

**MORGAN COUNTY PLANNING COMMISSION**  
**August 14, 2017 MINUTES**

The Morgan County Planning Commission met on Monday, August 14, 2017, at 7:00 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Joe Ewertz, Pete Krohn, Dave Musgrave, Robert Pennington, Mike Bailey, and Nathan Troudt. Also present were Pam Cherry, Planning Administrator; and Jody Meyer, Planning Assistant and Laurie Cromwell, Planning Assistant.

The meeting was called to order by Chairman Robert Pennington.

**It was moved by Nathan Troudt and seconded by Mike Bailey to approve the minutes of the July 10, 2017 meeting as presented. Motion carried 6-0.**

**It was moved by Joe Ewertz and seconded by Pete Krohn to approve the agenda as presented. Motion carried 6-0.**

Robert Pennington reviewed the hearing process for tonight's hearing.

**NEW BUSINESS:**

**APPLICANT: Felimon Castaneda**

**LANDOWNER: Cargill Meat Solutions Corporation**

This application is for a Special Use Permit to construct an additional Sequencing Batch Reactor for Cargill operations. The property is located in the E<sup>1</sup>/<sub>2</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 8 Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701.

Felimon Castaneda and Gene Guerreno representing Cargill Meat Solutions were present to represent this application.

Pam Cherry, Planning and Zoning Administrator, read the file summary as follows:

The property is zoned Light Industrial and three other Sequencing Batch Reactors are currently in use on the property. With construction of the fourth reactor a backup will be available for use in case of maintenance needs and will provide Cargill flexibility for operations. Impacts on adjacent areas are not anticipated.

The proposal is in compliance with the Morgan County Comprehensive Plan and the criteria for approval of the Special Use permit.

- a. The use and its proposed location are in conformance with the Morgan County Comprehensive Plan. Specifically:
  - i. The project will broaden employment opportunities for residents and will further economic growth.
  - ii. The proposed use is compatible with existing land uses and there is access to established public infrastructure.

- iii. The use will protect existing agriculture operations by allowing it to continue while not restricting private property rights.
- b. The Application is complete and presents a clear picture of how the use is to be arranged on the site.
- c. The site conforms to the district design standards of Section 4-555 through 4-570 of the Morgan County Zoning Regulations. Specifically:
  - i. The proposed Sequencing Batch Reactor is located in excess of three hundred and fifty feet (350') from any residence or one hundred fifty feet (150') from the property line, whichever is greater.
  - ii. The proposed Batch Sequencing Reactor is located in excess of one hundred fifty feet (150') from domestic water wells.
  - iii. The Applicant shall construct the facility according to the final design plans as submitted to Morgan County, and as approved by the Colorado Department of Public Health and Environment.
- d. The special use is compatible with surrounding uses and is adequately buffered from any incompatible uses by distance and topography
- e. The special use poses no or minimal risk to the public health, safety and welfare.
- f. The special use will not be located on a nonconforming parcel of land.
- g. The applicant has adequately documented a public need for the project. The Applicant has submitted all pertinent technical information, has demonstrated that it has adequate financial resources to implement the project, and has paid all County fees and review costs.

The use is an expansion of the existing operation which has been in place for many years. The addition of the Sequencing Bath Reactor will provide redundancy for Cargill which will protect the health, safety and welfare of the residents of Morgan County.

All on and offsite impacts are determined to be satisfactorily mitigated, provided the following conditions are met:

- a. The Applicant shall rigorously follow the engineered plans as submitted and accepted by Morgan County and the Colorado Department of Public Health and Environment.
- b. Access to the facility shall be limited through property owned by Cargill Meat Solutions Corporation.

- c. The entire brine lagoon area shall be securely fenced with a six foot (6') chain link fence with three strands of barbed wire atop, in excess of the 6' fence. Gate access to the fenced lagoon shall be securely locked and monitored for security.
- d. The brine lagoon shall be shielded for public view by planting trees and shrubs approved by the Morgan County Extension Service, the Morgan County Soil Conservation District, or the Colorado State Forestry Service.
- e. The entire 49.7 acre parcel on which the Batch Sequencing Reactor is located shall be planted into a grass seed mixture approved by the Morgan County Extension Service or the Morgan County Soil Conservation District. The subject parcel shall be kept free of weeds and properly mechanically mowed.
- f. The lagoons shall be monitored for leaks by the leak detection system submitted in the design plan, as monitoring wells to assure water quality. All leak detection design and monitoring wells shall be approved and in compliance with the Colorado Department of Public Health and Environment.
- g. The Applicant shall submit quarterly Salinity Test results from the brine lagoon to the Morgan County Planning and Zoning Department.

**GENERAL PROVISIONS.**

- a. The Board of Commissioners retains continuing jurisdiction over this Permit to ensure compliance with this Permit and the Morgan County Zoning Regulations. County representatives are authorized to inspect the Property at any reasonable time upon notice to the Applicant.
- b. The Applicant shall comply with all governmental and regulatory agency requirements and permits, including without limitation those promulgated for the protection of health, safety and welfare of the inhabitants of Morgan County. Such compliance shall include without limitation compliance with the regulations of the Colorado Department of Public Health and Environment and the United States Environmental Protection Agency, and follow the site drainage plan as approved by the City of Fort Morgan.
- c. Material alterations to the proposed development as set forth in this Application shall require an amendment to this Permit, after hearings before the Morgan County Planning Commission and the Board of County commissioners. Nonmaterial alterations may be approved by the Morgan County Planning Administrator, upon receipt of written application requesting approval of the proposed alterations.
- d. The Applicant shall comply with all the requirements, conditions and design standards set forth herein. Noncompliance shall be grounds for revocation of this permit by the Morgan County Board of Commissioners after notice and hearing.

Pam Cherry recommended granting the Special Use application subject to the conditions stated above.

Felimon Castaneda told Planning Commission this application was for a fourth Sequencing Batch Reactor for Cargill. They treat this pond all year round which helps to remove all solids.

Gene Guerreno, Cargill Meat, also stated this fourth batch reactor will provide additional area when they take one pond down to do maintenance work. Gene Guerreno stated a few corrections in the file summary regarding the stated conditions. He said conditions d. and e. do not apply to this application and should be removed. Also, he mentioned that where it states "brine lagoon" it should really say "batch reactor" under Conditions c, f, and g. They indicated these batch reactors hold about 1.4 million gallons of water.

#### OPEN PUBLIC COMMENT

Speaking in Favor: None

Speaking in Opposition: None

#### CLOSE PUBLIC COMMENT

Alex McHugh, Cargill, stated there is no inside liner in the batch reactor; concrete is used and it is engineered by HDR. The waste water from the plant is in its final treatment stages of removing solids. The water is then transported to Teague Diversified for land application.

**It was moved by Nathan Troudt and seconded by Joe Ewertz to APPROVE an Application for a Special Use Permit for Cargill Meat Solutions Corporation to construct a fourth Sequencing Batch Reactor located in the E<sup>1</sup>/<sub>2</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 8 Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701, and send it on to the Morgan County Board of Commissioners with the following corrected conditions:**

- a. The Applicant shall rigorously follow the engineered plans as submitted and accepted by Morgan County and the Colorado Department of Public Health and Environment.**
- b. Access to the facility shall be limited through property owned by Cargill Meat Solutions Corporation.**
- c. The entire batch reactor area shall be securely fenced with a six foot (6') chain link fence with three strands of barbed wire atop, in excess of the 6' fence. Gate access to the fenced lagoon shall be securely locked and monitored for security.**

- d. **The batch reactor shall be monitored for leaks by the leak detection system submitted in the design plan, as monitoring wells to assure water quality. All leak detection design and monitoring wells shall be approved and in compliance with the Colorado Department of Public Health and Environment.**
- e. **The Applicant shall submit quarterly Salinity Test results from the batch reactor to the Morgan County Planning and Zoning Department.**

**Motion carried 6-0.**

**APPLICANT: Thomas A. Jude**  
**LANDOWNER: Thomas A. Jude**

This application is for a Minor Subdivision of Abe's Place Minor Subdivision Lot 2 which is 23.7 acres and is located in the NW¼ of Section 21, Township 3N, Range 60W of the 6<sup>th</sup> P.M., Morgan County, Colorado. The property is also known as 2276 County Road P, Wiggins, Colorado 80654.

Thomas A. Jude was present to represent this application.

Pam Cherry, Planning and Zoning Administrator, read the file summary as follows:

Thomas A. Jude as applicant and land owner is requesting approval of a Minor Subdivision of 23.7 acres. The request is to create three lots; Lot 1) 11 acres, Lot 2) 1.75 acres, 3) 11 acres. Each lot will be for residential purposes in the Agriculture Production Zone District.

The file contains all documentation required for a Minor Subdivision application. There is an existing well permit that may be used for domestic purposes inside three single-family dwellings, the watering of the owner's own large non-commercial domestic animals and irrigation of 1 acre of lawn and garden. The well is also permitted for the watering of livestock on range and pasture. (Pam stated there is one existing well and a new well which has been drilled and okayed by the NECHD.)

Morgan County Road and Bridge has permitted the continued use of the existing driveway for Lot 1 and two new driveways for Lots 2 and 3 to be located on Morgan County Road P. If at a future date, Morgan County determines a culvert is needed for drainage, or an existing culvert needs repairs, the landowner will assume all costs; and the culvert and driveway must meet Morgan County specifications. There is a will serve letter from Northeast Colorado Health Department stating each lot owner shall obtain an application to install or repair an Onsite Wastewater Treatment System prior to building a residence.

All appropriate notice requirements have been completed with no comments received in favor and no comments in opposition. The site of the minor subdivision is not located within the 100-

year floodplain. Subject property is located within the Wiggins Rural Fire District. Taxes are current.

Pam recommended approval of Jude's Minor Subdivision.

Pam Cherry noted that the lien on the property has been taken care of.

Joe Ewertz said he does not like shared wells and suggested they form their own water district. Pam Cherry noted that the State has already issued the well permit. Joe said Morgan County needs to draw a higher line.

Mr. Jude explained that the well agreement will be split 50-50.

Mr. Robert Tate, Lot 1, Abe's Place Minor (adjoining to this proposed subdivision on the west side) said the electrical is a problem. He also shares an existing well in Abe's Place Minor. He is not in opposition.

#### OPEN PUBLIC COMMENT

##### Speaking in Favor:

Mr. Tom Jude said he was in favor of this application.

Yvonne Lorenzini, daughter of Thomas Jude and the one that prepared this application, is in favor of this application.

JD Lorenzini also approved of this application.

##### Speaking in Opposition:

Richard Neb, Wiggins, CO 80654, owns property to the southeast of this site. He indicated this area was in a closed basin and had concerns about the new well. By making minor subdivisions like this, it is making a mess. The well will dry up. We should direct growth to areas stated in the comprehensive plan. This is creating a big problem. He felt the State made a big error in approving the new well and referenced State Statutes.

Pam Cherry said the Kiowa-Bijou was notified, but no response was received.

Yvonne Lorenzini said she was required to prove water before they could process the application.

Lou Ann Walter, Wiggins, CO, said she farms south of this site and she has a domestic well which they don't use to water because they don't want to pull it away from the irrigation.

Tracy Tate, 2424 Co Rd P, Wiggins, CO live to the east of this site. She said Quality Water told her it would cost between \$100,000 to \$125,000 to get quality water to their lot.

Pam Cherry thought it unreasonable to make the applicant do a water district. They have met the regulations as written for today.

Joe Ewertz said this would open a can of worms.

Richard Neb said the next parcel to the west will want to do the same thing.

Yvonne Lorenzini said they cannot resubdivide the property any further because of the railroad – there is no room.

Robert Pennington – noted the Board of County Commissioners took off the regulation of “no further subdivision”.

#### CLOSE PUBLIC COMMENT

**1. It was moved by Joe Ewertz and seconded by Pete Krohn to APPROVE this application for a Re-subdivision of Lot 2 of Abe’s Place Minor Subdivision which is 23.7 acres from 1 lot into 3 lots and is located in the NW¼ of Section 21, Township 3N, Range 60W of the 6<sup>th</sup> P.M., Morgan County, Colorado, also known as 2276 County Road P, Wiggins, Colorado 80654, and send it on to the Morgan County Board of Commissioners with the following condition:**

**A. Applicant will form their own water district.**

**Roll Call vote was taken. Motion failed 2-4. Those in favor were Joe Ewertz and Pete Krohn and those opposed were Dave Musgrave, Mike Bailey, Nathan Troutt, and Robert Pennington.**

**2. It was then moved by Mike Bailey and seconded by Joe Ewertz to approve this application as presented by Pam Cherry, the Planning Administrator, for a Re-subdivision of Lot 2 of Abe’s Place Minor Subdivision which is 23.7 acres from 1 lot into 3 lots and is located in the NW¼ of Section 21, Township 3N, Range 60W of the 6<sup>th</sup> P.M., Morgan County, Colorado, also known as 2276 County Road P, Wiggins, Colorado 80654, and send it on to the Morgan County Board of Commissioners. Roll call vote was taken. Motion tied 3-3. Those in favor were Dave Musgrave, Mike Bailey and Robert Pennington. Those opposed were Nathan Troutt, Joe Ewertz, and Pete Krohn.**

**APPLICANT: Starlight Energy Corporation**

**LANDOWNER: Peter V. and Karen V. Anderson**

This application is for a Conditional Use Permit to construct a facility of a public utility for the generation of electricity from photovoltaic solar and natural gas. The property is located in the SE¼ of Section 33, Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, located at 20738 Morgan County Road N, Fort Morgan, Colorado 80701.

Brian Bentley from Starlight Energy Corporation and Peter and Karen Anderson, landowners were present to represent this application.

Pam Cherry presented the file as follows:

The applicant also seeks to request the cancellation of the prior Conditional Use Permit on five acres of this tract that was issued on May 9, 2014.

The property is zoned Agriculture Production and twenty acres will be leased for a thirty year term to Starlight Energy. Solar panels, gas processing equipment and electric generation equipment will be constructed on the property. Solar electricity will be produced from solar panels that will pass through an electrical interconnect and proceed via existing overhead lines to a connection with Morgan County Rural Electric Association. The equipment moves to track the sun during the day at a very slow speed, no noise results.

E-mail from Brian Bentley dated August 4, 2017:

- Gas will be produced from the well at exactly the rate it is consumed by the generator, estimated at 100 MCF/D. No gas storage will be required.
- The gas stream from the well will pass through a standard 3-phase separator located on the lease. This is primarily as a precaution to separate crude oil and/or water, if any, from the gas stream (which will pass on the generator). There will be a crude oil tank and produced water tank on the lease to collect both, respectively. We ran a production test in 2014, running the well essentially wide open into a temporary tank for about 1/2 hour, mainly to test for liquids production. The well-produced much gas, but no detectable crude oil or water. When the well is producing, there should be eventual water and/or crude production, but at least based on our flow test, we have no basis to estimate any. There are no nearby wells of comparable age and production history upon which we could base an estimate.
- As we accumulate a truckload of water, which may take several months, it will be hauled to an approved produced water disposal well, most likely in Weld County as I am unaware of any such facilities in Morgan County. I'd guess a couple of truckloads of water per year, but that is on the high side based on what we know now.

Impacts on adjacent properties are not anticipated. Access currently exists; no additional access will be required.

Criteria for approval of Conditional Use:

- 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 standard of these Regulations.  
*The Site Plan meets requirements. More detailed construction drawings will be submitted prior to development of the site.*
- C. There are no off-site impacts imposed by the conditional use proposed that require additional infrastructure or upgrades by the County of Special Districts.  
*Unimproved Morgan County Road 21 will be used as is.*



D. The use proposed is compatible with the surrounding uses and adequately buffered as necessary.

The property is located in Agriculture Production zone district. There will not be a visual impact to adjoining properties.

*All referrals and notifications were distributed and there have been no comments received as of 8-4-2017.*

Suggested conditions of approval:

1. Produced water will be stored in tanks onsite, above the ground and will be transported to a Weld County disposal site, as needed. This is anticipated to be once every several months. No more than one tank of produced water is to be onsite at any one time.
2. Crude oil will be stored in tanks onsite. No more than one crude oil storage tank to be onsite at any one time.
3. Reporting of production of electricity sold is required on a quarterly basis, beginning within three months of initiating production at the facility.
4. The Conditional Use for five acres on this tract issued on May 9, 2014 will be cancelled.
5. Storm Water Management plan

Pam Cherry recommended granting the Conditional Use application subject to the conditions stated.

Brian Bentley, CEO of Starlight Energy Corporation presented a slide show with handout. He explained what a community solar facility was and how it operated. Other potential customers are Morgan County REA and Fort Morgan Light & Power.

#### OPEN PUBLIC COMMENT.

##### Those in Favor:

Pete Anderson, landowner, leased ground to Starlight Energy to help offset his irrigation pivot expenses with REA.

John Clatworthy, representing the Jolene Stroh Trust, whose property has a gas well on it which was drilled in 1976 and never has been produced. There is big potential for Morgan County; how the gas and solar comes together is very unique.

Those opposed: None

#### CLOSE PUBLIC COMMENT.

Applicant noted the generator is located on the Stroh Trust property. Xcel regularly uses the road going south of Co Rd N (not maintained Co Rd 21). Access was discussed.

**It was moved by Mike Bailey and seconded by Dave Musgrave to approve this application for a Conditional Use Permit for Starlight Energy Corporation as applicant and Peter V. and Karen V. Anderson as landowner to construct a facility of a public utility for the generation of electricity from photovoltaic solar and natural gas which is located in the SE¼ of Section 33, Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, located at 20738 Morgan County Road N, Fort Morgan, Colorado 80701, and send it on to the County Commissioners with the following conditions:**

- 1. Produced water will be stored in tanks onsite, above the ground and will be transported to a Weld County disposal site, as needed. This is anticipated to be once every several months. No more than one tank of produced water is to be onsite at any one time.**
- 2. Crude oil will be stored in tanks onsite. No more than one crude oil storage tank to be onsite at any one time.**
- 3. Reporting of production of electricity sold is required on a quarterly basis, beginning within three months of initiating production at the facility.**
- 4. The Conditional Use for five acres on this tract issued on May 9, 2014 will be cancelled.**
- 5. Storm Water Management plan**

**Motion carried 6-0.**

There being no further business, the meeting was adjourned.

Respectfully submitted,

Jody Meyer, Planning Assistant