



PLANNING COMMISSION AGENDA

Thursday, July 9, 2015

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. Pledge of Allegiance
3. Approval of agenda
4. Declaration of conflicts of interest
5. Public Comment

Legislative:

6. Discussion/Public Hearing/Decision – Sanders Future Land Use Map Amendment
7. Discussion/Public Hearing/Decision – Amendments to the Morgan County Land Use Management Code
8. Planning Commission Business/Questions for Staff
9. Approval of minutes from June 25, 2015 and June 30, 2015
10. Adjourn

Members Present

Gary Ross
Debbie Sessions
Roland Haslam
Larry Nance
Steve Wilson

Staff Present

Bill Cobabe
Gina Grandpre
Mickaela Moser

Public Present

Tina Kelley
Kim Buttars
Blaine Fackrell
Tom Guffey
Shad Guffey
MB Hancey
Mr. and Mrs. Morrison
Brent Sanders
Michelle Petersen
Jennie Earl
Dave Corpany

1. Call to order – prayer. Chair Haslam called the meeting to order. Prayer was offered by Member Nance.
2. Pledge of Allegiance
3. Approval of agenda
Member Sessions moved to approve the agenda. Second by Member Nance. The vote was unanimous. The motion carried.
4. Declaration of conflicts of interest
There were none.
5. Public Comment

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

Bruce Sanders: Addressed the Planning Commission about the change of the County Future Land Use Map concerning East Canyon Reservoir. He spoke with Carl Adams in the Department of Water Quality who stated their department has done extensive testing and in 2010 the pollution levels were 7 times higher than what the State allows. He informed that the sewage coming from the reservoir is at alarming levels and requested the Planning Commission and the County Council try to work with the State to resolve sewage levels and protect future development.

Kim Buttars: Lives at 4820 S Hwy 66, right on the East Canyon Creek, next to Mr. Sanders' proposed development. He stated that his family loves to fish the creek below the dam and echoes what Mr. Sanders just said about the rising pollution levels from East Canyon Reservoir. He stated that the brown trout health and populations have deteriorated and changed because of sewage and pollution from Jeremy Ranch and East Canyon Reservoir.

Member Sessions moved to go out of public comment. Second by Member Nance. The vote was unanimous. The motion carried.

Legislative:

6. Discussion/Public Hearing/Decision – Sanders Future Land Use Map Amendment

Bill reaffirmed that the change tonight is not for Zoning, but for changing the designation on the Future Land Use Map. He didn't have any additional information from the previous meeting, as it was discussed at an earlier Planning Commission Meeting that was not noticed satisfactorily.

Mr. Sanders would like it to be clear that he is not seeking to build 17 homes on the lots. Mr. Sanders has currently designed a 4 lot subdivision, and is seeking a 5th buildable lot. Bill noted that the 4-acre parcel to the NE part of his property is not buildable, as it doesn't have sufficient frontage.

Member Sessions stated that she estimated 800 feet of frontage along the road on the east side. Bill stated that it wouldn't be allowed for Mr. Sanders to build a subdivision that would land-lock any parcels. Bill pointed out the flood plain on the map, in response to Member Ross's inquiry. Chair Haslam asked about the differences between this proposal and any other similar requests. Bill addressed the Yaryca request and stated that any changes made to the General Plan must be carefully considered. There was some discussion as to the area surrounding where the Richville/Porterville Area Plan drew the line for development. The line for the existing zoning was made many years ago, but Mr. Sanders' property lies just outside of that boundary. Bill reiterated that Mr. Sanders has 4 lots/parcels of land that would be buildable in the future. Chair Haslam asked about any guidance from the County Council on this issue and Bill referred back to the General Plan. Bill further clarified that it is the responsibility of the Planning Commission to uphold the General Plan. Bill stated that Yaryca was looking for a Master Planned Community in anticipation of a Resort Special District zone. If approved, Mr. Sanders would consequently request a zone change and proceed from there. Member Nance asked Bill's opinion about the flow of development in the area. Bill responded that he sees development similar to the surrounding area and said that this request is compatible with uses of adjacent properties. Member Nance asked Member Sessions how she felt the changes to the FLUM would be received and she referred to the public comment and hearings sections where the public had offered opinions on the land remaining the same.

Bruce Sanders: He pointed out that his property is above White's Crossing. His plan is a maximum of 5 lots out of this property. He showed on the map where the proposed divisions would occur. He had a well drilled and the water is good. He also clarified that there have been rumors circulating of a possible 17 homes going in, but he would put a maximum of 5 homes, with the smallest lot being 2 acres. He feels that is conducive to the

area. Member Sessions voiced her concern that once an approval is granted, a property owner may change his/her mind and decide to go in a different direction. Mr. Sanders clarified that the request is for Rural Residential, not RR-1.

Chair Haslam stated that Mr. Sanders purchased the property knowing that it was the current designation of A-20. He appreciated the comments about pollution from the dam and is concerned that building more homes in that area would contribute to pollution problem. Mr. Sanders stated he is 3 miles from the dam. He also refuted that he drilled a well and the water quality is good. Chair Haslam explained his desire to be consistent with the applications coming in and stated that others have been turned down who do not comply with the Area Plan. Member Sessions said that she understood the 1 acre zone along the road extended to White's Crossing and she wouldn't mind seeing the continuation of it along the road to White's Crossing.

Member Ross moved to go into public hearing. Second by Member Sessions. The vote was unanimous. The motion carried.

Jennie Earl: She is a resident of Porterville. She asked if the larger parcel would be zoned for the RR-5 zone and Mr. Sanders said yes. Mr. Sanders said the lower acreage is 6-7 acres and will be in the RR-1 zone. She mentioned water quality, sewer and desire to look ahead for any possible future similarities.

Tina Kelley: She wondered if any of the Planning Commission members have read the General Plan for the Porterville/Richville area which can be found in the appendices of the General Plan A. There is a detailed description of the characteristics the area residents wanted and she stated that many of the questions coming from the Planning Commission members could be answered and directed by reading that plan. She stated that in that appendix, it refers to 2 small villages (and boundaries) and although the villages have been removed, the description is still there.

Dave Corpany: Asked for a clear direction of where White's Crossing is. Member Sessions pointed out that White's Crossing is the southern boundary of a parcel on the map. He stated he knows of one instance where 10 acres was allowed to go to a 5-acre subdivision and that property lies on the other side of White's Crossing, in the A-20 zone. The Planning Commission rebutted that that particular property occurred before the current Planning Commission was established.

Michelle Petersen: She is a Porterville resident and would like to not see the change. She feels that Mr. Sanders knew the area designation when he bought it and feels the area should remain the same. Her opinion is that residents of the Richville/Porterville area would like to see less change and keep the land as it is.

Blaine Thackerell: He was on the Area Plan Committee and he stated that he also thought the boundary line for development was White's Crossing. He is against zoning of 1-acre

lots but is not necessarily opposed to this proposal. He sympathized by stating it is a difficult thing to do what the community wants.

Bruce Sanders: He stated that his home has 3 lots and was created in a PRUD. He is willing to combine his lots to compensate for some of the differences and opinions expressed tonight.

Member Ross moved to go into public hearing. Second by Member Sessions. The vote was unanimous. The motion carried.

Member Nance asked Bill about the Area Plan and Bill responded that he is familiar with it. He stated that the General Plan strives to keep the “rural setting” however that definition may change over time and with residents’ perspectives. He stated that the Area Plan does not mention specific sites. Member Wilson asked about the County’s liability if someone builds on a flood plain, and Bill responded that responsibility doesn’t fall to the County, however more on home insurance and flood insurance. Bill also stated that if a change is approved tonight, there are no legal entitlements that accompany it at this time; those entitlements would come at the zoning stage.

Member Sessions stated that she is in favor of the changes that run along the road. She also read from the Area General Plan of which Tina Kelley referred: “Growth in the small villages will be clustered into RR-1, RR-5 and A-20 flood plain only zones. Development outside the small village sites shall conform to present RR-1, A-20 MU-160 and F-1. Zones RR-5 and RR-10 have been excluded from the plan outside the small villages.” (The small villages were the townships of Porterville and Richville).

Member Wilson expressed concern about future applicants with desires to make similar changes. He doesn’t want to feel obligated to approve others if they approve tonight. Chair reminded Planning Commission members that approving one application does not set precedence for others, even if they are similar. They shouldn’t be obligated to approve others even though they may be similar.

Clarification on the application: the request for a change on the application is not adjustable by the Planning Commission. The motion must be made based upon the applicant’s request, and any changes or adjustments must come from the applicant. Chair clarified that a motion must be made to approve or deny the application.

Member Sessions moved to forward a negative recommendation to the County Council for the Sanders Future Land Use Amendment, application number 15.044, changing the designation from Agricultural to Rural Residential, based on the finding listed in the Staff Report dated July 9, 2015. There was no second. The motion fails.

Discussion: Member Wilson commented that he also cannot forward a positive recommendation with the current application as it is. He made a new motion.

Member Wilson moved to forward a negative recommendation to the County Council for the Sanders Future Land Use Amendment, application number 15.044, changing the designation from Agricultural to Rural Residential, based on the findings listed in the staff report dated July 9, 2015. Second by Member Sessions.

Member Wilson stated that the way it is presented, he cannot agree with the entire proposal. He feels it is a natural extension of the direction in which Porterville is headed, but he cannot forward a positive recommendation at this time.

The vote was unanimous. The motion carried.

7. Discussion/Public Hearing/Decision – Amendments to the Morgan County Land Use Management Code

Bill said there are 4 changes to the ordinances. Chair requested that changes be made in a different color so they are easily seen.

Taken from the Staff Report:

“County Staff has been made aware of a significant discrepancy with regard to the subdivision of land in Morgan County. Section 8-12-9 from our Code allows for exemptions from platting requirements for three scenarios:

- 1. Section A describes and regulates conditions where land may be divided for “bona fide agricultural” lands.*
- 2. Section B creates remnant parcels that are divided from a larger parent parcel in the case of multi-phase subdivisions. This means that as a subdivision moves through the various phases of development, the parcels created by the initial phases create land that is left over, but which is also subject to the previous approval of a concept plan.*
- 3. Section C allows for dividing land for public facilities/utilities.*

These divisions of land are specifically not called “subdivisions.” Because of this, and because they are generally exempt from platting requirements – including infrastructure, access, lot frontage, other regulation – there is difficulty on the part of Staff in administrating the future development on these parcels. This difficulty begins with Section 8-12-9 (A)(5), which indicates that the County “may require” any resulting lot or parcel divided by a bona fide agricultural division. This verbiage is problematic because it is open-ended and subjective (good ordinances provide clear direction to both Staff and applicants) and because it is not in harmony with what the State Code requires. Utah State Code Title 17 Chapter 27a Part 6 Section 605 (2)(a) allows for the division of agricultural land exempt from plat requirements. However, Section 605 (2)(b) states that if a lot or parcel exempted under the previous Subsection is “used for a nonagricultural purpose, the county shall require the lot or parcel to comply with ... all Page | 2 applicable land use ordinance requirements.” Thus, simply changing the “may require” in our current ordinance

to “shall require” would seem to address this ambiguity.”

Bill led the discussion. Chair asked if there was a definition for “reasonable time”. Bill responded between 24-48 hours after a decision is rendered.

Member Sessions moved to go into public hearing. Second by Member Nance.

Tina Kelley: She directed the Commission to Page 7 of the Land Use Management Code concerning width and frontage regulations. She asked Bill for clarification on earlier comments. He suggested that RR-1 have the frontage requirements. She asked if it created a Flag Lot and Bill responded that it did not.

Carolyn Morrison: She asked for clarification on what Mrs. Kelley stated about the subdivision process. She compared the decisions tonight with a documentary she watched about the American Constitution and she applauded the Planning Commission members for their consideration. She reiterated that some comments tonight, “leave the land like it is”, echo how she feels. Chair Haslam explained to her that the wording is changed to “the County ‘shall require’” as opposed to the previous wording of “may require” to allow for clarification.

Member Nance moved to go out of public hearing. Second by Member Ross. The vote was unanimous. The motion passed.

There was no further discussion on the item.

Member Nance moved to approve item 7 (Morgan County Land Use Management Code) with the exception to exclude RR-1, placing N/A on the chart 8-5A-5, as it would not apply. The width requirements would still be there. Second by Member Sessions.

Member Sessions clarified that this vote affects all of the changes in the packet, applicable to what was discussed tonight. **The vote was unanimous. The motion carried.**

Chair Haslam was excused from the meeting at 7:59 pm. Member Sessions took over to conduct the rest of the meeting as vice-chair.

8. Planning Commission Business/Questions for Staff

He presented upcoming trainings that concern transit options. Member Wilson asked about an update with Snowbasin and Bill said he hadn’t heard anything. Bill gave an update about the CUP for the gravel pit to continue operation. The Whittear Estates (53 lots in Peterson) are still working through sewer problems. Gina Grandpre read from an article about Snyder Basin concerning water quality. Bill mentioned an interest in a distillery in the County and he stated that there are restrictions about selling drinks and consuming on premises. There may be an appeal for tourism and could potentially draw tourism dollars.

Chair Haslam re-entered the meeting at 8:15 and stated that the motion on Mr. Sanders' application refers to the staff reports' negative findings, which there are none listed. A reconsideration is required before a new motion.

Member Ross moved to reconsider the decision on the Sanders' Future Land Use Map. Second by Member Wilson. The vote was unanimous. The motion carried.

Member Wilson moved to forward a negative recommendation to the County Council for the Sanders Future Land Use Amendment, application number 15.044, changing the designation from Agricultural to Rural Residential, due to the following finding: The proposed change does not fit with the Area Plan outlined at this time.

Second by Member Ross. Member Nance commented that the applicant is not present but that this just clarifies the motion. **The vote was unanimous. The motion carried.**

Member Nance stated he would like to review the bylaws, as Robert's Rules states that you can suspend the rules, however the bylaws cannot be suspended.

Bill mentioned that the next meeting will be August 13, 2015.

9. Approval of minutes from June 25, 2015 and June 30, 2015
Member Nance moved to approve amended the minutes from June 25, 2015. Second by Member Wilson. The vote was unanimous. The motion carried.

Member Nance moved to approve amended the minutes from June 30, 2015. Second by Member Ross. The vote was unanimous. The motion carried. Member Wilson abstained, as he was absent.

10. Adjourn
Member Nance moved to adjourn. Second by Member Ross. The vote was unanimous. The motion carried.

Approved: _____ Date: _____
Chairman, Roland Haslam

ATTEST: _____ Date: _____
Mickaela Moser, Transcriptionist
Planning and Development Services