

MORGAN COUNTY PLANNING COMMISSION
March 12, 2018 MINUTES

The Morgan County Planning Commission met on Monday, March 12, 2018 at 7:00 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Joe Ewertz, Pete Krohn, Bob Elrick, Dave Musgrave, Mike Bailey and Nathan Troudt. Also present were Pam Cherry, Planning Administrator; Jody Meyer, Planning Assistant; and Kathryn Sellars, Morgan County Attorney.

Viola Johnson was present and was going to fill in for Robert Pennington, who was absent. It was then noted by Jody Meyer that Viola Johnson was a Board of Adjustment member and she could not fill a Planning Commission member spot on the this Board and was excused. It is noted there was still a quorum for these hearings.

The meeting was called to order by Chairman Joe Ewertz.

It was moved by Bob Elrick and seconded by Nathan Troudt to approve the February 12, 2018 Minutes as presented. Motion carried 6-0.

Agenda: It was moved by Nathan Troudt and seconded by Bob Elrick to approve the agenda as presented. Motion carried 6-0.

Joe Ewertz read the review process for tonight's meeting.

NEW BUSINESS:

APPLICANT: ICD Builders

LANDOWNER: ICD Builders

PARCEL NUMBER: 1035-300-000-01

Pam Cherry reviewed the file summary as follows:

This application is for a Conditional Mobile Home Permit Application for the placement of a mobile home to be used as an agricultural office. The property is zoned "A" (agriculture production) and is 111 acres (parcel larger than 20 acres) where pursuant to Section 3-175(O) of the Morgan County Zoning Regulations mobile homes used for any purpose are required to obtain a conditional use permit. The property is located in the E½ of Section 30, Township 4 North, Range 55W of the 6th P.M., Morgan County, Colorado; the property is on the south side of County Road U just east of Highway 6, north of Brush in an unincorporated area of the county. The property has previously been known as the Sherwood Farm.

ICD Builders purchased the property in August of 2017 to develop for agricultural purposes. The property has been issued Well Permit Number 307194 and will be on a septic system, access will be south off of County Road U and has been permitted by Road and Bridge.

Criteria for review of a Conditional Use:

- A. The application documents are complete.

- B. The Site Plan was attached to the application.
- C. There are no off-site impacts imposed by the conditional use proposed that require additional infrastructure or upgrade by the County.
- D. The use proposed is compatible with the surrounding uses and adequately buffered as necessary.

As of March 5, 2018 there have been two responses to the application. One, which did not identify himself, and was opposed as this application because the applicant had already moved the mobile home onto the site without permitting. The second thought the proposed location was not on the ICD property. The property is located in the floodplain and will be required to incorporate proper anchoring for the mobile home in compliance with the floodplain regulations. An application for a Floodplain Development Permit has also been submitted and will be reviewed upon completion of the Conditional Use process.

Pam Cherry requested the Planning Commission's recommendation for approval to this application be referred to the Board of County Commissioners subject to these conditions:

- 1.) The applicant shall comply with the Morgan County Floodplain Regulations.
- 2.) Any future development shall be required to submit a land use application prior to any construction.
- 3.) This shall be the only mobile home permitted on the property pursuant to Section 3-175(O)

Pam Cherry said this temporary mobile home office can be there for a total 18 months. Applicant can request an extension of time through the Planning Administrator which is good for 6 months at a time up to the 18 month limit.

Richard Rhodes from ICD Builders was present to represent the file. He said they needed the mobile home office to manage the farm. The mobile home is on site now, utilities are in and water well is existing and ready to hook up. They hope to eventually build a 3-bedroom home which the septic has been designed for.

PUBLIC TESTIMONY IS OPEN:

There was no one present to speak in favor of or in opposition to this application.

PUBLIC TESTIMONY CLOSED.

It was moved by Mike Bailey and seconded by Bob Elrick to approve this Application for a Conditional Mobile Home Permit Application for the placement of a mobile home to be used as an agricultural office for ICD Builders located in the E½ of Section 30, Township 4 North, Range 55W of the 6th P.M., Morgan County, Colorado, pursuant to Section 3-175(O) of the Morgan County Zoning Regulations with the following conditions:

- 1.) The applicant shall comply with the Morgan County Floodplain Regulations.
 - 2.) Any future development shall be required to submit a land use application prior to any construction.
 - 3.) This shall be the only mobile home permitted on the property pursuant to Section 3-175(O)
- and send it on to the Board of County Commissioners. Motion carried 6-0.**

APPLICANT: Kevin Lamb, Manager Bullseye Holdings, LLC
LANDOWNERS: Bullseye Holdings, LLC
CONSULTANT: Travis Hertnecky, THEngineering

Joe Ewertz explained to the Board that he personally talked to the State Engineer, Morgan County Sheriff and Clark Green regarding this application. No Board Member is supposed to talk with applicant or public prior to this meeting as they are a quasi-judicial board. Joe said it was up to the rest of the Planning Commission to decide if it was okay for Joe to stay on the Board to hear this application. **After discussion it was moved by Nathan Troudt and seconded by Bob Elrick to let Joe Ewertz remain on the Board for this application hearing. Motion carried 5-0, with Bob Elrick, Nathan Troudt, Mike Bailey, Dave Musgrave, Pete Krohn all being in favor.**

Pam Cherry read her file summary as follows:

This application is for a Special Use Permit to operate a livestock washing and cleaning facility in the "A" Agriculture Production Zone District. Cattle truck washing and cleaning is listed in the regulations as a special use in the Ag zone district (3-180(S)); this operation would not be limited to cattle truck washing and, if approved, could washout any livestock trucks, general truck washing will not be permitted. The property is located south and east of the intersection of County Road O and County Road 16 in the N½ of the S½ of Section 26, Township 3N, Range 58W of the 6th P.M. and south and west of the Bijou Canal, Morgan County, Colorado.

The application included a preliminary design report to address general layout, physical and social constraints and operation plans. Livestock trailers are cleaned of accumulated manure with high pressure, high volume water hoses. Soaps and/or solvents are not used. The wash water drains into a concrete separation pit. The facility will operate during typical business hours and will be extended to 6:00 a.m. to 9:00 p.m. if necessary, six days a week.

THEngineering designed the facility in accordance with Colorado State University, Kansas State University, Texas A&M University, American Society of Agricultural Engineers, the Natural Resources Conservation Service and others to develop the plan which utilizes generally accepted best management practices for livestock washout facilities. In addition the applicant's engineer consulted with the Colorado Department of Public Health and Environment to determine that a discharge permit is not required. Pursuant to 5CCR 61.14(1)(a)(iv):

The owner of a land application system can demonstrate that:

- (A) The design and operation of the system will result in complete evapotranspiration of the effluent;
- (B) There is adequate storage provided for the effluent during periods of inclement weather or where the ground has been frozen unless the provisions of (A) above, can be met during the entire year; and;
- (C) Any augmentation plan or substitute supply plan for the land application site does not provide a credit for return of the effluent to ground water.

The facility will apply wastewater at a rate less than the evaporation rate and provides seven months storage. Groundwater will be protected using native clay material to provide a discharge rate of less than 1×10^{-6} , or .000001 cm/second.

Agriculture is a highly valued resource in Morgan County. Conservation of agricultural resources and land is paramount and such land and resources must be protected from adverse impacts resulting from uncontrolled and undirected business, commercial, industrial and residential uses.

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

- (A) The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan.
The location is just south of the intersection of County Road O and County Road 16 and located in the South Central Planning area as defined by the Morgan County Comprehensive Plan 2008. In this area the goal is to preserve and protect existing agriculture uses south of County Road Q. The truck washout is an agriculture use and while not associated with a Concentrated Animal Feeding Operation is a much needed service in that area.
- (B) All the application documents are complete and present a clear picture of how uses are to be arranged on the site or within Morgan County.
- (C) The Site Plan conforms to the district design standards of these Regulations.
The Agriculture Production District includes design standards for a CAFO, however a CAFO is not proposed at this time. If a CAFO is planned in the future, a Special Use Permit application will be required. This application is for an operation that will provide necessary services to CAFO's.
- (D) All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.
The access to the property had originally been on an adjacent parcel. The driveway is to be relocated to provide direct access to this property in the event it is sold in the future. A driveway permit for the new drive has been obtained from Road and Bridge which is conditioned on closing the access directly north of the new one.
- (E) The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.
The livestock washout operation is not required to be buffered as all surrounding properties are also zoned Agriculture Production.
- (F) The special use poses only the minimum amount of risk to the public health, safety and welfare as set by federal, state or county regulation, whichever is the strictest.
Engineering reports and studies have been conducted for the property and submitted to the CDPHE and the State Engineer's office that have reviewed the applications. The property owner's consultant has been working diligently to bring the property into compliance with State statute. A condition of approval will be recommended is that the property remains in compliance with regulations of all agencies that license this sort of facility. On March 2, 2018, an e-mail was received from CDPHE Enforcement Section staff, Andrea Beebout, stating

“Bullseye Livestock is currently completing the corrective actions as required in the NOV/CDO. To date, all required items have been submitted on time. Based on the most recent information submitted to the Division, Bullseye Livestock is planning to build a new wastewater management system for the truck wash facility and land apply the wastewater that is associated with the truck wash and stored in the existing impoundment. The impoundment will not be utilized for truck wash wastewater storage when operations resume.”

- (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, and adequate financial resources to implement it, and has paid all fees and review costs levied by the County for application processing and review.
A livestock washout operation is needed in Morgan County. This facility will be commercial in nature and will wash trucks for operators not associated with this property.
- (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.
The applicant has estimated that the operation will use approximately 12.77 acre feet of water per year. The Division of Water Resources has permitted well number 80348-F to not more than 24.27 acre-feet, or the amount covered under a substitute water supply plan until a decree is obtained for a permanent plan for augmentation. Water Court Case #2016CW3028 is currently in review by the state. A condition of approval is that the augmentation plan be approved prior to beginning operations.

Recommended conditions of approval:

1. The facility shall not commence operations until all the corrective actions required by the Notice of Violation/Cease and Desist/Clean-up Order Number: IO-180109-2 issued by the Colorado Department of Public Health and Environment (CDPHE) have been completed and approved by CDPHE.
2. The facility shall not commence operations until it has received approval from all federal and state agencies with jurisdiction over its operations and all required permits have been issued.
3. The facility shall operate in compliance with all state and federal laws and regulations applicable to the livestock washout.
4. Best management practices as recommended by the Colorado State University for land application of manure and waste water shall be followed.
5. Future expansion of the washout facility or reestablishing a Concentrated Animal Feeding Operation shall require an amendment to this Special Use permit.

Pam Cherry requested the Planning Commission’s recommendation of approval of the Special Use to permit a livestock washout facility, subject to the conditions, be referred to the Board of County Commissioners.

Kevin Lamb, manager of Bullseye Holdings, Erin Kress and Travis Hertneky from THEngineering were present to represent this application.

The applicants handed out a new revised site plan and a letter from THEngineering, LLC, dated March 12, 2018, regarding a background of the truck washout.

Pam Cherry also handed out copies of two letters from Petrock Fendel Poznanovic, P.C. / Frederick Fendel, III, dated February 16 and 22, 2018.

Travis Hertneky said they wanted to keep the truck washout separate from the livestock feedlot. So there would be two separate properties.

Access: Separate accesses on each parcel (feedlot and truck washout). There will be approximately 10 trucks a day. The pond to the south will be lined to meet state regulations. There will be limited impacts on the parcel such as the noise and dust. Travis said one-third of the water will be reused/recycled and then will go the settling pond to be land applied – approximately 2,000 ton a year. They have no signed lease agreement for manure use at this time. The washout is only for livestock trailers. Kevin Lamb said the manure pile that is there now has accumulated over a year. Travis Hertneky explained the drying out process. In phase II they hope to use mechanical separators. They did not think the roads were bad, most of them coming from the north.

Bob Elrick asked about the cease and desist order on this parcel. Pam stated that the CDO from Colorado Department of Public Health and Environment contained a list of 20-30 items that required response and deadlines to be met. Erin Kress stated that the deadline to complete the response and corrective actions is late June. At this point all CDPHE deadlines have been met. Travis Hertneky said this past fall that pond water ran into the Bijou Ditch which is then considered an unpermitted discharge which triggered the CDO.

Use: Kevin Lamb stated there has been a history of cleaning trucks at this location though not commercially. Currently it is not as it was previously and has changed. This is a commercial facility.

Bob Elrick asked how a facility of this sort is inspected. There are inspectors from CDPHE that inspect. Pam said that CDPHE has been out there 2-3 times to perform inspections.

Water: Joe Ewertz asked if there is a supplement water plan in place. Kevin Lamb stated there is a substitute water supply plan and a contract in place with Morgan Irrigation to take depletions to the river; that it was a shared use of well with the feedlot. Joe Ewertz spoke with the State Engineer's office and was told that the plan is expired and currently is trying to get a new plan approved. Lamb responded that they had been approved to keep pumping as long as they continue to meet the conditions and depletions of the Cease and Desist order, which has been occurring. Ewertz, referring to the well permits said they are stand-by wells and asked what that means. Lamb stated there are two wells, one is a stand by, the other is the one that is pumped. Ewertz asked whether these permits 23040-F and 17477-F go with the feed lot.

Pam reported a discussion with Sarah Brucker of Colorado Division of Water Resources. There is a differentiation between truck washout and feeding operation. Brucker stated they will not pursue the differing use of the well or its designation based on washout or feeding operation. Ewertz asked is the

water supplement plan is 5823 and if it is not approved then what. Lamb stated they are currently meeting their depletions. Bullseye is working through issues with Sarah Brucker with Water Resources and proving any information requested. Truck washout water is total consumptive.

Kevin Lamb stated there are two different operations on the property, one the feed yard, the other the washout. They both share the same water (washout and feedlot). If there is no water – there is no operation. Lamb further stated that the water used would be metered. Lamb would like to split the feedlot from the washout and in the future share the well, with the washout metered separately.

Future expansion would require an amendment to this special use permit. If property returns to CAFO use, then a new special use permit would be required for the north parcel.

Travis Hertneky was concerned about Condition #5 stated in the File Summary by the Planning Administrator. This application is only for washout parcel. The feedlot and truck washout are separate entities. The language in #5 attempts to tie them together. Lamb stated the intent of the application is to separate the feeding operation from the washout. Once through this process he will consider reestablishing the feeding operation.

Cherry stated that the CAFO language is in condition #5 because there is overlap of the parcels, with a small area of the CAFO on the south parcel. Bullseye can request the CAFO be completely deleted from this application, so any overlap of the CAFO in the future would not be permitted.

Lamb requests that the washout and CAFO be treated completely separately. The total acreage is 158 with the truck washout being about 50 acres.

Ewertz asked how long since the property has been used as a CAFO. Lamb responded that there are cattle there now. Cherry stated it is not a CAFO. Hertneky stated that is it being used as a feeding operation, but not CAFO sized of greater than 1000 head, the regulatory threshold.

Pam Cherry said this site is not a CAFO facility because it did not maintain the required number of animals (1,000) to keep it in compliance with CAFO regulations. Lamb stated that there have been cattle on the property continuously, so is grandfathered CAFO. Cherry explained that if the CAFO numbers had been maintained over time, then grandfathering would be appropriate. Five head of cattle does not make or retain the eligibility of grandfathering of a CAFO. Kathryn Sellars, Attorney for Morgan County, stated that this is not considered a “grandfathered” CAFO by the County; if the CAFO numbers are not maintained then the grandfathered is lost.

PUBLIC TESTIMONY IS OPEN:

Those speaking in favor:

Stan Doty, Co Rd 19, Fort Morgan, said he owns a trucking company and uses the washout. The nearest other washouts are in Yuma and Greeley. He said odor is not really a problem and he thought the road was in pretty good shape. A washout is needed in this county. It is a hazard to not have a facility in this county. The trucks using the washout are always empty going down the road and do not seem to deteriorate due to the trucks. Water is the main issue.

Those speaking in opposition:

Roger Schaefer, Co Rd 17, Fort Morgan, owns property to the east of the proposed site. His concern was use of the sprinkler on the pasture land. Will the odor remain and attract insects. As far as the road issue, he thought it was rather narrow for 2 semi-trucks to pass. He would rather have the manure plowed under rather than sprinkled. He has seen trucks washing as late as 10:00 p.m. when he is on his way from home. He is not for or against but has concerns.

Denice Wagner, Adm. Manager for Bijou Irrigation, stated the following concerns: taxes for the feedlot portion are not paid; No property line is distinguished between the feedlot and the washout. Cherry responded that property taxes are paid on the parcel under consideration; taxes are not paid on the north parcel, but that parcel is not part of this application. Kathryn Sellars responded that the taxes are paid on the south parcel and the north parcel is not a part of this application. The substitute water plan is a yearly requirement from the State Engineer Court decreed augmentation plan. The 15-year lease with Morgan Irrigation Company is a yearly lease and impacts the entire property which does not have proper drainage. The Board needs to consider the impacts of this facility. The old pond has run over the top and destroyed the bank of the Bijou Canal and this has a domino effect on down the line. The Supplemental Water Supply Plan is not automatic each year. It has to be shown that the depletions can be satisfied. The plans need to replace the number of years to the river that includes 5-8 years and how the depletions will be covered.

Sue Schaefer, Co Rd 17, Fort Morgan, wanted to know the consequence for not having a permit which Kathryn Sellars stated there are two court actions pending, one in District Court another in County Court. District Court issued a preliminary injunction and ordered Bullseye to submit an application and ordered the county to accept and process it. Sue Schaefer didn't like the idea of the sprinkler application to the land and with triple pane windows is still concerned about odors. Travis Hertneky said there would be some odor but it will not be slurry, it will be a water and not that much to the land and they can work around holidays so it won't be bothersome to neighbors. Kevin Lamb said they are applying a water and sprinkler use will dry out pretty fast.

Henry Unger, Co Rd 18, Fort Morgan, owns land directly to the east of this proposed site. There may have been some seepage from the pond that negatively affected his property and the Bijou ditch. The applicant has no regard for neighbors. The seepage may have been from the ditch. Mr. Hertneky noted that they will not be using the old pond, but will be building two new ones that will both be lined. The previous pond needed better management.

Kerri Kosman, Co Rd 15 and owns farm ground along Co Rd O and 16. Her concerns were: the road from Q to O needs to be wider and needs work; maximum number of trucks per day; how will this be policed; trucks drive 80 mph; and who will absorb this cost?

Gary Teague, Co Rd O, Fort Morgan, owns property to the south and west of this site. He was concerned with: impacts on hatch-marked spreading areas on the map - it is easily erodible blow sand; NRCS was asked to comment and voted on the comments; nutrients (nitrogen and phosphorus) are still there and suggested that the applicant talk to the NRCS for a better plan of land applications; Nitrogen and phosphorous will kill the grass stand that is there; should reseed and plant something there that will grow; heavy equipment for spreading will not work on the hills and on the

sandy soil in this location; what is the buffer to keep the sands off his property and out of the Bijou Ditch;

Roads – Gary Teague said he was asked to contribute to the paving of County Road O and County Road 16 and County Road 15 for his trucks – prorate the bill on the road issue. County has a policy in place to request road improvement costs to be shared by property owners that benefit; This property has always been operated as one parcel, these are not separate parcels; any impacts on this property are going to end up in the Bijou Ditch should mitigate with Bijou Ditch so there are no burdens on other parcels; taxes past due; and magic line between proposed site; the project needs to cover the depletion, a month to month lease is not good. Wells create depletion that do not hit the river for 30 years. Look at evaporation/transpiration rate on sand hills with sparse grasses, how it is going to be done. What are the evaporation/agronomic rates on these soils? The old plan indicates a honey wagon will be used to spread a slurry. A truck washout is needed badly in the county, but needs to be done right. Travis Hertneky stated they are looking at an end gun system.

PUBLIC TESTIMONY CLOSED

Rebuttal: Travis Hertneky said leaving the ground in grass would probably be best grasses will use up the water as it is applied at rate of a couple of inches over one year much less than the grass would take up over one year. It will not be applied at the evapotranspiration rate rather agronomic rate will be used at this facility, that is significantly less rate to be about 40 pounds a year. Kevin Lamb said he talked with the NRCS to ask about putting it on a sprinkler; they were ok so long as we didn't violate sodbuster provisions or till the ground. A sprinkler was not an issue with NRCS. Pam reported that Planning had sent a referral request to NRCS but have not received a response. Travis responded to overfill of the pond stating he does not have personal knowledge of the run overs, but will assume that is correct. The water directed to the ponds will be reduced thus reducing the chance of running over. With the proposed ponds risk of run over will be minimal.

Road and Bridge said they were happy with current facility access and the applicants plan on closing the access on Rd O at the corner of Rd 16. There was talk of a usage fee depending on the traffic that is normal for that type of road. Some days there will be no trucks, Kevin Lamb said the maximum number of trucks they have seen in a day is 31 over twelve hours, but this evens out during the course of the year. Lamb stated that the lagoon had become too full and that he was wrong. However, the Bijou Ditch is partially responsible for water problem as their ditch is not lined.

Travis Hertneky addressed Schaefer's concern about sprinkler applied to land saying the water is thin not a slurry.

Ewertz asked if the water was not renewed one year what would happen. Lamb responded the business would have to shut down for that year.

Kevin said they had a 15-year lease with Morgan Ditch Co. Under the SWSP it is an annual renewal. The goal is to locate a long term water supply. He is requesting to operate under the SWSP until through water court.

Pete Krohn told the applicant that the lease with Morgan Ditch is not long term agreement, but is looked at each year.

Nathan Troudt asked why taxes have not been paid on the other parcel and how much was owed. Kevin Lamb said the taxes have not been paid on the feedlot parcel because the business is struggling. At the current time about \$30,000.00 is owed.

Hertneky was asked the cost of constructing Phase 1, \$100,000.00.

Ewertz asked where the clay for the liner would come from. Hertneky said maybe on site depending on depth. An unknown.

Ewertz asked about monitoring wells. Hertneky responded there are none in the area.

Bob Elrick had concerns with the whole application – a lot of unanswered questions; road issues; water, taxes, traffic, need to clean-up violations. No offer of help with roads.

Kathryn Sellars presented the options all of which can include recommendations as to items that require further research and consideration;
Recommend denial, or approval with a list of conditions.

Let the commissioners know what additional information is needed and requires further consideration and discussion.

Ewertz asked if it could be tabled and information brought back.

Elrick stated to leave the decision to the commissioners. It is a service needed in the county but should be done correctly.

2:08:42

It was moved by Nathan Troudt and seconded by Bob Elrick to deny this Application for a Special Use Permit to operate a livestock washing and cleaning facility in the “A” Agriculture Production Zone District located south and east of the intersection of County Road O and County Road 16 in the N¹/₂ of the S¹/₂ of Section 26, Township 3N, Range 58W of the 6th P.M. and south and west of the Bijou Canal, Morgan County, Colorado, and send it on to the Board of County Commissioners. Motion carried 6-0.

Morgan County Zoning Regulation Amendments

- 1) Amending Various Sections Morgan County Zoning Regulations Concerning the Use of Property by Oil and Gas Operations**

Pam Cherry presented the following file summary:

On August 21, 2017 the Board of County Commissioners adopted a moratorium on applications for proposed injection wells for the storage or disposal of exploration and production wastes and other oil and gas waste from oil and gas operations in Morgan County. On November 21, 2017 the Board amended the moratorium by limiting its application to only commercial disposal well facilities. On

February 20, 2018 the Board extended the moratorium until March 30, 2018. The Board has held a series of stakeholder meetings to learn and to guide its decision on the drafting and adoption of regulations of oil and gas commercial disposal wells.

Included in your packets are the proposed resolution to adopt new regulations of oil and gas and the proposed amendment. The drafted regulations will completely replace Sections 4-455 through 4-495 of the Morgan County Zoning Code.

Proposed changes include:

- 1.) Producing oil and gas wells and non-commercial injection wells become a use-by-right in the following zone districts:
 - Agriculture Production
 - Agriculture/Agri-Business
 - Light Industrial
 - Heavy Industrial

- 2.) Commercial injection wells and flowlines and gathering lines become Conditional Uses in the following zone districts:
 - Agriculture Production
 - Agriculture/Agri-Business
 - Light Industrial
 - Heavy Industrial

These amendments are proposed to simplify application procedures related to oil and gas development. Previously, it has been the practice of Morgan County to allow the drilling of wells without a land use application to process. Currently the regulations require a conditional use or special use for any related operations. There are approximately 3,028 oil and gas wells in Morgan County in all statuses 1) active, 2) abandoned, 3) closed, 4) comingled, etc.

Since the first of the year the Planning Department has received twenty-five application referrals from COGCC for either reopening wells or drilling new ones. Because of the number of existing wells in the county and the COGCC regulation of oil and gas operations county regulation through land use processes duplicates efforts already completed and reviewed at the state level. Non-commercial injection wells are also a use-by-right if associated with the operator's own drilling operation. Any commercial injection wells would be required to submit a land use application for review and approval prior to the start of operations.

Pam Cherry requested recommendation of approval of these regulations to be referred to the Board of County Commissioners for final approval

Ryan Seastrom from Colorado Oil & Gas Association (COGA) was present and asked if he could hand out to the Planning Commission their comments (in bubble to the right side) to the proposed oil and gas regulations, attached.

Joe Ewertz asked language in the regulations where it talks about "reasonable". He wanted to know who deems what is "reasonable. Kathryn Sellars, Morgan County Attorney, said the Board of

County Commissions would decide that term. However, agreeing with this, local authorities can't set setbacks from the oil facility through they can establish setbacks from new buildings to oil and gas facilities, nor can the county regulate down hole.

Ewertz asked about section 4-466 – Waste Disposal Requirements – shall be removed regularly from the site. Is there a time period where waste has to be removed, frequency? Cherry responded, it depends. Through stakeholder meetings there was discussion that sometimes a truck will be filled once every couple of weeks sometimes it can be a couple of months.

Ewertz asked about regulations that require removal of slurry waste within 48 hours. Ryan Seastrom (COGA) responded he did not know and would check the regulation.

Joe thought the Neighborhood Meeting was good (4-472). In Section 4-454 Compliance with Regulations - Joe Ewertz asked “or what”. Requirement needs to be more specific had been a comment received from COGA following review of the proposed regs. Cherry responded, it depends if there is a residential subdivision nearby, or how sensitive the agricultural uses are that are in close proximity.

Ewertz referred to 4-468 and a need to list noxious weed control. Cherry responded under COGCC rules there is a requirement that addresses weed control.

Ewertz referred to 4-454(B), compliance with regulations. What is the penalty for non-compliance? Sellars responded that we need to enforce the regulations and it may mean a suit.

Ewertz – wondered if waste water for injection would be brought in from surrounding counties and states. Sellars responded that it is possible. The difference is whether the well operator is permitting other companies to inject, making it a commercial well.

Ewertz asked if the injection well owner also owns the mineral rights. Injecting could affect mineral rights owners. Planning staff will look into this.

Ewertz asked if we could ban commercial injection wells. Sellars responded that no the county cannot, would not be in compliance with state regulations.

PUBLIC COMMENTS OPEN

Chuck Miller – Weld County has decided to NOT allow new commercial wells and if Kenny Strauch was still working for COGA. He was a local liaison that represented Morgan County property owners.

PUBLIC TESTIMONY CLOSED

Joe Ewertz is against out of county disposal.

Ryan Seastrom from COGA (trade association) explained to the Board that they are a private independent association that works with Colorado Oil and Gas Conservation Commission (COGCC).

It was moved by Bob Elrick and seconded by Nathan Troudt to approve amending Various Sections Morgan County Zoning Regulations Concerning the Use of Property by Oil and Gas Operations as presented except taking waste from other counties, and sending them on to the Board of County Commissioners. Motion carried 6-0.

Respectfully submitted,

Jody Meyer, Planning Assistant