

**MORGAN COUNTY PLANNING COMMISSION**  
**February 13, 2023**

The Morgan County Planning Commission met on Monday, February 13, 2023, at 7:00 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, Robert Pennington, Pete Mercer and Erik Morhlang were present. Clayton Miller appeared via Zoom platform. Dave Musgrave was absent. Nicole Hay, Planning Director, Cheryl Brindisi, Planning Technician and Jenafer Santos, Planning Clerk were also present.

**APPROVAL OF AGENDA:**

It was moved by Robert Pennington and seconded by Pete Mercer to approve the Agenda as presented. Motion carried 5-0.

**APPROVAL OF MINUTES:** December 12, 2022

It was moved by Robert Pennington and seconded by Erik Morhlang to approve the Minutes from the December 12, 2022 Planning Commission Hearing.

Motion carried 4-0 with Pete Mercer abstaining due to his absence from the December 12, 2022 Planning Commission Hearing.

Chairman Nathan Troudt read the hearing process for tonight's meeting.

**OLD BUSINESS:** None

**NEW BUSINESS:** Amendment to a Special Use Permit

**APPLICATION:**

**Applicant:** Tim Naylor, Hannah Dutrow AGPROfessionals

**Landowner:** T3 Land & Investment, LLC

**Legal Description:** Located in part of Section 32 and Section 33, Township 4 North, Range 55 West of the 6<sup>th</sup> P.M., Morgan County, Colorado.

**Request:** Amendment to a Special Use Permit to allow for the expansion of an existing permitted Pinneo Feedlot livestock confinement operations which was granted by Resolution 90 BCC 57 and amended in Resolution 97 BCC 51.

**APPLICATION OVERVIEW:**

Planning Director, Nicole Hay, read her file summary as follows:

**APPLICANT and LANDOWNER:** Tim Naylor and Hannah Dutrow, AGPROfessionals and T3 Land & Investment, LLC

This application is for an Amendment to a Special Use Permit to allow for the expansion of an existing permitted Pinneo Feedlot livestock confinement operations which was granted by Resolution 90 BCC 57 and amended in Resolution 97 BCC 51 and are included in your packets. The permitted area is located in part of Sections 32 and Section 33, Township 4 North, Range 55 West, and part of the North half of Section 4, Township 3 North, Range 55 West of the 6<sup>th</sup> PM, Morgan County, Colorado aka 32295 Hwy 34, Brush, Colorado 80723

The owner is requesting an expansion from 44,000 head of cattle to 65,000 head of cattle or from approximately 35,000 animal units to 51,350 animal units respectively. In addition, they intend to install additional pens east of the existing pens within the existing footprint of the feedlot operations. The proposed pens will be graded and drained to a new proposed pond. The existing containment areas will not be expanded or changed. The property is zoned Agriculture Production.

In reviewing this application, the Planning Commission and Board of County Commissioners are required to make a finding that the criteria for granting a Use by Special Review in Section 2-395 of the Morgan County zoning regulations has been met.

Section 2-395 Special Use Permit Criteria:

- A. The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan. Specifically:

The property is located in the Brush-East Activity Center planning area as defined by the Morgan County Comprehensive Plan. The area east of Brush remains agriculture that must be protected and allowed to expand. In this area Comprehensive Plan goals include:

Encourage the preservation of agricultural production land to ensure continuation of this important industry.

The request to expand the livestock confinement operation will encourage the preservation and continuation of the industry.

Maintain open space buffer around livestock facilities.

The proposed expansion would be to the east and will allow the open space buffer along the western border of the site to remain.

- B. The application documents are complete and present a clear picture of how the use is to be arranged on the site.
- C. The Site Plan conforms to the district design standards of Section 2-420 and Section 4-200 of the Morgan County Zoning Regulations.
- D. All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvement, site plan requirements or other mitigation measures.  
The operation is existing and the additional impacts are expected to be minimal. Proposed use impacts upon existing uses are detailed in the included Nuisance Control Plan and in the Preliminary Environmental System Design.
- E. The special use proposed has been made compatible with the surrounding uses and is adequately buffered from any incompatible uses by distance and topography.  
Buffering from adjacent agricultural uses is not necessary.
- F. The special use poses no or minimal risk to the public health, safety and welfare.  
Amending the original granted Special Use Permit will not increase risk to public health, safety or welfare.
- G. The special use proposed is not planned on a nonconforming parcel.  
The proposed amendment is located on a conforming parcel.

- H. 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 existing feedlot operation supplies cattle for consumption and to local facilities to be made into food products.

- 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.

Water is adequate using wells, well permits are included in this packet.

The following conditions are recommended if the Amended Special Use Permit is approved:

1. Documentation from Colorado Department of Transportation regarding the current access and possible new access permit.

Nicole Hay,  
Morgan County Planning Administrator

#### **APPLICANT PRESENTATION:**

Applicant Tim Naylor, AGPROfessionals presented this application to the Planning Commission.

#### **DISCUSSION: Planning Commission to Applicant**

**Robert Pennington** asked for clarification about the site plan and the easement that goes across the pens and what it was about. He asked if the easement owner had been notified.

**Tim Naylor** said that it was an old easement and no pipelines were constructed there. He will follow up on the easement.

**Nicole Hay** said the easement owner would have been notified and will get that confirmed.

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

**Chuck Miller** is not in favor or against but was strictly here for more information and some questions that he has been asked. He is here to ask questions such as:

Has the Board reviewed the water and understand the water and the 6 wells?

Are they Tributary or Non Tributary wells or enclosed basin or what are they?

**Nathan Troudt** stated that he did not know.

**Chuck Miller** asked him if he thought that was important to know?

**Erik Morhlang** said, "Not for this Board." Erik mentioned that Pinneo is who needs to go through the State to make sure the water is there and that it is accounted for. "This Board only asks if there is water from the applicant. Everything that has been given to the Board shows that they have the water. We don't have jurisdiction over the water."

**Chuck Miller** disagreed with what Erik Morhlang stated about, "The Board doesn't have jurisdiction over the water". He felt that that wasn't quite correct. He was sent here to ask that question about the water and to find out if the wells were Tributary or Non Tributary Commercial wells? He felt that it should be a requirement of the County.

**Robert Pennington** informed Chuck Miller that copies of the well permits were provided by AGPROfessionals to the Board. That information is more for their Engineer to understand about the wells and the water that is utilized than for the Planning Commission.

**Chuck Miller** mentioned that he was going to take it up with the County Commissioner's.

**Mike Bollinger** 12001 US Highway 34, Akron, CO. He is a landowner next to this project and is not in favor or against. He was concerned about where the water was being supplied from. Mike stated, "There is a difference between Commercial water wells and Stock wells and I think that it is up to you guys to figure it out." He feels that the Planning Commission needs to understand the water better.

No further comments from the public.

**PUBLIC COMMENT CLOSED**

#### **PLANNING COMMISSION COMMENTS:**

**Chairman Nathan Troudt** asked if Tim had any further insight about the water wells.

**Tim Naylor** said he will have to revisit the Commercial and Stock well information that he has. There are 5 permitted Commercial wells available and a Stock well. The State has deemed those adequate. Any feedlot can use a Commercial well but cannot use a Stock well. Those Commercial wells have been in existence for this feedlot since they put in the feedlot. We have a referral from the State for the water. Whether they are in a Non Tributary or in a Tributary or what aquifer they fall in to, they have Commercial permits to operate for the feedlot by the State. Tim asked Nicole if we had received any response from the State on that referral.

**Nicole Hay** mentioned that we have sent the State a referral and have not received any response from the them.

**Robert Pennington** asked about the water from the lagoons agronomic rates mentioned in the application, 10 to 15 acres.

**Tim Naylor** stated that there is not a lot of manure in the rainwater from feedlots compared to like a dairy where the parlors are rinsed out several times a day and the manure is going into the ponds. Feedlots are a lot drier. Usually the only water is when it rains and there are not nearly as many constituents as a dairy facility. Dairies need a lot of land application because they've got water coming out continually. There is some overflow of waters from the dairy but not a lot of processed water goes into these ponds.

**Pete Mercer** asked Tim if they were within the 300 acre feet of the proposed plan for the water? Pete was referring to the well permits and all 4 of them within the combined allotment of 300 acre feet. Does that take care of what you need? In the wording of the documents it states that the water can come from the South Platte River Basin and can come from any Tributaries or Laterals pertinent to the property described in exhibit B. This was a case that was from 1982 since 1980. That was the ruling and referring decree from the Water Court entered in 1980. Case # W6098A District Court, Water Division #1 of the State of Colorado. If you're within the 300 acre feet, I believe you're within your rights no matter where it comes from. It's in one of the Sales and Deeds. It also says not guaranteed where the water is sold as is where is. It is from 4 years ago. October 2, 2019.

**Erik Morhlang** motioned to approve this Special Use permit.

**Robert Pennington** seconded and mentioned with the condition that they get the Highway permit. Motion passed 5-0.

**Nathan Troudt** asked when this application goes to the BCC. It is scheduled for March 7<sup>th</sup>, 2023. He encouraged those interested in making their thoughts known about this application to attend the March 7<sup>th</sup> BCC meeting. Nathan also asked about what dates the next future Planning Commission meetings will be.

**Nicole Hay** informed the Planning Commission that the next upcoming hearings will be March 13<sup>th</sup>, 20<sup>th</sup> and 27<sup>th</sup>. April will probably be scheduled with 2 more meetings.

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

**Pete Mercer** seconded. Motion passed 5-0.

Meeting adjourned at 7:31 P.M.

Respectfully submitted,  
Cheryl Brindisi, Planning Technician

