

MORGAN COUNTY PLANNING COMMISSION
April 17, 2023

The Morgan County Planning Commission met on Monday, April 17, 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, Erik Mohrlang, Allyn Wind, Dave Musgrave and Pete Mercer were present. Clayton Miller was absent. Nicole Hay, Planning Director, Cheryl Brindisi, Planning and Zoning Administrative Assistant, Jenafer Santos, Planning and Zoning Technician, Katie Vera, Morgan County Attorney and Karol Kopetzky, IT Specialist were also present.

APPROVAL OF AGENDA:

It was moved by Dave Musgrave and seconded by Erik Mohrlang to approve the Agenda as presented. Motion Carried 6-0.

APPROVAL OF MINUTES:

It was moved by Erik Mohrlang and seconded by Robert Pennington to approve the Minutes from the April 10, 2023 Planning Commission Hearing.

Motion carried 6-0.

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

OLD BUSINESS: None

NEW BUSINESS: Amended Special Use

APPLICATION:

Applicant: Guy Thompson

Landowner: Guy Thompson Living Trust and Douglas F. Thompson Revocable Trust

Legal Description: Parcel in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, Township 4 North, Range 56 West of the 6th P.M., Morgan County, Colorado, aka 18963 Co Rd 27, Brush, Colorado 80723

Request: Amended Use by Special Review Permit to use second residence as a rental.

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

APPLICANT and LANDOWNER: APPLICANT: Guy Thompson

LANDOWNERS: Guy Thompson Living Trust and Douglas F. Thompson Revocable Trust

This application is for an amendment to a Special Use Permit to remove the condition on a previous special use permit that the second residence on the property be owner occupied. The approval of the second residence was approved by Resolution 2000 BCC 20 which is included in your packets. The property is located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, Township 4 North, Range 56 West of the 6th PM, Morgan County, Colorado aka 18963 Co Rd 27, Brush, Colorado 80723. The property is zoned Agriculture Production and is in the Brush Fire District.

The Board of County Commissioners approved the original special use permit to place a second owner occupied residence on the property by Resolution 2000 BCC 20, which included, among other conditions, the following conditions:

All on and off-site impacts have been satisfactorily mitigated. Mitigation measures shall include, but not be limited to the following:

- i. The applicant, as a condition of this permit, must reside in the home. In the event the applicant or his successors in interest wish to convert the home to a rental unit such conversation must be approved by the Board of County Commissioners.

Included with your packets is a letter dated July 7, 2000 denying a request to convert the second residence to a rental and therefore, the permit stood as originally issued. Another letter dated May 26, 2004 was sent stating the property was in violation of the Morgan County Regulations due to the second residence being used as a rental.

On June 13, 2021 the second residence, a mobile home, was destroyed by fire. The mobile home was replaced with a recreational vehicle. Staff has been unable to determine from the applicant when the recreational vehicle was placed on the property. No written permission was granted by the County to place the recreational vehicle on the property as a replacement for a mobile home.

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 have been met. Those criteria are as follows:

Section 2-395 Special Use Permit Criteria:

- A. The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan.
The proposed use will provide affordable housing and protect existing agricultural operations while not restricting private property rights.
- 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 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.
There is access to established public infrastructure.
- 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.
To the north, across County Road T, the property is zoned Agricultural Production and is being used for farming and includes a few outbuildings. To the west, the adjacent property is also zoned Agricultural Production and is open range with several mobile home residences approximately 1100 feet away. To the east, across county Road 27, the property is zoned commercial and is currently vacant. To the northeast, there are Rural Residential lots with single family homes. Buffer is created by the road and/or distance.
- 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, subject to the conditions herein.
- 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.
- 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.
Morgan County Quality Water serves both residences on the property.

In addition to the criteria above, Planning Commission should be aware of the following provisions of the Zoning Regulations:

- The addition of a mobile home as an accessory residence is now a use permitted by conditional use permit. See Sec. 3-175(M), Parcel 20 acres or smaller. Because the second home was originally permitted by special use and there is no mechanism to automatically convert a special use permit to a conditional use permit, staff is recommending a condition as outlined below.
- When a recreational vehicle is used as a residence for longer than 180 days, it is considered a mobile home and must obtain a mobile home placement permit. No mobile home placement permit has been obtained by the applicant/owner.
- There is a third recreational vehicle on the property being used, according to the applicant, as storage. While storage buildings are a use by right in this zone, the applicant/owner must obtain a zoning permit to keep the recreational vehicle on the property for storage. Any other use, other than storage, would be subject to any applicable permitting.

As such, if Planning Commission decides to approve the amendment, staff is recommending the following conditions:

1. Upon approval of the amendment to the SUP, the special use permit shall be converted to a conditional use permit.
2. Within thirty (30) days of approval of the amendment to the SUP, applicant/owner must obtain the following:
 - a. A mobile home placement permit for the recreational vehicle being used as a residence.
 - b. A zoning permit for the recreational vehicle used a shed.
3. Failure to obtain either of these permits in subsection 2 within the timelines shall result in an automatic revocation of the amendment to the SUP and the second and third recreational vehicles may be stored on the property but may not be used for any purpose.

Nicole Hay,
Morgan County Planning Administrator

APPLICANT'S PRESENTATION: Applicant Guy Thompson presented this application on behalf of **Guy Thompson Living Trust and Douglas F. Thompson Revocable Trust.**

DISCUSSION: Planning Commission to applicant.

Robert Pennington asked how many water taps were available?

Guy Thompson explained that he had purchased 2 Quality Water taps for this property a long time ago and didn't use the 2nd one so he relinquished it back to Quality Water. The property currently shares one Quality Water tap. He stated that he called Quality Water and they told him that he had a big enough tap to service 3 homes and that is why he didn't get another water supply.

Dave Musgrave mentioned that if the line is a 5/8-inch tap that it wouldn't support 2 houses.

Guy Thompson stated that he didn't know that he couldn't support the houses with one 5/8-inch tap. He mentioned that there was a lot of confusion between him and his father controlling the property together in the past. He was unsure of what types of permits his father pulled in the past. He noted that they have never lived on that property and doesn't think his dad would have pulled a permit requiring the landowner to live there. Guy reiterated that there was no intention to do anything wrong.

Robert Pennington asked how many septic systems are there?

Guy Thompson stated that there were 2 septic systems. The property also has a well that is not being used. In the past he had planned to make it a trailer park but after realizing that the leech field to the septic requires an acre of land he decided not to.

Robert Pennington talked about one of the complaint letters MCPZ received regarding the main house and the three occupied trailers on the property.

Guy Thompson explained that at one time that was true but not now. They put in a 2000-gallon septic tank and an electric outlet for someone that was living there in a camper while they were looking for a more permanent residence. They were there for approximately 2 ½ months. The other one was occupied by people that brought in a camper after the trailer house on the property burned down. Guy mentioned that he didn't know that there was a camper being used only for storage because he never really visited the property. When he received the complaint from the county he then asked the residents what the 3rd camper was for? They told him that it was for storage.

Pete Mercer asked if it is just one RV and the house right now? One tap?

Guy Thompson said yes, two residences and one tap.

Allyn Wind asked Guy Thompson what water is available on the property?

Guy Thompson explained that he currently has 1 tap and a well on this property. He at one time, had 2 taps, but lost the 2nd tap that he bought because it was never used and he hadn't paid the fees for it. It was relinquished back to Quality Water. He didn't want to re-drill the well and its water was hard so he quit using it. There is a line from the well house to the stick built house and also from the well house to the horse tank. Later a line was brought off of that same tap to the trailer house before it burned down. His father was part of that decision at the time and Guy said they didn't use the tap that he had bought. Guy thought he could use the tap for another place until he called Quality Water and they told him no. It has sat this way since around 2004. Guy stated that he didn't realize that he needed to have a Special Use permit to put the trailer on the property. He thought he had gone through the process correctly at the time. The stick built house and trailer house both had their own addresses. Guy thought that he had a permit for the trailer house to have it placed on the foundation before it had burned down. He is unsure of how the permit that is on file, required the property to be a personal residence and not just a rental property.

Dave Musgrave asked Guy Thompson if he knew the date of when the 2nd tap was purchased?

Guy Thompson said it was around 2003-2004. He spoke with Quality Water about that tap a couple months ago and that is when he found out that the tap was no longer available.

Erik Mohrlang asked Guy why he didn't replace the trailer house that burned down? Do you have intentions of renting this property out after these tenants are gone? Why has it not been cleaned up in the past?

Guy Thompson mentioned that he plans to continue the use of the property as a rental. He would like to make it a nice place. Guy explained that he and his father do things differently and he didn't have much power over the stuff that his grandfather had left them, such as this property. He noted that he had lived in the stick built house at one time many years ago approximately 1996-1997 and maybe that was why it was mistaken for owner occupancy. He thinks that his dad may have had it listed as owner occupied.

PUBLIC COMMENT OPEN:

No public comment for or against.

Robert Pennington asked Nicole Hay about setbacks in the Ag zone.

Nicole Hay explained what the Ag zone setbacks were and that the setbacks will be checked by Morgan County Inspector, Troy Black, for any permits issued.

Guy Thompson said he would be glad to do what it takes to be in compliance with permitting.

Allyn Wind expressed concerns about the follow up on this and any other permit for compliance.

Nicole Hay explained the process in which compliance is enforced. Nicole also explained the permitting process and inspections that take place in order for a titled vehicle, such as an RV, to become a permanent residence per the Morgan County Regulations in place at this time.

Guy Thompson asked if it would be easier to just put in a trailer house that is in compliance with the Morgan County Regulations instead of trying to permit the RV into a residence? He didn't want to invest too much money into a trailer house for the current tenants because it was originally supposed to be temporary, however he still was contemplating on placing a trailer house on the original pad that he could rent out to anyone later in the future.

Erik Mohrlang noted that a permanent residence that is maintained would be beneficial. The appearance of it now is what is causing the neighbors to push back.

Guy Thompson explained that most of the items on the property could not be moved in the past due to a lawsuit at the time. The judge would not allow him to move these items. They belonged to previous tenants of the stick built house. The tenants had lived there for roughly 17 years. Once Guy received the judgement he was then able to move the items. Guy was concerned about the current tenants becoming homeless if he had to remove the camper that they live in from the property. Guy stated, "The only people that have lived in the trailer since I had put it there was, my salesman, my mechanic and these people."

Pete Mercer asked what the age and requirements of a modular home placement were? 20 years?

Jenafer Santos explained the age requirements and process for a mobile home placement per the Morgan County Regulations.

Pete Mercer asked Guy Thompson how big the RV was that the tenants were living in? What type of inspections does an RV used as a permanent residence require?

Guy Thompson 26 FT. After the trailer burned, Guy brought the RV from his car lot for the tenants to live in. He understands that the fire destruction was an eyesore and it took a while to clean up.

Troy Black, Morgan County Building Inspector explained the process for the inspections required for an RV permanent residence. He noted that there are engineer installers for this entire process. You can do it yourself but the state still has to check that it was done properly.

Katie Vera, Morgan County Attorney, wanted to clarify the motion that would apply to this permit. She noted that a motion would be to approve the amendment to remove the ownership condition on the second property, which is the RV and it has to be grounded as a mobile home. The mobile home placement permit for the RV to be used as a residence. The other condition is that the third RV on the property can only be used as a storage shed with a zoning permit. Katie explained to the Planning Commission that this hearing is to only address the removal of the condition of owner occupancy from the original permit. The

mobile home placement permitting process and other applicable permits will take place after the hearing process is complete. In #3 of the condition of approval, if these permits are not obtained, then this amendment will be revoked and they can't use either of the RV 's for residential purposes.

Dave Musgrave was concerned about the Quality Water tap for two residences. Usually it is for one residence?

Nicole Hay explained the Quality Water letter in the packet and that it was approved for both residences on one tap due to certain circumstances.

Pete Mercer motioned to approve the application as written with the following conditions:

1. Upon approval of the amendment to the SUP, the special use permit shall be converted to a Conditional Use Permit.
2. Within (30) days of approval of the amendment to the SUP regarding a mobile home placement permit for the existing recreational vehicle residence and the removal of the second RV being used for storage; and within (12) months regarding the placement of a permanent manufactured home to later replace the aforementioned existing recreational vehicle residence, applicant/owner must obtain the following:
 - a) A mobile home placement permit for the existing recreational vehicle being used as a residence within (30) days.
 - b) A permit for a permanent manufactured home that will be placed within (12) months.
 - c) Removal of the recreational vehicle being used as storage within (30) days.
3. Failure to obtain the mobile home placement permit and the removal of the second recreational vehicle being used as a storage shed within 30 days and the replacement of a manufactured home within 12 months shall result in an automatic revocation of the amendment to the SUP.

Robert Pennington seconded the motion.

ROLL CALL VOTE. Motion passes 4-2. (Voting yes: Pete Mercer, Allyn Wind, Nathan Troudt and Dave Musgrave) Voting no: Erik Mohrlang, Robert Pennington)

This application will move on to the Board of County Commissioners on Tuesday, May 16th, 2023.

Erik Mohrlang motioned to adjourn the meeting. Pete Mercer seconded. Motion passed 6-0.
Meeting adjourned at 8:12 P.M.

Respectfully Submitted by,

Cheryl Brindisi, Morgan County Planning and Zoning Administrative Assistant