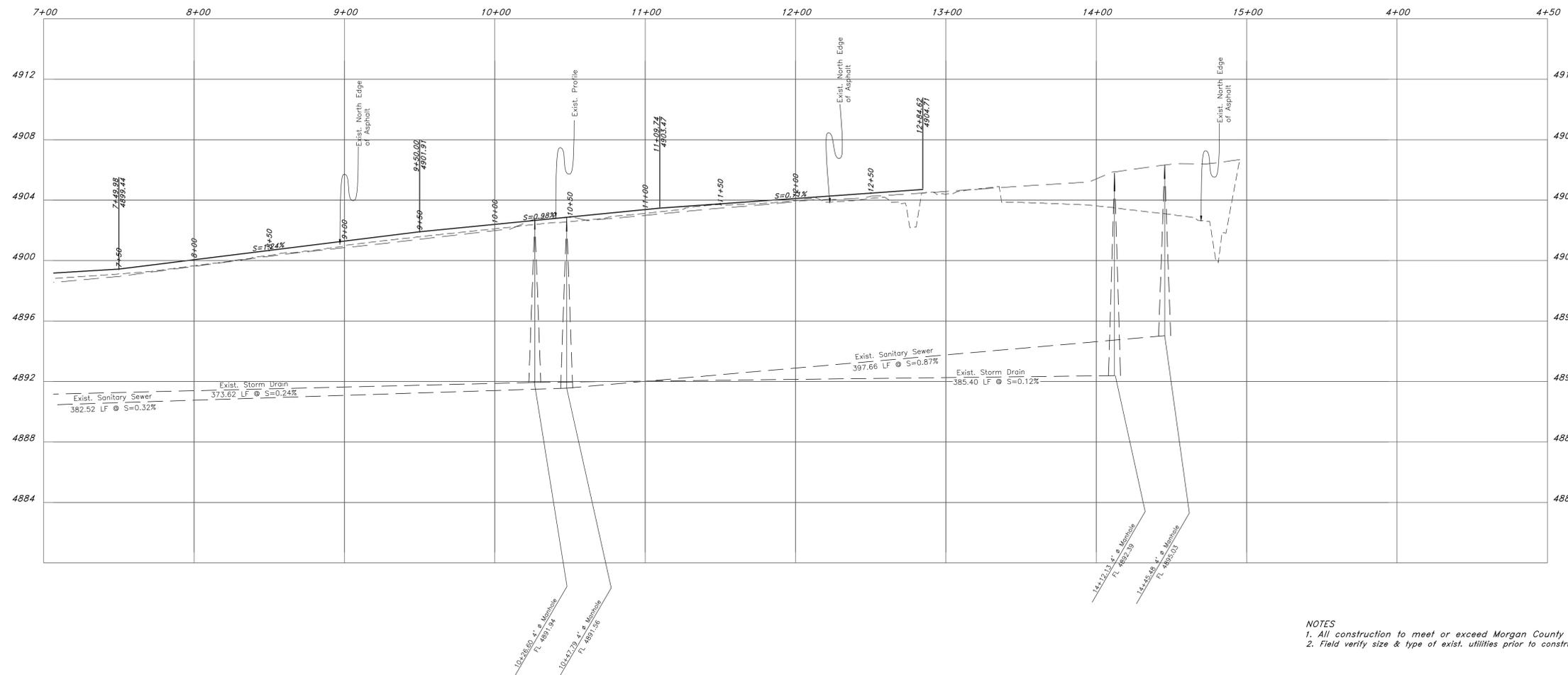
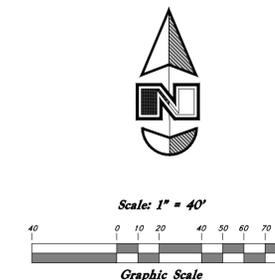
10 Apr, 2013

SHEET NO. 1



Cottonwood Canyon Road

Benchmark:
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 Way of Cottonwood Canyon Road in Front of Lot 4.
 Elevation 4903.80



Legend

(Note: All items may not appear on drawing)

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- Demo Tree

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Exhibit D: Flood Plain Map





Planning and Development Services

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

STAFF REPORT

August 15, 2013

To: Morgan County Planning Commission
Business Date – August 22, 2013

From: Charles Ewert

Re: **D&N Porter Estates Subdivision Concept Plan**

Application No.: 13.065
Applicant: Derrick and Nicole Porter
Location: Approximately 1580 W Stoddard Lane
Current Zoning: RR-1 and A-20 Zones
Acreage: Approximately 8.74 acres (380,546 sq.ft.)
Request: Concept Subdivision Plan recommendations

SUMMARY & BACKGROUND

The applicant is seeking approval of a two lot subdivision conceptual plan. The subject property currently has one single family dwelling unit on it, and the subdivision has been planned to preserve the required setbacks and coverage of the RR-1/A-20 zones for this structure. The proposal is being reviewed for conceptual design standards as required by County Ordinances

With the requested recommendations herein, the request appears to meet the minimum requirements for conceptual subdivision planning of the zoning ordinance and the subdivision ordinance. It is important to note that because this is a concept plan there may be some compliance issues with certain sections of code. Positive recommendations for Concept approval should not be construed as subdivision approval or vesting in any way¹. Any noncompliance herein shall be resolved at preliminary plat. Staff's evaluation of the request is as follows.

ANALYSIS

Procedural Error. In an attempt to expedite the review of this application it was posted for notice for a Planning Commission meeting prior to being more fully reviewed by staff. Upon closer examination of MCC 8-12-19 it appears that the Zoning Administrator should have reviewed the two lot concept plan² and prepared recommendations for preliminary plat rather than forwarding the review to the Planning Commission. At this point, because the project was noticed for the Planning Commission review staff recommends the Planning Commission provide concept recommendations back to the applicant. No County Council review is needed. This error has not increased the review length of the application.

¹ MCC 8-12-19(C)

² The Zoning Administrator is to hold a public meeting for concept plans under 8 lots and formulate recommendations relevant to preliminary plat submittal.

General Plan and Zoning. The subject property is located adjacent to the Stoddard overpass in the Stoddard Area of unincorporated Morgan County. The 2010 Morgan County General Plan has designated this area for no changes from the existing designation of Rural Residential and Agricultural properties. The purpose of the Rural Residential designation³ is:

The Rural Residential category designation accommodates semi-rural large lot development, with generous distances to streets and between residential dwelling units in a viable semi-rural character setting. Residential density in rural residential areas is a maximum of 1 unit per acre.

The purpose of the Agricultural designation is:

This designation identifies areas of existing agricultural land uses. The purpose of this land use designation is to support viable agricultural operations in Morgan County, while allowing for incidental large-lot residential and other uses. The residential density in this category is up to 1 unit per 20 acres.

The proposal is in compliance with the general plan by providing density under this limit.

The current zoning designations on the property are RR-1 and A-20. There are approximately 3.27 acres of the 8.74 acre property in the RR-1 zone. There are approximately 5.47 acres in the A-20 zone.

The purposes of the RR-1 zone are⁴:

1. The purposes of providing a rural residential district are:
 - a. To promote and preserve in appropriate areas conditions favorable to large lot family life;
 - b. Maintaining a rural atmosphere;
 - c. The keeping of limited numbers of animals and fowl; and
 - d. Reduced requirements for public utilities, services and infrastructure.
2. These districts are intended to be primarily residential in character and protected from encroachment by commercial and industrial uses.

The purpose of the A-20 zone are⁵:

The purposes of providing an agriculture district 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 proposal is in compliance with these purpose statements.

The purpose statements in the General Plan and Zoning Ordinance do not provide actual development regulations, but present the zoning context in which the proposed subdivision is located. The specific regulations found in the adopted County Code govern development of the subject property.

Layout. The Subdivision is two lots adjacent to the Stoddard overpass on Stoddard Lane⁶. Lot one is

³ See 2010 Morgan County General Plan

⁴ MCC §8-5A-1

⁵ MCC §8-5A-1

approximately 2.00 acres of land, and lot two is approximately 6.74 acres of land. There is currently a home the proposed lot two. The proposed lot lines appear to present that the new lot conforms to existing RR-1 standards for lots, including setbacks and coverage.

It is important to note that the current lot layout is divided into two lots, but it cannot be demonstrated that the original division of land conformed to the subdivision regulations of the County, and the owners submit this application as a means of correcting past illegal divisions of land. The current land division boundaries can be viewed on the concept plat.

Both lots have provided sufficient frontage and acreage for the RR-1 zoning designation. Final plats will require residential building envelopes that conform to setback standards.

Roads and Access. Both lots will be served by a “private” drive that traverses an existing public right of way owned by UDOT. The drive exists at this time and is shown as being currently paved. The drive should be maintained as paved to County standards because it is now being proposed to serve as access to more than one home. The existing UDOT right of way extends to the front lot lines of the proposed properties, so both lots technically have frontage on the UDOT right of way even though a shared drive is necessary for accessibility due to the Stoddard overpass⁷. A UDOT access permit is required at preliminary plat application.

Grading and land disturbance. No specific grading plan has been presented, and none is expected. There may be minor site preparation prior to building. Any cut or fill that rises to the level of requiring an excavation permit will need a CUP.

Sensitive Areas, Geology, and Geotechnical Considerations. The Coogan and King Ogden 30x60 Geologic Quadrangle indicates that the entire property is in the Qal geologic unit, which is not a known hazard study area.

Utilities. There is a major utility corridor running through the proposed lot two. The actual recorded right of way should be shown on the preliminary plat, with any necessary rights of way needed to facilitate current conditions.

There is at least one ditch shown on the concept plan. An easement should be placed on the plat in favor of the ditch owner.

The culinary water plan is to lease shares from the Weber Basin Conservancy district and dig a new well for lot one. Lot two has an existing culinary system that is not shown on the proposed plat. Secondary irrigation shares exist on the property and will remain exclusively with lot two. Lot one will need sufficient water shares to provide for irrigation uses.

Flood Plain. There is no negative flood plain boundary onsite.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission provide the following recommendations for the D&N Porter Estate Subdivision Concept Plan, application 13.065:

⁶ See Exhibit C for the proposed concept plan

⁷ MCC 8-12-44(Q) requires shared private drives to be paved to County construction standards, with a paved apron at the entrance to the paved street.

1. That it appears that the general configuration of the subdivision conforms to zoning and subdivision requirements, and that it is ready for preliminary plat application.
2. That a UDOT right of way permit is submitted with the preliminary plat application.
3. That field inspections of the condition of the existing pavement used for the driveway access proves that satisfactory pavement and emergency turn around exists.
4. That the actual recorded right of way for the utility line corridor shall be shown on the preliminary plat, with any additional necessary rights of way needed to facilitate current conditions.
5. That an easement shall be placed on the plat in favor of the ditch owner/company, as applicable.
6. That preliminary plat will also contain the well head protection zone for lot two.
7. That proof of culinary shares (800 gallons per day) and irrigation shares (3 gallons per minute) are provided for each lot at preliminary plat application. The allowed irrigable acreage should also be indicated on the preliminary/final plat.
8. That a residential building envelope is provided on each lot.
9. There are several errors or incomplete items on the plat. Please review MCC 8-12 closely prior to submitting preliminary/final plat application so that you may submit a complete application.
10. That all other local, state, and federal laws are adhered to.

This recommendation is based on the following findings:

1. The nature of the subdivision is in conformance with the current and future land uses of the area.
2. The proposal complies with the Morgan County 2010 General Plan.
3. The proposal complies with current zoning requirements.
4. That additional work is necessary to make the proposal comply with preliminary plat requirements.
5. That the proposed access is found to comply with accessibility standards of County Code.
6. That the proposal is not detrimental to the health, safety, and welfare of the public.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – “I move we provide the recommendations for the D&N Porter Estate Subdivision Concept Plan, application 13.065, as listed in the August 15, 2013 staff report, and as modified by the additional recommendations below:”

1. List any additional recommendations...

Sample Motion for a denial – “I move we deny the D&N Porter Estate Subdivision Concept Plan, application 13.065, with the following findings:”

1. List findings...

SUPPORTING INFORMATION

Exhibit A: Future Land Use Map
 Exhibit B: Zoning Map
 Exhibit C: Proposed Concept Plan

Exhibit A: Future Land Use Map

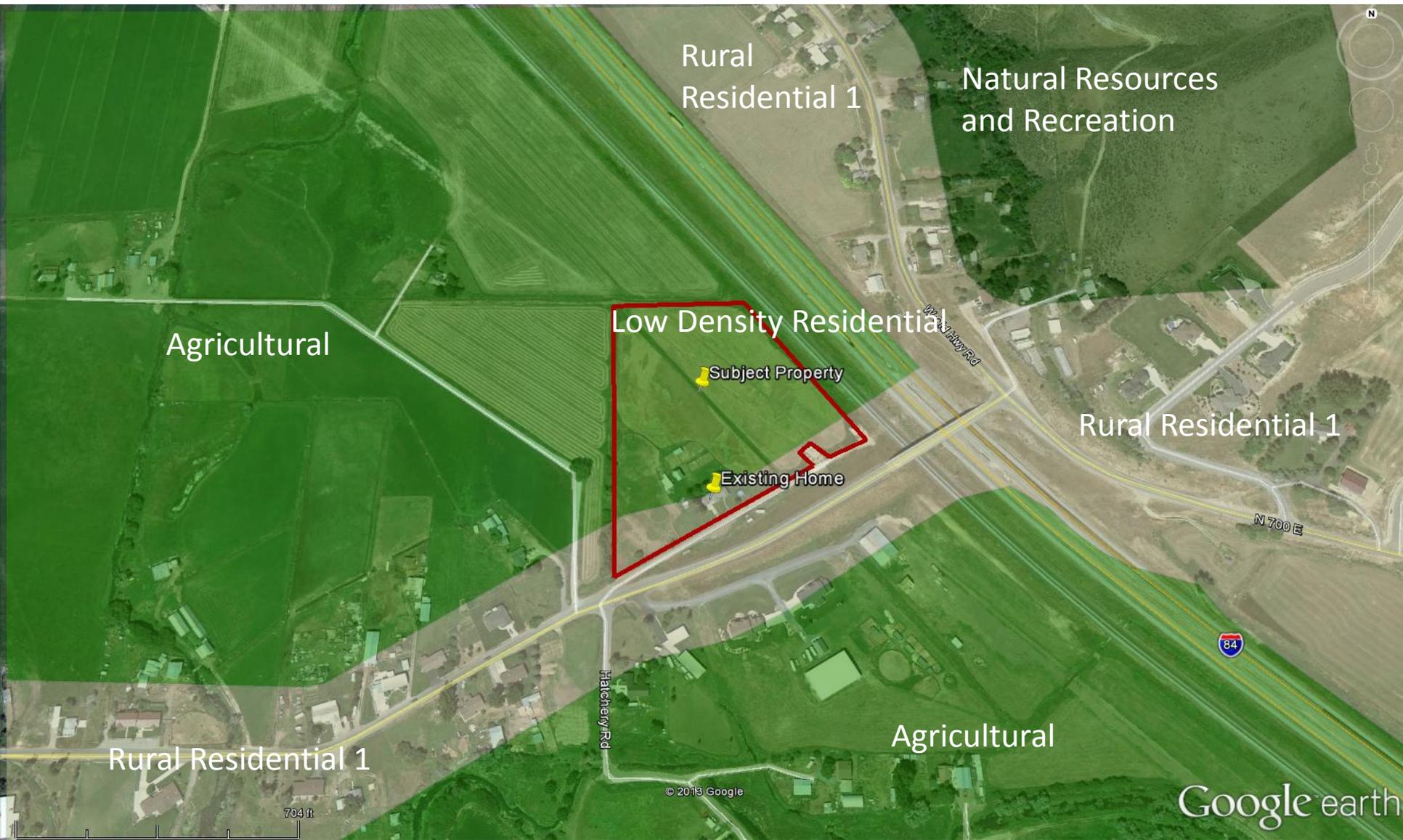
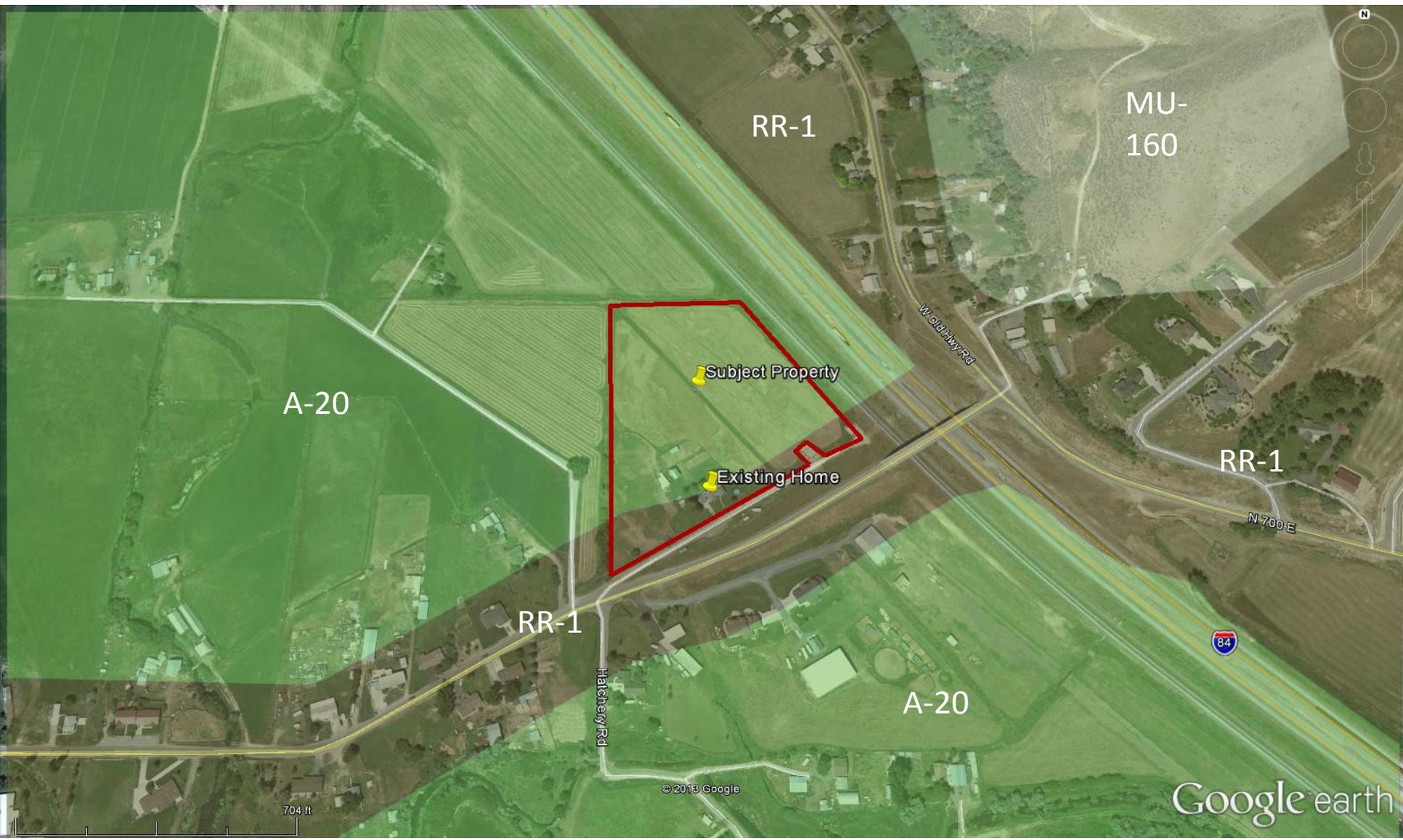


Exhibit B: Zoning Map



RR-1

MU-160

A-20

Subject Property

Existing Home

Woolsthy Rd

RR-1

N 700 E

RR-1

Hatchery Rd

A-20

84

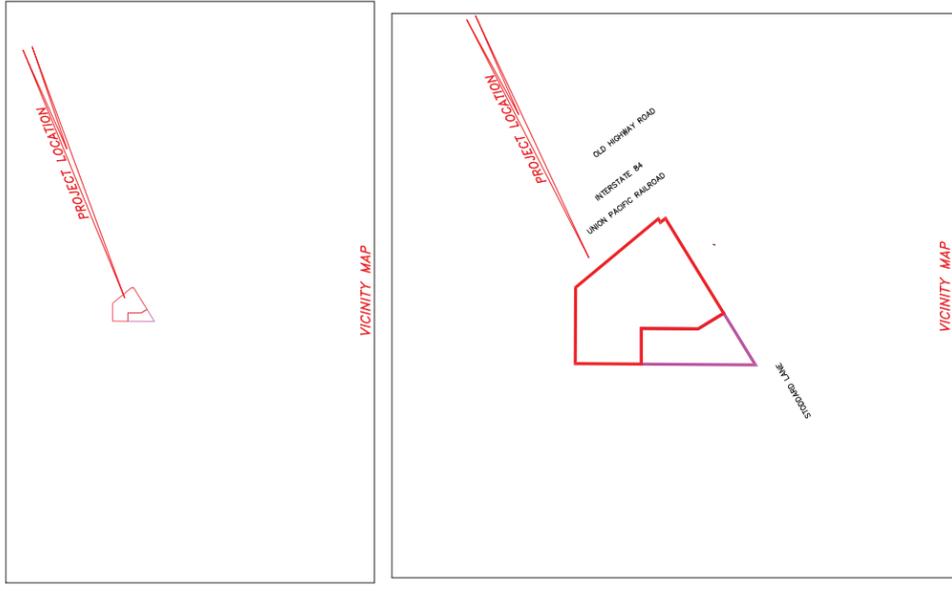
© 2013 Google

Google earth

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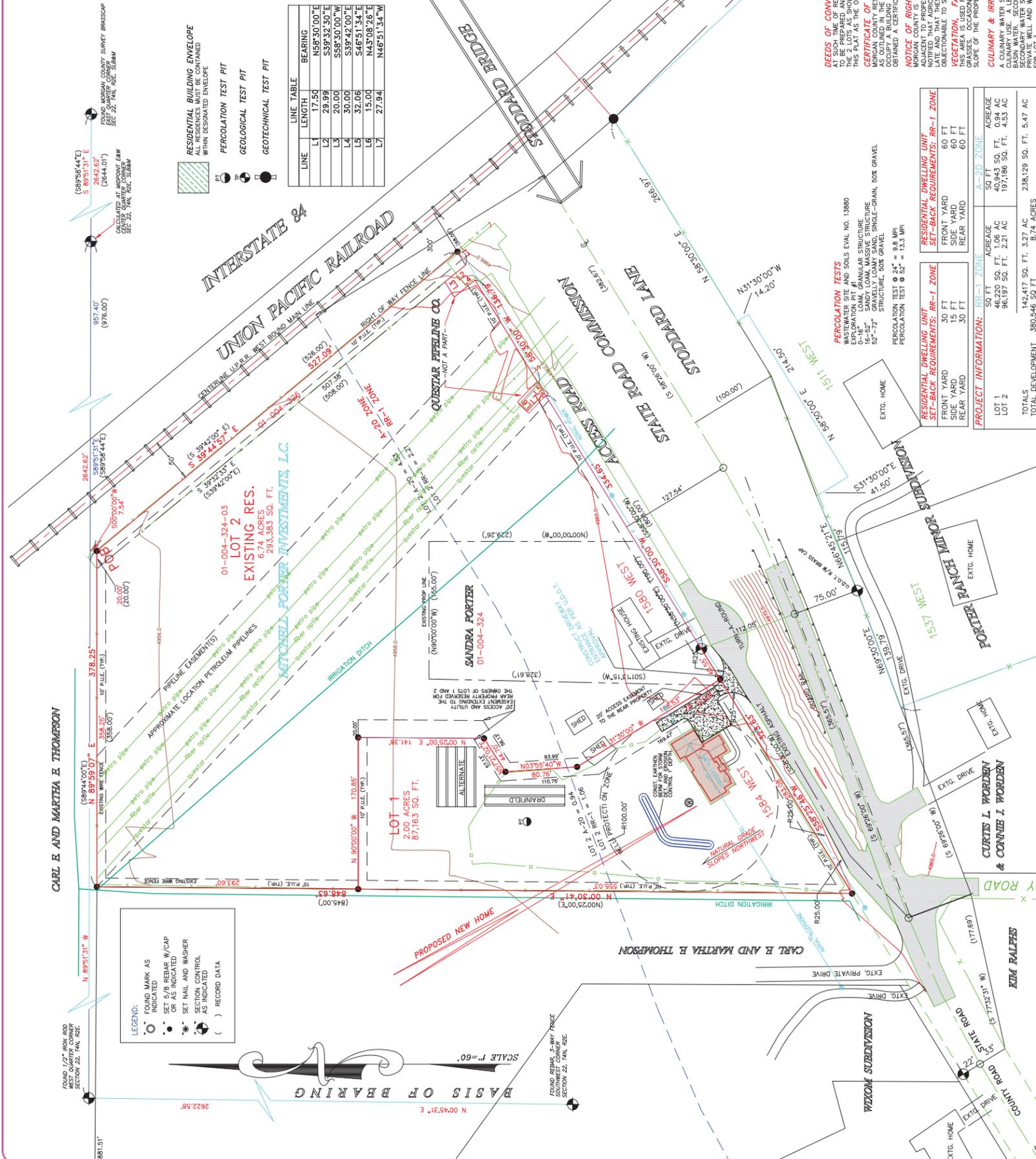
CONCEPT PLAN D & N PORTER ESTATES SUBDIVISION

A PART OF THE SW1/4 OF SECTION 22, T4N, R2E
SALT LAKE BASE AND MERIDIAN
U. S. SURVEY, MORGAN COUNTY, UTAH



LINE TABLE

LINE	LENGTH	BEARING
L1	17.50	N58°30'00"E
L2	29.94	S38°32'30"E
L3	20.00	S58°30'00"W
L4	30.00	S58°42'00"W
L5	32.06	S39°42'00"E
L6	15.00	S48°51'34"E
L7	27.94	N43°08'26"E
L7	27.94	N46°51'34"W



LEGEND:
 FOUND MARK AS INDICATED
 SET 5/8 REBAR W/CAP OR AS INDICATED
 SET NAIL AND WASHER SECTION CONTROL AS INDICATED
 RECORD DATA



WELL PROTECTION ZONE
 NO SURFACE CONTAMINATION SHALL BE LOCATED WITHIN THE WELL AND STREAM PROTECTION ZONES, SUCH AS THE WASTE TREATMENT SYSTEM, CONCENTRATIONS OF MANURE, FERTILIZER, PESTICIDES, CHEMICALS, OR ANY OTHER SUBSTANCES IN THE PROTECTION OF THESE FACILITIES.

WATER SUPPLY AND FIRE PROTECTION REQUIREMENTS
 WATER SUPPLY AND FIRE PROTECTION FACILITIES SHALL COMPLY WITH ALL OF THE REQUIREMENTS OF MCC 9-12-46(C).

GEOLOGIC HAZARDS:
 THE GEOLOGIC HAZARD FOR THIS AREA IS QM, WHICH IS NOT DEFINED AS A CLAYMINERAL WEATHERED PRODUCT. THIS SUBDIVISION IS LOCATED ADJACENT TO AGRICULTURAL OPERATIONS. WORK HOURS BEGIN EARLY AND RUN THROUGH THE NIGHT. THIS SUBDIVISION IS LOCATED ADJACENT TO AGRICULTURAL OPERATIONS. WORK HOURS BEGIN EARLY AND RUN THROUGH THE NIGHT. THIS SUBDIVISION IS LOCATED ADJACENT TO AGRICULTURAL OPERATIONS. WORK HOURS BEGIN EARLY AND RUN THROUGH THE NIGHT.

DEEDS OF CONVEYANCE / EXISTING PARCEL BOUNDARIES
 THIS SUBDIVISION IS LOCATED ADJACENT TO AGRICULTURAL OPERATIONS. WORK HOURS BEGIN EARLY AND RUN THROUGH THE NIGHT. THIS SUBDIVISION IS LOCATED ADJACENT TO AGRICULTURAL OPERATIONS. WORK HOURS BEGIN EARLY AND RUN THROUGH THE NIGHT.

CERTIFICATE OF OCCUPANCY
 A BUILDING LOCATED WITHIN ANY DEVELOPMENT WITHOUT FIRST HAVING OBTAINED A CERTIFICATE OF OCCUPANCY ISSUED BY MORGAN COUNTY.

NOTICE OF RIGHTS TO FARM
 THIS SUBDIVISION IS LOCATED ADJACENT TO AGRICULTURAL OPERATIONS. WORK HOURS BEGIN EARLY AND RUN THROUGH THE NIGHT. THIS SUBDIVISION IS LOCATED ADJACENT TO AGRICULTURAL OPERATIONS. WORK HOURS BEGIN EARLY AND RUN THROUGH THE NIGHT.

PERCOLATION TESTS
 WASTEWATER SITE AND SOILS EVAL NO. 13880
 0-16" SANDY LOAM, GRANULAR STRUCTURE
 16-52" SANDY LOAM, MASSIVE STRUCTURE
 52-72" STRUCTURE, 50% GRAVEL
 PERCOLATION TEST @ 24" = 9.8 MPH
 PERCOLATION TEST @ 52" = 13.3 MPH

RESIDENTIAL DWELLING UNIT SET-BACK REQUIREMENTS - RR-1 ZONE
 FRONT YARD 30 FT
 SIDE YARD 15 FT
 REAR YARD 30 FT

RESIDENTIAL DWELLING UNIT SET-BACK REQUIREMENTS - RR-1 ZONE
 FRONT YARD 60 FT
 SIDE YARD 60 FT
 REAR YARD 60 FT

PROJECT INFORMATION:

LOT	ACREAGE	SQ. FT.
LOT 1	2.00 AC	87,163 SQ. FT.
LOT 2	6.74 AC	293,383 SQ. FT.
TOTALS	8.74 AC	380,546 SQ. FT.

DEEDS OF CONVEYANCE / EXISTING PARCEL BOUNDARIES
 THIS SUBDIVISION IS LOCATED ADJACENT TO AGRICULTURAL OPERATIONS. WORK HOURS BEGIN EARLY AND RUN THROUGH THE NIGHT. THIS SUBDIVISION IS LOCATED ADJACENT TO AGRICULTURAL OPERATIONS. WORK HOURS BEGIN EARLY AND RUN THROUGH THE NIGHT.

DEEDS OF CONVEYANCE / EXISTING PARCEL BOUNDARIES
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MORGAN COUNTY RECORDER

ENTRY NO. _____ FILED FOR RECORD AND RECORDED AT _____ OF THE OFFICIAL RECORDS, PAGE _____

RECORDED FOR: _____

MORGAN COUNTY RECORDER _____ DEPUTY _____

MORGAN COUNTY SURVEYOR

I, WILLIAM L. HOLYOAK, A REGISTERED PROFESSIONAL LAND SURVEYOR, HOLDING CERTIFICATE NO. 167461, AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH, AND IN ACCORDANCE WITH TITLE 98, CHAPTER 22, PROFESSIONAL ENGINEERS AND LAND SURVEYORS, I HAVE EXAMINED THIS CONCEPT PLAN AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE HEREBY SUBMITTED THIS CONCEPT PLAN TO THE MORGAN COUNTY SURVEYOR FOR RECORD AND RECORDED.

SIGNED THIS _____ DAY OF _____, 20____.

WILLIAM L. HOLYOAK, P.E. & P.L.S.
 UTAH LAND SURVEYOR REGISTRATION NO. 167461

MORGAN COUNTY ZONING ADMINISTRATOR

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAN WAS DULY APPROVED BY THE MORGAN COUNTY ZONING ADMINISTRATOR.

SIGNED THIS _____ DAY OF _____, 20____.

ZONING ADMINISTRATOR _____

MORGAN COUNTY ENGINEER

I HEREBY CERTIFY THAT THE REQUIREMENTS OF ALL APPLICABLE STATUTES AND ORDINANCES PREVIOUS TO APPROVAL BY THE COUNTY ENGINEER OF THE FOREGOING PLAN AND DESIGNATIONS HAVE BEEN COMPLIED WITH.

SIGNED THIS _____ DAY OF _____, 20____.

MORGAN COUNTY ENGINEER _____

MORGAN COUNTY ATTORNEY

APPROVED AS TO FORM

SIGNED THIS _____ DAY OF _____, 20____.

MORGAN COUNTY ATTORNEY _____

WEBER-MORGAN HEALTH DEPARTMENT

THE WASTE DISPOSAL SYSTEM AND THE CULINARY WATER SYSTEM ARE HEREBY APPROVED.

SIGNED THIS _____ DAY OF _____, 20____.

DEPARTMENT HEALTH OFFICER _____

MOUNTAIN ENGINEERING
 P. O. BOX 309
 MORGAN, UTAH 84050
 TEL (801) 876-3978 FAX 876-3979

REVISIONS

DATE	BY	COMMENTS



DESIGNED BY: W.L.H.
 DRAWN BY: J.M.H.
 DATE: JUNE, 2007

D & N PORTER ESTATES SUBDIVISION
 CONCEPT PLAN
 A PART OF THE SOUTHWEST QUARTER OF SECTION 22, T4N, R2E, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY
 MORGAN COUNTY, UTAH

FILE: porter_con_216
 SHEET 1 OF 1
 ME 12-XX



PLANNING COMMISSION AGENDA
Thursday, June 27, 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. Public Comment

Legislative Items

5. **Public Hearing**/Discussion
 - a. Amend County Code to Repeal the CD Zone
 - b. Waterspring LLC Rezone
 - c. Jaques Rezone
6. Decision: Waterspring LLC Rezone
7. Decision: Jaques Rezone
8. Decision: Amend County Code to Repeal the CD Zone
9. **Public Hearing**/Discussion/Decision: Johnson Future Land Use Map Amendment
10. Staff Report.
 - a. Next scheduled Planning Commission
11. Approval of minutes from June 13, 2013
12. Adjourn.

1. **Call to order – prayer.**

Chairman Haslam welcomed everyone and also welcomed David Sawyer to the Planning Commission. Member Sawyer will replace Member Alvin Lundgren.

Prayer was offered by Member Newton.

2. **Approval of agenda.**

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

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

There were no conflicts of interest declared.

4. **Public Comment**

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

There were none.

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

Legislative Items

5. **Public Hearing/Discussion**

a. Amend County Code to Repeal the CD Zone

Charlie presented his staff report.

He noted recent events and development in the CD zone has given staff and County Council indication that the CD zone may actually not be doing what it is suppose to be doing which is create a town center in the central village of Mountain Green. The County Council has acknowledged that it is not actually functioning as they desire it to function and has directed staff to move forward with a repeal of that zone. In repeal of that zone, staff realizes that there are other properties in the County that have already been zoned to the CD zone. He noted that in the repeal of the CD zone, those that have not actually exercised the entitlement, won't automatically have entitlement under that zone. You either (a) restrict any use of the property which

could be argued as a constitutional taking, or (b) essentially grandfather them under the terms of the existing ordinance.

Given the Council's directive to repeal the CD zone, staff wanted to take the path of highest maximization and determine exactly how we help the county ensure that some of the difficulties they have realized through the execution of the other developments in the CD zone don't get executed again.

In doing this staff recognizes two properties that have not had entitlements granted under the CD zone, Dee Jaques property and Water Springs LLC; Bart Smith property. Mr. Ewert pointed out the locations of these properties on a map. He noted Mr. Jaques has a residential home on his property with a few accessories and Water Springs is currently a vacant property with no apparent entitlements.

Issues with the CD zone:

- Who is really authorized to be land use authority?
- Submitting a development plan and executing through a development agreement.

He noted Council did not say to go re-zone either of these properties the council asked to repeal the CD zone. As he evaluated that he tried to figure out the best way to get the CD zone repealed without having any dangling unintentional consequences in doing so. He noted this was the best plan staff believed would provide for that; certainly there are other ways to do this, and one is to not re-zone the property. Actual administration of the CD zone is fairly impractical for a two acre piece of property. One option is to expand the CS zone onto the two properties. The reason they did not go with that option is that County Council has also given staff a separate directive to re-write the use allowances of that zone and every other commercial code that the county has. Staff is currently in the process of re-writing all the commercial zones to gear them towards more commercial friendly development and streamlining processes allowing for less robust process to get something executed.

He noted in order to give the property owner a zone that complies with their current lot size and make the property conforming, staff would recommend an RR-5 zone. He noted the CD zone is not going to be gone forever. The General Plan of Morgan County recommends a town center zone, and right now the CD zone is suppose to be that, but considering it is not working the County Council has given the directive to repeal and re-tool that zone.

Member Sessions asked if Mr. Ewert talked to the landowners before noticing these re-zones. Mr. Ewert stated staff did not.

She asked about the Nye's property. Mr. Ewert noted that there are two properties which still have entitlement under the CD zone; Nye's is one of those properties. It

is excluded from the Johnson development plan and there are existing entitlements that have been granted under the CD zone on this property. The other property is the Aspen Meadows property. If these properties are re-zoned they could potential be zoned into non-conformity.

Member Sessions noted that staff has stated they have been asked to re-write all the commercial zones; she noted she does not remember that directive. Mr. Ewert noted that they were asked to streamline commercial processes to provide an environment that induces more economic development potential. He referred to Title 8, Chapter 5 Article C there is a broad long 14 pages list of uses that are allowed and not allowed in the zones. He believes council has asked to consolidate and condense.

Member Sessions referred to the audio of the February 19, 2013 County Council in which this direction was given to eliminate the CD zone or at least make a recommendation. Chairman Kelly stated this would not affect anyone who is currently zoned CD. Mr. Ewert noted when he was working through his evaluations he did not see any other way that would actually satisfy the Council's desire to not have to deal with what was dealt with in the Johnson property.

Mr. Newton asked what the time line is for writing all these commercial zones. Mr. Ewert noted is that it is lengthier than originally anticipated. He is hoping he can have something in front of the County Council within the next two months.

Mr. Erickson asked if Mr. Ewert could give some other examples of why this is something that is not working for the County.

Charlie referred to all the red-line strikeouts in the packet, particularly 8-5D-18 Planned Unit Development.

- The County has broad discretion – mixed use/residential is not defined.

Member Sessions recommended gutting the existing CD zone and re-writing it.

Mr. Ewert noted that by this coming to the Planning Commission, possibly they can flush out ideas that maybe staff has not thought about.

Broad discussion took place on the following:

- Delays due to re-write of commercial.
- Possibilities to property owners if staff was to gut the zone.
- RR -5 being detrimental to land owners.

b. Water spring LLC Rezone

Bart Smith, Water springs LLC – surprised when he got the notice that the county was going to initiate this. CD is the maximum use compared to the RR-5 which is the minimum conforming use. He understands what the County is trying to do. He likes what Member Sessions has suggested; rather than throw the entire CD zone out, maybe overhaul it. Put the zone into a moratorium until it can be re-written. Only advantage he could see going to the RR-5 is if he could get the assessor to reassess his property with this zone, but noted she does not do that, she assesses on potential use. He noted there is no income coming in so taxes are delinquent on this property.

Chairman Haslam asked what Mr. Smith's preference was. He said if he could get the assessor to assess it as a 5 acre parcel that has \$1000 tax value versus \$10000 in taxes he would prefer that. He noted that he believed the best interest would be to get it to where it needs to be. Possibly re-write the zone. He noted if it is zoned to RR-5 he could sell it and someone could buy it and build a house right down in the middle of the town center which doesn't make sense.

Mr. Smith noted during the Olympics there was 4 feet of fill brought in. Under the CD he has to have a development plan just to grade it down. Under the CS zone he just has to come in and get a conditional use permit. With that understanding he would prefer to go under the CS zone which is consistent with the adjoining zone.

Dee Jaques – Mr. Jakes noted he does not care whether it is zoned RR-1 or commercial but he does have people looking at it and he is in limbo selling it until this is settled. Commercial is what he requested five years ago and he has paid his due and pays taxes on that zone.

Member Sessions stated in essence, all commercial is tied up. The perception is that the County is anti-business. Right now it appears that all commercial options are taken off the table for developers and she does not believe it is good policy to tackle all commercial zones at once.

- CS zone was discussed.
- Excavation requirements in the different zones were discussed. Charlie suggested maybe adding a line item for excavation.
- Negative and positive aspects of zoning to CS were discussed.
- Noticing was discussed.

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

Blair Larsen – noted he was on the Mtn. Green DAT and Envision Morgan committee. If this was on the other foot and it was someone other than the County who wanted to get this zone change it would not go as quickly as it appears this is going.

Mr. Larsen referred to the Morgan County General Plan, page 3 under existing zoning. He also referred to page 12 regarding town centers.

Ty Eldridge – Not a big fan of the central development but also not a fan of rezoning people's property. He noted if they want to re-zone they should request it themselves.

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

c. Jaques Rezone

The discussion under Water springs LLC encompassed this rezone discussion item as well.

6. Decision: Watersprings LLC Rezone

Member Sessions moved to forward a positive recommendation to the County Council for the County initiated rezone request for Morgan County/Watersprings, LLC Rezone Request, application #13.059, rezoning approximately 5.48 acres of property at approximately 4960 West Old Highway Road from CD to CS, based on the findings listed in the staff report dated June 19, 2013, and as modified by changing in finding #4 the (2) references of RR-5 to CS's and request staff to bring forward a text amendment to add excavation as a conditional use in the commercial land use table.

1. Because of ambiguous, vague or contradictory provisions, the CD Zone has proven impractical to appropriately administer.
2. Because of the aforementioned flaws in the CD zone, it is found that the CD zone does not comply with the "Town Center" designation in the 2010 Morgan County General Plan, in that "Town Center projects should be designed to provide maximum compatibility with surrounding land uses. Increased aesthetic and architectural design requirements and focus on streetscape creation are paramount to the development of a Town Center area".
3. By removing the CD designation from the property the County can more

appropriately facilitate the re-creation of a new “Town Center” zone?

4. By rezoning to the CS zone the County is preserving the property owner’s potential to develop under the terms of the CS zone by providing a zone most compatible with the current property configuration and uses, and other current uses in the vicinity.

Second by Member Stephens.

Chairman called for debate

Member Sessions stated that she does not want to do something detrimental to the land owner and wants to allow them to do something with their land while this zone is being re-written.

Member Erickson stated if we change this to CS he did not believe anyone in the room realizes the impact of that. He does not want to make a CS decision that gives them a bad circumstance for them to deal with. Certainly there is the option for any landowner to come in and make the request themselves. He does not like to say that we just arbitrarily killed the CD process as the County Council has asked. He would rather see the CD zone put on hold and therefore no one can deal with that zone until the county revises CD policy. It certainly needs to be fixed and he heard Mr. Ewert state that could probably be done in two months given the priority from the County Council. He believes Mr. Larsen said it best; leave it alone. Let the individual property owner deal with it as they can best decide to deal with it.

Member Sessions stated she agrees with Member Erickson, however zoning allows Mr. Smith to excavate. Mr. Erickson noted it does because he has the option to come in and re-zone if he wants to CS.

There was discussion of dealing with the CD zone universally.

Chairman suspended the rules temporarily to allow Mr. Smith to make comment.

Bart Smith - noted the CS zone works good to accommodate what they want to do right now to excavate. If the town center comes in he would be inclined to maybe rezone the property to the new zone; this will save him a step.

The Chairman called for a Vote.

The vote was not unanimous with Members Stephens, Sessions, Newton, Sawyer for and Member Erickson against. The motion carried with the vote of four to one.

7. Decision: Jaques Rezone

Member Sessions moved to forward a positive recommendation to the County Council for the County initiated rezone request for the Morgan County/Dee Jaque Property, application #13.060, rezoning approximately 2.45 acres of property at approximately 5190 West Old Highway Road from CD to CS, based on the findings listed in the staff report dated June 19, 2013, and as modified by changing in finding #4 the (2) references of RR-1 to CS's and request staff to bring forward a text amendment to add excavation as a conditional use in the commercial land use table.

1. Because of ambiguous, vague or contradictory provisions, the CD Zone has proven impractical to appropriately administer.
2. Because of the aforementioned flaws in the CD zone, it is found that the CD zone does not comply with the "Town Center" designation in the 2010 Morgan County General Plan, in that "Town Center projects should be designed to provide maximum compatibility with surrounding land uses. Increased aesthetic and architectural design requirements and focus on streetscape creation are paramount to the development of a Town Center area".
3. By removing the CD designation from the property the County can more appropriately facilitate the re-creation of a new "Town Center" zone.
4. By rezoning to the CS zone the County is preserving the property owner's potential to develop under the terms of the CS zone by providing a zone most compatible with the current property configuration and uses, and other current uses in the vicinity.

Second by Member Sawyer.

Chairman called for debate

Member Sessions stated her reason would be the same as stated in the Water Springs application.

Member Sawyer noted this allows the property owner to do what he would like and in two months we may have something from staff. Believed this protected the property owner for the time being.

Member Erickson noted his comments would be the same as stated in the Water Springs discussion.

Member Newton noted he had concern with this only because of which Mr. Jaques stated was a potential buyer.

The Chairman called for a vote.

The vote was not unanimous with Members Stephens, Sessions, Newton, Sawyer for and Member Erickson against. The motion carried with the vote of four to one.

8. Decision: Amend County Code to Repeal the CD Zone

Member Sawyer moved to forward a positive recommendation to the County Council for the proposed CD zone repeal amendment, application 13.011, as presented in the staff report and based on the findings listed in the staff report dated June 21, 2013. Second by Member Sessions

The Chairman called for debate.

Member Erickson asked if it is repealed then what do owners such as Nye's Glass and the Johnson property use as a tool. Charlie noted that existing CD properties (Nye's glass and Johnson property) have entitled rights. It cannot be expanded or improved.

The vote was not unanimous with Members Stephens, Sessions, Newton, and Sawyer for and Member Erickson against. The motion carried with the vote of four to one.

9. Public Hearing/Discussion/Decision: Johnson Future Land Use Map Amendment

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

Jeff Nielsen – Live one lot away from the Johnsons and has come to support them in their request to build the outbuilding they would like to build. They would be the neighbors directly impacted. They do not mind having this building on the property.

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

Mr. Johnson presented the planning commission with a handout (Please see attached exhibit C) His understanding is that if the PRUD was still in force this would not be a problem, if they were zoned RR-5 this would not be a problem, or even if they were still vested in the PRUD this would not be a problem. The only scenario where this would not be allowed is the current situation where they were in a PRUD and are not in one anymore; it is an unattended consequence.

Member Sessions noted in driving by it appears the building has already started. She asked Mr. Johnson to comment on that.

Mr. Johnson noted it is an outbuilding and he did not know he had to have a building permit for it. Once he found that out he stopped at that point and come to get a building permit and then found out the current situation.

Member Sawyer noted one of the recommendations is that other properties be held to the same rules and asked if Mr. Johnson knew if any of them would have a problem. Mr. Johnson noted from what he can tell there is no negative consequence.

Member Sessions asked if Mr. Johnson was aware of the frontage requirement in the RR-1. She did not believe this would be a solution to the problem. That is one of the perks of the PRUD is that you do not have to have the frontage requirement of the zone

Mr. Johnson noted he does not care what zone is decided on; the only thing he cares about is being able to build his outbuilding. He noted he was not sure why this PRUD is not still vested even though the ordinance was re-pealed.

Charlie Ewert presented his staff report (Please see attached exhibit D) The County had a PRUD ordinance and that ordinance gave individuals flexibility; Surrey Estates was one of those.

There was discussion on non-conforming use.

Mr. Ewert noted another option is to write something simple in the County subdivision ordinance regarding existing PRUD being able to remain vested.

Member Sawyer asked when the new flexible subdivision ordinance would be done. Mr. Ewert noted when he can get 14 people to agree on something.

Building envelopes were discussed.

Member Sessions moved to postpone indefinitely the Matt Johnson Future Land Use Map Amendment, application #13.046, as presented in the June 21, 2013 staff report.

Second by Member Stephens.

The Chairman called for debate.
There was none.

The vote was unanimous. The motion carried.

Member Stephens moved to recommend staff to add an amendment to the code that will allow modifications to current PRUD's while preserving the original parameters of the ordinance. Second by Member Erickson.

The Chairman called for debate.
There was none.

The vote was unanimous. The motion carried.

10. Staff Report.

a. Next scheduled Planning Commission

Charlie noted there would be a field trip for the Planning Commission and County Council to tour Snow Basin on July 9, 2013.

It was decided that July 25th would be the next meeting if staff could confirm a quorum. If not, August 8th would be the next meeting.

11. Approval of minutes from June 13, 2013

Member Erickson moved to approve the minutes of June 13, 2013 as typed. Second by Member Newton. The vote was unanimous. The motion carried.

12. Adjourn.

Member Sawyer moved to adjourn. Second by Member Stephens. The vote was unanimous. The motion carried.

Exhibit A - Public Hearing/Discussion Waterspring LLC Re-zone

STAFF REPORT

June 19, 2013

Planning and Development Services

To: Morgan County Planning Commission
Business Date: 6/27/13

Prepared By: Ronda Kippen, Planning Technician

Re: **County Initiated Rezone of Waterspring, LLC Property**

Application No.: 13.059

Applicant: Morgan County

Project Location: Approximately 4960 West Old Highway Road

Zoning: CD

Acreage: 5.48 Acres

Request: County initiated rezone of 5.48 acres of property located approximately at 4960 West Old Highway Road from CD to RR-5.

SUMMARY

The County Council has directed Staff to repeal the Central Development (CD) Zone due to ambiguous, vague or contradictory provisions that make the CD zone impractical to appropriately administer. Staff is proposing to rezone the vacant property owned by Waterspring, LLC located at approximately 4960 West Old Highway Road, also identified as Serial# 03-005-044-01. Staff is recommending rezoning the subject property from the current CD zone to the RR-5 zone to ensure a zone most compatible with the current configuration and uses of the property, and other uses in the vicinity. By rezoning the property to this zone the County will maximize the preservation of the land owner's existing and established land use rights. Once the Morgan County Code has been revised regarding commercial zones and uses, the County may move forward with a more appropriate zone that will help facilitate the creation of the "Town Center" area that has been identified in the 2010 Morgan County General Plan. This rezone is only intended to as a "place holder" until the County can re-create a better "Town Center" zone.

The property that has been identified to be rezoned to RR-5 is vacant ground adjacent to a variety of zones including agricultural, residential and commercial. In the event that there is a use that has been legally established prior to the County's amendment to the zoning map; that use will be allowed to continue as long as it is not expanded or abandoned as defined by the County's nonconforming use chapter Morgan County Code (MCC) 8-7-5. The recommended zone was selected in an attempt of creating as little non-conformity as possible.

Staff are advising that because administration of the CD zone has proven detrimental to the County, rezoning the property to *any* other existing zone will help the County better comply with the goals and

objectives of the 2010 General Plan by providing the County time to re-create a new “Town Center” zone. Staff are not recommending a rezone to any other commercial zone at this time because of another directive from the County Council to modify all commercial zones to create more commercial development friendly processes, but because we are only in the preliminary stages in providing such modifications we cannot provide any concrete verification of how other commercial zones will affect the surrounding area. This recommendation is a conservative approach by staff to provide the Planning Commission with results that are verifiable by steering clear of the current unknowns of the ongoing commercial code re-write.

ANALYSIS

Planning Commission Responsibility. Pursuant to 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 are excerpts from the plan that may be relevant in evaluating this request (italics added for emphasis):

One municipality (Morgan) and six village centers are located in Morgan County; Mountain Green, Peterson, Enterprise, Stoddard, Croydon, and Porterville. Most of these areas have identified future growth areas. The majority of future development in Morgan County is anticipated to occur in or near these areas. (Pg. 5-7)

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

Town Center projects should be designed to provide maximum compatibility with surrounding land uses. *Increased aesthetic and architectural design requirements and focus on streetscape creation are paramount to the development of a Town Center area. (Pg. 12)*

The CD zone anticipates that the Planning Commission and County Council has more discretionary ability to provide additional administrative development requirements to obtain optimal aesthetic controls in the CD zone than are actually enumerated in the code; however, administrative law does not support this. Such application of administrative discretion has resulted in cases of arbitrary decision making. In

other words, the attorneys have told us that when it comes to administering the law we can't simply "make it up as we go."

Thus, it appears that the Planning Commission may find that the proposed rezone may conform to the intent of the County's master planning efforts because the practical administration of the CD zone has inconsistencies that conflicting with the desired "Town Center" designation in the Mountain Green area, and should be removed from properties that are not currently vested in its rules.

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 purpose of the CD zone is as follows:

The central development district zone is established to stimulate economic development by providing a unique planning environment for commercial and office development. This district encourages creative development and site design for mixed use commercial, office and residential uses within "planned commercial centers" and is appropriately reserved for use within town and resort centers only.

Despite the good intentions of this purpose, the actual administration of the CD zone has not yielded the best results due to administrative requirements that do not give the County the discretionary authority that the CD zone was intended to contemplate. The type of discretionary authority the CD contemplates reflects legislative authority, not administrative.

The purposes of the RR-5 zone are as follows:

- 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 sizes and uses of properties adjacent to the subject property vary. To the east of the property there is gravel pit and has been zoned A-20. Located south and east (across Old Highway Road) of the property, there are established commercial uses located in the Commercial Highway zone, a small area zoned RR-1 and A-20 as well as the Mountain Green Village PUD property that has been zoned Central Development, the development agreement for which was approved by the County Council in their June 18, 2013 meeting. To the north and west are properties of agricultural uses zoned A-20 and commercial uses zoned CS. The uses of properties in the area prime this property for many types of compatible uses; it may be found that the RR-5 zone will suit the area well, until the County can provide a re-created "Town Center" zone. (See Exhibit B)

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-5 zone and the existing CD zone is a useful method to determine the potential change the rezone may have on the area. See Exhibit C for this comparison.

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

1. Potential density: The amount of land currently in the CD zone is 2.45 acres. The CD zone allows a mixture of residential and commercial uses, with a potential for residential development of 16 units per acre, or approximately 87.68 equivalent residential units (ERU's) on this property. A 5.48 acre zone change from CD to RR-5 could result in a total density of 1.096 residential units. The potential rezone would decrease the overall density of the property by 86.584 units.
2. Access: The proposed rezone property has roughly 657 feet of frontage along Old Highway Road, formerly known as U.S. Highway 30-S. Isolating only frontage as review criteria, there could potentially be two single family lots developed along the frontage of the road, given that the minimum frontage in the RR-5 zone is 250 feet.
3. Circulation: Old Highway 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 supposing the property is large enough to support the required wellhead protection zone(s). 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. Fire Protection: The property is not in the Wildland Urban Interface Area, 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.
7. Topographic Features: The property has a very mild grade. It was originally graded some years ago to provide parking for the 2002 Winter Olympics. Topography does not seem to be a concern for potential future development.
8. Geology: The property appears to be in the "Qa[p]" geologic unit designation, which is not listed in MCC §8-5I as a hazardous unit.

Further Considerations. The property was rezoned from RR-1/A-20 to the CD zone in 2008 by ordinance CO-08-04. This rezone came at the request of a land owner, Tyler Quigley. Staff have conducted thorough research of this zone change because it appears the requester of the change did not own the property. In fact, one of the owner's of the property, Bart Smith, has recently indicated to the County that he had no idea that the rezone had ever occurred and suggested that it may have occurred by mistake.

It is difficult to tell based on previous Staff's records in the Planning and Development Services Department what property was intended for this rezone, and upon review of meeting minutes it seems possible that the property intended to be rezoned to the CD zone is on the corner of Trapper's Loop Road and Old Highway road, a property owned by Tyler Quigley. However, the County Council signed and executed ordinance CO-08-04, which provided a legal description that rezoned Mr. Smith's property (the subject Watersprings, LLC property), and not Mr. Quigley's property.

Noticing. The MCC 8-3-3 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.
4. Mailed to the property owner.
5. 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 Morgan County/Watersprings, LLC rezone that it do so based on the following findings:

1. Because of ambiguous, vague or contradictory provisions, the CD Zone has proven

impractical to appropriately administer.

2. Because of the aforementioned flaws in the CD zone, it is found that the CD zone does not comply with the "Town Center" designation in the 2010 Morgan County General Plan, in that "Town Center projects should be designed to provide maximum compatibility with surrounding land uses. Increased aesthetic and architectural design requirements and focus on streetscape creation are paramount to the development of a Town Center area".
3. By removing the CD designation from the property the County can more appropriately facilitate the re-creation of a new "Town Center" zone.
4. By rezoning to the RR-5 zone the County is preserving the property owner's potential to develop under the terms of the RR-5 zone by providing a zone most compatible with the current property configuration and uses, and other current uses in the vicinity.

MODEL MOTION

Sample Motion for a *Positive* Recommendation – "I move we forward a positive recommendation to the County Council for the Morgan County/Watersprings, LLC Rezone Request, application #13.059, rezoning approximately 5.48 acres of property at approximately 4960 West Old Highway Road from CD to RR-5, based on the findings listed in the staff report dated June 19, 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 Morgan County/Watersprings, LLC Rezone Request, application #13.059, rezoning approximately 5.48 acres of property at approximately 4960 West Old Highway Road from CD to RR-5, based on the following findings:

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

ADDITIONAL INFORMATION

Exhibit A: Morgan County Future Land Use Map

Exhibit B: Current Zoning and Aerial Picture Showing Uses

Exhibit C: Comparison of Land Use Permission Differences between CD and RR-5

Exhibit B – Public Hearing/Discussion Jaques Rezone

Planning and Development Services

STAFF REPORT

June 19, 2013

To: Morgan County Planning Commission
Business Date: 6/27/13

Prepared By: Ronda Kippen, Planning Technician
Charles Ewert, Planning Director

Re: **County Initiated Rezone of Jaques Property**

Application No.: 13.060
Applicant: Morgan County
Project Location: 5190 West Old Highway Road
Zoning: CD
Acreage: 2.45 Acres
Request: County initiated rezone of 2.45 acres of property located at 5190 West Old Highway Road from CD to RR-1.

SUMMARY

The County Council has directed Staff to repeal the Central Development (CD) Zone due to ambiguous, vague or contradictory provisions that make the CD zone impractical to appropriately administer. Staff is proposing to rezone the residential property owned by Dee Jaques located at 5190 West Old Highway Road. Staff is recommending rezoning the subject property from the current CD zone to the RR-1 zone to ensure a zone most compatible with the current configuration and uses of the property, and other uses in the vicinity. By rezoning the property to this zone the County will maximize the preservation of the land owner's existing and established land use rights. Once the Morgan County Code has been revised regarding commercial zones and uses, the County may move forward with a more appropriate zone that will help facilitate the creation of the "Town Center" area that has been identified in the 2010 Morgan County General Plan. This rezone is only intended to as a "place holder" until the County can re-create a better "Town Center" zone.

The property that has been identified to be rezoned to RR-1 is residential property adjacent to a variety of zones including agricultural, residential and commercial. In the event that there is a use that has been legally established prior to the County's amendment to the zoning map; that use will be allowed to continue as long as it is not expanded or abandoned as defined by the County's nonconforming use chapter Morgan County Code (MCC) 8-7-5. The recommended zone was selected in an attempt of creating as little non-conformity as possible.

Staff are advising that because administration of the CD zone has proven detrimental to the County,

rezoning the property to *any* other existing zone will help the County better comply with the goals and objectives of the 2010 General Plan by providing the County time to re-create a new “Town Center” zone. Staff are not recommending a rezone to any other commercial zone at this time because of another directive from the County Council to modify all commercial zones to create more commercial development friendly processes, but because we are only in the preliminary stages in providing such modifications we cannot provide any concrete verification of how other commercial zones will affect the surrounding area. This recommendation is a conservative approach by staff to provide the Planning Commission with results that are verifiable by steering clear of the current unknowns of the ongoing commercial code re-write.

ANALYSIS

Current Uses and Lot Configuration. The current use of the property is primarily residential. It has one residence on it and several accessory buildings. The lot is generally rectangular in shape, with approximately 200 feet of frontage along Old Highway Road. It appears from aerial photography that the current residence is setback from property boundaries the minimum of 15 feet as required by the proposed zone.

Planning Commission Responsibility. Pursuant to 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:

3. The proposed amendment is in accord with the master plan of the County.
4. Changed or changing conditions make the proposed amendment reasonably necessary to carry out the purposes of this title.

Staff are advising that because administration of the CD zone has proven detrimental to the County, rezoning the property to *any* other existing zone will help the County better comply with the goals and objectives of the 2010 General Plan by providing the County time to re-create a new “Town Center” zone whilst ensuring no more development proposals are presented under requirements of the CD zone; and it is with this assertion that Staff believe the Planning Commission may find that the rezone does comply with the intent of the 2010 General Plan. Staff also advise that because the Council requested the repeal of the CD zone that the Planning Commission may find that changing conditions do indeed exist.

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 Future Land Use Map identifies the area in question as a “Town Center” (see Exhibit A). The following are excerpts from the plan that may be relevant in evaluating this request (italics added for emphasis):

One municipality (Morgan) and six village centers are located in Morgan County; Mountain

Green, Peterson, Enterprise, Stoddard, Croydon, and Porterville. Most of these areas have identified future growth areas. The majority of future development in Morgan County is anticipated to occur in or near these areas. (Pg. 5-7)

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

Town Center projects should be designed to provide maximum compatibility with surrounding land uses. Increased aesthetic and architectural design requirements and focus on streetscape creation are paramount to the development of a Town Center area. (Pg. 12)

The CD zone anticipates that the Planning Commission and County Council has more discretionary ability to provide additional administrative development requirements to obtain optimal aesthetic controls in the CD zone than are actually enumerated in the code; however, administrative law does not support this. Such application of administrative discretion has resulted in cases of arbitrary decision making. In other words, the attorneys have told us that when it comes to administering the law we can't simply "make it up as we go."

Thus, it appears that the Planning Commission may find that the proposed rezone may conform to the intent of the County's master planning efforts because the practical administration of the CD zone has inconsistencies that conflicting with the desired "Town Center" designation in the Mountain Green area, and should be removed from properties that are not currently vested in its rules.

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 purpose of the CD zone is as follows:

The central development district zone is established to stimulate economic development by providing a unique planning environment for commercial and office development. This district encourages creative development and site design for mixed use commercial, office and residential uses within "planned commercial centers" and is appropriately reserved for use within town and resort centers only.

Despite the good intentions of this purpose, the actual administration of the CD zone has not yielded the best results due to administrative requirements that do not give the County the discretionary authority that the CD zone was intended to contemplate. The type of discretionary authority the CD contemplates reflects legislative authority, not administrative.

The purposes of the RR-1 zone are as follows:

- 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 sizes and uses of properties adjacent to the subject property vary. To the east of the property is Old Farm Market and has been zoned CS. Located south and east (across Old Highway Road) of the property, there are established commercial uses located in the Commercial Highway zone, a small area zoned RR-1 and A-20 as well as the Mountain Green Village PUD property that has been zoned Central Development, the development agreement for which was approved by the County Council in their June 18, 2013 meeting. To the north and west are properties of agricultural uses zoned A-20 and residential uses. The uses of other properties in the area prime this property for many types of compatible uses; it may be found that the RR-1 zone will suit the area well, until the County can provide a re-created "Town Center" zone. (See Exhibit B)

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 existing CD zone is a useful method to determine the potential change the rezone may have on the area. See Exhibit C for this comparison.

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

9. Potential density: The amount of land currently in the CD zone is 2.45 acres. The CD zone allows a mixture of residential and commercial uses, with a potential for residential development of 16 units per acre, or approximately 39.2 equivalent residential units (ERU's) on this property. A 2.45 acre zone change from CD to RR-1 could result in a total density of 2.45 residential units. The potential rezone would increase the overall density of the property by 36.75 units.
10. Access: The proposed rezone property has 200 feet of frontage along Old Highway Road, formerly known as U.S. Highway 30-S. Isolating only frontage as review criteria, there is only sufficient frontage for one single family lot given that the minimum frontage in the RR-1 zone is 200 feet.
11. Circulation: Old Highway 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.
12. Culinary Water Resources: Private culinary water systems serve the culinary water needs of the area. There is also the option for private wells supposing the property is large enough to support the required wellhead protection zone(s). 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.

13. 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.
14. Fire Protection: The property is not in the Wildland Urban Interface Area, 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.
15. Topographic Features: The property is fairly flat. Topography does not seem to be a concern for potential future development.
16. Geology: The property appears to be split in between the "Qh" and the "Qa[p]" geologic unit designation, which is not listed in MCC §8-5I as a hazardous unit.

Further Considerations. The property was rezoned from RR-1/A-20 to the CD zone in 2003 by ordinance CO-03-14. This rezone came at the request of the land owner, Dee Jaques. Mr. Jaques had the desire to rezone his property to a more marketable commercial zone in order to boost the value and potential of his lot. He paid an application fee and the request was subject to a full review by staff, the Planning Commission, and the County Council. However, to date Mr. Jaques has not acted on any of the development or use rights of the CD zone.

Mr. Jaques has contacted staff about this proposed rezone and has expressed his opposition to it. He still has a desire to keep the property in a commercial zone for marketability purposes, and indicated to staff his plans of trying to sell it this 2013 summer season. He is desirous that if any change is going to be made to the zone of his property that is reflects the same zone as the Old Farm Market on the lot just west of his lot. The Old Farm Market is in the commercial shopping (CS) zone.

Noticing. The MCC 8-3-3 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.
4. Mailed to the property owner.
5. 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 County initiated rezone of the Jaques property, that it do so based on the following findings:

1. Because of ambiguous, vague or contradictory provisions, the CD Zone has proven impractical to appropriately administer.
2. Because of the aforementioned flaws in the CD zone, it is found that the CD zone does not comply with the "Town Center" designation in the 2010 Morgan County General Plan, in that *"Town Center projects should be designed to provide maximum compatibility with surrounding land uses. Increased aesthetic and architectural design requirements and focus on streetscape creation are paramount to the development of a Town Center area"*.
3. By removing the CD designation from the property the County can more appropriately facilitate the re-creation of a new "Town Center" zone.
4. By rezoning to the RR-1 zone the County is preserving the property owner's potential to develop under the terms of the RR-1 zone by providing a zone most compatible with the current property configuration and uses, and other current uses in the vicinity.

MODEL MOTION

Sample Motion for a *Positive* Recommendation – "I move we forward a positive recommendation to the County Council for the County Initiated Rezone Request of the Jaques Property, application #13.060, rezoning approximately 2.45 acres of property at 5190 West Old Highway Road from CD to RR-1, based on the findings listed in the staff report dated June 19, 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 County Initiated Rezone Request of the Jaques Property, application #13.060, rezoning approximately 2.45 acres of property at 5190 West Old Highway Road from CD to RR-1, based on the following findings:

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

ADDITIONAL INFORMATION

Exhibit A: Morgan County Future Land Use Map

Exhibit B: Current Zoning and Aerial Picture Showing Uses

Exhibit C: Comparison of Land Use Permission Differences between CD and RR-1

DRAFT

Exhibit D –Public Hearing/Discussion/Decision: Johnson Future Land Use Map Amendment

Planning and Development Services
STAFF REPORT
June 21, 2013

To: Morgan County Planning Commission
Business Date: 6/27/13

Prepared By: Charles Ewert, Planning Director

Re: **Matt Johnson Future Land Use Map Amendment Request**

Application No.: 13.046
Applicant: Matt Johnson
Project Location: 780 W. Surrey Lane
Zoning: RR-5
Acreage: 3.23 Acres
Request: Future Land Use Map Amendment of 3.23 acres of property located at 780 W Surrey Lane from the Ranch Residential 5 designation to the Rural Residential/Agriculture designation.

SUMMARY

This application is a request for the County to change the future land use map for a 3.23 acre property in the Milton area. The property is currently a subdivision lot, lot seven of the Surrey Lanes Estates PRUD Subdivision (see Exhibit C).

The lots in the Surrey Lanes Estates PRUD were created with the PRUD subdivision tool that the County repealed in 2010. Each lot has a prohibited building area on the rear of the lots. This “no build” area is restricting the applicant from erecting an accessory building in his desired location on the property. The applicant’s ultimate goal is to amend the subdivision plat to amend the building restriction.

The plat cannot be amended at this time because of the PRUD ordinance’s repeal. If a PRUD ordinance currently existed then the County would have criteria from which to evaluate a plat amendment. Without the flexibility that was given to the original developer through the PRUD ordinance, which allowed additional density than would have otherwise been allowed in the RR-5 zone, the applicant’s only option is to amend the plat in a manner consistent with currently adopted standard subdivision procedures and requirements. The repeal of the PRUD zone made the applicant’s lot non-conforming in size and frontage for a traditional subdivision lot in the RR-5 zone. There are a few other PRUD’s in the County that can still be amended because they are vested in the terms of a development agreement, but Surrey Lanes Estates PRUD and others that do not have vesting for changes or modifications under

the old PRUD ordinance cannot be amended under those same terms.

Thus, because the applicant only has a 3.23 acre lot in the 5 acre minimum zone, in order to facilitate a traditional plat amendment he must petition the County for a zone change to bring the acreage of his property into compliance with existing requirements. Because the Future Land Use Map does not support a zone change the applicant has chosen to request this Future Land Use Map Amendment in order to better facilitate a future zone change request.

The request is to change the front 1.101 acres of his property to the Rural Residential designation listed in the General Plan, which will support a future RR-1 zoning district, and change the rear 2.124 acres of his property to the Agricultural designation, which will support the A-20 zoning district. These zones executed on the current size and configuration of the lot will not yield the potential for additional dwelling units.

Staff do not recommend the singular change of the applicants property alone, without making greater consideration of the future land uses in the area, and how they effect other lots in the Surrey Lanes Estates PRUD. If the Planning Commission finds that a future land use map amendment is merited for the applicant's property, then staff recommend changing the future land use designation for all properties in the Surrey Lanes Estates PRUD subdivision thereby enabling other lot owners to later change their zoning designation and ultimately amend the subdivision in a manner consistent with the zoning.

This request and the complications herein is an unintended effect of the prior PRUD ordinance.

ANALYSIS

General Plan. The current future land use map indicates that the area is not a growth center and recommends no changes from the current Ranch Residential 5 designation (see Exhibit A).

The Ranch Residential 5 designation is intended to:

The Ranch Residential 5 designation provides for the same uses as Ranch Residential 10, but allows for residential density of up to one unit per 5 acres.

And the Ranch Residential 10 designation says:

The Ranch Residential designation accommodates rural large lot development with generous distances to streets and between residential dwelling units and a viable semi-rural character setting. Livestock privileges are a part of this character. Areas in this category are generally larger lots with accessory structures that may be used for livestock. The residential density is a maximum of 1 unit per 10 acres.

The applicant is requesting the Rural Residential designation on the front portion of his lot and the Agricultural designation on the rear. He is proposing this so that when he proposes a rezone he is giving the County a sense of security that he does not intend to increase the density of the community.

The Rural Residential designation is intended to:

The Rural Residential category designation accommodates semi-rural large lot development, with generous distances to streets and between residential dwelling units in a viable semi-rural character setting. Residential density in rural residential areas is a maximum of 1 unit per acre.

And the Agricultural designation is intended to:

This designation identifies areas of existing agricultural land uses. The purpose of this land use designation is to support viable agricultural operations in Morgan County, while allowing for incidental large-lot residential and other uses. The residential density in this category is up to 1 unit per 20 acres.

Zoning. The current zone of the property is RR-5 (see Exhibit B). The problem this applicant is attempting to resolve is that his lot is a smaller size than is allowed by the zone; a byproduct of the old PRUD ordinance. The ordinance that enabled the developer the benefit of creating lots smaller than traditionally allowed in the zone is now standing in the way of the resulting lot owner from receiving certain benefits of the zone which are generally allowed by conforming lots in the same zone.

In making final determination on this application the Planning Commission should consider the implications that a developer claimed benefit in execution of the development has now turned to a landowner's irreversible restriction on a use, and the policy considerations that should be merited in situations such as these.

The following criteria should be evaluated when determining the impact of the potential future land use map amendment:

17. Potential density: The current designation plans for five acre lots, but there are currently lots smaller than five acres in the area. Given tradition subdivision and zoning rules the 3.23 acre property could support 0.64 dwelling units if zoned RR-5. With the proposed re-designation and assuming a rezone is executed, the potential resulting density could be 1.21.
18. Access: The property is accessible via Surrey Lane, a private road that was not built to County Standards. The former PRUD did not require private roads to be built to County standards.
19. Circulation: Surrey Lane is a dead end road that is 1,000 feet long, the maximum length allowed by current code.
20. Culinary Water Resources: Currently, a private well supports the property.
21. Sewer: The property is supported by a septic system.
22. Fire Protection: The property is not in the Wildland Urban Interface Area, so a specific

fire protection plan is not required.

23. Topographic Features: The property is fairly flat. Topography does not seem to be a concern for potential future development.

Noticing. The MCC 8-3-3 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:

6. Posted to the County website within 10 days prior to this meeting.
7. Published in the Morgan County News within 10 days prior to this meeting.
8. Mailed to property owners within 1000 feet of the affected property.
9. Mailed to the property owner.
10. Posted in the foyer of the Morgan County Courthouse.

STAFF RECOMMENDATION

Staff recommends that if the Planning Commission is in favor of making this change that they direct staff to study possible changes for all lots in the Surrey Lanes Estates Subdivision for the same change prior to making final recommendation of any future land use map change in the area to the County Council, so that the change to the future land use map can better reflect a community purpose rather than an individual desire.

Staff recommend that if the Planning Commission is inclined to make a negative recommendation of the Johnson Future Land Use Map Amendment request that it do so based on the following findings:

1. That the request does not provide for a community planning effort that is supported by the 2010 General Plan.
2. That the use of the PRUD ordinance to create this lot resulted in a tradeoff in requirements that the developer benefited from, and that a land use map amendment is an inappropriate method of resolve certain unintended resulting consequences of the use of the PRUD.

3. That the landowner can resolve the nonconformity by acquiring additional acreage such that the property may be amended to comply with the zone and current subdivision regulations.
4. That there is validity in the current size and configuration of the required open space that has been provided by the building restrictions of the Surrey Lanes Estates PRUD.

MODEL MOTION

Sample Motion for a *Positive* Recommendation – “I move we forward a positive recommendation to the County Council for the Matt Johnson Future Land Use Map Amendment, application #13.046, as presented in the June 21, 2013 staff report based on the findings below:”

2. List any additional findings...

Sample Motion for a *Negative* Recommendation – “I move we forward a negative recommendation to the County Council for the Matt Johnson Future Land Use Map Amendment, application #13.046, with the findings of the staff recommendation in the June 21, 2013 Staff Report with the additional findings below:

4. List additional findings...

ADDITIONAL INFORMATION

Exhibit A: Morgan County Future Land Use Map
Exhibit B: Current Zoning and Aerial Picture Showing Uses
Exhibit C: Surrey Lanes Estates PRUD Plat

*Due to a technical malfunction, the audio portion of the Planning Commission Meeting is not available for this date.

PLANNING COMMISSION AGENDA

Thursday, August 08, 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. Public Comment

Administrative Items

5. Discussion/Decision: Tifie Ranch Conditional Use Permit
6. Discussion/Decision: Little Horn Subdivision
7. Discussion/Decision: Rollins Ranch Phase 4a
8. Discussion/Decision: Rollins Ranch Phase 4b
9. Discussion/Decision: Rollins Ranch Phase 5
10. Discussion/Decision: Rollins Ranch Phase 6
11. Discussion/Decision: Flexible Subdivision Survey Results

Legislative Items

12. Discussion/Decision: Flexible Subdivision Non-Conforming Lot Ordinance
13. Staff Report.
14. Approval of minutes from June 27, 2013
15. Adjourn.

Members Present

David Sawyer
Debbie Sessions
Roland Haslam

Darrell Erickson
Michael Newton

1. Call to Order- Prayer

Chairman Haslam welcomed everyone and also welcomed Mickaela Moser as the new transcriptionist. Chairman Haslam offered prayer.

2. Approval of agenda.

Member Sessions moved to approve the agenda and switch items 11 and 12. Second by Member Newton. The vote was unanimous. The motion carried.

3. Declaration of conflicts of interest.

Chairman Haslam declared a conflict of interest on items 7, 8, 9, and 10.

4. Public Comment.

Member Newton moved to open public comment after each section of numbers 5-10. Second by Member Sawyer. The vote was unanimous. The motion carried.

Administrative Items

5. Discussion/Decision: Tifie Ranch Conditional Use Permit

Robert Workman, Owner of Tifie Ranch wants to add one solar array structure to the one that's already there. Member Sawyer asked if Robert Workman has seen staff recommendations and if there are any problems with recommendations.

Charlie gave his presentation, noting that Mr. Workman did a great job presenting his part. Charlie stated they were baffled why they would need a conditional use permit because it's an obscure location. He stated there is a fence surrounding the unit, but it's out of public sight.

Conditions of approval for Mr. Workman:

1. That the applicant will apply for and receive a building permit prior to the commencement of construction.
2. That the applicant will submit with the building permit application a detailed site plan indentifying the construction location as well as all outbuildings and property lines to ensure adequate setbacks.
3. That a fire protection plan, or other considerations as approved by the local fire official, will be required during the building permit process.
4. That a six foot fence will be constructed around to the ground mounted solar array to ensure public safety.

5. That the solar array/panels are placed in such a manner that they are not visible from the public right of way and shall not reflect sunlight into the public right of way.
6. That erosion control and revegetation plans will be submitted to the Morgan County Planning Department for review and approval by the Zoning Administrator.
7. That the project adheres to all other local, state, and federal requirements.

Mr. Workman responded that the recommendations are reasonable. The only danger of public safety is the 4-foot ditch but there is no problem to fence around if that is the County Council's recommendation. Member Erickson had no comment about the distribution system. Mr. Workman stated that Rocky Mountain Power meters it and it is the best system in the county. Member Sessions inquired if the fence was the 6 foot kind and Charlie responded that there is not a specific height.

Chairman Haslam moved to go into public comment. Second by Member Sessions. The vote was unanimous. The motion carried.

Planning Commission entertained public comment.

Member Sessions moved to forward a positive recommendation to the County Council for the Tifie Ranch Ground Mounted Solar Array Conditional Use Permit for construction of a solar photovoltaic array for the purpose of power generation to be used on site, application 13.061, subject to the findings and conditions listed in the July 26, 2013 staff report.

Second by Member Erickson. The vote was unanimous. The motion carried.

6. Discussion/Decision: Little Horn Subdivision

Mr. Dave Sadzewicz - Amend the Denise Wasuita Minor Subdivision. Would like to subdivide the 3 lots into homes, leaving the final home for his own retirement. He is seeking a positive recommendation for approval of this project as well as adding a special consideration packet in response to the covenant. The covenant was created 25 years ago for a \$2500 assessment per house for ingress and egress rights on 5800 North. There is currently one existing home with access to Old Highway Road. He stated that 5800 N intersected with Old Highway Road to Rawlins Ranch. His argument is that access for lot 3 will not need to access the road for ingress or egress. Lot #3 was the only lot in question.

Mr. Sadzewicz's second argument is that the \$2500 assessment from the covenant was already paid by original owner, Jim Williams. That original house has since been removed and will be replaced by a new home. Since the assessment was paid on the previous house on that lot, Mr. Sadzewicz asks that the original assessment be acceptable so he will not have to pay it. He had one final request: if the assessment cannot be removed, he would like to proceed and not have it delay the project any further.

Chairman Haslam asked if there were any further questions, to which there were none.

Charlie gave his presentation of 3-lot subdivision of Powder Horn Rd (5800 N) and Old Highway Rd. It is currently a single-lot subdivision. There are no issues with the proposed lot boundaries. Water provisions: Letter from health dept for 1-14 connections, which will provide adequate yield for crops. Plat Amendment process. There are 16 items that need particular care before approval: Public improvement and agreement and a bond. Existing sidewalk, curb and gutter to extend to the end of sidewalk. Extend to Old Highway Road 2 ½ feet to meet requirements.

Asking for a revised letter from the fire chief of approval. Covenant of the land has been recorded in County Attorney Office.

Member Sessions: Item 4 doesn't talk about homes having access off this road. It says homes built on any of the property. Another, zoned A-20. Suggested a possibility of the county cleaning up.

Charlie: I think the intent is supposed to be ½ acres

Member Sessions wanted to know the county attorney's thoughts on the issue.

Charlie indicated that the fee stands.

Member Sawyer wondered when the fee was assessed, if the road was different?

Charlie: discussed availability to get off this road. If road was never created, Mr. Sadzewicz would be spending 100%. Failed to consider inflation.

Member Sawyer: Idea was lot 1 would use the \$2500 to enter and exit the road to their residence. In the original construction of the road it looked like access would have to be off Old Highway Rd instead of PowderHorn Rd Lot 1.

Charlie: Not sure if original homeowner had to pay.

Member Erickson: I'm confused if that is the original.

Chairman Haslam: Original went clear to the end

Charlie: Home in 1988, owner was required to pay 2500 dollars

Member Erickson: Access was not specifically mentioned

Mr. Sadzewicz: It's in the specific agreements from the property owners at the time. Jim Williams, property owner, shall have the right of access on 5800 N for egress and regress. Lot #2 in his opinion, would be accessing the same.

Chairman Haslam: Issue of water and sewer. Do we have updated paperwork for approval?

Charlie: Yes

Chairman Haslam: What about a well? The Health Department issued in 2006. Updated copy from the healthy dept? Well protection. You want to provide all 3 lots with 1 well. It's ok, but have to provide enough area that if there's a problem with the well, it can be replaced.

Charlie: Wondered if it is being addressed by other departments.

Chairman Haslam: So we could add an item, #17, that we could get a letter of approval

Mr. Sadzewicz: I have a letter from the Health Department for approval for lot 1. If you replace a well, you can go up to 100 feet for a replacement. Well protection would be contained.

Chairman Haslam: We still need the Health Department letter.

Mr. Sadzewicz: I thought she had that covered with the 14 connections off the well. Anytime I call them to talk about the well, she says, "Is this the same well?"

Member Newton: Is this a building permit issue?

Chairman Haslam: I don't want him to get to the next step and then realize he has to backtrack.

Member Sessions: Condition with the running of the land.

Charlie: We will verify what the covenant is.

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

Mike Wasuita stated he has lived on Little Paddlehorn Road for 25 years. He has one house on 10 acres.

Ron Lawson: Posed a question to long-time resident, Paul Warner: "How long has that cabin been there?" To which Paul Warner and others responded at least 20 years and upwards of 36 years. The cabin is small. Their neighbor had permission to move cabin to her backyard for historical reasons. Made a concession for a pit-run. His thought on this is the construction of the new curvature of PowderHorn Rd, to extend that portion to the NE corner of the subdivision. Consent to Mr. Sadzewicz.

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

Member Sessions moved to forward a positive recommendation to the County Council for the Little Horn Final Subdivision Plat, an amendment to the Denise Wasuita Minor subdivision, application 12.036, subject to the conditions and based on the findings presented in the staff memo dated August 8, 2013, with one additional requirement #17 for: A letter from the Weber Morgan Health Department stating that the three lots meet the Health Department's requirements for well head protection: and that staff propose amendments to the zoning map for that area changing the A-20 zone on the property to R1-20.

Discussion:

Chairman Haslam requested to keep direction to staff separate from motion on the item. Member Sessions stated it is not a condition for approval, it is just additional comments.

Member Sessions struck the additional directions to staff from the motion. Member Newton seconded.

Discussion:

Member Erickson commented that based on explanations he's heard on the \$2500, he will take exception to what the County Attorney has said, concluding it has already been paid in his judgment.

The vote was unanimous. The motion carried.

7. Discussion/Decision: Rollins Ranch Phase 4a

Who's here for Rollins Ranch?

Skyler Gardner, employee of Gardner Development, representing Rollins Ranch, LLC. Explained why they divided into 2 subdivisions and 2 phases. Now they are ready to purchase all of it and would like to go ahead with all of it. 30 lots total. Consists of ¼ and 1/3 acre lots. Includes small portions of open space. Phase 4 is 16

acres in total and are 5 acres off in calculations. He thought they'd matched up the discrepancy, lots of open space.

Member Sessions wondered if the current agreement is the amended one. Gardner affirmed it was.

Gardner: Lots showed what was in the lots and open space. Discrepancy of 5 acres from printed colorful papers and engineer plans. Calculations were incorrect.

Member Sessions: Concept matches approval. Wondered if the intention of open space didn't matter?

Gardner: No minimum requirement for open space.

Member Sawyer: Use of open space, areas to entrance. Blue areas are native open space. What are you going to do with the small slivers of land?

Gardner: Hillside, downhill. Culinary to access a well

Member Sawyer: You don't know what you'll do with it?

Gardner: No, we haven't made any proposals. Parcel A is in phase b; is 12338 sq feet.

Member Sessions asked about the view park.

Gardner explained that a sidewalk leads to it, and it's a place to enjoy. Another thing, the conditions list is quite long. Preliminary plat required to go to Commission first, Council second; then back to Commission for a final plat and Council for a final. Conditions relate to both preliminary and final, since Commission and Council see both.

Member Sawyer: Some residents in Rollins Ranch believe a road will eventually go to Trappers Loop. Does the developer have plans to eventually do that?

Gardner: Morgan County School District has land there. Indicated it is beyond their control.

Chairman Haslam indicated it was time to move along the subject matter.

Charlie: Mr. Chairman, subdivision request. Shall be approved as long as it meets requirements. There are issues with open space. Specifically, 30 lots in 4a and 4b. Preliminary plat review. There are 15-16 conditions. Process for approval is preliminary at planning commission, preliminary at county council. Final at planning commission and final at county council.

4a and 4b being addressed as if they're the same thing. Consideration of streets, wanting to bring them up to existing conditions, meaning more asphalt. Frontage, concept plan is approved. Smallest length of frontage is 82.97 feet, which is above frontage requirement. PRED ordinance doesn't appear to have a minimum of open space. Where did missing open space go? Probably a miscalculation.

I recommend what was approved and go along with the concept plan. Requires CC&R. We don't enforce, but they're required. Water source secondary water supply. Need to see 800 per day, but is a condition for approval... More like a 1000. Storm water drainage plan, got more than enough for phase 4a and 4b. Sewer provided by sewer district.

Member Sessions: Go over preliminary and final.

Charlie: Development sets a process for preliminary plat goes to planning commission. Our current ordinance says concept at planning commission. Our current subdivision ordinance.

Member Sessions: I don't think it's our call.

Charlie: He is looking for a recommendation.

Member Newton: Aren't you including both?

Charlie: I am including a higher level review. Our current ordinance doesn't call for ...Development agreements take a higher level agreement. Mark Miller, our engineer is fine.

Member Sessions: In addressing number 3 in conditions: Open space vs Native open space. Is it your term? Their term?

Charlie: What is native open space? Exhibit J-1 indicates the color. Not a lot of information. Go to Exhibit G-1: existing native grasses. Not particularly groomed landscape. Not to be expanded.

Member Sessions: in G 1, open space calls it open space and not native space.

Different exhibits refer to open space and native open space. Open space is green and defined, groomed. Native open space is different.

Member Newton commented that the exhibits have the color coding at the top of the exhibit page.

Member Sessions: Native open space takes a lot of care to not let it go to thistle.

Member Sawyer: Can it be a recommendation for a landscape.

Charlie: It can be a recommendation, but not a mandate.

Member Newton: Require but not change.

Charlie. You can ask for it.

Chairman Haslam stated he has a conflict of interest, noting that our agenda calls for preliminary plat approval. He wanted to know if it was advertized for preliminary or final. If it was advertized as preliminary, they cannot move forward to final. Charlie responded that it was only preliminary approval today.

Gardner: Seeking a recommendation to not come back to this board for final.

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

4a and 4b. public comment

Wade Warner: Family has land north of proposed 4a and 4b, also phase 6 as well. Signed contract in 2007 that has not yet been completed. Proposed and agreed upon for an easement for secondary water on property. Also an easement on open area for secondary water. Want both in place to avoid conflict. Want fencing to work with developers. Has concerns about the property lines and fence lines not coinciding. Fencing has been around for 100 years and more recently has been removed in the night to accommodate cattle, but he wants to avoid that happening in the future conflicts. He suggested a road used for farming equipment, cattle. Wants all traffic to go through Rollins Ranch subdivision. That sums up his concerns and conflicts.

Joe Coles: Father of 7 children who lives within the subdivision and is concerned that Rollins Ranch will be Grand Central Station. He is concerned that if there was an accident, there is a huge bottleneck with no other access point coming out of there. It is a deathtrap where no one can get out. He also has concerns with water assessment. He suggested an outside assessment of the water be done to make sure there is enough water for everyone in all the lots.

Cary Ivy: Lives on Rollins Ranch, on the entrance road. Egress is his main concern. Trails are not maintained. There are a lot of kids and people all trying to make their way to buses. Need to accommodate. Most of the section at the bottom of Exhibit D-1 is not a planned scape. He would like to see it planned.

Gordon Sant: Lives on Rollins Ranch, and has concerns for egress. He suggested addressing the fire department so everyone is not trapped. He is also concerned about having enough room for emergency vehicles. Also expressed concern about the existence of CC&R's and that they've been amended 3 times. Big concerns with open space. He is one of 4 lots that required 10 additional feet to the property when he bought in 2006 that has never been done. His understanding is that it needs to be done. It's been landscaped, fenced. He is concerned that he and the others won't get their 10 additional feet.

Vicki Resnick: Recent homeowner at Rollins Ranch, who moved here from out of state. Expressed concerns about nowhere to turn around and the difficulty of maneuvering around the development during construction. Believes there are issues

for kids' safety, stating there are 40 children- many of them elementary school age- living on one road. The cranes, wildlife and cows frighten the children. Suggested a gate to eliminate congestion. Expressed frustration for the amount of garbage in empty lots and the presence of mice and ants.

Cary Ivy: Added concern about broken cement, construction.

Joe Coles: Added his concern about the mess and garbage.

Paul Warner: Added to what his son, Wade Warner, said about secondary water having severe water restrictions. Suggested looking at engineering designs to remedy the situation as the new phase comes into existence.

Reed Costly: Landowner in Rollins Ranch. Has concerns about egress and traffic. Is also concerned of whether the amount of culinary water is enough. Also, the safety of children in the area.

Jared Flitton: He is the last home before where 4a will be. His backyard backs Warner's property. Stated that one egress is not sufficient. Main concern. Echoed comments from Wade Warner with fencing and cattle escaping into his yard at night. Lots of talk of getting fencing resolved, but it hasn't happened.

Chairman Haslam moved to close public comment. Second by ? The vote was unanimous. The motion carried.

Member Sawyer: Addressed questions for Mr. Garner, stating he didn't understand closing impact on Rollins Ranch.

Garner indicated the course of the original Trappers Loop Rd. Stated the road had been vacated, but it is still used for cattle runs. They are trespassing.

Member Sawyer indicated he would talk to Charlie about it. It's a big concern for anyone involved with the department.

Member Sessions inquired about the easement regarding secondary water.

Gardner: Reflected in parcel A. Also a public utility on lot 403, intended to deliver water to their northern pasture. During construction, the excavator removed fencing. Existing agricultural fence is imposing on Rollins Ranch property and a temporary fence is in place.

Member Sawyer directed his question to Charlie: What can we do with farm vehicles going through?

Charlie: Spoke with Mr. Warner. Mountain Green is moving away quickly from its agriculture nature. People moving in can see those changes, but have been promised a rural environment..... Road was vacated in the 1990s to the county line. It was vacated in favor of whoever owns the ownership of the property. Law states private rights of way can be established. What can be done? Developers provided evidence that they own property. Roads going through Rollins Ranch are public so they can't be restricted. Farm and suburbia are meeting and it is a conundrum. How they resolve this issue is up to them and the courts.

Member Sessions asked for an explanation of the ingress and egress, since determination was made years ago before even one resident was there. What can be done?

Charlie explained that roads are made with the abstract in mind. No one knows when development will happen. It is difficult to know when to ask for what and how to stop development from happening. One ingress/egress is fine.

Member Haslam: This is what's been approved. There's nothing WE can do to change your concerns.

Vicki Resnick: Wanted to know if there is a law in Morgan County of distance between homes and the fire department. She thought it had to be a time restriction of less than 4 ½ minutes for emergency vehicles to respond.

Chairman Haslam: Responded that it was not what she wanted to hear, but she will need to address it herself by talking to Charlie.

Member Erickson had a question about public safety.

Charlie reported that anything over 150 feet must have a turn-around. He stated the developer had proposed another fire hydrant. Fire chief has reviewed and has no issues. Specific to proposed phase.

Member Erickson had another concern with the entry. He wondered if the county engineer looked at it with traffic going through?

Charlie indicated that a traffic study would need to be performed to verify that there is a sufficient need.

Garner stated they have an approval.

Member Erickson: Needs to have a public knowledge. Is the county requiring ?

Charlie: I can confirm with Kent if it's something that has been adopted.

Member Sawyer: To address the residents concerning phase 4, don't feel like your wishes are not being heard. I think the developer will take your concerns to heart and both issues will be looked into and some resolution will be met.

Member Sawyer moved to forward a positive recommendation to the County Council of the Rollins Ranch Preliminary Plat for Phases 4a and 4b, applications #12.172 and 12.173 subject to the findings and conditions listed in the July 24, 2013 staff report, and as modified by the conditions and findings below:

- **#24. Contingent on completion of recommendations made by staff listed in the July 24, 2013 staff report.**
- **#25. That a landscaping plan for all native space contained within the subdivision is submitted.**
- **#26. That removal of debris on the northwest corner of property in concerned phases shall occur.**
- **#27. That verification of culinary water supplies shall occur.**
- **#28. That traffic study verification or recompletion of study shall occur.**

Second by Member Sessions. The vote was unanimous. The motion carried.

9. Discussion/Decision: Rollins Ranch Phase 5

Dan Brightenstein, US Development, Partner in Rollins Ranch development of Phase 5. Rollins Ranch phase 5 was originally platted, we've scaled back to 10 lots and decreased the size on some of those lots. Not only have we gone over preliminary review on these lots, but we've had an extensive review on them. He wanted to address some concerns of residents. First to Wade Warner's concerns about utilities, Mr. Brightenstein said they have agreed to run water conduits up to his land. For some reason, they didn't show up in their titlement; it got missed. He wanted to clarify that his company had nothing to do with fences being taken down at night and would also like to see a more consistent fencing. He is unable to help with the mice issue or the sandhill cranes. Paul Warner requested a waterline easement to beef up second water line and they will take care of those easements. The missing 5 acres is ludicrous. The forms have always shown the same. It is not a groomed section. It has wildflowers and is drought resistant. Stated there were 4 homes in a row in different phases from the others. Back to phase 5 and the traffic scenario. 304 lots were approved under the development agreement. Extensive

studies were done to service potential homes and access to them. Designed for wider roads, additional green area. Parsons acquired from the state the roads to gravel. Also, recession slowed it down. They have dropped back by 80 homes or so.

Charlie: Significant grading will happen. Up to 20 feet of cut, 5 feet of fill. Mark Miller Engineering feels confident in their plan. Developer plans to construct the subdivision. If they want to construct first they've got to bond. Don't want to relive Whisper Ridge. Staff report: 10 lots, phase 5. 13.56 acres. Willing to move to plat 6 before completing plat 5. Need to set up a scoping meeting as required by geological society. Same conditions as in phase 4, but more because of the geological issues.

Member Sawyer discussed a difference in geological hazard, mentioning Hidden Hollow.

Charlie mentioned that Hidden Hollow didn't have it.

Member Sawyer wondered if the nature trail is present already?

Gardner answered no.

Member Sawyer: small vehicles. What is the intent?

Gardner. It will be cut and have small slopes

Member Sessions wondered if the open space will be accomplished at the final stage?

Charlie suggested it be done at the final flat.

Dan Brightenstein said on plats, anything over 25% will have slope easement. Slope easement areas cannot have a garage built or any other building. It's additional open space.

Member Sessions said it won't be platted but it will be recorded.

Brightenstein continued to discuss slope easement and it being a no-build area.

Member Haslam thought maybe part of it was.

Brightenstein stated it didn't matter.

Charlie: You can't build on those portions of the lot.

Member Sawyer questioned: is 3% really that big of a deal?

Charlie: That's for you to decide. Our current ordinance doesn't require for open space.

Brightenstein. You have a hard ordinance to subscribe to.

Member Erickson stated he sees a futuristic problem with multiple owners. Who is going to monitor the slide down process? It could be very problematic. This has multiple conditions and he fears for long-term issues.

Charlie: Who is responsible? The signature is Rollins Ranch executor. Right now it is Rollins Ranch, LLC but whoever that is, they are to be held responsible.

Gardner: Between phases 5 &6 we would like it to be made conditional. Up it to it will relieve from the landowner. We will agree if you'd like, Mr. Sawyer, to just add that on.

Chairman Haslam wondered if there was any new public comment.

Member Sessions moved to open public comment. Second by Member Newton. The vote was unanimous. The motion carried.

Gordon Sant: Appreciated the concerns of residents being addressed. He is very concerned for the secondary water at Rollins Ranch – that there is not going to be enough secondary water provided for all of the residents up there. He stated that they are having problems now with everyone's landscaping, etc. He recommends making the same concerns with Phases 4 and 5 as with Phase 6. He understands the Planning Commission's limitations.

Member Sawyer: Just to clarify on the water: they are required to show the county that they can provide a certain amount of water. We can add that as a clarification.

? moved to close public comment. Second my Member Sessions. The vote was unanimous. The motion carried.

Member Sessions moved to forward a positive recommendation to the County Council of the Rollins Ranch Preliminary Plat for Phase 5, applications #12.099 subject to any findings and conditions listed in the August 1, 2013 staff report....and as modified by:

- **Condition #36. That the open space requirement be met and reflected in the final plat between phases 5 & 6.**

Second by Member Sawyer. The vote was unanimous. The motion carried.

10. Discussion/Decision: Rollins Ranch Phase 6

Chairman Haslam reminded everyone that it was getting close to time constrictions. Wanted to know if there was anything different on item 10.

Gardner: Grading Plan has agreed to participate in the grading plan. Other than that is it the same. For secondary water, they purchased approx 330-350 shares for NW irrigation to service. Announced they have excess water shares. Shares are able to service the lots there in phase 6. Can't speak for phase 5. Slopes that excess 15% will not be sprinkled.

Member Sawyer: Referenced Mr. Wasuita's email that an inquiry was sent for water shutoff date.

Gardner: Water shut off the 1st.

Charlie: If there's not enough irrigation provided, there should be a condition of approval on the plat so people know what they're buying into. Nature trail runs through phase 6.

Member Sawyer moved to forward a positive recommendation to the County Council of the Rollins Ranch Preliminary Plat for Phase 6, applications #12.100 subject to the findings and conditions listed in the August 2, 2012 staff report, and as modified by the conditions and findings below:

- **#33. That the final plat approval shall include the number of irrigation shares and irrigable acreage that will be provided for each lot, and by what water entity. Second by Member Sessions.**

The Chairman called for a debate. There was a debate over the verbiage.

The vote was unanimous. The motion carried.

Chairman Haslam addressed Charlie about item #12.

Charlie: Reviewing Jones' request. Nonconforming lots prohibited after adoption. It even says they can amend open space area. Rollins Ranch, there was no limited open space. Johnson's required a certain amount of open space.

Member Erickson: Whatever was in the original, they'd be held to it. Commented they didn't own the first in Charlie's example.

Member Sawyer: Regardless, in the subdivision, when they want to change the flat they need approval.

Member Sessions: One owner cannot make a decision for all the homeowners.

Charlie: This allows them to amend the PRUD subdivision.

Member Sessions discussed a situation that came to her attention with the packets for non-conforming uses about an 80-yr old couple trying to make an addition to their home that would require a 3 month conditional use permit process. She wants to change wording to allow zoning administrator to approve it as long as it doesn't create a greater non-conformity. She wondered if the motion would approve both at the same time or if it would be two separate motions?

Chairman Haslam: If we're all in agreement with 8-7-4, make your motion including both. Then we can amend the motion, dividing the two if needed.

Member Newton: It specifies three regulations. Should that list be longer?

Charlie: They are established ordinances in zoning. These are definite standards in zoning.

Member Sessions: The original spelled out height,

Member Newton: Those are the 3 specific

Charlie discussed width, depth, open space, frontage and area requirements; all commas. Charlie reminded the Chairman that this needs notice for a public hearing.

Member Newton moves to go to public hearing. Second by Member Sessions. Vote was unanimous. The motion carried.

No one commented.

Member Newton moved to go out of public hearing. Second by Member Sessions. Vote was unanimous. The motion carried.

Motion by Member Sessions moved to forward a positive recommendation to the County Council for the proposed land use regulations text amendments regarding plat amendments to lots created by flexible subdivision or zoning ordinances now repealed, application 13.067, based on the findings presented in the staff report dated August 2, 2013, with the additional language presented by Member Sessions in the meeting.

Second by Member Newton. The vote was unanimous. The motion carried.

11. Discussion: Flexible Subdivision Non-Conforming Lot Ordinance

Chairman Haslam proposed postponing the flexible subdivision survey, indicating no agenda item shall be started after 10:00 pm.

Member Sessions moved to postpone the Flexible Subdivision Survey results to the next meeting on August 22, 2013.

Member Newton: Also postpone the minutes?

Member Sessions stated that she has corrections to the minutes and wants to postpone the minutes as well.

Chairman Haslam suggested placing those items to the end of the agenda.

Member Sessions moved to postpone items 11 and 14 to the August 22nd meeting and directed that they be placed at the end of the agenda.

Second by Member Erickson. The vote was unanimous. The motion carried.

Charlie: Changed the Snowbasin meeting to September. Proposal for Rezone and master plan approval. Public will be there.

Member Sawyer: What about calling in? It's not in our bylaws.

Chairman Haslam: We don't have alternates approved for county council.

Member Sessions moved that we recommend that we move forward with a rezone.

Second by Member Newton. The vote was unanimous. The motion carried.

Mr. Chairman: Let's adjourn

Member Erickson motioned to adjourn. Second by Member Newton. The vote was unanimous. The motion carried.