

# COMMISSIONERS PROCEEDINGS 1

## BOARD OF COUNTY COMMISSIONERS

Minutes of Meeting

October 6, 2020

As reflected in posted agenda:

**The County Will Be Abiding By the Social Distancing Requirements in Public Health Order 20-28 for This Meeting. Due To Limited Space In The Assembly Room, Remote Attendance Is Encouraged. If You Have Any Questions Regarding Attending The Meeting, Please Contact Karla Powell at 970-542-3500.**

To participate in the Citizen's Comment Period you must connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/88364673707> If you cannot connect via Zoom, you may submit written public comment to [morgancountybcc@co.morgan.co.us](mailto:morgancountybcc@co.morgan.co.us) by email by 4 p.m. on Monday October 5, 2020.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/88364673707> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 883 6467 3707

To watch and/or listen to the meeting but not participate, you may do so by connecting via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/88364673707> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 883 6467 3707

The Board of Morgan County Commissioners met Tuesday, October 6, 2020 at 9:09 a.m. with Chairman Mark Arndt and Commissioner James Zwetzig in attendance with Commissioner Jon Becker to appear late due to a phone meeting he was participating in. Chairman Arndt asked Morgan County citizen Gordon Westhoff to lead the meeting in the Pledge of Allegiance.

### ADOPTION OF THE AGENDA

Commissioner Zwetzig made a motion to amend the agenda to move the public hearing to be heard after Item H, with Item B being placed prior to the Public Hearing. Chairman Arndt seconded the motion and motion carried 2-0.

### CITIZEN'S COMMENT

There was no citizen comment provided.

### CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated September 14, 2020
1. Ratify the Board of County Commissioners approval of meeting minutes dated September 29, 2020
2. Ratify the Board of County Commissioners approval of BOE meeting minutes dated September 29, 2020
3. Ratify the Board of County Commissioners approval of Grant Application for Peace Officers Mental Health, signed September 28, 2020
4. Ratify Chairman Mark Arndt's signature on the CTO Marketing Matching Grant Letter of Support, signed September 29, 2020
5. Ratify Chairman Mark Arndt's signature on the Special Waste Acceptance Application, signed September 28, 2020
6. Ratify Chairman Mark Arndt's signature on the Great Copier Service and Supplies Contract signed September 28, 2020
7. Ratify the Board of County Commissioners approval on assignment of debt collections to Wakefield and Associates, Client #201043, #201134, #200427, #201244, #201077, #201088, #201089, #192036, #200409, #21108, #200666, #201126, #201138

Commissioner Zwetzig made a motion to approve the consent agenda items 1-7 as presented, with Chairman Arndt seconding the motion. Motion carried 2-0.

### GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

**Consideration of Approval – 2020 BCC 30 A Resolution Conditionally Granting A Use By Special Review For A Hemp Oil Processing Facility And Laboratory On Lot 1 Of The Corrected Replat Of The Annan And Annan 2 Minor Subdivision**

## MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

### RESOLUTION 2020 BCC 30

**A RESOLUTION CONDITIONALLY GRANTING A USE BY SPECIAL REVIEW FOR A HEMP OIL PROCESSING FACILITY AND LABORATORY ON LOT 1 OF THE CORRECTED REPLAT OF THE ANNAN AND ANNAN 2 MINOR SUBDIVISION**

# 2 COMMISSIONERS PROCEEDINGS

**WHEREAS**, Beverly and Dexter Rice (the "Owners") own property located in the W1/2 of the SW1/4 of Section 4, Township 3 North, Range 56 West of the 6<sup>th</sup> P.M. in Morgan County, more particularly described as Lot 1 of the Corrected Replat of the Annan and Annan 2 Minor Subdivision, recorded at reception number 150280 in the records of the Morgan County Clerk and Recorder ("Property");

**WHEREAS**, Dexter Rice (the "Applicant") has applied for a special use permit for a hemp oil processing facility and laboratory (the "Application") to be located on the Property;

**WHEREAS**, on February 10, 2020, after holding a duly noticed public hearing, the Morgan County Planning Commission recommended that the Application be approved with certain conditions;

**WHEREAS**, on July 28, 2020 and August 24, 2020, the Board of County Commissioners held public hearings on the Application with an additional meeting on September 9, 2020;

**WHEREAS**, notice of the public hearings before the Board of County Commissioners was properly published and the notice was properly posted at the Property;

**WHEREAS**, during the public hearing the Board of County Commissioners received testimony and evidence from staff, the Applicant and the public; and

**WHEREAS**, after considering all relevant testimony and evidence, the Board of County Commissioners desires to approve the Application, subject to certain conditions set forth herein.

**NOW, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MORGAN COUNTY, COLORADO:**

**1. APPROVAL.**

The Application is hereby granted, subject to the conditions set forth herein. This Resolution shall constitute the special use permit (hereinafter referred to as this "Resolution" or the "Permit"). The Permit approved is as shown on **Exhibit A**, attached hereto and incorporated by this reference.

**2. FINDING OF FACT.**

Subject to the Owners meeting and complying with all conditions set forth herein, the following findings are made:

- a. The use and location are in conformance with the Morgan County Comprehensive Plan. Specifically:
  - i. The project will broaden the employment opportunities for residents and will further economic growth.
  - ii. The use will protect existing agriculture operations by allowing them to continue while not restricting private property rights.
  - iii. Promote economic growth and continue to support the County economic plan.
  - iv. Promotes the sustainability of crops through value-added crop development.
  - v. Encourage economic diversity through entrepreneurial development programs.
- b. The application is complete and presents a clear picture of how the use is to be arranged on the site.
- c. The site conforms to the district design standards of the Morgan County Zoning Regulations.
- d. All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.
- e. The special use is compatible with surrounding uses and is adequately buffered from any incompatible uses by distance and topography. The agricultural nature of the proposed Special Use is compatible with surrounding areas, buffering from adjacent Agricultural Production zoned property is not necessary and the fencing is currently in place to buffer from residential properties adjacent and near the Property.
- f. This special use poses only the minimum amount of risk to the public health, safety and welfare, subject to the conditions below. This operation will be required to obtain and maintain necessary permits from state and/or federal agencies with authority over the production of hemp oil and laboratory facilities. In addition, the applicant has represented that there is sufficient area of the Property to allow for vehicles to turn around on the Property and avoid parking on the adjacent public right-of-way.
- g. The special use will not be located on a nonconforming parcel of land.

# COMMISSIONERS PROCEEDINGS 3

- h. The Applicant has adequately documented a public need for the project in the form of increased economic development. Expansion of agriculture related business in the County is necessary to increase and broaden the employment opportunities and the economy in Morgan County. The Applicant has submitted all pertinent technical information, has demonstrated that it has adequate financial resources to implement the project, and has paid all County fees and review costs.
- i. The Applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity and reliability. The applicant has water from Morgan County Quality Water.

### 3. CONDITIONS.

The approval of the use by special review is conditioned upon the following:

- a. No in-person retail sales may occur on the property.
- b. Hours of operation are from 8 a.m. to 6 p.m. However, one to two employees may be on the Property outside of the hours of operation to ensure the operation of the permitted use.
- c. Driveway to property should be widened up to 45 feet by December 31, 2020, to accommodate delivery vehicles, including but not limited to semi-trailers. As part of the driveway widening, Owners shall make sure that culvert under the driveway is upgraded accordingly to ensure the flow of water in the irrigation ditch.
- d. Vehicles, including but not limited to, delivery vehicles, associated with the uses granted under the Permit and the use granted under this Permit, may not park or stop on any public right-of-way adjacent to the property. Owners are responsible for ensuring third parties comply with this condition.
- e. Delivery vehicles must use the turn around located on the property as shown on **Exhibit B**, attached hereto and incorporated by this reference.
- f. The Owners must maintain all air filtering and ventilation systems located on the property and as represented in the application materials and public hearings.
- g. As shown on **Exhibit A**, the processing facility approved pursuant to this Permit is a 1,620 square foot indoor space. This facility may not be expanded without an amendment to this Permit, approved by the County.

### 4. GENERAL PROVISIONS.

- a. The Board of County Commissioners retains continuing jurisdiction over this Permit to ensure compliance with this Permit and the Morgan County Zoning Regulations. County Representatives are authorized to inspect the Property at any reasonable time upon notice to the Owners.
- b. This approval is conditioned on compliance with all information and representations contained in the Application and presented by the Applicant, which are incorporated into this Resolution.
- c. The Owners shall comply and ensure compliance by third parties with all requirements, conditions and design standards set forth herein. Noncompliance shall be grounds for revocation of this permit by the Morgan County Board of Commissioners after notice and hearing.

DATED this 6th day of October, 2020, *nunc pro tunc* 9th day of September 2020.

#### THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

\_\_\_\_\_  
s/Mark A. Arndt  
Mark A. Arndt, Chairman

\_\_\_\_\_  
s/Jon J. Becker  
Jon J. Becker, Commissioner

\_\_\_\_\_  
s/James P. Zwetzig  
James P. Zwetzig, Commissioner

(SEAL)  
ATTEST:

\_\_\_\_\_  
s/ Susan L. Bailey  
Susan L. Bailey

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Chairman Arndt asked for clarification from County Attorney Kathryn Sellars regarding the matter stating he was not present on the date of this hearing asking for guidance as to approval of this resolution, stating it is nunc pro tunc for the date of the hearing. County Attorney Sellars suggested that the matter be continued until Commissioner Becker is present. At this time, Commissioner Zwetzig asked that the proposed resolution be presented on the projected screen to view the exhibits.

At this time, the resolution and exhibits were reviewed and further discussion followed. Commissioner Zwetzig asked Ms. Sellars a question regarding condition 3G, exhibit A, reading aloud the condition, indicating what he believes should be documented correctly. Ms. Sellars understood this had been amended, and further stated the resolution she was reviewing was the updated resolution and read aloud the correct language.

It was noted Commissioner Becker appeared at the meeting and Chairman Arndt provided an update as to where the meeting stood.

At this time, Ms. Sellars read aloud the correct Exhibit A language as proposed. At this time, Commissioner Zwetzig made a motion to approve Resolution 2020 BCC 30, a Resolution Conditionally Granting A Use By Special Review For A Hemp Oil Processing Facility And Laboratory On Lot 1 Of The Corrected Replat Of The Annan And Annan 2 Minor Subdivision with the amendment and clarification made by County Attorney Kathryn Sellars and as read by Ms. Sellars into the record regarding Condition 3G, signing nunc pro tunc September 9, 2020. Commissioner Becker seconded the motion. At this time, the motion carried 2-0.

## **UNFINISHED BUSINESS**

There was no unfinished business.

## **COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS**

Morgan County Clerk and Recorder Susan Bailey provided an update regarding the upcoming election.

Commissioner Zwetzig provided an update regarding an updated CCI meeting that is scheduled. Commissioners reviewed the calendar dated October 2, 2020, 2020 through October 13, 2020 with no changes.

Commissioner Becker provided an update regarding a meeting he attended online regarding the new transportation districts indicating what discussions ensued during the online meeting.

## **PUBLIC HEARING**

Chairman Arndt called the hearing to order at 9:26 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman Mark Arndt, Commissioner James Zwetzig, Commissioner Jon Becker, Morgan County Planning Zoning Director Pam Cherry and County Attorney Kathryn Sellars (appearing remotely).

### **1. AGPROfessionals** – Applicant

**Innovative Properties LTD** - Landowner

**Legal Description** - Located in the SW¼ of the SW¼ of Section 22, Township 3 North, Range 60 West of the 6<sup>th</sup> P.M. Morgan County, Colorado, and addressed as 14026 County Road 3, Wiggins, CO 80654. Parcel numbers 1223-220-00-007 and 1223-220-00-003

**Reason** - Use by Special Review to operate a commercial construction storage facility and associated offices on two parcels

**Date of Application**: June 24, 2020

Ms. Cherry explained that on August 10, 2020 Planning Commission considered this application for a special use to allow a commercial construction shop and storage facility. On a vote of 4 in favor and 2 opposed, the Planning Commission recommends approval of this application. She indicated the August 10, 2020 minutes, as approved by Planning Commission, were included in the board's packet.

Ms. Cherry stated there has been a complaint filed on the property for outside storage of construction equipment that is not permitted in the Agriculture Production zone district. She indicated that complaint is also included in the board's packets. She stated in addition to this information, she also received three additional complaints, indicating one from Corey Covelli, Joshua Dreier, and Tana Kersting. At the Planning Commission there were two people in attendance that spoke in opposition to the application. The concerns that were expressed:

1. Property values
2. Amount of construction equipment being stored outside
3. Tanks
4. Drainage in floodplain
5. Dirt work that has been occurring
6. Traffic
7. Property has been residential and agriculture use
8. Stormwater permits
9. Fuel tank storage
10. Noise
11. Assumption by applicant and brought in equipment

Applicant's consultant responded to concerns stating:

1. Noise is not an issue

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2. Not aware that fill dirt has been brought onto the site
3. Moving equipment onto site was out of necessity
4. Visual screening of some sort for equipment would be considered
5. Floodplain permitting had not been started

## Application Overview

Ms. Cherry stated that Innovative Properties is the landowner and AGPROfessionals is the applicant's consultants who have submitted an application for a Special Use Permit for approval of a commercial construction shop and storage facility. The application is for two adjacent parcels owned by Innovative Properties, 1223-322-00-007 (Parcel 1) and 1223-322-00-003 (Parcel 2).

The property is zoned Agriculture Production Parcel 1 is 38.48 acres, Parcel 2 is 1.5 acres both located in the SW<sup>1</sup>/<sub>4</sub> of the SW<sup>1</sup>/<sub>4</sub> of Section 22 Township 3 North, Range 60 West of the 6<sup>th</sup> P.M. Morgan County, Colorado addressed as 14026 County Road 3, Wiggins, CO 80654.

Parcel 1 will be used for outside storage and the existing gravel rock area to be used for storage will be expanded. Parcel 2 is a residential structure that will be used for an office and a fenced storage area. The applicant estimates a total of seven acres will be used for the facility.

- a. Pursuant to Section 2-325, any use, not designated as a Use by Right, Accessory Use, Conditional Use and Use by Special Review or not otherwise prohibited in a particular zone, may be approved as a Use by Special Review pursuant to the criteria and procedures as established by these Regulations.
- b. Pursuant to Section 3-175, Parcels smaller than 20 acres does not list storage of oil field equipment and maintenance as a Use by Right, Conditional Use or Use by Special Review.

## Criteria – Special Use Permits

Ms. Cherry explained the following criteria is to be used by the Planning Commission and the Board of County Commissioners when reviewing an application for a Special Use Permit.

(A) The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan. The property is located in the southwest planning area of the west activity center.

### Chapter 2

#### 2.II.A - Economic Development

Goal – Diversify the economy in Morgan County to broaden business employment opportunities for residents and to further economic growth.

*This project will support economic development by providing a location for equipment storage and service while providing an estimated six full-time employment positions.*

#### 2.II.C

Goal - To encourage development where it is in proximity to the activity centers, compatible with existing land use, and there is access to established public infrastructure.

*Agriculture Production zoning is on all sides of the property. Morgan County REA operates a substation to the west of the property. The property is located adjacent to existing infrastructure, roads and Morgan County Quality Water.*

Goal - The County will encourage the preservation of agriculture production lands in balance with pressure for land use changes to higher intensity development.

*Because this project is adjacent to other similar uses and proposes to use the existing farm ground as buffer, this supports the preservation of agriculture.*

(B) All the application documents are complete and present a clear picture of how uses are to be arranged on the site or within Morgan County.

(C) The Site Plan conforms to the district design standards of these Regulations.

*The entire property is within the 100 year floodplain, floodplain permitting will be required for any development on the property. Make note of floodplain on the plans. Ms. Cherry stated she has asked for a site plan and it has not been provided, as the applicant wishes to wait for approval of this permit prior to submitting this site plan.*

(D) All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.

(E) The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.

*The project proposes to preserve the adjacent farm ground of approximately 31 acres to provide a buffer to properties further north. County Road O provides a buffer to the agriculture uses to the south and east.*

(F) The special use poses only the minimum amount of risk to the public health, safety and welfare as set by federal, state or county regulation, whichever is the strictest.

(G) The special use proposed is not planned to be developed on a non-conforming parcel.

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*This operation proposes the use of two properties, Parcel 1, is farm ground of approximately 38 acres of which approximately 6 acres will be permitted under this Special Use application for outside storage and equipment maintenance. Parcel 2 has an existing home on it that will be used as an office.*

(H) The applicant has adequately documented a public need for the project, all pertinent technical information, and adequate financial resources to implement it, and has paid all fees and review costs levied by the County for application processing and review.

*Storage is necessary for storage of this sort of equipment due to the recent economic decline.*

(I) For any special use requiring a supply of water that the applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity and reliability and in the case of human consumption, quantity, quality, and reliability.

*There is an existing Morgan County Quality Water tap on the property that will be monitored for possible increase to a commercial tap.*

## **Recommendation and conditions**

Ms. Cherry explained the suggested conditions if Planning Commission recommends approval to the County Commissioners:

- a. The applicant shall obtain necessary permits and comply with the requirements and conditions of those permits as determined by other governmental agencies with jurisdiction over this operation.
- b. A surveyed drawing shall be required for recording purposes to delineate/define the boundary of the area to be used for storage on Parcel 1.

Ms. Cherry stated that on August 10, 2020 Planning Commission considered this application for a special use to allow a commercial construction shop and storage facility. On a vote of 4 in favor and 2 opposed, the Planning Commission recommended approval of this application.

Commissioner Zwetzig asked about the survey that is being requested, with Ms. Sellars explaining why the survey site plan is not being provided until after the approval. This is a requirement that completes the application. Ms. Sellars made comment as to why it is required explaining those reasons. She stated without the information, the decision making body is unable to make their decision given the data is not being reflected on the site plan, expressing the concerns that she has and what items should be provided and reasons why this is required for the board to make the decision. Receiving it afterwards does not help the decision making authority in making the appropriate decision.

At this time, Chairman Arndt asked if the applicant had any further information to add at which time the applicant AGPROfessionals stated Shannon Toomey, works with AGPROfessionals, at 3050 67<sup>th</sup> Avenue, Greeley, representing Dennis Jackson, Innovative Properties who then introduced himself as well as Chris Evans who is his partner with Innovative Properties explaining they are the two owners. Mr. Jackson stated he wonders if there is not confusion with the presentation of the application, that this is some corporate takeover of the use of some land, and further explained what their business entails. He further stated he is very proud of their business and just needs a site to operate.

At this time, Ms. Toomey, stated the application does contain the site plan explaining the details of the site plan provided. She stated she did submit hard copies as well as a thumb drive with the data, and is willing to send over additional copies as necessary. She stated if there are any comments that need added to the site plan, they are willing to provide it to bring it to the level necessary.

Ms. Toomey proceeded to provide a detailed explanation using the slide show presented explaining the permit application and information regarding the current site and information as required by use by special review process. She explained the reason they have chosen the route to proceed rather than a conditional use by right process.

Commissioner Becker asked if the business site will still remain, with the applicant stating yes, and explained the Town of Wiggins has been extremely happy with the business at 301 Central Avenue, and it only being .78 acres, they need another site to place their business and explained the reason for their expansion needs. He further provided information as to what their business provides, stating he wants to do the best they can explaining their efforts and the business they provide. He further stated their business remains within Morgan County, utilizing businesses and supplies in Morgan County.

Ms. Toomey provided further information outlining the site overview in detail. She presented what the hours of operation will be and the number of employees that will be onsite, as to when and where they will be intermittently. She stated there is an existing water tap through Morgan County Quality Water which is currently for residential use, but can be upgraded. There is also an existing septic system adequate for the business. She also provided information regarding the traffic flow stating they are not anticipating an increase in traffic but given the road is paved; it can accommodate any traffic increase.

In response to a question asked by Commissioner Zwetzig as to equipment that will be onsite, Mr. Jackson provided an explanation of what was being presented as only for informational purposes only, it will not be permanently onsite.

Ms. Toomey provided an overview of the floodplain data, indicating it is in zone A. She further provided photos of the site which shows where everything will be stored and shows everything is very orderly, not differing from agricultural property with agricultural equipment being parked. She made note of the fenced area, the shop within the fenced area, and the gravel area that will be expanded further east for equipment use.

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Mr. Jackson stated he would like to eventually push the gravel pad further if they should need to, but indicated it is crushed concrete around the area to keep the mud down and avoid equipment getting stuck. Ms. Toomey stated the photo was taken a few months ago and there is less equipment onsite at this time.

At this time, Ms. Toomey addressed the letters of concerns received by the County, providing a response to each concern noted.

Chairman Arndt asked if they had a copy of the three emails mentioning those received today. Ms. Toomey stated she has not received a copy of those received today. Ms. Cherry stated they have been provided to the applicant in their packet, with Ms. Toomey confirming she does have them.

Ms. Toomey continued to provide a reply to each of the concerns that were raised by neighbors including that of rezoning of the property, noise, and loss of property value and increase in taxes. Ms. Toomey stated there is the feeling among the neighbors that the building was started prior to obtaining a permit, and explained this is not the case, once they realized the number of equipment being stored, they moved forward to obtain a permit and given the necessity to bring equipment onsite, the permit process was started. She spoke about stormwater discharge permits, she stated there is nothing that has required the need for that at this point, and she does not see anything triggering the requirement for a stormwater discharge permit.

Mr. Jackson spoke further about the manure that was in the area and that was moved, explaining the reason they applied it on a farmer's property spreading it along the back side of the property.

Chairman Arndt asked about the fact that this is dealing with two different properties, and will this create any type of setback issues with the property at this time. Ms. Toomey stated they are not adjusting any lot lines and not constructing any new buildings, so the existing buildings should be in compliance with the required setbacks. Further discussion ensued, with the applicant wanting to define an area at a later date, with Chairman Arndt wanting to ensure there would be no setback issues in providing a site plan at a later date. Ms. Toomey stated they can certainly make a bolder outline for the operations area, and does not see any issue with the requirement of setbacks. Commissioner Becker asked Ms. Cherry about the fact they are not constructing anything so that would not create a setback concern, with Ms. Cherry stating even with the storage, it must comply with the setback requirements.

Commissioner Zwetzig asked how the Board grants a special use permit on two parcels. Ms. Sellars explained the County can keep it on two parcels, and does not see any buildings that would hurdle the lot line, but her issue is the setbacks cannot be evaluated based upon the presented site plan, and understands there is no new construction, but the County has the requirement to evaluate the setback requirements. She also stated there are other matters that need to be addressed so the board can evaluate properly. Further discussion followed regarding the sale of one of the lots, with Ms. Sellars stating that could occur, and both lots would have a special use permit condition.

Ms. Toomey commented that the applicant does not plan to sell the one acre lot; however, in the future if they needed to sell, they would most likely go through the special use permit process to enable them to sell the lot. Mr. Jackson stated there is no vision or plan to separate the two lots. Chairman Arndt asked if it the original exemption could be amended to take into consideration the entire site, and Ms. Sellars stated they could eliminate the 1.5 acre parcel and make it one larger parcel, and it could be identified on the site plan that the special use permit would only applied to that area of the larger parcel. Commissioner Zwetzig asked if it could be a condition on the approval of the permit that if one of the parcels are sold, the special use condition would go away, with Ms. Sellars stating that could occur. Ms. Cherry interjected stating the remainder of the parcel would need to be 35 acres or more with Commissioner Zwetzig stating or a source of water, or a plat.

Ms. Sellars asked a question in regards to County Road O, as it does not appear to be developed to the south of the property but the title commitment mentioned some road petitions, and wanted to know what that is referring to. Commissioner Zwetzig stated they would need to pull the road petitions and see if there is a county right of way, and Ms. Sellars stated the Board may want to be sure there are no issues. Commissioner Zwetzig further stated the County does have by virtue of a section line resolution a right of way along all section lines regardless if a road exists or is maintained.

Ms. Sellars asked to clarify the reason for the permit so she understands it a bit better, stating she believes it seems like they are not really commercial construction, they are really storing equipment and have the buildings and staging areas as to parking of equipment, and portable power equipment being used asking if that is more of an accurate description, with Ms. Toomey stating that is more of an accurate description. Mr. Jackson stated that rental storage equipment is not what he is doing, explaining it is truly a staging area for the equipment stating it is a full circle shop, and they are not talking about third party rental or storage.

Discussion followed regarding the hours of operations with Mr. Jackson stating they are on call 24 hours a day, and there will be no semi-trucks on the property at night, explaining what they will be using and has onsite, stating they will have some larger equipment, but nothing oversized oilfield equipment, loaders, excavators, etc. as they cannot be hauled after hours. Chairman Arndt asked if they have any plans for any outdoor lighting, with Mr. Jackson stating he has no plans for that at this time.

After a brief recess, Chairman Arndt, back in session, asked Commissioner Zwetzig to explain what has been shared out, with Commissioner Zwetzig explaining a Land Survey Plat from 1994 that exhibits the exemption information as well as the setback information, and the fact it still does not show the entire parcel and all the improvements. Ms. Sellars stated that she is comparing the site plan with this LSP, and explained her findings, where the site plan shows the shop to the east of the property line and the LSP shows it to the west of the property line. The applicant explained the existing shop when they purchased the property does not appear to be reflected on the LSP, with Ms. Toomey stating the shop labeled on the LSP is what they are indicating as the existing shop. Further discussion followed whereas this still does not meet everything but it does help show more information.

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Chairman Arndt asked if there was anyone in the audience present who wished to make comment in opposition or in favor of the application and noted there was none.

At this time, Chairman Arndt asked if there was anyone online to speak from the public, with Ms. Kopetzky stating there was no one online who indicated they wished to speak. Chairman Arndt noted there was no one in attendance online.

At this time, Chairman Arndt closed the public comment portion indicating there were no comments.

At this time, Chairman Arndt moved into discussion and decision.

Chairman Arndt stated he wants to clarify that the true operating hours when they speak about employees being there and working their day, starting at 7 a.m. with the maximum of 6 p.m. noting they will be on call 24 hours, and it is minimal, but that is not the true operation hours itself, with Mr. Jackson stating that is correct, and in regards to the call outs, it would not be real work being done at the shop, stating if there is a loss of power, they want to provide power as immediate as possible, and it would only be onsite to pick up the equipment, and an in and out deal. He stated he does not see any semi-trucks after hours. Chairman Arndt asked about the note there is one semi-trucks in a day, with Mr. Jackson stating that number is high, explaining what they do and the minimal use of semi-trucks.

Chairman Arndt asked if there will be any hazardous materials stored on site, with Mr. Jackson stating there will not be any hazardous materials stored on site, and further explained what they will have on-site in detail. Lighting was also discussed, with Mr. Jackson stating at this time, they do not plan to install industrial lighting. Chairman Arndt asked if the applicant would be comfortable at this time, no lighting is planned, but if it would be required, explaining what they would possibly require, if he would be willing to do so, with Mr. Jackson stating he would take into consideration of the neighborhood if lighting would be necessary.

Commissioner Becker spoke about the concern about County Road O, and the need to address, and his biggest concern was the lighting, which has been answered.

Commissioner Zwetzig asked if the equipment is tested on the property, with Mr. Jackson stating it is. Commissioner Zwetzig asked how regularly the testing takes place, with Mr. Jackson stating that in the ideal world, it would be tested when it comes back to the shop, and stated yes, regularly it is tested, but daily he cannot answer, but regularly they do test, stating they have sound attenuation to make the equipment quiet, and explained they do test but it is probably semi-annual per piece of equipment. Testing would not take place during off hours as per the applicant; it will be tested during daylight hours. Commissioner Zwetzig asked if the noise from the testing could be heard by the neighbors, with Mr. Jackson stating absolutely not.

Commissioner Zwetzig asked Ms. Cherry if the City of Wiggins was a referral with Ms. Cherry stating yes.

Commissioner Zwetzig asked about the perfect business plan for the applicant and what that would entail, with Mr. Jackson stating he started this company to get away from corporate, built this company with his own money, and got to where he had to hire staff, stating what they are doing is innovative, but it is fundamentally different from the rest of the energy, doing more with less. He explained what his equipment will do and has worked so many hours the last five to six years, and if anything he would like to be more focused on the part of the business that he enjoys best. He feels they will be looking at spanning down, not growing larger. Commissioner Zwetzig explained the purpose of his question and wanting to get this into perspective of how many acres they will use for the business, with Mr. Jackson stating what is being reflected today, is not what he is really planning to do, AGPRO has assisted him in applying for this permit, and the comment has been made to ask for the envision the first time, and stated he believes this proposal is larger than what he anticipates. Commissioner Zwetzig further commented that they want to be sure this is appropriate for the area, and asked if there is a zone for storage for use by right? Commissioner Zwetzig stated part of the comments received from concerned citizens, with the issue the County does not enforce the regulations, and the fact that there is the requirement for a signed complaint in order to enforce. Further discussion followed as to the need for the special use permit.

Ms. Cherry stated in light industrial you can have a storage building and in the heavy industrial zone, product distribution and storage facilities, believing this could fall into this category. Commissioner Zwetzig feels the Board is faced with the issue of residents can do what they want until someone complains, and expressed his concern about this matter. Commissioner Zwetzig further expressed his concerns including lighting, fencing, floodplain and stormwater plan with answers provided by Ms. Cherry.

Commissioner Zwetzig asked to be sure that the County Attorney believes this is a complete application, with Ms. Sellars answering the question by stating she would take the position they would need to have all the information that is required before the Board makes a decision, requiring the applicant to submit what is missing and then the Board can evaluate that and make their decision. Chairman Arndt explained this is not a denial, it would be tabled until a date certain, and the information would be provided for the file to be complete and further explained the property will require a floodplain permit if this special use permit is approved, with Ms. Cherry stating it would be tied to any approval of the special use permit and further indicated a drawing in compliance with condition 2-515 would be needed. Commissioner Zwetzig suggested the application include the request for an office, with Ms. Toomey stating it was stated in the application that an office would be requested, with Commissioner Zwetzig stating the title of the matter would need to be amended.

Chairman Arndt stated when it comes to the site plan 2-515, and the fact the Board does not have what they believe they need, does the applicant feel they have provided the information being required from Exhibit B, Site plans, map exhibits as Morgan County Zoning Regulations, 2-515, with Ms. Toomey stated they do many of these, and felt they put together what is normally required to be submitted, and stated nothing came up until today that the site plan was



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not adequate, and had submitted a survey site plan, and if the additional details are needed this is the first time they are hearing this and they can certainly add the information required. If it comes down to just those labels, they feel they have addressed the majority of those requirements. Chairman Arndt stated that if an applicant has submitted the application, and it is scheduled for hearing, that the applicant would assume the file was complete and does not like to surprise anyone, with the applicant stating that was their understanding. Chairman Arndt stated he believes when a hearing is scheduled, the file is in order as he does not want to surprise anyone.

Chairman Arndt asked as the Planning Administrator, at the Planning Commission meeting, did the applicant fail to comply with this requirement. Ms. Cherry stated she has asked the applicant for a drawing of this kind many times, and does not recall if it had been brought up at the Planning Commission.

Commissioner Zwetzig states he believes they need to know what the permitted area is. Commissioner Becker believes this has made it all the way to the Board without the information and feels the Board can make it a condition of the approval. Commissioner Becker further asked to make it clear that this is only one business given the website information, with Mr. Jackson stating what the website reflects, and it is only the one business inside of this permitted area. Commissioner Becker stated he believes this business being inside of the Town of Wiggins has been very clean, organized, and is impressed with how the business has operated and believes it will be a minimal impact to the community and does understand the neighbor's concern about starting businesses before an approved permit. Commissioner Becker believes this is something that can match, and believes that can be done in a manner that does not allow the lighting to shine in the neighbor's yard, and believes the applicant has done the work and feels it is a good fit for the area.

Commissioner Zwetzig asked if it would be unrealistic for the applicant to be able to come up with a site plan showing the setbacks and the flood plan certificate and stormwater management plan. Ms. Cherry stated when one acre of land is disturbed, a stormwater management plan is necessary. Commissioner Zwetzig further noted the conditions that he believes need to be a part of the approval process of the permit including the hours of operation. He also noted as to the two parcels, there needs to be defined if either parcel should be sold, then what would be required.

Ms. Sellars noted that it may be a good idea to add the condition that there are no third party rental storage on the property and no retail business on the property and no hazardous materials stored on the property. Commissioner Zwetzig stated he wants to see the permitted area before he acts on the approval of the application.

Ms. Toomey stated on the site plan presented, the operations area was estimated as about seven acres, and that could be added to the initial site plan, stating that is what is being proposed to ensure enough of the area was permitted and designated, and feels that what has been proposed is will be more than enough. The applicant stated he agrees with the condition if either of the parcels would be sold, the special use permit would be voided. Mr. Jackson further explained why they placed the crushed asphalt and the area they placed it explaining the location of it and where, stating it leaves the bulk of 40 acres for the farm ground. Commissioner Zwetzig further commented that he believes the permit should include the lighting issue.

At this time, Commissioner Zwetzig made the motion to table the matter until the substantial information required is presented, setting the continuance date of Tuesday, October 20, 2020 at 9:30 a.m., to immediately follow the regular business meeting at 9:00 a.m..

Ms. Toomey asked for a list of the items that are being requested with Ms. Sellars stating she would be happy to provide that list. Commissioner Zwetzig also stated that if there is no substantial information presented that differs from today, he would waive the public comment period of the hearing. Commissioner Becker seconded the motion noting he wants the information gathered by Ms. Sellars quickly to provide to the applicant so they have sufficient time to respond. At this time, the motion carried 3-0.

Further discussion followed with the information gathering and how it will be provided to the applicant.

Chairman Arndt asked if there was any further business to bring before the Board, and upon hearing none, the meeting was adjourned at 11:27 a.m.

Respectfully Submitted,  
Susan L. Bailey  
Clerk to the Board  
(Minutes ratified October 20, 2020)

## THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

\_\_\_\_\_  
s/Mark A. Arndt  
Mark A. Arndt, Chairman

\_\_\_\_\_  
s/ Jon J. Becker  
Jon J. Becker, Commissioner

\_\_\_\_\_  
s/James P. Zwetzig  
James P. Zwetzig, Commissioner

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(SEAL)

ATTEST:

s/ Susan L. Bailey

Susan L. Bailey