

MORGAN COUNTY PLANNING COMMISSION
January 8, 2024

The Morgan County Planning Commission met on Monday, January 8th, 2024, 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, Vice Chairman, Robert Pennington, Erik Mohrlang, Rob Chilson and Allyn Wind were present. Pete Mercer attended via zoom. Dave Musgrave was absent. Nicole Hay, Planning Director, Cheryl Brindisi, Planning and Zoning Administrative Assistant and Jenafer Santos, Planning and Zoning Technician were also present. Kathryn Sellars, Morgan County Attorney and Karol Kopetzky, IT Specialist attended via zoom.

APPROVAL OF AGENDA:

It was moved by Allyn Wind and seconded by Robert Pennington to approve the Agenda as presented. Motion passed 5-0. (Pete did not vote on the Agenda as he became available on zoom after this was voted on.)

APPROVAL OF MINUTES:

It was moved by Robert Pennington to approve the Minutes from the November 13th, 2023 Planning Commission meeting. Erik Mohrlang seconded. Motion passed 6-0. (Pete Mercer joined the meeting at this time.)

NEW BUSINESS: Reorganization of Board

Allyn Wind recused himself in voting on the nomination of Chair and Vice Chair of the Planning Commission Board due to him being an alternate to the board.

Pete Mercer nominated Nathan Troudt for Chairman of the 2024 Planning Commission. Robert Pennington seconded that motion. Motion passes 5-0. Nathan Troudt abstained.

Robert Pennington nominated Erik Mohrlang for Vice Chairman of the 2024 Planning Commission. Rob Chilson seconded that motion.

Motion passes 6-0.

NEW BUSINESS: Change of Planning Commission meeting time from 7:00 P.M. to 6:00 P.M.

Erik Mohrlang motioned to move the Planning Commission meeting start times from 7:00 P.M. to 6:00 P.M.. Rob Chilson seconded the motion.

Motion passes 6-0. This time change will go in to effect immediately at our next scheduled meeting on February 12th, 2024.

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

NEW BUSINESS: 3-Lot Minor Subdivision

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

APPLICANT and LANDOWNER: Coy Palmer

This application is for a 3-lot Minor Subdivision of 24.26 acres located in the W½ of Section 7, Township 4 North, Range 58 West of the 6th P.M., Morgan County, Colorado. Also known as 12012 Highway 144, Weldona, CO 80653. The property is zoned agricultural.

Lot 1 will be 6.39 acres, Lot 2 will be 6.77 acres and Lot 3 will be 11.10 acres. Lots 1 and 2 are currently vacant and Lot 3 has an existing residence.

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 onsite wastewater treatment systems on Lots 1 thru 3.
 - 2) One Morgan County Quality Water tap exists for Lot 3 and once the necessary extension are made, Morgan County Quality Water would be able to serve Lots 1 and 2.
 - 3) All lots will be accessed by an access easement from one permitted driveway off of State Highway 144.
 - 4) Property is located in the Morgan Fire District.
 - 5) Soil map was provided by the Natural Resources Conservation Service.
 - 6) The applicant notified the mineral rights owners.
 - 7) Right to Farm notices were signed by the property owner and provided with the application.

- (B) Whether the proposed subdivision is consistent with the Morgan County Comprehensive Plan. The subdivision is located in the north central planning area.
 - Chapter 2, Plan Summary
 - Goal: Section 2.C.1- To encourage development where proposed development is compatible with existing land uses and access to public infrastructure is established.

Lot 3 has an existing residence and lots 1 and 2 are currently vacant with proposed development of single family homes. Other minor subdivisions and larger parcels used as single family home sites are in the area. There is access to State Highway 144, Morgan County Quality Water, and Xcel Energy service.

- (C) Whether the proposed subdivision is compatible with surrounding land uses and is adequately buffered as needed.

All properties adjoining this proposed subdivision are in the Agricultural Production District. To the north is a large parcel with a single family residence, Tomky Fish Farms, and Trace Tire shop. To the southwest there is a minor subdivision with larger parcels used as single family home

sites, and pasture ground to the east. Buffer is created by the road and/or distance.

All appropriate notice requirements have been completed.

Nicole Hay
Morgan County Planning Administrator

APPLICANT:

Coy Palmer, 12012 Hwy 144, Weldona, CO 80653, landowner, and Brayden Piepho, 12012 Hwy 144, prospective landowner of proposed Lot 1, presented this application to the Planning Commission.

PLANNING COMMISSION DISCUSSION:

Pete Mercer asked if the driveway was a common driveway and if so who maintains it? Pete clarified that it was Mr. Palmers family that would be living on the newly created lots.

Coy Palmer explained that he currently maintains the easement and a contract would be drafted for the common driveway shared by the family.

Robert Pennington asked if a shared driveway agreement was needed?

Nicole Hay stated, "No. How the plat is laid out and the dedication on the plat, the easement is shown." Nicole mentioned that it is in Mr. Palmers best interest that if a lot is sold in the future, an easement agreement should be entered in to with the new owner.

PUBLIC COMMENT OPEN FOR AND OPPOSED:

In favor: None

Opposed: **Ed Zorn**, 626 East Platte Avenue, Fort Morgan, CO, Attorney on behalf of Mr. and Mrs. Tomky, 12190 CO RD X.5, Weldona, the Palmers neighbors. His client is not opposed to the proposed subdivision but would like to make suggestions about the ingress and egress of the driveway to the proposed 3-lot minor. Ed Zorn discussed the gated community with only authorized parties allowed entrance. The Tomky's would like to keep the current gate open due to deliveries for their business. They would like to suggest that the Palmers move the gate to the entrance of their proposed 3-lot minor. He mentioned that after the easement was granted, in 2008 Mr. Palmer put in an electric gate at the entrance off of Highway 144 to the parcels, in an agreement with Tracy Tomky's father, Corky Tomky. Ed Zorn requested that the Board consider approval of this application with the condition that the gates are moved to the proposed 3-lot minor subdivisions property line entrance.

Sabrina Tomky mentioned that the Palmers have the easement to access their property through the Tomky's property. She suggested that if the Palmers want their minor subdivision as a gated community, she would like them to move the gate to their property line instead of the entrance at Highway 144. It would be easier for her deliveries, for her multiple businesses, to arrive through an open gate. She also noted that members of her fish farm need access through an open gate 24/7, 365.

Coy Palmer explained why the easement and gate came about in 2008 due to access concerns off of Highway 144. He stated that the easement agreement stays with the property for life. He noted that the gate is programmable to open and close at certain times.

Jennifer Palmer, 12012 Hwy 144, explained that the gate was more for security.

Brayden Piepho mentioned that the fish farm has another entrance off of CO RD X.5 and that it is gated.

Robert Pennington asked for clarification of the current easement.

Ed Zorn noted that the easement agreement was made in 2007-2008 for 1 owner, Mr. Tomky and 1 owner, Mr. Palmer. It was to access the parcel.

Pete Mercer asked for clarification of who owned the property that the easement was on. The Tomky's are the landowners.

Coy Palmer stated that he installed the bridge, gate and columns. It was part of Corky Tomly and Coy Palmers agreement.

Rob Chilson asked if the gate moves do the covenants need to change?

Nathan Troudt asked Mr. Palmer if he had opposition with moving the gate?

Coy Palmer stated would need to discuss that matter at a later date. He noted that he has maintained the gate for several years. He also mentioned that the gate is shared with the Castors.

Morgan County Attorney, Kathryn Sellars, noted that the location of the gate was a verbal agreement by the previous owner of the Tomky party and Coy Plamer, the applicant, over more than a decade ago. Changing the location of the gate is a private matter between the two landowners and not that of the County.

Coy Palmer noted that it was a written, not a verbal agreement.

Jennifer Palmer noted that they it would be costly and time consuming to move the gates and columns.

Morgan County Attorney, Kathryn Sellars, the matter of the gate does not pertain to the approval of this application. They have legal access and that is all that we are concerned with. The matter of the gate is beyond the Planning Commissions authority.

Ed Zorn noted that the ingress and egress currently serves multiple parties to various parcels and may evolve to serve even more in the future. He expressed that the gate should serve the intended gated community at their entrance of their parcel and not impede the other users of parcels not within the gated community.

Erik Mohrlang noted that the gate is not an issue with what is being decided tonight.

Pete Mercer noted that the gate was not enforced by the County in the original agreement for the easement, therefore it is a civil matter if anyone wants it moved.

Coy Palmer asked why couldn't the deliveries come through the north gate to the Tomky's property off of CO RD X.5?

Sabrina Tomky explained because that is on her property. Deliveries should not have to go around the extra four miles.

Ed Zorn expressed that it would cause another logistics issue.

Sabrina Tomky noted that in this application, the request of a gated community was expressed.

Coy Palmer noted that the north entrance to the Tomky's property is the address entrance.

12190 CO RD X.5, Weldona, CO 80653. Coy noted that Corky wanted the gate and columns placed at the easement entrance to help maintain property values and security of a gated community. He believes that this is why it was noted in this current application, the need for this proposed subdivision to be a gated community.

PUBLIC COMMENT CLOSED

Pete Mercer noted that in the original agreement, the gate was supposed to be a 16 foot manual gate and the current gate is automatic.

Robert Pennington expressed his concern that the easement was granted for the express use of one lot. The Palmers are proposing to significantly change the use of the easement and it is not the same as originally agreed upon. The gates can be an inconvenience to everyone involved if the gates are not working properly.

PLANNING COMMISSION DISCUSSION:

Allyn Wind motioned to approve this 3-lot minor subdivision application as presented.

Rob Chilson seconded the motion.

Roll call vote.

Motion carried. 5-1 with Erik Mohrlang, Allyn Wind, Nathan Troudt, Rob Chilson and Pete Mercer voting yes and Robert Pennington voting no.

This application will move forward to the Board of County Commissioners on February 6th, 2024.

Robert Pennington motioned to adjourn the meeting. Erik Mohrlang seconded that motion. Motion passed 6-0. Meeting adjourned at 8:00 P.M.

Respectfully Submitted,

Cheryl Brindisi

Planning and Zoning Planning Administrative Assistant