

**MORGAN COUNTY PLANNING COMMISSION**  
**May 12, 2025**

The Morgan County Planning Commission met on Monday, May 12, 2025, at 6:00 P.M. in the Assembly Room of the Morgan County Administration Building. The meeting was called to order by Chairman Nathan Troudt.

Chairman, Nathan Troudt, Vice Chairman, Erik Mohrlang, Britt Dinis, Dave Musgrave, Robert Pennington and Julie Padilla were present. Rob Chilson was absent. Nicole Hay, Administrative Director, Kathryn Sellars, Morgan County Attorney, Cheryl Brindisi, Planning and Zoning Administrative Assistant and Jenafer Santos, Planning and Zoning Technician also attended. IT Director, Karol Kopetzky attended via Zoom.

**APPROVAL OF AGENDA:**

It was moved by **Robert Pennington** and seconded by **Erik Mohrlang** to approve the Agenda as presented. Motion passed 6-0.

**APPROVAL OF MINUTES:** Minutes from April 28, 2025.

It was moved by **Robert Pennington** and seconded by **Britt Dinis** to approve the Minutes as presented. Motion passed 5-0. **Dave Musgrave** abstained due to being absent from the April 28, 2025 meeting.

**NEW BUSINESS:**

**Amendments to the Morgan County Zoning and Subdivision Regulations.**

**PROCEDURAL:** Chairman Nathan Troudt read the hearing process for the meeting.

**Planning Administrator, Nicole Hay**, read the file summary as follows:

**AMENDMENTS**  
**MORGAN COUNTY ZONING REGULATIONS**

Included with this summary are redlines of the proposed changes as outlined below.

**Overview of proposed changes:**

1. **Definitions.** Addition of a definition for bulk requirements. This will clarify certain sections of the zoning regulations
2. **Powers and Duties of the Board of Adjustment.** The proposed amendment will reference the new bulk requirement definition and remove variances regarding maximum number of residences permitted per parcel. The removal is proposed because it contradicts the special use regulations for maximum number of residences.

Nicole Hay  
Morgan County Planning Director

**PUBLIC COMMENT OPEN:** None

**PLANNING COMMISSION DISCUSSION:** None

It was moved by **Erik Mohrlang** to recommend approval of the amendments of the regulations as presented to the Board of County Commissioners.

**Dave Musgrave** seconded the motion.

Motion passed 6-0.

**Planning Administrator, Nicole Hay**, read the file summary as follows:

**AMENDMENTS  
MORGAN COUNTY ZONING REGULATIONS**

Included with this summary are redlines of the proposed changes as outlined below.

Wireless Service Facilities. Removal of Section 4-715(D) that states wireless service facilities are considered a permitted use in all zoning districts and adding the permitted use to the use table. This was accidentally missed last year when the use table was created.

Nicole Hay  
Morgan County Planning Director

**PUBLIC COMMENT OPEN:** None

**PLANNING COMMISSION DISCUSSION:** None

It was moved by **Robert Pennington** to recommend approval of the amendments of the regulations as presented to the Board of County Commissioners.

**Britt Dinis** seconded the motion.

Motion passed 6-0.

**Planning Administrator, Nicole Hay**, read the file summary as follows:

**AMENDMENTS  
MORGAN COUNTY ZONING REGULATIONS**

Planning Commission held a work session/stakeholder meeting on April 21, 2025 regarding Solar, Battery Energy Storage System (BESS) and Wind Regulations. Recommendations were made by the Planning Commission and industry representatives and those revisions to the initial draft are highlighted.

The original outline of changes is also included for your reference.

**1. Solar Collector Facilities:**

4-820 Submittal Requirements.

Subsection (C) - Narrative and Impact Analysis

- a. Planning Commission did not want to require a description of the defensible space around the perimeter of the solar collector facility.

4-825 Solar Collector Standards.

- a. Subsection (D)(7) has additional language suggested by the industry. This could possibly clarify the measurement of the maximum height of the solar panels. Another suggestion was to use “finished grade”.

#### 4-835 Decommissioning Requirements for Solar.

- a. Subsection (A)(1) Requires the final decommission plan to be submitted as a part of the submission of any construction permit application.
- b. Subsection (A)(2) and (3) amends the timeframe for the initiation and completion of decommissioning. Several industry representatives said the original 270 days was too short to complete the decommissioning process.
- c. Subsection (A)(5) adds language requiring updated decommissioning plans every 3 years. With the possibility of no changes within 3 years, Staff is recommending notification to the County Planning Department if there are no updates, however an updated plan is required every 6 years. New or additional surety is required with any updated plans.

### **2. Battery Energy Storage System (BESS):**

#### 4-850 Definitions.

- a. Addition of a BESS container definition.

#### 4-855 Submittal Requirements.

- a. Changes to subsection (d) (fire mitigation) would insert these standards into the regulations as submittal requirements. Subsection (f) (incident reporting) references Section 4-860(G) as a standard requirement.

#### 4-860 BESS Standards.

- a. Specifying a 6-foot-tall chain link fence with 1 foot barbed wire is being added into subsection (B)
- b. Changing the defensible space required from 200 to 100 feet was recommended by the Planning Commission in subsection (D)
- c. New subsection 4-860(G) would add incident reporting into the BESS standards. The term BESS container is proposed to be used. Incident notifications are to be posted on the County's website and the addition of 4 minor incidents within 1 year were recommended by the Planning Commission.

#### 4-870 Decommissioning Requirements for BESS.

The same amendments are proposed as summarized in the solar collector facility decommissioning requirements.

### **3. Wind Energy Facility (WEF):**

#### 4-900 WEF Standards.

- a. In subsection (B), Planning commission agreed with the expanded setbacks. One of the industry representatives suggested 500 feet instead of the 420 feet for a setback from public road or highway with ADT of 7,000 or more, this needs to be discussed with a recommendation.

#### 4-910 Decommissioning Requirements for WEF.

The same amendments proposed as summarized in the solar collector facility and BESS facility decommissioning requirements are proposed for the WEF.

Nicole Hay  
Morgan County Planning Director

#### **PLANNING COMMISSION DISCUSSION:**

**Robert Pennington** asked if updated plans are sent out to consultants for review?

**Nicole Hay** said they are sent out for consultant review. Nicole also noted that the surety must be evaluated and adjusted with any plan updates.

**Robert Pennington** asked if we have seen any bonds come through yet?

**Morgan County Attorney, Kathryn Sellars** noted that she reviews the bond.

**Nicole Hay** stated that we have not seen any for the big utility scale projects yet. We have seen one for Pivot Solar north of the Interstate.

**Dave Musgrave** asked if updates were sent to the engineer and County Attorney for review?

**Robert Pennington** asked for more clarifying language concerning 4-860 (G) 1-3, in regards to BESS facility incidents.

**PUBLIC COMMENT OPEN:** None

#### **PLANNING COMMISSION DISCUSSION:**

**Robert Pennington** asked how the County keeps track of any ownership changes of solar facilities or any other changes.

**Nicole Hay** explained that there are ownership and update requirements in the County's regulations. They are to notify the County.

It was moved by **Britt Dinis** to recommend approval of the amendments of the regulations as presented to the Board of County Commissioners.

**Robert Pennington** seconded the motion.

Motion passed 6-0.

**Planning Administrator, Nicole Hay**, read the file summary as follows:

### **AMENDMENTS MORGAN COUNTY ZONING REGULATIONS**

Planning Commission held a work session on April 28, 2025 regarding Planned Development procedures, standards and definitions and other miscellaneous changes. The recommended revisions to the initial draft are highlighted.

The original outline of changes is also included for your reference.

#### **Planned Development Procedural Amendments**

1. The Board requested that the Planning Commission consider the inclusion of the maintenance plan in Sec. 2-287(E)(4)(h). Staff has suggested a language change (highlighted in blue-page 7), however needs a recommendation as to whether this is a requirement or an option at the County's discretion.
2. The Planning Commission considered whether Sec. 2-287(G)(4) should remain in the proposed changes or be amended. The recommendation was to keep subsection (4)(a) and remove (b) thru (d). The portion highlighted in yellow on page 11 shows that change with subsection (a) language being added into subsection (4).

#### **Planned Development Standards Amendments**

1. Sec. 3-530(B) identifies what can be included as open space. Staff has recommended adding in parks with improvements.
2. In Sec. 3-540 (A), Staff has suggested language regarding pedestrian circulation and its requirement.
3. Drainage and Utilities in Sec. 3-560 includes suggestions from the Planning Commission and Staff clarifying drainage plan requirements and to include other established ditches and canals regarding the transportation of pollution and sediments.
4. Sec. 3-570 includes Staff suggested revisions regarding failure to maintain areas that are not maintained by public entities.

#### **Miscellaneous Changes**

Sec. 3-705 Drainage Requirements, included in your packet are some examples requested of possible exemptions from on-site detention requirements. Staff have also included additional language determining who can grant the exemption.

Nicole Hay  
Morgan County Planning Director

#### **PLANNING COMMISSION DISCUSSION:**

There was discussion concerning the maintenance requirements and other specifics for new Planned Developments.

**Morgan County Attorney, Kathryn Sellars** noted that the County always has the discretion to enforce.

**Robert Pennington** asked for clarification of water quality in proposed updated Section 3-560?

**Erik Mohrlang** stated "Vegetative Buffers" are used to ensure water quality. A vegetative buffer is used like a filter.

There was discussion concerning the detention requirements for Planned Developments and any drainage requirements for buildings over 5,000 SF.

#### **PUBLIC COMMENT OPEN:**

**Eric Wernsman, Wernsman Engineering, 11 Pelican Drive, Weldona, CO 80653**, clarified detention ponds and the meaning of water quality and the particulates that a pond or vegetative buffer would capture. Erik explained what the 1-hour, 100-year historic means for water storage volume calculations. Eric would like to see clarification of what is classified as a public improvement in the PUD Standards.

He doesn't feel that a detention pond should be considered a public improvement. He said that would be considered more on the private side and suggested that maybe it should go under the Maintenance Plan. In regards to the water system, Morgan County does not have water. It might be Quality Waters improvement. He's not sure if those should be bonded or have the warranty on them because he's not sure that they are a County public improvement. Section 3-580.

**Erik Mohrlang** asked why is it 1-hour and not 24-hours?

**Eric Wernsman** explained that there are different ways of calculating detention requirements. Each jurisdiction uses what they prefer. You shouldn't be kicking out more water than what you did historically. Detaining the 1-hour historic in a hundred-year event is sufficient.

**Robert Pennington** asked why not a 2-hour?

**Eric Wernsman** explained in further detail.

**PUBLIC COMMENT CLOSED:**

It was moved by **Britt Dinis** to recommend approval to the Board of County Commissioners of the Planned Development amendments of the regulations with the changes to the drainage plan in the zoning regulations by legal counsel and administration as discussed.

**Erik Mohrlang** seconded the motion.

Motion passed 6-0.

**Planning Administrator, Nicole Hay**, read the file summary as follows:

**AMENDMENTS  
MORGAN COUNTY ZONING REGULATIONS**

Planning Commission held a work session on April 28, 2025 regarding Major Subdivision procedures and standards, Minor Subdivisions, and definitions and other miscellaneous changes. The recommended revisions to the initial draft are highlighted.

The original outline of changes is also included for your reference.

**Major Subdivision Procedural Amendments**

3. Sec. 6-120(B)(7)(c) – Preliminary Utility Plan. Language regarding central sewage treatment facility would be removed.
4. New subsection Sec. 6-120(B)(7)(g) is added to match the standard preferred by the Planning Commission regarding documentation from fire districts.

**Major Subdivision Standards Amendments**

1. Revised language in Sec. 4-110(D)(3) is proposed by Staff after the discussion by the Planning Commission regarding desirable settings for construction.
2. Sec. 4-110(E)(2) now references the fees section
3. Sec. 4-120(A) – Access and Roads, pg 3. With the recent requests from CDOT and the possibility of the state highway access code overreaching, Staff has recommended the removal of the state highway code reference.

4. Sec. 4-120(C) – Access and Roads. Planning Commission agreed that shared driveways are not permitted for major subdivisions.
5. Sec. 4-120(E) – Staff thought the current language was not adequate to describe all of the factors when looking at a subdivision, therefore has a suggested revision.
6. Sec. 4-130(A) and (B) Removal of language regarding Lot specifics
7. The revisions suggested in Sec. 4-130(D) and (E) by the Planning Commission may cause additional issues such as preventing corner lots. This issue is really an aesthetic planning issue where the frontage of lots are all from a common street. The County may not care about this, but it does need to be discussed.
8. Sec. 4-140(C) – Open Space, pg. 6. Planning Commission wanted to require a minimum of 5% open space for subdivisions with 20 or more lots. Staff is requesting recommendations as to if there is a preference on location of the open space. Currently open space is preferred on the subdivision boundary entrance and road right-of-ways. Does the County want to keep the 2.5% max for natural open space? Does the County want to keep (1) thru (3) if the applicant wants landscaped open space? Staff has also suggested a revision to pull in language from the PD standards to be consistent.
9. Sec. 4-160 – Storm Drainage, pg. 6-10. This section is much broader than just storm drainage. The provisions have been revised based upon recommendations from the County's drainage consultant.
10. Sec. 4-180 – Water Service, pg. 9. Plans for a private water facility which does not obtain water from a public water utility must be approved by CDPHE prior to the submission of a final plat.
11. Sec. 4-210, Fire Protection, pg. 12-13. Planning Commission preferred the alternative language relying on the fire district to provide any requirements.

#### **Minor Subdivisions Amendments**

1. Sec. 8-130(D)(9). The County used to have a prohibition of resubdivisions for a period of 10 years. The provision was removed in 2014. The Planning Commission recommended bringing the 10 years back.
2. Sec. 8-130(E) – Special site conditions. Removed “swampy land” since the County doesn't have any. “Geologic hazards” was also removed, there could be subsidence, or the “sinking” of ground due to moisture content changes, groundwater fluctuations, etc. and expansive soils. Those types of hazards can typically be mitigated with a properly engineered foundation, but would not necessarily make developing a site impossible.

3. Planning Commission considered the prohibition in Sec. 8-150(C) and recommended its removal.
4. Sec. 8-160. Planning Commission wanted to revisit the well portion of this section.

### **Miscellaneous Changes**

The addition of definitions for Major and Minor Storm Events.

Nicole Hay  
Morgan County Planning Director

### **PLANNING COMMISSION DISCUSSION:**

**Robert Pennington** mentioned with the approval of the fire district, he has dealt with some areas, not in this County, where the local fire district would approve nothing. It was at their discretion with no standard that the fire district would have to prove. Does this leave a lot to the interpretation of whoever is in control of the fire district?

**Kathryn Sellars** said, yes.

**Robert Pennington** asked if the applicant would have any alternative recourse?

**Kathryn Sellars** mentioned that the applicant could try to convince the County that the fire district was being unreasonable and the County could make that choice.

**Chairman, Nathan Troudt** asked if the County has the authority to override a fire district being a special district?

**Kathryn Sellars** said, yes when it comes to land use.

**Robert Pennington** asked if a subdivision was approved based off of what we had and we didn't require any road improvements coming in or going out of the subdivision, not the internal roads, and after about 5 years, when the road starts to deteriorate, can the County go back on the developer and require them to improve the road?

**Kathryn Sellars** explained that there is a statutory process in which the County can improve a road and assess the cost of that to the properties that benefit from it.

**Robert Pennington** asked if landscaped yards count as open space?

**Kathryn Sellars**, "No".

### **PUBLIC COMMENT OPEN:**

**Eric Wernsman, Wernsman Engineering, 11 Pelican Drive, Weldona, CO 80653**, mentioned another reason to eliminate the 2.5% requirement for areas left to their natural state, in updated Section 4-140, if a development is proposed on a quarter section of dryland wheat, you're not going to have any natural that you can put it back to.

**Jay Greener, Buck Creek Land CO, 1354 Washburn St, Erie CO, 80516**, is opposed to the prohibition of the re-subdivision for 10 years on the grounds that it is impacting him financially on his plans for a second minor on an outlot that was recently created from a 4 lot minor subdivision. Jay asked for clarification on a timeline for this series of amendments.

**Kathryn Sellars** informed Jay that the Planning Commission is not the decision makers they are an advisory board to the Board of County Commissioners and these regulation amendments will move on to the Board of County Commissioners hearing for final decision on May 28<sup>th</sup>, 2025. Kathryn noted that Jay can state his case to them.

**Jay Greener** would like to see this not be rural retroactive. Jay explained, meaning he owns the land now and at the time that he purchased the land it was allowed. "So when the gavel snaps on this and now it's not allowed, causing a financial impact".



**Robert Pennington** explained that part of the purpose of this language is to prevent people from going around the minor subdivision process and actually creating a major subdivision. Which is what you would be doing.

**Jay Greener** feels like this update is being directed at his recent minor subdivision.

**Britt Dinis** explained that it is like stacking minor subdivisions to avoid a major subdivision.

**Kathryn Sellars** explained that she wants the County to be prepared for situations such as the stacking of minor subdivisions, if they want to be. The original language concerning this in the regulations was too open and needed to be updated. Kathryn informed Jay that these updates are not directed at anyone or any project in specific.

**Erik Mohrlang** reiterated Kathryn's last statement.

**Chairman, Nathan Troudt**, reminded Jay that he is welcome to state his case to the Board of County Commissioners at the May 28, 2025 hearing.

It was moved by **Erik Mohrlang** to recommend approval of these amendments of the regulations as presented to the Board of County Commissioners.

**Dave Musgrave** seconded the motion.

Motion passed 6-0.

These proposed regulation amendments will move on to the Board of County Commissioners hearing on Wednesday, May 28, 2025 at 9:00 A.M.

**Erik Morhlang** motioned to adjourn the meeting.

**Robert Pennington** seconded that motion.

Motion passed 6-0.

Meeting was adjourned at 7:35 P.M.

Respectfully Submitted,

*Cheryl Brindisi*

Morgan County Planning and Zoning Administrative Assistant