

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting February 23, 2021

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/89634987605> If you cannot connect via Zoom, you may submit written public comment to morgancountybcc@co.morgan.co.us by email by 4 p.m. on Monday February 22, 2021.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/89634987605> to listen via phone, please dial: 1-312-626-6799, Meeting ID: 896 3498 7605

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/89634987605> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 896 3498 7605

The Board of Morgan County Commissioners met Tuesday, February 23, 2021 at 9:09 a.m. with Chairman Mark Arndt, Commissioner Jon Becker and Commissioner Gordon Westhoff in attendance. Chairman Arndt asked Morgan County Treasurer Robert Sagel to lead the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

Chuck Miller, 26060 Morgan County Road S Brush, Colorado brought to the Board the new Policy Coordination Guide in the coordination handbook and encouraged the Board to schedule time to read through the handbook, and review it to see how it can be incorporated in Morgan County. He would also like to see the Board form an advisory council, because it is impossible for the Board along with staff to keep up with all the changes that are happening. He also brought a copy of the Liberty Stewards newsletter and encouraged the commissioners to subscribe. The newsletter is informative of issues that are coming through and impacting local governments.

ADOPTION OF THE AGENDA

Commissioner Westhoff made a motion to adopt the agenda as presented, with Commissioner Becker seconding the motion. Motion carried 3-0.

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of Contract 2021 CNT 030, CRGS Inc., Term of Contract January 1, 2021 through December 31, 2021
2. Ratify the Board of County Commissioners approval of Contract 2021 CNT 031, Wagner Equipment, Term of Contract January 1, 2021 through December 31, 2021
3. Ratify the Board of County Commissioners approval on Fairgrounds Fee Waiver Request from East Morgan County Hospital Foundation, signed February 22, 2021
4. Ratify Chairman Mark Arndt's signature on the Colorado Department of Public Health and Environment Reimbursement Invoice Form
5. Ratify the Board of County Commissioners approval on Ambulance write-off of debt for Client #202959
6. Ratify the Board of County Commissioners approval on assignment of debt collections to Wakefield and Associates, Client #201364, #202172

Commissioner Becker made a motion to approve items 1-6 as presented, Commissioner Westhoff seconded the motion. At this time the motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval – ITB 2021-0216-001 Geosynthetic Liner, Bid Tabulation and Award

Morgan County Landfill Environmental Director, Cass Yearous along with Mark McCullen the engineer for the County presented to the Board for approval, the ITB 2021-0216-001 Geosynthetic Liner. Mr. Yearous stated that they received seven bids two were taken out because they did not meet qualifications in the specs. The two lowest bids that they took into consideration are from Raven CLI in the amount of \$237,150.00 and TEP in the amount of \$239,825.84.

At this time, Mr. Yearous recommended the bid be awarded to Raven CLI in the amount of \$237,150.00 which is the lowest bidder that meets all the required specifications. He stated the main reason they chose Raven CLI was because the company is located in Colorado which would provide ease with completing the project.

Commissioner Becker along with Commissioner Westhoff asked about the timeline for completing the project and how adverse weather could affect completion with Mr. Yearous explaining that an extension would be issued if needed.

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Commissioner Westhoff made the motion to accept bid award ITB 2021-0216-001 Geosynthetic Liner to Raven CLI in the amount of \$237,150.00 as presented by Morgan County Landfill Environmental Director, Cass Yearous. Commissioner Becker seconded the motion and motion carried 3-0.

Consideration of Approval – Morgan County Personnel Policy

Morgan County Human Resources Director Tracy Amen presented to the Board for approval the updated 2021 Morgan County Government Personnel Policy. Ms. Amen stated the elected officials were given the opportunity to provide input and recommendations along with the county attorney. Ms. Amen explained that the main changes mostly related to actions taken by the Colorado Legislatures. Those changes included the Colorado Sick Leave Act, the Whistleblower Act and the Public Health Emergency Leave Act. Ms. Amen stated that the bereavement leave policy was changed to add grandchildren. Also under the Colorado Sick Leave Act the change to be able to ask for doctor's note went from three days to four days. Ms. Amen explained that the social media policy was updated regarding outside entities managing Facebook pages and the paid time off policy was changed because it must mirror the Colorado Sick Leave Act.

Commissioner Westhoff made a motion to accept the 2021 Morgan County Government Personnel Policy as presented by Human Resources Director Tracy Amen. Commissioner Becker seconded the motion and motion carried 3-0.

UNFINISHED BUSINESS

There was no unfinished business.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Fourth Quarter Service Awards

Human Resource Director Tracy Amen and the Board presented the awards to those employees as follows:

***10 Years of Service**

Kimberly Hazlett, Department of Human Services
Jennifer McBride, Sheriff's Office

***15 Years of Service**

Roxanne Trujillo, Treasurer's Office

Commissioners reviewed the calendar dated February 19, 2021 through March 2, 2021 with no changes.

Commissioner Arndt provided the weekly road and bridge report ending February 19, 2021.

PUBLIC HEARING

Chairman Arndt called the hearing to order at 9:37 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman Mark Arndt, Commissioner Jon Becker, Commissioner Gordon Westhoff, Morgan County Planning and Zoning Director Pam Cherry and Morgan County Attorney Kathryn Sellars appearing remotely. Chairman Arndt explained that 2021 BCC 06 and 2021 BCC 07 were continued from February 26, 2021 and 2021 BCC 11 was continued from January 26, 2021.

1. Consideration Of Approval – 2021 BCC 06 A Resolution Amending the Morgan County Zoning Regulations Concerning the Permitting Processes and Submittal Requirements

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2021 BCC 06

A RESOLUTION AMENDING THE MORGAN COUNTY ZONING REGULATIONS CONCERNING THE PERMITTING PROCESSES AND SUBMITTAL REQUIREMENTS

WHEREAS, the Board of County Commissioners desires to reorganize and clarify the provisions of the Morgan County Zoning Regulations concerning the process for zoning applications and submittal requirements;

WHEREAS, on December 14, 2020, the Planning Commission held a duly noticed public hearing on the proposed amendments and recommended approval;

WHEREAS, on February 23, 2021, the Board of County Commissioners held a duly noticed public hearing on the proposed amendments;

WHEREAS, the Board of County Commissioners has complied with all relevant provisions for amending the Morgan County Subdivision Regulations; and

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WHEREAS, after considering public testimony received and the recommendation of the Planning Commission, the Board of County Commissioners finds these amendments to be in the best interest of the citizens of Morgan County.

NOW THEREFORE BE IT RESOLVED by the Morgan County Board of County Commissioners as follows:

Section 1. The Morgan County Zoning Regulations is amended by the addition of the following definition:

1-218 Board: Board of County Commissioners

Section 2. Sections 2-105, 2-125, 2-130 and 2-137 of the Morgan County Zoning Regulations are deleted.

Section 3. Section 2-120 of the Morgan County Zoning Regulations is repealed and reenacted to read as follows:

2-120 Jurisdiction and Applicability

The provisions of these Regulations and accompanying Maps apply to the unincorporated lands of Morgan County, Colorado. To the extent allowed by law, these Regulations are applicable regardless whether use is conducted by or such development is done by a public, quasi-public, or private entity.

Section 4. Section 2-128 of the Morgan County Zoning Regulations shall be renumbered as Section 2-125.

Section 5. Section 2-135 of the Morgan County Zoning Regulations shall be repealed and reenacted to read as follows:

2-135 Permits Required

Use of property in the County may require a permit. The type of use and zone district will determine whether a permit is required and the type of permit.

Section 6. Sections 2-435 and 2-455 of the Morgan County Zoning Regulations are renumbered commencing with Section 2-465. Sections 2-245 through 2-430 and Section 2-460 through 2-525 of the Morgan County Zoning Regulations are repealed and reenacted to read as follows:

AMENDMENTS TO ZONING REGULATIONS

2-245 Initiation of Amendments

The Board may, on its own motion or on referral by the Planning Commission, amend the Morgan County Zoning Regulations. Such amendments shall be made in compliance with these Regulations and Colorado statutes. Amendments to the County's Zoning Map that have broad based application shall be processed under this amendment process. Rezoning applications shall be processed in accordance with the rezoning procedures below.

2-250 Review Procedure

- (A) **Initiation.** Planning staff, in consultation with the County Attorney, shall draft all amendments to the Regulations.
- (B) **Availability of Information.** The proposed amendments shall be available for inspection at Planning Department beginning fourteen (14) days prior to the Planning Commission until the final decision by the Board.
- (C) **Planning Commission Hearing.** Planning staff shall schedule a public hearing on the proposed amendments before Planning Commission and draft an advisory report on the proposed amendments. Notice of the public hearing shall be given in accordance with Sec. 2-255. Planning Commission shall hold a public hearing, review the proposed amendments and make a recommendation to the Board.
- (D) **Board Hearing.** After review by the Planning Commission, the Board shall hold a public hearing on the proposed amendments. Notice of the public hearing shall be given in accordance with Sec. 2-255.
- (E) **Decision.** The Board shall review the proposed amendment, any public testimony, Planning Commission and staff recommendation and shall approve, approve with modifications, table for further study, remand to the Planning Commission or deny the proposed amendments.

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2-255 Notice Requirements

Notice of a public hearing on amendments to these Regulations shall be given at fourteen (14) days prior to the public hearing by publication in a newspaper of general circulation in the County and on the County's website. Notices for the public hearings required under Sec. 2-250 may run concurrently. Notice shall be in the form provided in Appendix A.

2-260 Review Criteria

Amendments to these Regulations must satisfy the following criteria:

- (A) That an existing regulation is in need of revision as proposed;
- (B) That the proposed amendment will be consistent with the future goals and needs of the County as set out in the Morgan County Comprehensive Plan; and
- (C) That the proposed amendment will be consistent with the overall intent of these Regulations.

2-265 Effective Date of Zoning Amendments

Amendments approved by the Board shall become effective immediately, unless otherwise stated in the resolution of approval.

REZONING

2-267 Policy

For the purpose of establishing and maintaining sound, stable and desirable development within the County, the rezoning of land is to be discouraged and allowed only under circumstances provided for in this Regulations. This policy is based on the opinion of the Board that the County's Zoning Map is the result of a detailed and comprehensive appraisal of the County's present and future needs regarding land use allocation and other zoning considerations and, as such, should not be amended unless to correct manifest errors or because of changed or changing conditions in a particular area or the County in general. The rezoning process shall not apply to Zoning Map amendments that have broad application and are in the nature of policy making by the County.

2-270 Submission Requirements

The submittal requirements in this Section may be waived or altered by the Planning Administrator at the Planning Administrator's sole discretion.

- (A) Completed application provided by the County, signed by all owner(s) of, or persons having an interest in the property subject to the application. If owner(s) will not be signing the application, written authorization for the agent to sign the application must be supplied with the completed application.
- (B) Applicable fee.
- (C) A general description of the rezoning request and the reasons for it, and a description of any future development plans, including a narrative description of how the request meets the criteria of Sec. 2-285.
- (D) Names, addresses and phone numbers of the property owner(s), applicant(s) and/or representatives.
- (E) Proof of ownership of all parties in the area to be rezoned consisting of a title commitment issued within the previous six (6) months.
- (F) A list of names and addresses of property owners within thirteen hundred and twenty feet (1,320') of the perimeter of the property or properties to be rezoned.
- (G) A discussion of how the rezoning request may impact adjacent uses and integrate with existing zone districts.
- (H) Rezoning map pursuant to Sec. 2-400.

2-275 Review Procedure

- (A) Initiation. Rezoning may be initiated by the Board or the owner(s) of the property to be rezoned. Rezoning initiated by the Board shall not be subject to Secs. 2-270, 2-275(B) through (C).
- (B) Pre-application conference. Prior to actual submission of a rezoning application, each applicant shall attend a pre-application conference with the Planning Department. After the pre-application

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conference, the Planning Department may furnish the applicant with written comments regarding the proposed rezoning to inform and assist the applicant prior to the preparation of the application.

- (C) **Review of Submission.** Staff shall review the submittal materials within fifteen (15) working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to review by the Planning Commission. An incomplete submittal will not be processed.
- (D) **Availability of Information.** The proposed rezoning application, if applicable, and map shall be available for inspection at Planning Department beginning fourteen (14) days prior to the Planning Commission until the final decision by the Board.
- (E) **Planning Commission Hearing.** After a complete application for rezoning is submitted or a Board-initiated rezoning has been prepared for review. Planning staff shall schedule a public hearing on the proposed rezoning before Planning Commission and draft an advisory report on the proposed rezoning. Notice of the public hearing shall be given in accordance with Sec. 2-280 of these Regulations. Planning Commission shall hold a public hearing, review the proposed rezoning and make a recommendation to the Board.
- (F) **Board Hearing.** After review by the Planning Commission, the Board shall hold a public hearing on the proposed rezoning. Notice of the public hearing shall be given in accordance with Sec. 2-280.
 - (1) **Refer back.** If a rezoning application considered by the Board contains additional or modified information from the application considered by the Planning Commission, the Board may, at its sole discretion and at any time prior to rendering a decision, refer the application back to the Planning Commission for its comments and recommendation on the additional or modified information. The public hearing before the Board shall then be continued to such time subsequent to the receipt of the Planning Commission recommendation on the revised application. In the event of resubmission to the Planning Commission, Planning staff shall schedule a public hearing as soon as possible and shall provide notice pursuant to Sec. 2-280(A) and (C).
- (G) **Decision.** Within fifteen (15) days of the closing of the public hearing, the Board shall render a decision on the application. The Board shall consider all evidence presented and make specific findings. A vote for approval is to be followed by insertion of boundary changes on the Official Map within fifteen (15) days of the decision.

2-280 Notice Requirements

Notice of the public hearings required under Sec. 2-275 shall be given at least fourteen (14) days prior to the hearing by all of the following methods:

- (A) Publication in newspaper of general circulation and on the County's website. Notice shall be in the form provided in Appendix A.
- (B) The applicant shall be required to post notice on the property for which the rezoning is requested. Such notice shall consist of at least one (1) sign facing each public right-of-way adjacent to the property. Such sign(s) shall measure not less than twenty-four inches by thirty-six inches (24"x 36"). The size of the letters should be a minimum of two inches (2") high and such signs shall be erected on posts no less than four feet (4') above ground level. Such sign(s) shall read as indicated in Appendix A. Signs advertising the rezoning of property in must be photographed by the applicant and submitted to the Planning Department subject to the following requirements:
 - (1) Photographs of the signs posting the property shall be submitted to the Planning Department at least ten (10) days prior to each public hearing date. These photographs shall be accompanied by an affidavit from the applicant or applicant's representative that signs were posted at least fourteen (14) days prior to the public hearing date. The affidavit shall be in the form provided in Appendix A.
 - (2) Posted sign(s) shall be removed by the applicant within two (2) weeks following the final decision by the Board.
- (C) Mailed notice to property owners within thirteen hundred and twenty feet (1320') of the perimeter of the property or properties to be rezoned.

2-285 Review Criteria

The following criteria applies to all rezoning applications, but does not apply to acts of legislative rezoning by the Board. Rezoning of property should only be approved if the following criteria are satisfied:

- (A) The rezoning is consistent with the provisions of the Morgan County Comprehensive Plan;
- (B) The rezoning compatible with surrounding zone districts;

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- (C) It is in the best interests of or furthers the health, safety, or general welfare of the citizens of Morgan County; and either:
 - (1) Conditions in the area of the proposed rezoning or in adjacent areas have changed or are changing to such a degree as to warrant the rezoning; or
 - (2) The property was zoned in error under the current zoning.

BUILDING PERMITS

2-290 Applicability

A building permit shall be required for the placement and/or use of any structure that are roofed and one hundred and twenty (120) square feet or larger, except as follows:

- (A) Non-occupied structures (e.g., detached garages, pole buildings, agriculture buildings, storage buildings)
- (B) Any structures expressly exempt from the building permit requirements pursuant to the building code duly adopted by the County.
- (C) Mobile homes subject to the Mobile Home Placement Permit in Sec. 4-600 and other applicable sections.

2-295 Submittal Requirements

In addition to any submittal requirements imposed by the building code adopted by the County, applications for building permits shall require the following:

- (A) Completed application provided by the County, signed by all owner(s) of, or persons having an interest in the property subject to the application. If owner(s) will not be signing the application, written authorization for the agent to sign the application must be supplied with the completed application.
- (B) Application fee.
- (C) For residential buildings, proof of the following:
 - (1) Adequate water supply suitable for human consumption (meets criteria established by Colorado Department of Health).
 - (2) Adequate access to a public road.
 - (3) Utility services.
- (D) For commercial and industrial buildings, proof of the following:
 - (1) Adequate water supply suitable for human consumption (meets criteria established by Colorado Department of Health) for that portion of the water supply of the commercial or industrial use intended for human consumption.
 - (2) Adequate access to a public road.
 - (3) Utility services.
- (E) Construction plans for residential, commercial and industrial construction as may be required by the Building Department.
- (F) An adequate drainage plan. For any building or project which will result in five thousand (5,000) square feet or more of impermeable surface the drainage plan must be signed and sealed by a licensed civil engineer.
- (G) A brief description of the building or project.
- (H) Proof of notification to any person or entity having ownership in any ditch or water delivery system/structure with rights over or adjacent to the property which is the subject of the application.
- (I) A signed copy of the Morgan County Right to Farm Policy.
- (J) Any other reasonable site specific information required by the Planning Administrator and/or Building Official.

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2-300 Review Procedure

- (A) Review of Submission. Staff shall review the submittal materials within fifteen (15) working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. An incomplete submittal will not be processed.
- (B) Decision. The Building official may approve, approve with conditions or deny the application. The decision of the Building official shall be provided to the applicant no later than two (2) business days from the date of the decision.

2-310 Review Criteria

- (A) All uses-by-right must be adequately served by public or private utilities, if required for the use, and have clear access to a developed public right-of-way.
- (B) The plans for the proposed erection, construction, reconstruction, movement, alteration or use fully conform to all applicable provision of these Regulations.

ZONING PERMITS

2-320 Purpose

All structures and buildings over 200 square feet, which are uses-by-right, not subject to the County's building or mobile home placement permit requirements, require a zoning permit prior to the commencement of construction or use.

2-325 Submittal Requirements

The submittal requirements in Section may be waived or altered by the Planning Administrator at the Planning Administrator's sole discretion.

- (A) Completed application provided by the County, signed by all owner(s) of, or persons having an interest in the property subject to the application. If owner(s) will not be signing the application, written authorization for the agent to sign the application must be supplied with the completed application.
- (B) Application fee.
- (C) For residential buildings, proof of:
 - (1) Adequate water supply suitable for human consumption (meets criteria established by Colorado Department of Health).
 - (2) Adequate access to a public road.
 - (3) Utility services.
- (D) For commercial and industrial buildings, proof of:
 - (1) Adequate water supply suitable for human consumption (meets criteria established by Colorado Department of Health) for that portion of the water supply of the commercial or industrial use intended for human consumption.
 - (2) Adequate access to a public road.
 - (3) Utility services.
- (E) An adequate drainage plan. For any building or project which will result in five thousand (5,000) square feet or more of impermeable surface the drainage plan must be signed and sealed by a licensed civil engineer.
- (F) A site plan pursuant to Sec. 2-410.
- (G) A brief description of the building or use.
- (H) Proof of notification to any person or entity having ownership in any ditch or water delivery system/structure with rights over or adjacent to the property which is the subject of the application.
- (I) A signed copy of the Morgan County Right to Farm Policy.
- (J) Any other reasonable site specific information required by the Planning Administrator.

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2-330 Review Procedure

- (A) Review of Submission. Staff shall review the submittal materials within fifteen (15) working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to review by the Planning Commission. An incomplete submittal will not be processed.
- (B) Decision. The Planning Administrator may approve, approve with conditions or deny the application. The decision of the Planning Administrator shall be provided to the applicant no later than two (2) business days from the date of the decision.

2-335 Review Criteria

- (A) All uses-by-right must be adequately served by public or private utilities, if required for the use, and have clear access to a developed public right-of-way.
- (B) The plans for the proposed erection, construction, reconstruction, movement, alteration or use fully conform to all applicable provision of these Regulations.

2-340 Expiration of Zoning Permit

The uses and structures subject to a zoning permits must be commenced or substantially constructed within twenty-four (24) months of the issuance of a zoning permit. If the use is commenced or structure substantially constructed within twenty-four (24) months of the issuance of a zoning permit, the zoning permit shall expire and a new permit will be required.

CONDITIONAL USE PERMITS

2-345 Purpose

Conditional uses are uses that are generally associated with or similar to uses-by-right in a zone district but, because of potential impacts, the County requires a more in-depth review to assess and mitigate these potential impacts.

2-350 Submittal Requirements

The submittal requirements in Section may be waived or altered by the Planning Administrator at the Planning Administrator's sole discretion. Electronic submittals are encouraged, but not required.

- (A) Completed application provided by the County, signed by all owner(s) of, or persons having an interest in the property subject to the application. If owner(s) will not be signing the application, written authorization for the agent to sign the application must be supplied with the completed application.
- (B) Application fee.
- (C) A general description of the conditional use request and the reasons for it, including a narrative description of how the request meets the each of the criteria in Section 2-365.
- (D) Title commitment for the property issued within the six (6) months previous to the submission of the application. If the application is incomplete, the County may require that the title commitment be updated.
- (E) A list of names and addresses of property owners within thirteen hundred and twenty feet (1,320') of the perimeter of the area where the conditional use will be located.
- (F) A listing of type and availability of utilities and services; including sewer, water, electrical, and fire protection to the property, including letters of commitment from providers of utilities and services serving the site.
- (G) If applicable, descriptions of types of easements required for the project, widths and other pertinent information.
- (H) A site plan map in accordance with the provisions of Section 2-410.
- (I) If a conditional use permit is sought for a livestock confinement operation allowed under Secs. 3-175 or 3-180, the Facility Design Standards and permit requirements of Sec. 4-200 and following must be met and included in the permit application.

2-355 Review Procedure

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- (A) Pre-Application Conference. Prior to submission of a conditional use application, each applicant shall attend a pre-application conference with the Planning Department. After the pre-application conference, the Planning Department may furnish the applicant with written comments regarding the proposed use to inform and assist the applicant prior to the preparation of the application.
- (B) Review of Submission. Staff shall review the submittal materials within fifteen (15) working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information. An incomplete submittal will not be processed.
- (C) Referral. Referral agencies, as provided for Sec. 2-430 will be sent copies of the conditional use permit application and all materials for comment. The comment period is a total of fourteen (14) days and failure to comment is to be viewed as a favorable review. At the discretion of the planning staff and given unusual circumstances, some referral agencies may be contacted for additional comments or clarifications.
- (D) Report to Board. The Planning Administrator shall make available to the Board a record of all pending conditional use permit applications.
- (E) Availability of Information. The conditional use application shall be available for inspection at Planning Department beginning ten (10) days prior to the Planning Commission until the final decision by the Board.
- (F) Planning Administrator Review and Decision. The Planning Administrator may, in their sole discretion, approve, approve with conditions, or deny a conditional use permit application after all of the following:
 - (1) Pre-application conference.
 - (2) Submission of a complete application.
 - (3) End of Referral period.
 - (4) Notice has been provided in accordance with Sec. 2-360.
 - (5) Board has not called up the application pursuant to Sec. 2-355(G)(2).
- (G) Planning Commission/Board Review. The Planning Commission and Board may consider a conditional use permit application through the one of the following procedures:
 - (1) Referral by Planning Administrator. The Planning Administrator at their discretion may refer a conditional use permit application to the Planning Commission and Board for final decision, subject to the procedures of this Section.
 - (2) Call Up by Board. If a majority of the Board determines that the Board shall make the final decision on a conditional use permit application, the Planning Administrator shall schedule a public hearing before the Planning Commission and the application will be subject to the procedures in Sec. 2-355 (H) through (J).
- (H) Planning Commission Hearing. After a complete application for conditional use permit has been submitted and the Planning Administrator determines not to use their authority under Sec. 2-355(G)(1) or the Board has called up an application pursuant to 2-355(G)(2), Planning staff shall schedule a public hearing on the proposed conditional use permit before Planning Commission and draft an advisory report on the application. Notice of the public hearing shall be given in accordance with Sec. 2-360. Planning Commission shall hold a public hearing, review the proposed conditional use permit application and make a recommendation to the Board.
- (I) Board Hearing. After review by the Planning Commission, the Board shall hold a public hearing on the condition use permit application. Notice of the public hearing shall be given in accordance with Sec. 2-360.
 - (1) Refer back. If a conditional use permit application considered by the Board of contains additional or modified information from the application considered by the Planning Commission, the Board may, at its sole discretion and at any time prior to rendering a decision, resubmit the application to the Planning Commission for its comments and recommendation on the additional or modified information. The public hearing shall then be continued to such time subsequent to the receipt of the Planning Commission comments and recommendation on the revised application. In the event of resubmission to the Planning Commission, the surrounding property owners shall be notified as required in Sec. 2-360(C)(2).
- (J) Decision. Within fifteen (15) days of the closing of the public hearing, the Board shall render a decision on the application. The Board shall consider all evidence presented and make specific findings.

2-360 Notice Requirements

Notice of the public hearings required under Sec. 2-355 shall be given at least 10 (10) days prior to the hearing by all of the following methods:

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- (A) Publication on the Morgan County website. Notice shall be in the form provided in Appendix A.
- (B) The applicant shall be required to post notice on the property for which the conditional use permit is requested. Such notice shall consist of at least one (1) sign facing each public right-of-way adjacent to the property. Such sign(s) shall measure not less than twenty-four inches by thirty-six inches (24" x 36"). The size of the letters, indicating the notice, should be a minimum of two inches (2") high and such signs shall be erected on posts no less than four feet (4') above ground level. Such sign(s) shall read as indicated in Appendix A. Signs advertising the conditional use permit application in must be photographed by the applicant and submitted to the Planning Department subject to the following requirements:
 - (1) Photographs of the signs posting the property shall be submitted to the Planning Department at least five (5) days prior to each public hearing date. These photographs shall be accompanied by an affidavit from the applicant or applicant's representative that signs were posted at least ten (10) days prior to the public hearing date. The affidavit shall be in the form provided in Appendix A.
 - (2) Posted sign(s) shall be removed by the applicant within two (2) weeks following the final decision by the Board.
- (C) Mailed notice to property owners within thirteen hundred and twenty feet (1320') of the perimeter of the area where the conditional use will be located.
- (D) Notice for public hearings required in Sec. 2-355 may run concurrently.

2-365 Review Criteria

The following criteria will be used by the Planning Administrator and, if applicable, the Planning Commission and the Board, when reviewing an application for a conditional use permit. A conditional use permit may be granted only if:

- (A) The application documents are complete and present a clear picture of how uses are to be arranged on the site;
- (B) The site plan conforms to the design standards of these Regulations;
- (C) There are no off-site impacts imposed by the conditional use proposed that require additional infrastructure (utilities, drainage, and roads) or upgrades by the County or special districts; and
- (D) The use proposed is compatible with the surrounding uses and adequately buffered as necessary.

SPECIAL USE PERMITS

2-370 Purpose

Special review use is a discretionary review process for uses which have unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed special review uses will not have a significant adverse impact on surrounding uses and properties or on the community-at-large.

2-375 Applicability

In addition to uses designated as special uses in each zone district, any use, not designated as a Use by Right, Accessory Use, Conditional Use, Use by Special Review or not otherwise prohibited in a particular zone, may be approved as Use by Special Review pursuant to the criteria and procedure as established by these Regulations.

2-380 Submittal Requirements

The submittal requirements in Section may be waived or altered by the Planning Administrator at the Planning Administrator's sole discretion. All submittal requirements shall be provided electronically.

- (A) Completed application provided by the County, signed by all owner(s) of, or persons having an interest in the property subject to the application. If owner(s) will not be signing the application, written authorization for the agent to sign the application must be supplied with the completed application.
- (B) Applicable fee.
- (C) A general description of the special use request and the reasons for it, including a narrative description of how the request meets the criteria of Sec. 2-395.

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- (D) Title commitment for the property issued within the six (6) months previous to the submission of the application. If the application is incomplete, the County may require that the title commitment be updated.
- (E) Discussion of any environmental impacts the special use will have on existing vegetation, land forms, water resources, air quality and wildlife. If impacts exist, a discussion of how the applicant plans to mitigate these impacts will be necessary.
- (F) If a supply of water is needed for the special use, proof of an adequate supply of water in terms of quantity and reliability and in the case of human consumption, quantity, quality, and reliability.
- (G) A list of names and addresses of property owners within thirteen hundred and twenty feet (1,320') of the perimeter of the area where the special use will be located.
- (H) A discussion of how the special use will relate to or impact existing adjacent uses or properties.
- (I) A listing of type and availability of utilities and services; including sewer, water, electrical, and fire protection to the rezoned area including letters of commitment from providers of utilities and services serving the site or proof of ownership.
- (J) Discussion of any public improvements required to complete the project.
- (K) Descriptions of types of easements required for the project, widths and other pertinent information.
- (L) A special use plan map in accordance with the provisions of Sec. 2-420.
- (M) If a special use permit is sought for a livestock confinement operation allowed under Secs. 3-175 or 3-180, the Facility Design Standards and permit requirements of Sec. 4-200 and following must be met and included in the permit application.

2-385 Review Procedures

- (A) Pre-Application Conference. Prior to submission of a special use permit application, each applicant shall attend a pre-application conference with the Planning Department and if need be with other County departments and referral agencies in connection with the preparation of the application submittal documents. After the pre-application conference, the Planning Department may furnish the applicant with written comments regarding the proposed use to inform and assist the applicant prior to the preparation of the application.
- (B) Review of Submission. Staff shall review the submittal materials within fifteen (15) working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to review by the Planning Commission. An incomplete submittal will not be processed.
- (C) Referral. Referral agencies, as provided for Sec. 2-430, will be sent copies of the special use permit application and all materials for comment. The comment period is a total of fourteen (14) days and failure to comment is to be viewed as a favorable review. At the discretion of the planning staff and given unusual circumstances, some referral agencies may be contacted for additional comments or clarifications.
- (D) Availability of Information. The special use application shall be available for inspection at Planning Department beginning ten (10) days prior to the Planning Commission until the final decision by the Board.
- (E) Planning Commission Hearing. After a complete application for special use permit has been submitted, Planning staff shall schedule a public hearing on the proposed special use permit before Planning Commission and draft an advisory report on the application. Notice of the public hearing shall be given in accordance with Sec. 2-390. Planning Commission shall hold a public hearing, review the proposed special use permit application and make a recommendation to the Board.
- (F) Board Hearing. After review by the Planning Commission, the Board shall hold a public hearing on the condition use permit application. Notice of the public hearing shall be given in accordance with Sec. 2-390.
- (I) Refer back. If a special use permit application considered by the Board contains additional or modified information from the application considered by the Planning Commission, the Board may, at its sole discretion and at any time prior to rendering a decision, resubmit the application to the Planning Commission for its comments and recommendation on the additional or modified information. The public hearing shall then be continued to such time subsequent to the receipt of the Planning Commission comments and recommendation on the revised application. In the event of resubmission to the Planning Commission, the surrounding property owners shall be notified as required in Sec. 2-390(C).

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- (G) Decision. Within fifteen (15) days of the closing of the public hearing, the Board shall render a decision on the application. The Board shall consider all evidence presented and make specific findings.

2-390 Notice Requirements

Notice of the public hearings required under Sec. 2-385 shall be given at least ten (10) days prior to the hearing by all of the following methods:

- (A) Publication in newspaper of general circulation and on the County's website.. Notice shall be in the form provided in Appendix A.
- (B) The applicant shall be required to post notice on the property for which the conditional use permit is requested. Such notice shall consist of at least one (1) sign facing each public right-of-way adjacent to the property. Such sign(s) shall measure not less than twenty-four inches by thirty-six inches (24" x 36"). The size of the letters, indicating the notice, should be a minimum of two inches (2") high and such signs shall be erected on posts no less than four feet (4') above ground level. Such sign(s) shall read as indicated in Appendix A. Signs advertising the conditional use permit application in must be photographed by the applicant and submitted to the Planning Department subject to the following requirements:
- (1) Photographs of the signs posting the property shall be submitted to the Planning Department at least five (5) days prior to each public hearing date. These photographs shall be accompanied by an affidavit from the applicant or applicant's representative that signs were posted at least ten (10) days prior to the public hearing date. The affidavit shall be in the form provided in Appendix A.
 - (2) Posted sign(s) shall be removed by the applicant within two (2) weeks following the final decision by the Board.
- (C) Mailed notice to property owners within thirteen hundred and twenty feet (1320') of the perimeter of the area where the special use will be located.
- (D) Notice required for public hearings required in Sec. 2-385 may run concurrently.

2-395 Review Criteria

The following criteria will be used by the Planning Commission and the Board 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;
- (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;
- (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;
- (F) The special use poses only the minimum amount of risk to the public health, safety and welfare as set by either 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;
- (H) The applicant has adequately documented a public need for the project, all pertinent technical information, adequate financial resources to implement it, and has paid all fees and review costs levied by the County for application processing and review; and
- (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.

DRAWING SUBMITTAL REQUIREMENTS

2-400 Rezoning Map

The rezoning map should be drawn to a legible and at an appropriate scaled as required by the Planning Administrator that allows for maximum clarity of the proposed rezoning. The maximum sheet size shall be

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24" x 36". Plan reductions (11" x 17") will be required for public hearing packets. The map shall also include the following:

- (A) The area proposed for rezoning in a dark outline or otherwise clearly delineated.
- (B) Legal description and address of the site.
- (C) A north arrow.
- (D) An information block in a corner of the map which includes the following: the preparation date; a scale; names and addresses of the owner and applicant, if different than the owner, names and addresses of engineer or surveyor who prepared the map; and the number of the sheet and total number of sheets.
- (E) A vicinity map that depicts the area to be rezoned and the area which surrounds this site within a 1 mile radius of the perimeter of the property and which is superimposed over the Morgan County Zoning Map to show the zoning of the properties on the vicinity map.
- (F) Boundaries of other properties and zone districts within 200 feet of the area being rezoned.
- (G) Clear delineation and labeling of the following features in relation to the property and adjacent lands:
 - (1) existing zoning (site and adjacent properties);
 - (2) existing uses and structures.
 - (3) existing public accesses to the site and all existing roads in the vicinity.

2-410 Site Plan

The Site Plan is prepared to show development plans for a site. The site plan must clear and legible at an appropriate scale, as approved by the Planning Administrator, to clearly show all of the information required below:

- (A) The maximum sheet size shall be 24" x 36".
- (B) An information block in a corner of the map which includes the following: the preparation date; a scale; names and addresses of the owner and applicant, if different than the owner, names and addresses of engineer or surveyor who prepared the plan; addresses of the site; the number of the sheet and total number of sheets; and sheet title (e.g. site plan, landscape plan, drainage plan).
- (C) A north arrow.
- (D) The area proposed for permitting in a dark outline or otherwise clearly delineated.
- (E) For subdivided land, label all boundary lines with bearing, distances, and curve data as shown on the final plat.
- (F) For unsubdivided land, label all boundary lines with bearing, distances, and curve data as shown on the certified boundary survey prepared by, or under the supervision of, a registered Professional Land Surveyor licensed with the State of Colorado.
- (G) Written legal description of lot.
- (H) A vicinity map at a suitable scale. The map shall locate the site with respect to adjacent streets and roads and other major land features within one-half (1/2) mile radius of the property.
- (I) The location and name of any water features or irrigation ditches within the perimeter of the lot.
- (J) The location and names of all public rights of way abutting the lot.
- (K) Clearly show, label and dimension the planned uses, their locations and approximate building envelope dimensions.
- (L) Show all setback distances as prescribed by the zone district.
- (M) If applicable to the type of use, show the existing and planned circulation pattern external and internal to the site and designate the road classifications as to arterial, collector and local and designate right-of-way widths.
- (N) If applicable, show existing uses that will remain and that will be removed upon development within the lot including all existing structures remaining the lot, the use within that structure.
- (O) A drawing of any proposed landscape plan for the project;

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- (P) If required by the Planning Administrator, an engineered drainage plan for the site. Show how the drainage plan conforms to the floodplain requirements of these Regulations if the project is located in a floodplain. All drainage runoff is to be contained on the site that is in excess of historical flows prior to development. In the use of re-developed property where drainage was previously not contained, the plan should assume no development as the base for historical flow measurements; and

2-420 Special Use Plan Map

The special use map is prepared to show development plans for special use. The special use map must clear and legible at an appropriate scale, as approved by the Planning Administrator, to clearly show all of the information required below:

- (A) The maximum sheet size shall be 24" x 36".
- (B) An information block in a corner of the map which includes the following: the preparation date; a scale; names and addresses of the owner and applicant, if different than the owner, names and addresses of engineer or surveyor who prepared the plan; addresses of the site; the number of the sheet and total number of sheets; and sheet title (e.g, site plan, landscape plan, drainage plan).
- (C) A north arrow.
- (D) The special use plan map shall include certificates for the property owner's signature, the Planning Commission, the Board and the Clerk to the Board.
- (E) Legal description of the lot(s).
- (F) Vicinity Map. A vicinity map shall be drawn on special use plan map. The vicinity map shall be at a suitable scale. The vicinity map shall delineate all of the required information within a one-half (½) mile radius of the property proposed for the special use. The following information shall be shown on the vicinity map:
- (1) Section, township and range.
 - (2) Scale and north arrow.
 - (3) Outline of the perimeter of the parcel proposed for the special use.
 - (4) Locations and names of all public rights of way, irrigation ditches and water features.
 - (5) Location of all residences within a one-half-mile radius, existing and proposed accesses to the property proposed for the special use, any abutting subdivision outlines and names, and the boundaries of any adjacent municipality.
 - (6) Any other relevant information within a one-half-mile distance of the perimeter of the property proposed for the special use as may be reasonably required by the Planning Administrator to meet the intent and purpose of this Chapter.
- (G) For the lot or lots to be used for the special use, the following information shall be provided on the special use plan map:
- (1) The scale of the special use area shall be one (1) inch equals one hundred (100) feet.
 - (2) The drawing shall outline the boundaries of the lots being considered for the Use by Special Review.
 - (3) The drawing shall include the location and identification of all of the following items within a two-hundred-foot radius of the boundaries of the lots(s) as well as within the lot(s) itself; it shall also include the proposed features and structures of the proposed special use:
 - (a) All public rights of way of record (including names).
 - (b) All existing and proposed structures.
 - (c) All utility easements or rights-of-way for telephone, gas, electric, water and sewer lines.
 - (d) Irrigation ditches.
 - (e) Adjacent property lines and respective owners' names (may be shown on vicinity map instead).
 - (f) All hydrographic features including streams, rivers, ponds and reservoirs (including names).
 - (g) Location of areas of moderate or severe soil limitations as defined by the Natural Resources Conservation Service or by a soil survey and study prepared by a soils engineer or scientist for the uses and associated structures proposed for the parcel.

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- (h) Complete traffic circulation and parking plan showing locations and sizes.
- (i) Location, amount, size and type of any proposed landscape material, including fencing, walls, berms or other screening.
- (j) Location of any special flood hazard area, geologic hazard area, or mineral resource areas.
- (k) Such additional information as may be reasonably required by the Planning Administrator, the Planning Commission or the Board in order to determine that the application meets the requirements of these Regulations.

SUPPLEMENTAL PERMIT REGULATIONS

2-430 Authority of Planning Administrator

The Planning Administrator has the discretionary authority to waive the drawing submittal requirements or allow preliminary sketches in lieu of a formal site plan or map to accompany an application either during the preliminary review process or for a Planning Commission or Board review, or may in their sole discretion, require additional requirements upon an applicant, if necessary, to meet the intent of these Regulations. Any sketch drawing shall be at an appropriate scale that clearly shows the project's intent. The Board of County Commissioners may require a submittal of a plan or map in compliance with the drawing submittal requirements prior to approval of any permit or as a condition of approval.

2-440 Referral Agencies

The referral agencies and individuals include but are not limited to the following:

- (A) County Attorney.
- (B) Public Works Director or his/her Designee.
- (C) Local Department of Health.
- (D) Colorado Division of Wildlife.
- (E) Fire Protection District.
- (F) Public School District.
- (G) Municipalities and counties located within three (3) miles of the re-zone or use permit area, or, in the case of a municipality, where the proposed rezoning or permit lies within its current (3) three mile planning area.
- (H) Colorado Department of Transportation where a state or federal highway is within or adjacent to the re-zone area.
- (I) Others as deemed necessary by Planning Staff.

POST-DECISION PROCESSES

2-450 Applications for Same Lot or Parcel

Development applications for the same lot where an earlier petition for the same action was denied may be reintroduced for reconsideration by the County no sooner than one (1) year after the original decision is rendered. All rezoning or permit reintroductions must follow the same procedure as original petitions, as amended.

2-460 Amending Permits

Any conditional use or special use permit issued under these Regulations may be amended upon application of the owner.

- (A) Minor amendments may be granted administratively by the Planning Administrator.
- (B) Major amendments must go through the same application, notice and hearing process as the original application.
- (C) Fees for an amendment shall be the same as for what is currently charged for the original type of permit.
- (D) The Board may, on a case by case basis, waive the requirement of paragraphs (B) and (C) of this section.
- (E) The Planning Administrator shall be the sole authority in determining whether an amendment is major or minor.

Section 7. Section 3-125 of the Morgan County Zoning Regulations is amended to read as follows:

Uses-by-right include the use of land, structures or both which are authorized by the district zoning classification.

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The design standards of any given zone district comprise the essential site plan requirements for the placement of a use on a parcel or in a structure. To construct or commence a use-by-right on a parcel, a building or zoning permit is required.

Section 8. Section 3-645 of the Morgan County Zoning Regulations is amended by the addition of a new subsection (c) to read as follows:

(c) No building or structure shall be constructed or erected over an abandoned oil or gas well.

Section 9. Appendix A, Forms 1 and 3, of the Morgan County Zoning Regulations, are amended as follows:

FORM NO. 1

WEBSITE AND PUBLICATION NOTICE FOR LAND USE APPLICATIONS AND REZONING

**A PUBLIC HEARING BEFORE (INSERT APPROPRIATE BODY) WILL BE HELD TO
CONSIDER THE FOLLOWING (INSERT APPROPRIATE ITEM):**

Applicant: _____

Landowner (if different): _____

Legal Description: _____

Reason: _____

Location of Hearing: _____

Date of Hearing: _____

The application and all materials are available for inspection at the Planning Administrator's Office, 231 Ensign St., Fort Morgan, Colorado, during regular office hours. At time of the public hearing an opportunity will be given for presentation of evidence related to the application.

WEBSITE AND PUBLICATION NOTICE FOR AMENDMENTS TO ZONING OR SUBDIVISIONS REGULATIONS

**A PUBLIC HEARING BEFORE (INSERT APPROPRIATE BODY) WILL BE HELD TO
CONSIDER THE FOLLOWING (INSERT APPROPRIATE ITEM):**

Description of Amendment: _____

Location of Hearing: _____

Date of Hearing: _____

All materials are available for inspection at the Planning Administrator's Office, 231 Ensign St., Fort Morgan, Colorado, during regular office hours. At time of the public hearing an opportunity will be given for presentation of evidence related to the application.

FORM NO. 3

POSTING NOTICE

**NOTICE OF A PUBLIC HEARING ON A LAND USE APPLICATION BEFORE (INSERT
APPROPRIATE BODY)**

Applicant: _____

Landowner: _____

Reason: _____

Location of Hearing: _____

Date of Hearing: _____

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APPROVED this 23rd day of February, 2021.

**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/Gordon H. Westhoff
Gordon Westhoff, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Morgan County Attorney Kathryn Sellars, presented to the Board Resolution 2021 BCC 06, a Resolution Amending the Morgan County Zoning Regulations. Ms. Sellars stated that this resolution was to allow reorganization of portions of Chapter 2 in the zoning regulations and to make it more user friendly and more streamlined. Ms. Sellars explained that the substantial changes are in drawing requirements which start on page 18 of the resolution section 2-400, the goal is to come away from the current requirements of surveys and move to site plans and engineer drawings. This allows more flexibility to modify applications to fit the use of what is being required. Ms. Sellars stated that this resolution was on a previous agenda and the Board requested a few changes. She stated that currently under the zoning regulations all uses that are not subject to a building permit are required to get a zoning permit. She explained that on section 2-320 page 8 of the resolution states all structures and buildings over 200 square feet which are uses by right and not subject to the County's building or mobile home placement requirements, require zoning permits prior to commencement of construction or use. Buildings that are under 200 square feet and uses by right will not be subject to zoning permits. Ms. Sellars stated that Ms. Cherry noted that there was a change to the signage for posting notice to 24" x36" with letters of a minimum of 2 inches high; this was not a change for the rezoning, if consistency with sign size is desired, there can be a motion by the Board to make that change to the resolution.

Chairman Arndt asked whether the building square footage under 200 square feet that is an increase Ms. Sellars stated that previously, buildings under 120 square feet had to get a zoning permit, so that is correct it is an increase.

Chairman Arndt asked for clarification on the signage, with Ms. Sellars explaining that these requirements would only be if you are re-zoning specific property.

At this time Chairman Arndt opened public comment and extended the time limit to five minutes.

Chuck Miller, 26060 Morgan County Road S Brush, Colorado, asked on page 2 of the resolution section 2-135 who determines if the permit is required with Chairman Arndt stating it would be the Planning Administrator who would determine if a permit was required.

Mr. Miller asked on page 8 of the resolution section 2-320 all structures and buildings over 200 square feet which are uses by right are not subject to the County's building or mobile home placement permit requirements require a zoning permit prior to the commencement of construction or use, he thought the discussion was under 200 square feet not over. Chairman Arndt stated it is over 200 square feet you have to get a zoning permit.

Mr. Miller asked why if all the permits are addressed and laid out in detail in the resolution why is the statement needed. Commissioner Becker asked why it would hurt to be there, and that is just a clarifying statement. Mr. Miller stated that the wording of resolutions and statements need to be taken very seriously because things can come through that cause things to be taken out of context.

Mr. Miller asked for clarification on page 3 section 2-267 of the resolution the last sentence states "The rezoning process shall not apply to Zoning Map amendments that have broad application and are in the nature of policy making by the County" Ms. Sellars explained that large scale map amendments would not fall underneath this process.

Mr. Miller suggested that on page 7 section 2-295 of the resolution change Colorado Department of Health to the Northeast Colorado Department of Health since that is the local entity, and we should utilize that since the taxpayers fund that. Commissioner Becker said the Northeastern Colorado Department of Health follows the Colorado Department of Health criteria.

Mr. Miller explained that on page 8 the statement "Proof of notification to any ditch or irrigation company having rights to any ditch over or adjacent to the property which is the subject of the application" it needs to be little more precise any person not just ditch companies some are owned by individuals. Mr. Miller stated that ditch companies are responsible to the head gate, and individuals are responsible after the head gate. Mr. Miller asked for the language to be changed to "Proof of notification to any irrigation ditch over or adjacent to the property which is the subject of the application." Ms. Sellars stated that the change would be fine it can be changed to "Proof of

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notification to any ditch or irrigation company or person having rights to any ditch over or adjacent to the property which is the subject of the application.” Mr. Miller asked for the language to be changed the language to any irrigation ditch, regardless of who it is owned by.

Mr. Miller addressed page 9 regarding adequate drainage is this the time to address that, all lands drain to South Platte River and we are creating ponds and keeping it from draining that direction. Commissioner Becker said he is not a fan of the drainage plans he agrees with Mr. Miller.

Mr. Miller asked the Board to provide citizens with redline version of the resolution beforehand.

At this time, Chairman Arndt asked if there was anyone online to speak from the public.

At this time, Chairman Arndt closed the public comment portion.

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

Chairman Arndt would like to revisit drainage plans, he agrees with Commissioner Becker he does not like drainage plans but they are of importance. He explained examples of drainage issues and concerns.

Chairman Arndt stated he agrees on the wording of the ditches; however he is not sure what the wording should be changed to. He stated that water delivery structures may be an acceptable wording. Ms. Sellars stated that the change could happen, as long as proof of notification still needs to go to a person or an entity. Commissioner Becker asked if that means all easements on the land must be notified, and thinks that is overreach. Chairman Arndt said the biggest problem in Morgan County is people not understanding the ditch system and the maintenance it requires to maintain it.

Mr. Miller asked about the title commitment that is required and review of the exceptions on , all of the easements and recorded documents are you not required to notify those listed exceptions, with Ms. Cherry stating that during the review process the exceptions are reviewed and the companies that are identified that they can track down are notified. Ms. Sellars clarified that providing notifications for the title commitment are actually not required. Chairman Arndt stated they started notifying ditch companies since structures were starting to be built close to ditches and to make the individual that are building and the ditch companies to work together better. Further discussion ensued as to the wording for who needs to be notified. Commissioner Becker stated the language should be “proof of notification to any ditch or water delivery system having rights over or adjacent to the property which is the subject of the application.” Ms. Sellars stated that you cannot notify a ditch it has to be a person or entity, with Commissioner Becker changing the language to “proof of notification to any person or entity that has ownership to any ditch or water delivery system having rights over or adjacent to the property which is the subject of the application.”

Chairman Arndt asked about the sign size should it be the same size, with Commissioner Becker in agreement that the size should be the same in order to have the same sign size requirements.

Commissioner Becker stated he would like to give Ms. Cherry the ability to waive the drainage study, with Ms. Cherry explaining that the regulations require the engineer to prepare that drawing. Ms. Sellars stated the submittal of the drainage study may be waived.

Commissioner Becker made the motion to approve Resolution 2021 BCC 06, with the appropriate changes in section H on page 8 as discussed and with signage requirements being the same throughout. Commissioner Westhoff seconded the motion. Ms. Sellars explained the changes as to section 2-325 (H) Proof of notification to any person or entity having ownership to any ditch or water delivery system/structure with rights over or adjacent to the property which is the subject of the application also all the signage for postings or permitting and rezoning is going to be 26x34 inches with a minimum 2 inch letter height. At this time, the motion carried 3-0.

2. Consideration Of Approval – 2021 BCC 07 A Resolution Amending the Morgan County Zoning Regulations Concerning The Non-Conforming and Permitted Single Family Dwellings

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2021 BCC 07

A RESOLUTION AMENDING THE MORGAN COUNTY ZONING REGULATIONS CONCERNING THE REBUILDING OF NON-CONFORMING SINGLE-FAMILY DWELLINGS AND SINGLE-FAMILY DWELLINGS SUBJECT TO CONDITIONAL AND SPECIAL USE PERMITS

WHEREAS, the Board of County Commissioners desires to create an exception to the rules regarding rebuilding of non-conforming single-family dwellings upon partial or complete destruction;

WHEREAS, the Board of County Commissioners desires to eliminate the requirement for single-family dwellings to obtain a new conditional or special use permits after destruction;

WHEREAS, on December 14, 2020, the Planning Commission held a duly noticed public hearing on the proposed amendments and recommended approval;

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WHEREAS, on February 23, 2021, the Board of County Commissioners held a duly noticed public hearing on the proposed amendments;

WHEREAS, the Board of County Commissioners has complied with all relevant provisions for amending the Morgan County Subdivision Regulations; and

WHEREAS, after considering public testimony received and the recommendation of the Planning Commission, the Board of County Commissioners finds these amendments to be in the best interest of the citizens of Morgan County.

NOW THEREFORE BE IT RESOLVED by the Morgan County Board of County Commissioners as follows:

Section 1. Section 2-195 of the Morgan County Zoning Regulations is amended to read as follows:

- (A) Except for single-family dwellings addressed in subsection B below, should such non-conforming structure or non-conforming portion of a structure be destroyed by any means to an extent of more than fifty percent (50%) of its fair market value at time of destruction, it shall not be reconstructed except in conformity with the provisions of these Regulations.
- (B) Non-conforming single-family dwellings in any zone may be restored or replaced without the requirement to obtain any permit, except for a building permit and a floodplain permit, as applicable, regardless of the limitations in subsection A above. No repairs, replacement or restoration may commence unless a building permit and a floodplain permit, as applicable, are obtained. The building permit and floodplain permit, as applicable, must be issued and repairs, replacement or restoration commenced within twenty-four (24) months of date of damage or destruction. If the applicable permits are not issued and work is not commenced within twenty-four (24) months from the date of destruction, no work may be performed on the structure unless the structure and/or use complies with these Regulations. This subsection shall not apply to mobile homes or dwellings which are not on a permanent and engineered foundation. Any single-family dwelling must comply with the County's Floodplain Regulations in order to be rebuilt. The right to rebuild under this subsection is limited to the property owner at the time of destruction.

Section 2. Section 2-210 of the Morgan County Zoning Regulations is amended to read as follows:

- (A) No existing structure devoted to a use not permitted by these Regulations in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located or in conformance with section 2-195.
- (B) This Section shall not apply to non-conforming single-family dwellings which are governed by Sections 2-195(B) and 2-230(A).

Section 3. Section 2-225 of the Morgan County Zoning Regulations is amended to read as follows:

Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land as long as the land in its undeveloped state conforms to the bulk requirements of the zone district in which it is located. Destruction for the purpose of this section is defined as damage to an extent of more than fifty percent (50%) of the fair market value at time of destruction. This Section shall not apply to non-conforming single-family dwellings which are governed by Sections 2-195(B) and 2-230(A) and the property on which they are located.

Section 4. Section 2-230(A) of the Morgan County Zoning Regulations is amended to read as follows:

- (A) On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done for ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, in any twelve (12) consecutive months, to an extent not exceeding fifty percent (50%) of the current fair market value of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the footprint and/or square footage of the structure which existed at the time the structure became non-conforming shall not be increased. Non-conforming single-family dwellings in any zone district shall not be subject to the limitation on the increased footprint and/or square footage of a non-conforming structure under this subsection. For purposes of this subsection, single-family dwelling shall not include mobile homes or dwellings which are not on a permanent and engineered foundation.

Section 5. The Morgan County Zoning Regulations are hereby amended by the addition of a new subsection, 3-153, to read as follows:

3-153 Special Provisions Regarding Single-Family Dwellings

- (A) If a single-family dwelling, which is subject to a previously approved conditional or special use permit, is damaged or destroyed, by unavoidable means or cause, it may be restored or replaced

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without the issuance of a new conditional or special use permit. The right to rebuild under this section is limited to the property owner at the time of destruction.

- (B) No repairs, replacement or restoration may commence unless a building permit and floodplain permit, as applicable, are obtained. The building permit and floodplain permit, as applicable, must be issued and repairs, replacement or restoration commenced within twenty-four (24) months of date of damage or destruction. If the applicable a permits are not issued and work is not commenced within twenty-four (24) months from the date of damage or destruction, no work may be performed on the structure unless a new conditional or special use permit is issued, as applicable. All work and structures restored or replaced under this Section, shall comply with these Zoning Regulations and any terms or conditions of the previously approved permit. Any single-family dwelling must comply with the County's Floodplain Regulations in order to be rebuilt.
- (C) For purposes of this subsection, single-family dwelling shall not include mobile homes or dwellings which are not a permanent and engineered foundation.

Section 6. Section 3-320(A) of the Morgan County Zoning Regulations is amended to read as follows:

- (A) Single-family dwellings (site built or manufactured home on a permanent and engineered foundation, but not a mobile home), one per parcel.

APPROVED this 23rd day of February, 2021.

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/Gordon H. Westhoff
Gordon Westhoff, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Morgan County Attorney Kathryn Sellars, presented to the Board Resolution 2021 BCC 07, a Resolution Amending the Morgan County Zoning Regulations Concerning the Rebuilding of Non-Conforming Single-Family Dwellings and Single-Family Dwellings Subject to Conditional and Special Use Permits. Ms. Sellars stated that under the current regulations buildings of non-conforming single family dwellings that existed before the zoning regulations in the district where they were not allowed or subject to permitting when they were destroyed more than 50 percent of their fair market value they were not allowed to rebuild, these regulations will allow them to rebuild those structures. Also currently if a single family dwelling is subject to a conditional or special use permit based upon the zone they are in if it was destroyed more than 50 percent they have to come in and go through the whole permitting process again these amendments would allow them to rebuild without having to go through the conditional or special use permit process again. Chairman Arndt stated that citizens may not have wanted or known that their properties were rezoned and if their dwelling was damaged this helps them be able to rebuild despite the zoning.

At this time Chairman Arndt opened public comment and extended the time limit to five minutes.

Chuck Miller 26060 Morgan County Road S Brush, Colorado asked what determines fair market value, and asked for clarification on page 2 last sentence of section B of the resolution "If the property is conveyed after the event of destruction and before the completion of the rebuilding of the single-family dwelling, the right to rebuild shall terminate and any issued permits may be revoked." Mr. Miller shared a situation of parents wanting to move to assisted living and transfer their home to the children for them to rebuild, they cannot get financing until they have ownership of the property, but then they do not have the rights to rebuild. Chairman Arndt had the same argument about this situation non-conforming it is being made easy for people to rebuild and the wording can be changed and the zoning may also need to be looked at as well. Commissioner Becker stated the wording could be changed from shall to may to make it less strict.

Mr. Miller stated that regulations change and you can object to those changes, then that objection goes to court and that documentation is then recorded. Mr. Miller explained that the property rights stay with the land owner when they acquire the property. He believes may instead of shall may address those issues.

Ms. Cherry answered Mr. Miller's first question by stating that the fair market value is the assessor's value for the structure only, not for the property.

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Commissioner Becker suggested changing the wording from shall to may to allow some flexibility. Ms. Sellars stated that with that change there needs to be some clarification about who would make that decision and what will be the criteria for making that decision as to whether or not the right to rebuild is terminated, because there is not an existing process in place for that. Commissioner Becker stated that not all the items will ever be covered, this will be something that they will have to go through and try a figure out the easiest way to approach that without getting caught up in the spokes. Chairman Arndt said the easiest way is strike all the wording and just say the 50 percent and not determine the sale as mentioned and the parcel will be allowed to be used as it has been. Ms. Sellars stated that its only for the period of two years, the window to rebuild is only for a short time.

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

Commissioner Becker made a motion to approve Resolution 2021 BCC 07, with striking the language on page 2 under section B of the resolution, striking the language in the last sentence in the paragraph which is; If the property is conveyed after the event of destruction and before the completion of the rebuilding of the single-family dwelling, the right to rebuild shall terminate and any issued permits may be revoked, that language being stricken. Commissioner Westhoff seconding the motion. Ms. Sellars asked for clarification if they would also like to strike that sentence in 3-153 under section 5, with Commissioner Becker stating yes anywhere it is listed. At this time, the motion carried 3-0.

3. Consideration of Approval – 2021 BCC 11 A Resolution Amending Certain Sections of the Morgan County Zoning Regulations Concerning Setbacks

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2021 BCC 11

A RESOLUTION AMENDING CERTAIN SECTIONS OF THE MORGAN COUNTY ZONING REGULATIONS CONCERNING THE ESTABLISHMENT OF SETBACK, MEASURING SETBACK AND ENCROACHMENTS

WHEREAS, the Board of County Commissioners desires to create and clarify how setbacks are measured and what encroachments may be made into setbacks;

WHEREAS, on December 9, 2020, the Planning Commission held a duly noticed public hearing on the proposed amendments and recommended approval;

WHEREAS, on February 23, 2021, the Board of County Commissioners held a duly noticed public hearing on the proposed amendments;

WHEREAS, the Board of County Commissioners has complied with all relevant provisions for amending the Morgan County Subdivision Regulations; and

WHEREAS, after considering public testimony received and the recommendation of the Planning Commission, the Board of County Commissioners finds these amendments to be in the best interest of the citizens of Morgan County.

NOW THEREFORE BE IT RESOLVED by the Morgan County Board of County Commissioners as follows:

Section 1. Sections 1-420, 1-583, 1-585, 1-600, 1-785, 1-930, 1-935, and 1-940 of the Morgan County Zoning Regulations are hereby repealed and reenacted to read as follows:

1-420 Encroachment: A placement of a structure, building, part of a building, sign, or fence upon the land or easement of another, or into required setbacks.

1-583 Lot Line: The property line bounding a lot.

1-585 Lot Line, Front: The property line dividing a lot from a public right-of-way, except where a lot is bordered by more than one (1) public right-of-way. Each lot proposed for development shall have at least one (1) property line designated as the front lot line. When a lot is bordered by more than one (1) right-of-way, the property owner shall determine which side of the lot having right-of-way frontage is to be considered for setback purposes to be the front lot line, subject to review and approval by the Planning Administrator. The designation of the front lot line shall be consistent and uniform with front lot lines on surrounding developed properties.

1-600 Lot, Width: The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; or the same distance measured at a point midway between the front and rear lot lines; or at the rear line of the required front setback on irregularly shaped lots.

1-785 Setback: The minimum horizontal distance required, in any given zoning district, to be maintained free of man-made structures between a property line and the nearest exterior wall of a building or structure or between two uses or walls of structures.

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1-930 **Setback, Front:** The distance extending across the full width of the lot between the front lot line and the nearest exterior point of a building or structure.

1-935 **Setback, Rear:** The distance extending across the full width of the lot between the rear lot line and the nearest exterior point of a building or structure.

1-940 **Setback, Side:** The distance extending from the front to the rear yard between the side lot and the nearest exterior point of a building or structure.

Section 2. Sections 1-925, 2-110 and 2-115 of the Morgan County Zoning Regulations are hereby deleted.

Section 3. Section 3-570(B)(2) of the Morgan County Zoning Regulations is hereby amended to read as follows:

No specific setback or lot size requirements shall be imposed, other than those provided herein, in the PD provided that the spirit and intent of this section are complied with in the Final PD Plan. The Commission may determine that certain setbacks and spacing be required within all or a portion of a PD for safety reasons.

Section 4. Section 3-630 of the Morgan County Zoning Regulations is hereby repealed and reenacted as follows:

3-630 Minimum Setbacks

(A) **Required Setbacks.** No building, structure, or lot shall be developed, used, or occupied unless the minimum **setback** requirements in the district bulk requirements and other requirements under these Regulations are met. Unless otherwise expressly provided in these Regulations, setbacks shall be measured from the property line. For setbacks where the abutting road is an easement, the setback shall be measured from the boundary of the easement. For section line road easements which have not been constructed by the County and have not been vacated pursuant to C.R.S. § 43-2-303, setbacks shall be measured from the boundary of the section line easement.

(B) **Allowed Projections into Setbacks.**

- (1) Cornices, canopies, eaves, fireplaces, wing walls or similar architectural features may extend into a required setback not more than three feet (3').
- (2) Open, unenclosed, uncovered porches at ground level may extend into a required setback to the property line.
- (3) Open, unenclosed, uncovered patios, decks, and porches greater than two feet (2') above ground level shall not extend into a required setback more than three feet (3').
- (4) No part of a setback required for a building shall be included as part of a setback for another building.

(C) **Exemptions to Setback Requirements**

- (1) Fences, screening, and buffering; however, under no circumstances, may these exemptions be constructed or installed in any road easement or in a manner that hinders the vision corridor or creates a risk to public safety.

Section 5. Section 3-645 of Morgan County Zoning Regulations is hereby repealed and reenacted as follows:

3-645 Encroachments

Except as provided by these Regulations or by agreement, encroachments are not permitted.

Section 6. Appendix B, Table 1 of the Morgan County Zoning Regulations shall be amended as follows:

1. The term "Structure Setbacks" shall be amended to read "Minimum Setback".
2. A minimum rear setback of ten (10) feet for accessory structures should be added to the Table.
3. A new footnote should be added stating that setbacks in the Table may be modified by Sec. 3-630.

APPROVED this 23rd day of February, 2021.

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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/Gordon H. Westhoff
Gordon Westhoff, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Morgan County Attorney Kathryn Sellars, presented to the Board Resolution 2021 BCC 11, a Resolution Amending Certain Sections of the Morgan County Zoning Regulations Concerning Establishment of Setbacks, Measuring Setback and Encroachments. Ms. Sellars stated these amendments were started because there was conflict within the zoning regulations about how to measure setbacks and what items could encroach into the setbacks. She explained that while addressing those conflicts there was also cleanup of terminology, language and definitions for lot lines and setbacks.

Chairman Arndt asked if these changes will help with Jackson Lake Village, with Ms. Cherry stating yes they will.

At this time Chairman Arndt opened public comment and extended the time limit to five minutes.

Chuck Miller, 26060 Morgan County Road S Brush, Colorado stated that he has Resolution 2020 BCC 41 and that is what he reviewed and thought that was the Resolution being tabled from January 26th, and now there is Resolution 2021 BCC 11 and asked for clarification. Commissioner Becker stated it is a new year so the numbers re-start due to the resolution not being passed last year. Ms. Sellars stated that resolution was a draft resolution and should not have been in the packet and that the numbers change when the year turns over. Chairman Arndt said the 2021 BCC 11 is the cleaned up and refined version of 2020 BCC 41. Mr. Miller said the wording has changed between the two resolutions, especially regarding the 75' setbacks for ditches and that the new resolution does not list any of the setbacks in it as the original one had them listed.

Morgan County Administrative Services Manager Karla Powell stated that Resolution 2020 BCC 41 has been vacated. Mr. Miller asked where will the setbacks tables be posted since they are not listed on the 2021 BCC 11 resolution. Ms. Sellars stated that resolution was a draft resolution and should not have been in the packet, the Board decided to make further changes to the draft resolution, so the resolution today has those corrections. Chairman Arndt stated that looking at 2021 BCC 11 it is the clean version of 2020 BCC 41, with Ms. Sellars stating it is a more refined version per the Boards direction.

Mr. Miller asked what the setbacks are and where are they posted, with Ms. Sellars stating all other setbacks are Appendix B in the zoning regulations. Ms. Sellars stated there were 3 changes under section 6 on page 3 of the resolution, the first one was changing structure setback to minimum setback, the second change was to allow for a minimum rear setback of 10 feet for accessory structures to be added to the table in Appendix B and a new footnote linking the table to the minimum setback provision in the zoning regulations text which is section 3-630. Ms. Cherry provided a print out of Appendix B to Mr. Miller and the Board. Chairman Arndt stated that once this resolution is adopted it shall amend the Appendix B Table 1.

Mr. Miller stated that under section 3-645 encroachments, more and more encroachments are being found on properties, there is potential legislation at the State level that has to do with fence line encroachments. Mr. Miller thinks that if an encroachment is determined by a survey, it should be up to the property owners to fix the problem. Mr. Miller thinks every encroachment should be fixed, it can be very simple to do, but that it should not involve the government.

Mr. Miller needed clarification as to the statement of encroachments are not permitted, with Ms. Sellars explaining that these are only encroachments into the setback on the property where the structure is located and not encroachments onto other properties.

Mr. Miller stated in the previous resolution there was language as to high water marks as to setbacks does that language still appear, with Ms. Sellars stating no it does not. Mr. Miller asked about flood plain requirements with the setback, with Ms. Cherry stating the setbacks are only measured from the property lines.

At this time, Chairman Arndt asked if there was anyone online to speak from the public.

At this time, Chairman Arndt closed the public comment portion.

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

Commissioner Westhoff stated that the setback to a state highway was stricken, with Ms. Sellars stating that was correct there was language added that states the setback is measured from the center line of the road.

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Commissioner Westhoff made a motion to adopt Resolution 2021 BCC 11, a Resolution Amending Certain Sections of the Morgan County Zoning Regulations Concerning Establishment of Setbacks, Measuring Setback and Encroachments. Commissioner Becker seconding the motion. At this time, the motion carried 3-0.

Being no further business the meeting was then adjourned at 11:40 a.m.

Respectfully Submitted,

Randee Aleman
Deputy Clerk to the Board

(Minutes ratified March 16, 2021)

**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/Gordon H. Westhoff
Gordon Westhoff, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey