

**MORGAN COUNTY PLANNING COMMISSION  
SEPTEMBER 12, 2022 MINUTES**

The Morgan County Planning Commission met on Monday, September 12, 2022, 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.

Robert Pennington, Erik Mohrlang, Dave Musgrave, Nathan Troudt and Allyn Wind were present. Pete Mercer and Clayton Miller were absent. Nicole Hay, Planning Director, Cheryl Brindisi, Planning Technician and Jenafer Santos, Planning Clerk were also present. IT Specialist, Karol Kopetsky joined the meeting via the Zoom platform.

It is noted that this Planning Commission meeting for September 12, 2022 was held in person with an option to attend remotely via the Zoom platform.

**APPROVAL OF AGENDA:**

It was moved by Robert Pennington and seconded by Dave Musgrave to approve the Agenda as presented. Allyn Wind abstained due to his absence from the previous meeting. Motion carried 4-0.

**APPROVAL OF MINUTES: June 13, 2022**

Robert Pennington moved to approve the June 13, 2022 Minutes as presented. It was seconded by Erik Mohrlang. Motion carried 5-0.

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

**Old Business:**

No old business

**New Business: 2 Lot Minor Subdivision**

**APPLICATION:**

1. **Legal Description:** E $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 17, Township 3 North, Range 56 West of the 6<sup>th</sup> P.M., Morgan County, Colorado. Also known as 15089 County Road 26 and 15115 County Road 26, Brush, Colorado 80723.

**Request:** The applicants are requesting approval of the minor subdivision to create two new lots. Lot 1 – 12.98 acres and Lot 2 – 2.11 acres.

## **APPLICATION OVERVIEW:**

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

### **APPLICANTS and LANDOWNERS: Gary and Deb Vondy – Dola Smith**

This application is for a 2-lot Minor Subdivision of 15.09 acres located in the E½SE¼ of Section 17, Township 3 North, Range 56 West of the 6<sup>th</sup> P.M., Morgan County, Colorado. Also known as 15089 County Road 26 and 15115 County Road 26, Brush, Colorado 80723.

There are currently two single-family residences on each proposed Lot. The property is zoned agricultural.

The applicants are requesting approval of the minor subdivision to create two new lots. Lot 1 – 12.98 acres and  
Lot 2 – 2.11 acres.

Section 8-195 of the Morgan County Subdivision Regulations requires review of the listed criteria and compliance to be determined prior to approval of the proposed subdivision.

In reviewing an application for a minor subdivision the Planning Commission and the Board of County Commissioners shall apply the following criteria as listed from Section 8-195 of the Morgan County Subdivision Regulations:

- (A) Whether the application documents are complete and present a clear picture of how the subdivision is to be laid out including all infrastructure, easements, and access.  
The application documents are complete:
- 1) Northeast Colorado Health Department has issued a letter regarding existing onsite wastewater treatment systems on Lots 1 and 2.
  - 2) Colorado Division of Water Resources has supplied available information for a domestic well permit. The well is located on Lot1 and services both lots. A draft well-sharing and easement agreement between the parties to be recorded at closing.
  - 3) Both lots access from County Road 26. Road and Bridge has no objection to the continued use of the existing driveways that provide access.
  - 4) Property is located in the Brush Fire District.
  - 5) Soil map was provided by the Natural Resources Conservation Service.
  - 6) The applicant notified the mineral rights owners.
  - 7) Animal units will be per zoning requirements approved by the Morgan County Extension Service.

- 8) Right to Farm notices were signed by both property owners and provided with the application.
  - 9) Lots 1 and 2 are developed as single family residences.
- (B) Whether the proposed subdivision is consistent with the Morgan County Comprehensive Plan.  
The subdivision is located in the south central planning area.  
Chapter 2.II.C.1., County Wide  
Goal: To encourage development where proposed development is compatible with existing land uses and access to public infrastructure is established-current residences have been there since 1973 and 1974.
- (C) Whether the proposed subdivision is compatible with surrounding land uses and is adequately buffered as needed.  
This subdivision is located in the Agricultural Production District and buffering is not required, uses are compatible.

The following conditions are recommended if the Minor Subdivision is approved:

- (1) The shared well agreement to be executed and recorded prior to the plat being recorded.

All appropriate notice requirements have been completed.

Nicole Hay  
Morgan County Planning Administrator

#### **APPLICANT PRESENTATION:**

Raymond M. Laws, Attorney for Gary and Deb Vondy presented this Minor Subdivision application along with Applicants Gary and Deb Vondy.

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

**Robert Pennington** asked where the location of the well was on Lot 1?

**Gary Vondy** replied that it was approximately ¼ mile from where his land is closer to Dola Smiths home on Lot 1. Its location was pointed out on the screen for everyone in the meeting to view by Gary Vondy. The water line runs diagonal from the wells location to the corner of the Vondy's lot.

**Robert Pennington** mentioned that the letter talks about an easement for the water line and the maintenance but the easement is not surveyed out?

**Raymond Laws** replied that it is not. They are describing the water line as it currently exists and 10 feet on either side.

**Allyn Wind** Is the water line presently surveyed on Lot 1?

**Raymond Laws and Gary Vondy No**

**Allyn Wind** mentioned that if it sells in the future and someone puts a building on top of the water line it then you may have issues. Allyn would like to see the Agreement prepared for future events to avoid any issues that may arise later if sold. It would be in their interest to have the two parties get the water line surveyed so that the easement be 10 feet on either side and you would know exactly where it is and to also have it recorded with the documents so a new buyer will know exactly where it is in closing documents.

**Raymond Laws** feels that the language of the Well Share Agreement is strong enough to avoid any future issues with well access.

**Allyn Wind** commented that the water information in the application is very clear for the well that is there now and the use. Allyn asked about the Water Supply Information Summary sheet and if the State signs it? How does it get authorized or acknowledged by the State? “You’re making a change to the water print without the State authorizing it or acknowledging it.”

**Raymond Laws** believes the sheet you are referring to about the Request for Information from the Division of Water Resources? Raymond mentioned that he does not necessarily agree with that characterization of making a change to the water print. The initial application from 1973 was for use in the SE¼ of the SE¼ of Section 17. His client’s property lies within that area and is not expanding a historic permitted use of the well.

**Allyn Wind** On paragraph 2 page 2 of the Agreement, talks about a 10-foot radius around the well to re-drill. Allyn feels that is not enough room to get a vehicle or re-drill rig in there. The next sentence in the Agreement says you can do anything you want to re-drill, maintenance, etc.

**Raymond Laws** The radius can be expanded in the Agreement language.

**Allyn Wind** Also at the bottom of that paragraph it says, “This easement may expand the use of the easement to include different uses. On item 4, you have a non-exclusive easement?”

**Raymond Laws** “I believe the language that you are referring to at the bottom of paragraph 2 states, “Neither Vondy nor any future holder of this easement may expand the use of the easement to include different uses or to service property other than Lot 2.” This is only for the benefit of Lot 2. Paragraph 4, non-exclusive, refers to Dola Smith’s property. She can enjoy the surface as long as the use does not interfere with the easement granted. The well easement water line will only service residential uses on Lot 2. The easement is exclusive to the Vondy’s property. This agreement will be recorded and will show up on Title Commitment for any future buyer for Dola Smith’s property.

**Nathan Troudt** asked if there were any further questions for the applicant. –There were none.

**PUBLIC COMMENT OPEN: NONE**  
**PUBLIC COMMENT CLOSED**

**Robert Pennington** motioned to approve the application with surveying the water line and changing the wording of the area around the well to something more like 30 feet. Motion was seconded by Erik Mohrlang. Motion carried 5-0.

Application will be forwarded to the County Commissioners for the date of October 4<sup>th</sup>, 2022 at 9:00 A.M.

## **New Business: Amendment to a Special Use Permit and Vesting Rights**

### **APPLICATION:**

**APPLICANT:** Tim Naylor and Hannah Dutrow, AGPROfessionals

**OWNER:** Kraft Family Dairies, LLC

Amendment to a Special Use Permit and Vesting of Rights to allow for the expansion of an existing permitted Quail Ridge Dairy confinement operations. Located in the S½ and the E½NE¼ of Section 27, Township 3 North, Range 57 West of the 6<sup>th</sup> PM, Morgan County, Colorado and addressed as 13500 Co Rd 21, Fort Morgan, Colorado 80701

### **APPLICATION OVERVIEW:**

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

**APPLICANTS and LANDOWNERS:** Tim Naylor and Hannah Dutrow, AGPROfessionals and Kraft Family Dairies, LLC

This application is for an Amendment to a Special Use Permit and Vesting of Rights to allow for the expansion of an existing permitted Quail Ridge Dairy confinement operations which was granted by Resolution 2006 BCC 21 and is included in your packets. The original permitted area is located in the S½ and the E½NE¼ of Section 27, Township 3 North, Range 57 West of the 6<sup>th</sup> PM, Morgan County, Colorado and addressed as 13500 Co Rd 21, Fort Morgan, Colorado 80701

The owner is requesting an animal unit expansion from 9875 head of cattle to 15,000 head of cattle. In addition, they intend to install an additional parlor, two free stalls, and a dry pen within the existing footprint of the dairy operations. 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 2-345 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 request to amend the 2006 special use permit will encourage the preservation and continuation of the 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.
- 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.
- 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.
- 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.

Nicole Hay,  
Morgan County Planning Administrator

#### **APPLICATION PRESENTATION:**

Tim Naylor, AGPROfessionals and Applicant Chris Kraft with Kraft Family Dairies, LLC presented this Amendment to a Special Use Permit and Vesting of Rights application.

#### **DISCUSSION: Planning Commission to Applicants**

**Robert Pennington** Asked for clarification of head of cattle or animal units.

**Tim Naylor**, AGPROfessionals **and Nicole Hay**, Planning Director, stated that the verbiage in the application is supposed to reflect animal units.

**Nathan Troudt** asked how many additional employees do you plan on having?

**Chris Kraft** It was dependent on if they were going to have robots. It is hard to guess at this point.

**Robert Pennington** as part of the Vesting, are you beginning construction this year?

**Chris Kraft** Due to the hot weather from last year, they have had slower reproduction with the cows and they need additional pen space.

**Tim Naylor**, AGPROfessionals elaborated the standard is three years for Vesting Rights and they are requesting an additional two years. They own multiple dairies and have evaluations of management that they are looking into. They would like additional time to evaluate that and get it started. That is why they have requested the additional Vesting.

**Robert Pennington** asked Nicole to explain how Vesting of Rights works.

**Nicole Hay** the Vesting Rights are normally the three years to go along with our regulations and with the expansion of the Vesting Rights that will lock in these regulations for them for an additional five years for building permits and whatever they may need. One note, Planning Commission does not approve or disapprove of the Vesting Rights. You're notified of it but it is ultimately up to the County Commissioners. Their Vesting Rights would be for eight years, because of the original three that we allow and plus the five. If everything isn't completed in the eight years then they would come back.

**Tim Naylor**, AGPROfessionals stated that some kind of construction would have to be started within the three years. If you don't then you're obligated to the new rules and regulations.

Whereas you have eight years to fall within these rules.

**Dave Musgrave** mentioned a previous situation concerning animal units not being disclosed.

**Tim Naylor** explained how many cows the Kraft's were currently milking. He also mentioned the support sock such as calves, heifers. He broke down the animal units for all of these and stated that the Kraft's are operating within the parameters of the numbers. Animal units are based off of body weight. 1,000-pound steer is 1 AU; 600-pound heifer is 0.6 AU.

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

**Louise Kinnaman**, business address 29382 CR R, Brush. She stated that they are not in opposition, she did however, have a question. They have livestock on 480 acres just south of the Kraft dairy. Quail Ridge Dairy has been a very good neighbor to them. They have two stock wells on their property. They were concerned about if the increased use of the well might affect the water table and other people's livestock wells within the surrounding area of the dairy's proposed expansion.

**Chris Kraft** stated that they have a court decree Plan of Augmentation from that well. They have to replace the water for that well. They can only pump what they put in otherwise it is Quality Water.

**Nathan Troudt** asked if there were any further comments. –There were none.

#### **PUBLIC COMMENT CLOSED**

Erik Mohrlang made a motion to approve the application as presented. Dave Musgrave seconded that motion. Motion carried 5-0.

Application will be forwarded to the County Commissioners for the date of October 4<sup>th</sup>, 2022 at 9:00 A.M.

Motion to adjourn meeting made by Dave Musgrave and seconded by Erik Mohrlang. Motion carried 5-0. Meeting was adjourned at 7:50 P.M.

Respectfully Submitted,  
Cheryl Brindisi, Planning Technician

