

MORGAN COUNTY PLANNING COMMISSION
July 10, 2023

The Morgan County Planning Commission met on Monday, July 10, 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, Clayton Miller and Dave Musgrave were present. Erik Mohrlang was absent. Nicole Hay, Planning Director, Cheryl Brindisi, Planning and Zoning Administrative Assistant, Jenafer Santos, Planning and Zoning Technician, Katie Vera, Morgan County Attorney were also present. Karol Kopetzky, IT Specialist attended via the ZOOM platform and later in person.

APPROVAL OF AGENDA:

It was moved by Robert Pennington and seconded by Clayton Miller to approve the Agenda as presented. Motion Carried 5-0.

APPROVAL OF MINUTES:

It was moved by Robert Pennington and seconded by Dave Musgrave to approve the Minutes from the June 12, 2023 Planning Commission Hearing.

Motion carried 4-0. Pete Mercer abstained due to his absence from that meeting.

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

OLD BUSINESS: None

NEW BUSINESS: High Plains Cattle Supply, LLC, requesting to allow the sale of liquor in the A/B zone at an existing establishment.

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

APPLICANT: High Plains Cattle Supply, LLC

LANDOWNERS: Peacock Farnam Investment Builders Brush LLC

This application is for a Special Use Permit to allow the sale of retail liquor at their existing store. The current location is in Lot 1, correction Plat Blake Minor Subdivision in the SE¼ of Section 36, Township 4 North, Range 56 West of the 6th PM, Morgan County, Colorado aka 29576 Highway 6, Brush, Colorado 80723.

The Special Use Permit is needed to continue the liquor license process with the State. The property is zoned Agriculture/Agri-Business and is in the Brush Fire District. Liquor stores are not a designated use by right, conditional use, or special use under the Morgan County Zoning Regulations in the applicable district and therefore, require a special use permit pursuant to Sec. 2-375.

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.

This is an existing retail store.

- 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.
There will be no change to the existing site.
- D. All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvement, site plan requirements or other mitigation measures.
There will be no change with on or off-site impacts.
- 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.
The building is already being used as a retail store.
- F. The special use poses no or minimal risk to the public health, safety and welfare.
The 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 property is 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.

Nicole Hay,
Morgan County Planning Administrator

APPLICANT: Ashley and Robert Farnam, High Plains Cattle Supply, LLC presented this application to the Planning Commission.

PLANNING COMMISSION COMMENTS:

Dave Musgrave asked if they sell firearms and ammunition in the store.

Ashley Farnam explained that High Plains is a Federally licensed firearm dealer and yes they do sell both currently. They do possess a full Veterinary license as well. They consult with their attorney on a regular basis about the legalities of the sales and possession of all of these items. They are separate licenses under separate entities. Their Pharmacy license is governed by the State Board of Pharmacy. Their FFL is Federally Regulated.

Robert Pennington asked about the State Highway access for their location and traffic.

Nicole Hay noted that access has already been permitted and CDOT is fine with it according to the Referral letter that was sent to them.

Robert Pennington asked if the store will partition off each category of items they sell?

Ashley Farnam explained that the coolers will run adjacent to the meat coolers. They are self-contained units. The store is an open concept and the specific item categories will have their own designated areas and will not share the same shelving space.

PUBLIC COMMENT OPENED

PUBLIC COMMENT IN FAVOR: NONE

PUBLIC COMMENT IN OPPOSITION:

Robert Christensen, 30977, Brush, CO, owner and operator of East Side Liquors in Brush, CO. was concerned that there were too many liquor stores in Brush already and if this new one was allowed, it would eventually take his customer traffic away from his existing liquor store, eventually causing him to go out of business. He mentioned that High Plains sales tax is less than his liquor store due to location and that would potentially pull his customers away.

Ashley Farnam addressed Robert Christensen's concerns and noted that High Plains intentions were to sell high end wine and liquor products to pair with Colorado raised beef, pork and lamb. It is not their intentions to have a full scale liquor store. They are looking to bring in higher end Colorado produced products. Their store receives a lot of out of state customers and highway traffic as well due to the large in-person inventory of firearms.

Robert Farnam mentioned that they would like to give the store a boutique feel to the customers. They want to evolve with the changing times and need to market various items. This is their way of rebranding themselves to offer something different to the consumers. The store does receive a lot of highway traffic.

No further comments.

PUBLIC COMMENT CLOSED:

Clayton Miller asked what the hours of operation would be?

Ashley Farnam explained Monday thru Friday 8-5PM. Saturday 8-3PM. There has been discussion to stay open until 5 PM on Saturdays.

Pete Mercer asked if they will just be selling wines?

Ashley Farnam explained that they don't have a specific product list at this time. They needed to finish this portion of the Special Use application process before they dedicated more time to this. They are looking to create more of a boutique feel and items that would be exclusive to market specific to Colorado-Morgan based products. They want to sell more high end liquor and wines.

Robert Pennington asked about the liquor license.

Ashley Farnam explained that the reason for this Special Use application tonight is due to the A/B zoning of the establishment. It is a requirement in the Morgan County Regulations to go through a Special Use application process to be allowed to sell liquor products in the A/B zone. In order to apply for the liquor license, High Plains needs this Special Use permit to be approved.

Morgan County Attorney, Katie Vera, explained that the process will include the needs and desires of the neighborhood. Several things need to be completed in order for this them to prove to the State and local licensing authority that there is a need for this establishment. This application being heard tonight is just the zoning piece.

Pete Mercer motioned to approve the application as presented.

Clayton Miller seconded the motion.

Robert Pennington mentioned that the County doesn't have any true jurisdiction in deciding how many liquor stores can be built.

Roll call vote 5-0. Motion passes.

This portion of the meeting concluded at 7:25 P.M.

This application will move on to the Morgan County Commissioners on July 18th, 2023 at 9:00 A.M.

Cheryl Brindisi Planning and Zoning Administrative Assistant

NEW BUSINESS: Carolyn I. Wood, requesting a Special Use Permit, to allow the placement of a second mobile home in the Ag zone.

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

APPLICANT and LANDOWNER: Carolyn I. Wood

This application is for a Special Use Permit to allow a second mobile home to be used a residence on the property. The property is Lot 2, Naomi Wood Subdivision a Minor Subdivision in the NE¼ of Section 9, Township 4 North, Range 56 West of the 6th PM, Morgan County, Colorado aka 20760 Co. Rd. X, Fort Morgan, Colorado 80701. The property is zoned Agriculture Production and is in the Fort Morgan Fire District.

The first mobile home was placed on the property in 2022 and has gone through the appropriate building and mobile home placement permit. The Certificate of Occupancy is pending the State Plumbing Inspection.

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 exiting 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.
All adjacent property is zoned Agricultural and is either being farmed or used as pasture ground. To the east, there are 2 minor subdivision lots that have single family residences.
- F. The special use poses no or minimal risk to the public health, safety and 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.

- II. 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 will serve both residences on the property.

Nicole Hay,
Morgan County Planning Administrator

APPLICANT: Carolyn I. Wood, presented this application to the Planning Commission.

PLANNING COMMISSION DISCUSSION:

Robert Pennington asked if the two homes will be in the same yard?

Carolyn Wood stated, "There's two separate lots and they're divided by fencing and I think each one of them is 19 to 20 acres."

Pete Mercer asked what year is the mobile home that you are placing on the property?

Carolyn Wood answered that she was not for sure but thought that it was a 1987.

Pete Mercer asked if there was a reason that the mobile home set last year did not have its plumbing inspection done?

Carolyn Wood stated, "I thought that it was done last year. I thought everything was taken care of. All of the other inspections were finished. Rocky Blake had to call the State to transfer all of the paperwork down. I did talk to Mr. Palmer last week and he said he would come down as soon as he receives the paper in the mail."

Pete Mercer asked if the plumbing works in the first mobile home?

Carolyn Wood stated, "Yes. It has been lived in for a year."

Robert Pennington asked if there will be a second driveway?

Carolyn Wood answered, "Yes."

Nathan Troudt asked how long the family has owned this property?

Carolyn Wood answered that she bought this property before her mom passed away. This property has been in the family for a long time.

PUBLIC COMMENT OPENED IN FAVOR:

Garrett Crownover, tenant in the first placed mobile home on the property, 20760 Co Rd X, Fort Morgan, Co. 80701 is in favor of the application. He mentioned that the location is secluded. He cannot see the neighbors from the area that the home is located. He owns and operates his own heavy equipment repair and was encouraging his brother who does HVAC, to move into the second mobile home once it is completed. He doesn't see a problem with another house sitting 200 feet from his.

Carolyn Wood mentioned that there are three rows of trees to obscure the view of the mobile homes and County Road X is a dead end on both ends of the road. Road X starts at County Road 20 and ends at County Road 21. Harold Goedert lives over the hill on the corner of County Road 21 and County Road X. There is hardly any traffic that goes down that road.

PUBLIC COMMENT IN OPPOSITION:

Carol Sjervin, 6102 South Mobile Street, Centennial Co. spoke in support of her father, Harold Goedert, who resides at 22941 County Road 21, Fort Morgan, Co. and is also a neighboring landowner to Carolyn Woods property at 20760 Co Rd X, Fort Morgan, Co. They are in opposition of this application.

Carol stated that the property currently has three structures that appear to be inhabited or appear to be intended for use as residences. A small red roofed structure and two mobile homes. She read the regulations for this Ag zoning aloud to the Planning Commission and was concerned that the zoning for this parcel only allows for one single family residence on a parcel of that size as a Use by Right. She understands that this is why this application is here today to address the Special Use of the second mobile home in addition to the first mobile home already placed but not finalized in the permitting process. Carol mentioned that this is indicative of a trailer park as the homes are being moved in without the proper permits completed with the appearance of all three being intended for residences. She mentioned that it would increase the number of residences, more traffic, waste and is an eyesore and would lower neighboring property values in the surrounding area. Carol stated, "Agricultural land is not the place for a trailer park. The Assessor's office portal online did not show the two mobile homes placed in the last year. It only shows the red roof structure. It is listed as a storage shed, used by the owner to stay in during the winter calving season. It has an A/C unit, a mailing address, power, utilities, four bunkbeds, etc. This Special Use application should not be considered until the first mobile home is finished being properly permitted. You can see the mobile homes from the road." Carol feels that this Special Use application does not meet all of the criteria to be considered as an approval.

Carolyn Wood said, "Harold has been in the red roof building when it was first placed. It is a Cumberland Building. He stopped by to see what I was doing. I fixed up the inside so I could stay in it during calving season. Harold helped me set that Cumberland home in. It borders Harold's land at the very top of the hill." Carolyn mentioned that the mobile home that Garrett lives in has had a recent stucco finish. Her son, Kyle, planted grass. Garrett has built a parking area. There is a dumpster for trash. The other trash that Carol may be referring to is the equipment at the top of the hill that Carolyn mentioned that Mark came in and fenced her out of that area. She said it had been there for quite some time and she can't access it to move the items out.

Robert Pennington asked if there was plumbing in the red shed? Will these two homes be on separate septic?

Carolyn Wood replied, "No, just electric in the red shed. Each home will have its own septic."

Nicole Hay noted that the first home will not show up on the Assessor's site until it has a Certificate of Occupancy. We are waiting on the State to send the plumbing information. Our Inspector Troy is trying to obtain that information so he can finalize the permit and issue a CO. He has done all of the inspections on it already.

Garrett Crowover mentioned that he has laid almost 100 ton of asphalt from the gravel road in and has fixed issues on the county road near his home where the water flows across the road in a low area. He mentioned that he maintains the County Road at his expense in that location. He said he would gladly haul off the trash that is at the top of the hill if Harold would like it to be gone. Carolyn couldn't get to it since she had been fenced out of that area.

Harold Goedert mentioned that he has bought Lot number 1 of the Naomi Wood Subdivision. Carolyn bought Lot number 2 and it was zoned as a single family residence.

Carolyn Wood was unsure of what he was talking about but stated that she had bought 100 acres down there from her mom. Then it was subdivided into three different lots. Carolyn is in possession of Lot number 2 of the Naomi Wood Subdivision.

Andy Gerken stated that he and his wife own 3 Sons, LLC, adjoining landowners of the property. He noted that Carolyn's renter is a good person. Andy said that Carolyn informed him that she had intentions to continue doing this. He has a text message sent from her that says, "I think I'll just keep putting them up." He was concerned about trash, traffic, road maintenance and doesn't want to see a trailer park out there. He is concerned that this parcel of land has too many buildings, animals, etc. and won't be able to hold everything. He is also concerned that more houses up against a lateral ditch and Riverside ditch will cause problems in the future.

Pete Mitchell, 220 Park Street, Fort Morgan, Co. is concerned that not all of the State inspections have been passed on the first mobile home and someone is and has been living in it for a year without a CO. He

said a small portion of Smith's property was fenced off by Carolyn adding it to her existing parcel. She stores her hay and equipment on Harold's property without asking him.

Chairman Nathan Troudt asked **Administrator, Nicole Hay**, if there was a CO for the first mobile home?

Nicole Hay noted that there was not a CO on the first mobile home because our inspector is waiting on the State to finalize the plumbing so our inspector can issue a CO.

Pete Mitchell argued that someone was living in the first mobile home. Why was this allowed?

Nicole Hay noted that until our office is notified that someone is living in there, or our building inspector goes out there, we do not know that someone is living in the house. The State plumbing inspector is backed up and it takes time.

Carolyn Wood commented that all of this was done before Nicole or any of the Planning and Zoning staff were in their current roles. We are not sure how the State plumbing inspection was not done. She is not sure if someone just didn't finish the paperwork. Mr. Palmer is looking to see where the inspection paperwork can be found. The same thing happened with her electrician, Rocky Blake. His paperwork could not be found and was not transferred from the State to the Planning and Zoning but now it is completed. Now she is going through the same scenario with the plumbing but Mr. Palmer is going to be coming out to inspect it.

Robert Pennington asked if the first mobile home has been tied down and skirted?

Nicole Hay noted that the first mobile home has been tied down and skirted.

Robert Pennington asked if electrical and plumbing have been started on the second mobile home?

Carolyn Wood stated, "No it hasn't but the second mobile home is set and tied down on the property so that it is not just sitting on the hillside."

Pete Mercer asked if the mobile home is on the correct lot that it will be placed? On a separate lot?

Carolyn Wood answered, "Yes. On a separate lot, separate driveway. All divided by fence. They each have their own water tap and septic system."

Robert Pennington noted that it is on the same 19 acres though.

Nicole Hay answered, "Yes."

Dick Smith, 22801 Co Rd 21, Fort Morgan, CO. He is the owner of the property that Carolyn placed a fence across. Dick mentioned that when Carolyn put the fence across his property he called her to tell her that he would lease that portion of his property to her. He did not get a lease agreement for that piece of land. He would like the county to take a look at all used mobile homes that are brought in to make sure that they meet certain criteria. He would like to see the first mobile home completed and a CO before the county considers the placement of the second mobile home.

Carolyn Wood noted that there are not any of the mobile homes near the lateral carry ditch or any other ditch.

PUBLIC COMMENT CLOSED

PLANNING COMMISSION DISCUSSION:

Robert Pennington asked if the title to the first home will be purged and taxed as real estate? The second house would then be an accessory unit. Or will there be two separate houses that are personal property, not purged with the land?

Nicole Hay stated that she believed so but it is up to Carolyn to address that. "Generally, when they are on a foundation, skirted and tied down, what happens is that they become purged. That is an extra step."

Pete Mercer asked for clarification of two residences, one per lot? And one RV camper that is stored for hunting and camping? How many acres are the lots?

Nicole Hay clarified that the lot that these mobile homes are on is just one lot, under 20 acres.

It's 19.86 acres. She pointed out where each trailer is located and also where the red shed is located. All three structures are on the one 19.86-acre lot.

Carolyn Wood stated that she had no plans to put up any more mobile homes on this piece of land. If she does it will be to build.

Pete Mercer asked who the plumber on the job was and if he was licensed? Did you have a rough in plumbing inspection?

Carolyn Wood stated that it was Rodrico Alvarez and she believes he is a licensed plumber. She mentioned that he does all of her work for her. They didn't have to do anything other than hook up to Quality Water. Her son hooked the mobile home up to Quality Water. Rodrico checked everything for her.

Robert Pennington asked Carolyn if she had intentions of purging the title to the mobile home and classifying it as real estate?

Carolyn Wood stated, "Yes. At the Assessor's office."

Nathan Troudt reminded Carolyn that this is why it is important to talk to your neighbors before you do anything like this. Talking to neighbors helps to remediate issues that may arise.

Pete Mercer motioned to approve the application with the amendment that the first mobile home on the lot receives a Certificate of Occupancy before moving ahead with the second mobile home placement and Certificate of Occupancy.

Robert Pennington seconded with discussion. Moves to make the amendment to what Carolyn stated, that she will purge the first mobile home title to be with the land as real estate and the second one will be an accessory unit or rental.

Pete Mercer motioned to approve the application with the amendment that the Certificate of Occupancy is completed on the first home and the title is purged so that it becomes a piece of real estate and the second mobile home is a piece of personal property.

Robert Pennington moved that the Planning Commission make the purging of the title as an amendment to the initial motion.

Pete Mercer seconded that motion.

Planning Commission roll call vote on the amendment motion.

Motion passes 4-1 with Dave Musgrave voting no.

Roll call vote on **Pete Mercers** original motion to approve the application and see that the first mobile home on the lot receives a Certificate of Occupancy before moving ahead with the second mobile home Certificate of Occupancy.

Motion passes 3-2 with Clayton Miller and Dave Musgrave voting no.

This portion of the meeting concluded at 8:28 P.M.

This application will move on to the Morgan County Commissioners on July 18th, 2023 at 9:00 A.M.

Cheryl Brindisi Planning and Zoning Administrative Assistant

NEW BUSINESS: Bos Farms, LLC, requesting a Special Use Permit for a new livestock confinement operation.

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

APPLICANT: Tim Naylor-AGPROfessionals

LANDOWNER: Bos Farms, LLC

This application is for a Special Use Permit to allow for a new livestock confinement operation (CAFO). The permitted area is located in a part of the SE¼ of Section 20, the SW¼SW¼ of Section 21, the NW¼ of Section 28 and the N½NE¼ of Section 29, all in Township 3 North, Range 58 West of the 6th P.M., Morgan County, Colorado.

This request is for a cattle ranch that will house 22,005 animal units and will include housing and raising calves, storing and processing feed, and storing and maintaining feed equipment. In addition, calf hutches and pens will be constructed. The property is zoned Agriculture Production and predominately in the Fort Morgan Fire District.

The applicant also submitted a variance application for a reduction of setback for the feeding operation from an occupied structure. The variance application was considered by the Board of Adjustment in a public hearing on June 20, 2023, that request was granted.

The property will be accessed from County Road P along Road 14 via a non-exclusive access easement.

Included in your packets are also referral responses from XCEL, CDOT, CDPHE, and Morgan Quality Water.

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 south central planning area as defined by the Morgan County Comprehensive Plan. The area south of County Road Q remains agriculture and there are livestock confinement facilities that must be protected and allowed to expand. In this area Comprehensive Plan goals include:

*Preserve and protect existing agricultural uses south of County Road Q.
The cattle ranch will provide replacement cattle to local feedlots and dairies.
This is a vital part of the cattle industry.*

- 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 site is directly west of an existing feedlot operation and the operation 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. Access from County Road P south along a non-exclusive access easement will need to be properly maintained as to not affect other landowners using that same access.

- 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. *A variance was granted from an existing residence located within 1320 feet of the proposed site. Other adjacent uses include pasture land and dry farmland.*
- F. The special use poses no or minimal risk to the public health, safety and welfare. *Subject to the implementation of the Nuisance Control Plan, the application satisfies this criteria*
- G. The special use proposed is not planned on a nonconforming parcel. *The proposed Special use 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 cattle ranch operation will supply new cattle stock to local feedlot and calf ranch facilities.*
- III. 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 will be provided to the proposed cattle ranch by the adjacent property owner, Q Ranch, LLC through their agreement with Bijou Agricultural Water Activity Enterprise (BAWAE). According to a letter from Q Ranch, LLC, they have the right to assign a portion of certain Agricultural Water to related parties (Bos Farms, LLC) subject to certain conditions, which have been met.*

Nicole Hay,
Morgan County Planning Administrator

APPLICANT: Bos Farms, LLC, AGPROfessionals, Tim Naylor, presented this application to the Planning Commission.

PUBLIC COMMENT OPENED IN FAVOR AND AGAINST:

Michael Walter, Trust Representative for Retlaw Irrevocable Trust, Co Rd P and 13, no numerical address. Does support the application for the right to farm and the right to raise animals. Michael would like the Commissioner's to look at this application to make sure that things will be done responsibly. He holds water rights on the Bijou Canal and feels that the aforementioned 125 acre feet of water is not adequate for the size of the proposed facility. He would like to see that the County Road be maintained and possibly paved due to the amount of truck traffic this will facility will bring.

John D'Amico, neighboring landowner at 15045 Co Rd 14, Fort Morgan, CO. Was concerned that the county roads such as P, 14 and Q will not be able to keep up with the amount of trucks that will come through. He's concerned that the traffic will cause dangerous issues, especially with the various children in that area of the neighborhood. John mentioned that he would like to see it paved so it can handle that amount of traffic. He doesn't think that the amount of water mentioned in the application will be enough

to handle the amount of proposed animal units. John was concerned that Bos Farms, LLC was a foreign owned entity and he would like to know who actually owns Bos Farms.

John Wagner, neighboring landowner at 14870 Co Rd 12, Fort Morgan, CO. was concerned that the water was inadequate for the size of the proposed operation. John spoke about the water and wanted to know if it was coming from wells. He gets his irrigation and household water from wells and not Quality Water. He also has stock wells and is concerned that a new facility, if not adequately monitored on water usage, will impact his and other neighbor's wells. John noted that the hydraulic reach from his area to the river was around 2,000 days. He has heard that the neighboring Q Ranch 2, has already put in some large wells for the cattle over there. Bijou Agriculture Water Activity Enterprises Augmentation, means to him that the 125 acre feet of water would be augmented for a well or wells to water the cattle. If that is true, it concerns him because he is on Bijou's system and has to pay for well augmentation. John noted that big wells located nearby can have impacts on other wells in the vicinity.

PUBLIC COMMENT CLOSED

NOTE: Bijou Agriculture Water Activity Enterprises Augmentation is otherwise known as ("BAWAE")

PLANNING COMMISSION DISCUSSION:

Tim Naylor, AGPROfessionals, addressed the individual concerns of the public stating, "The Bijou Irrigation ditch is not the same enterprise as the United Water and Sanitation District or Bijou Agriculture Water Activity Enterprise. It's an entirely different thing. It is an augmentation plan that was developed to return water back to the river for deep wells. Similar to what Morgan County Quality Water does. It is well water that is augmented through the Bijou Augmentation Plan, not Bijou Irrigation Company. It has been adjudicated and has gone through court.

Pete Mercer asked Tim if the Bijou that he was talking about would supply the water in the homes that have wells? The irrigation would only be for farming?

Tim Naylor noted that this is not irrigation water from the Bijou ditch. They could use that water in their home systems. It's probably deeper water than what the residential wells would have. It has been reviewed by the court and has been adjudicated and an augmentation plan has been put in place for the water that they are using." Tim gave an example of how other dairy water augmentation plans are utilized. He estimated a couple trucks an hour each day that will go from County Road Q to County Road P and on County Road 12. South of County Road P is a Frontage Road. It's a County Road that is not maintained. It's called Road 14 because it is a vacated County Road.

Nicole Hay reiterated that the road has been vacated and is no longer a County Road in that location.

Tim Naylor noted that Bos Farms, LLC is not a foreign entity. It is owned by Tony Bos. He and his family are very successful and hard working. They are a family business that has a lot of other businesses in the United States. Tim noted that the water is well water. They are commercial wells and are permitted through the State, adjudicated through the augmentation plan.

Robert Pennington asked if the wells were on this 400 acres?

Tim Naylor mentioned that the wells will probably come from Q Ranch. It will be put together from United Water and the Bijou Plan. From a series of wells at the Q2 Ranch (the old Teague feedyard).

Nathan Troudt asked if the old Teague feedyard had cattle in it and approximately how many?

Tim Naylor stated that it did have approximately 7,000 head of cattle in it and they are also currently remodeling it. Tim mentioned that he believes that this site will have minimal traffic due to it being a calf ranch and will probably have a few trucks an hour through that area. He said that there is nothing south of the feedyard. It is in a secluded area.

PUBLIC COMMENT RE-OPENED

John Wagner explained the augmentation process. John would like to know how many gallons per day will be used at this facility? How far up the "Reach" will this pull? He noted his concern that the augmentation project costs time on the ditch as he has to shut off his head gate so the augmentation water

can go by to its designated location during the augmentation time period, thus causing his field to go unirrigated as he waits for their process to be completed. John understands the system that Q2 Ranch and Bos Farms, LLC have planned but would like to mention that the Bijou canal is tied directly to this for transportation of the augmented water. These aug ponds or Metropolitan Waste and Sanitation and Teague or Q2 have credits on augmentation ponds. That does impact on all of the surrounding water rights holders.

Tim Naylor noted that there are 125 acre feet of water. About 100,000 gallons of water per day if they use 125 acres per year. It's about a gallon per hundred weight. It depends on the weighted average of the calves on the property. Bos Farms calculated how much water they need and decided then how much water to buy for their facility. They understand cattle feeding and cattle watering and know what they need as far as facility requirements. They are custom raising these dairy calves into cows and if they don't have adequate water they will not place that many head in the facility. These cows will be raised up to be productive for the next 6 to 7 years. They want to raise quality cows so they need to make sure everything is adequate.

Michael Walter stated that he has Bijou Water Rights and also two irrigation wells which are adjudicated in 1972 and they are augmented through the Bijou. He explained that what it means is that he has chosen to go through Bijou to do his augmentations. He pays \$10,000 per year to make that happen, per well. If it's adjudicated and it's augmented, it can't leave the property that the well is on now. Michael cannot take the water off of the 160 acres that he owns and send it anywhere else out of that well that is augmented and adjudicated from 1972. The Q2 Ranch wells do not sit on the Bos Farms property so he does not believe that the water can leave the Q2 property.

PUBLIC COMMENT CLOSED

PLANNING COMMISSION DISCUSSION:

Dave Musgrave asked if they were milking cows at the old Teague yard and is that where the water is coming from back over to these?

Tim Naylor said they are not milking cows at the old Teague facility. It is just a heifer grower facility. Tim believes that they have wells on their that are adjudicated to allow for the transfer of water over there. It's part of the agreement and adjudication. There are different rules to how you permitted or augmented your well. This is a metro district similar to Morgan Quality. Morgan Quality has wells south of Teague that they use and they can distribute them throughout the County. This is very similar to that. They are allowed to distribute this water.

Robert Pennington mentioned that while the Planning Commission is concerned and does not want to harm the neighbors, the legal technicalities of these water districts are beyond the Planning Commissions jurisdiction as a zoning board.

Nathan Troudt asked to see the copy of the augmentation water plan.

Nicole Hay stated, "It was not included in the packet. We have a redacted version of it that counsel has had, and I'm assuming, some chance to look at."

Nathan Troudt asked, "Why was it redacted?"

Tim Naylor explained that some of the agreements that Bos Farms has, they prefer not to be made public. They didn't feel that a private agreement between two parties needed to be in the public process. "It was provided to the County for review under Attorney-Client privilege so they could review it to make sure that it was adequate and proper."

Clayton Miller asked about traffic volumes.

Tim Naylor stated that he did speak to Gloria Hice-Idler who represents CDOT. Highway 34 is 8 miles away. There is no impact to CDOT. Gloria was going to provide Tim a referral back but he has not seen it. He resent CDOT the Traffic Narrative to CDOT.

Robert Pennington asked who holds the access easement for road 14? Is that with the adjoining landowners?

Nicole Hay noted that it is a recorded nonexclusive 30 FT access easement and it can be used by anyone. However, it is not County maintained. It would be up to the people who use that easement to maintain it. The majority being Bos Farms.

Dave Musgrave asked for further explanation of the water transfer from one location to the next.

Tim Naylor explained that it was water being provided by a Water District. It isn't just a well. The District has the ability to move the water.

Robert Pennington moved to approve the application as presented.

Dave Musgrave seconded the motion.

Motion passes 4-1 with Nathan Troudt voting no.

This application will move on to the Morgan County Commissioners on August 15th, 2023 at 9:00 A.M.

Pete Mercer motioned to adjourn the meeting.

Clayton Miller seconded the motion.

Motion passes 5-0.

Meeting concluded at 9:30 P.M.

Cheryl Brindisi Planning and Zoning Administrative Assistant