

MORGAN COUNTY PLANNING COMMISSION
June 10, 2019 MINUTES

The Morgan County Planning Commission met on Monday, June 10, 2019 at 7:00 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Robert Pennington, Mike Erker, Allyn Wind, Nathan Troutd, Dave Musgrave, Mike Bailey and Clay Miller. Also present were Pam Cherry, Planning Administrator; and Jody Meyer, Planning Assistant.

The meeting was called to order by Chairman Nathan Troutd.

May 13, 2019 minutes:

Pam Cherry said the minutes of May 13, 2019 were finalized but omitted from the packets so they will be voted on at the July 2019 meeting.

Agenda:

It was moved Allyn Wind and seconded by Dave Musgrave to approve the Agenda as presented. Motion carried 7-0.

Nathan Troutd reviewed the process that will be used for this hearing.

NEW BUSINESS:

APPLICANT: Tim Naylor, AGPROfessionals
OWNER: Magnum Feedyard LLC, Co

Tim Naylor and Tom Haren from AgPro were present to represent this application.

Pam Cherry presented her file summary as follows:

Magnum Feedyard Co. LLC- As Applicant and Landowner

Legal Description- Parcels of land located in the W½ of Section 05, Township 2 North, Range 60 West of the 6th p.m., Morgan County, Colorado (adjacent to and east of Co Rd 1 from the existing feedlot) aka 11665, 11649 and 11344 Co Rd 1, Wiggins, CO 80654. This Amendment will consist of 143.56 acres for expanded footprint facility; existing footprint consists of approximately 145.34 acres.

Reason- The landowner is requesting this Amended Special Use Permit and Vesting of Rights for expansion of the footprint location for the livestock confinement facility including open lot configuration with concrete aprons, feed bunk areas, fenced corrals, alleys, hospital/doctoring area and a waste management system including manure storage area/composting area, and a waste/storm water pond system. Applicant is previously approved for 35,000 animal units. Current property has 3 residential structures

Application Overview

This application is for an Amendment to a Special Use Permit and Vesting of Rights to allow for the expansion of an existing 145.34 acre Confined Animal Feeding Operation which was granted by Resolution 1998 BCC 16 and is included in your packets. There is an existing composting area of 21.33 acres that is not proposed to expand. The original permitted area is located in the E½ of Section 6,

Township 2 North, Range 60 West of the 6th P.M., Morgan County, and addressed as 11665 County Road 1, Wiggins, Colorado.

The owner is requesting an expansion of the feedyard footprint into the W¹/₂ of Sections 5 and 8 (compost area), Township 2 North, Range 60 West of the 6th P.M., Morgan County, Colorado. The expansion is to add an additional 122.23 acres to the feedlot footprint. The animal units that were previously approved under Special Use 1998 BCC 16 are 35,000 and will not be increased with this application. The property is zoned Agriculture Production.

Primarily, young cattle are kept on the feedlot. The animal equivalent for young cattle is .8; at the 35,000 animal units permitted 43,750 young cattle are allowed under the current permit. The number of animal units is not proposed to increase. Animal numbers will be modified to remain in compliance with regulations whenever necessary.

The new area will include concrete aprons and feed bunk areas, fenced corrals, alleys, hospital/doctoring area and a waste management system including manure storage area/composting area and a waste/stormwater pond system. The entrance to the feedlot will be from County Road 1. The setbacks from Confined Animal Feeding Operations are 1,320' to residential structures and are measured from the footprint of the operation.

Citizen comments

There were four property owners notified of this application, there is an e-mail from one of the property owners within the 1,320' setback included in your packet. The concerns of this owner were related to dust control on Road M and use of County Road 1 (paved) in lieu of Road M, the planting of trees on the south side of Road M, radar enforcement on Road M, installation of bus stop warning signage, dust control, fly control, installation of "no Jake Brake" signage and impact on property values.

One additional property owner that is located approximately 2,500 feet from the proposed expansion footprint objects to the expansion. There are conditions from the Resolution 98 BCC 16 that have not been met. Conditions will appear in the new resolution, if approved, will clarify and expand upon the previous permit.

Road and Bridge Comments

On May 30, 2019 Bruce Bass and John Goodman of Road and Bridge were in the office to discuss concerns of Allart email dated May 29, 2019:

- 1.) As a condition of approval require Magnum to obtain contractor to apply dust reduction agent to County Road M.
- 2.) Jake brakes are necessary due to the hills in the area.
- 3.) Road and Bridge to check into the bus stop warning signs.

Planning and Zoning Comments

On and off site mitigation measures

- 1.) Tree breaks were not required to be planted along County Road M, but were on the north and east side of the facility. There were trees planted north of the facility, not adjacent to Road M.

- 2.) The applicant should be responsible for applying mag-chloride or similar product to County Road M as needed from County Road 1 to County Road 3.
- 3.) The application included a Preliminary Environmental System Design Plan for management of waste that includes the storage ponds, sediment basins, diversions, dewatering and land application calculations and rate. The plan satisfies the current CDPHE regulations and meets current industry standards.

Criteria – Special Use Permits

Amendments to special use permits are governed under Sec. 2-430 of the County’s Zoning Regulations. Under that section, amendments to special use permits are subject to the same criteria as the original permit. The following criteria are to be used by the Planning Commission and the Board of County Commissioners when reviewing an application for a Special Use Permit:

Analysis

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

The property is located in the southwest planning area as defined by the Morgan County Comprehensive Plan. Areas north and south of the Wiggins are home to several feeding operations. In this area Comprehensive Plan goals include:

- a. Encourage the preservation of agricultural production land to ensure continuation of this important industry.
The request to amend the 1998 special use permit will encourage the preservation and continuation of the industry.

All the application documents are complete and present a clear picture of how uses are to be arranged on the site or within Morgan County.

The application is complete and presents a clear picture of locations of pens, composting area, existing pens and residential structures on the property.

The Site Plan conforms to the district design standards of these Regulations.

The Site Plan meets the district design standards of the Morgan County Zoning Regulations pursuant to Section 4-200.

All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.

Impacts to surrounding properties have been mitigated and documented in the Preliminary Environmental System Design and the Management Plan for Nuisance Control Plan that was approved as part of the 1998 application.

The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.

Buffering from adjacent agricultural uses is not necessary as the use is compatible with other agricultural uses in the area. There is a minimum of 1,320 feet from the footprint of the feeding area to the nearest residential structure.

The special use poses only the minimum amount of risk to the public health, safety and welfare as set by federal, state or county regulations, whichever is the strictest.

Amending the 1998 resolution to increase the footprint of the feeding area and clarifying some previous requirements will not increase risk to the public health, safety or welfare.

The special use proposed is not planned to be developed on a non-conforming parcel.
The proposed amendment is located on a conforming parcel.

The applicant has adequately documented a public need for the project, all pertinent technical information, and adequate financial resources to implement it, and has paid all fees and review costs levied by the County for application processing and review.

The public need for the project was demonstrated with the original special use application. Animal units will remain at 35,000, the animal numbers may increase based on animal type and on market needs.

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.

The well permits for the property are included in the file. All of which have been updated since 2015.

Read letter from Colorado Division of Water Resources dated June 10, 2019 into the record.

Recommendation

Pam recommended approval of the amendment to Resolution 1998 BCC 16 subject to:

1. Animal units are limited to 35,000.
2. Trees will be planted, at recommended separation distances (depending on species), on the north side adjacent to the pens in phase 2, for dust and visual mitigation purposes.
3. Applicant shall obtain a contractor, at their own expense, to treat County Road M between the Morgan County Road 1 and Road 3 with appropriate dust mitigation materials at a minimum of once each year.
4. Applicant shall remain in compliance with all other rules and regulations of other federal, state or local agencies with jurisdiction.
5. Applicant is required to follow all nuisance control measures set out in the Environmental System Design and the Management Plan for Nuisance Control. Enhanced measures may become necessary at some time in the future if there is unreasonable impact on surrounding properties. Enhanced measure would be required following written notice to the applicant and a hearing before the Board of County Commissioners if requested by the applicant.
6. The facility shall not commence operations until it has received approval from all federal and state agencies with jurisdiction over the operation and all required permits have been issued.
7. The wells serving the Property shall be operated in compliance with all applicable decrees, court orders, and substitute water supply plans.

Tim Naylor from AgPro spoke to the Board passed out his overview information for the Planning Commission to follow along and which is attached. He covered the pen layout saying it's designed to accommodate drainage. Doctoring will be done at the existing area. Ponds will meet State Regulations for a 25-24 storm event and will be sized accordingly. He had pictures of the Existing Site and the new Pen Layout. He discussed Pen Location requirements; Residential Setbacks; Special Use Requirements; Provisions for Protection to Health, Safety, Welfare; Water Protection; Water and Sanitation; Wastewater Pond Design; Manure & Water Management; Nuisance Management Plan; and Traffic.

Mr. Naylor said placing trees along Co Rd M will not screen out dust from the feedyard as it sits too far away from Co Rd M. He said the well is adjudicated for Commercial use within the boundary of

the feedlots. This bowl area is in a better location and works better for drainage. The pond will be lined with the use of clay. He said the application meets the criteria of the Special Use requirements.

Robert Pennington asked about the radius of houses in the area and also asked about the treating of County Road in the old application. There was lengthy discussion on taking care of the roads in this area. Mike Erker thought the County should be responsible for taking care of the roads – good roads bring in revenue. Tim Naylor said using mag-chloride just turns into a mess.

Clay Miller asked about the number of head on site: 20,000 head in Section 6 and 8500 head in Section 5.

PUBLIC COMMENT OPEN:

Favor: No one spoke in favor of this application.

Opposed:

Brandon Allart, Wiggins, Colorado lives just to the north of Co Rd M along Co Rd 1. He is not against this Special Use Permit and had the following concerns: dirt blowing into yard, road signs never replaced after falling down, at bus stop trucks would not move over; use of jake brakes, who does a head count. There would be 3-6 commodity trucks a day. Dust control – wind blows from the south. Posted speed limits should be placed on the roads. He talked with Mr. Gabel about mitigating flies and dust. Value of his house concern also. Robert Pennington said it was more likely to have 6-8 trucks daily. Allyn Wind said if you have 2 come in and 5 go out, then pens would be empty.

Tim Naylor said small beef come in – when they go out the cattle are 4 times bigger; using 3 semi-loads of feed. He is not trying to say there is no impact on the roads. Nathan Troutt talked about using a water truck for dust control.

Mark Becker, 1639 N Ave. Court, Greeley, Colorado, and Dave Becker, 01641 Co Rd M said their property is family owned and is located about 2000' + - to the east of Co Rd 1 on Co Rd M. He said Magnum is not a good neighbor and he talked about the sign in the office window not being inviting. Concerns were road impacts, traffic, dust, trucks, and water pollution. He talked about the discoloration of Rock Creek water because of the ponds and nitrate levels have gotten higher in their water from reports they have received. He felt the County was not giving his brother Dave Becker, a Veteran, any respect with his concerns.

PUBLIC COMMENTS CLOSED

Tim Naylor believes they are attempting to comply with regulations. He said he respects veterans for their service. Tim Naylor agreed that a bus stop sign was needed along with speed signs. They will try to direct traffic to Co Rd 1.

Brandon Allart said he called road and bridge about the roads about the dust haze.

Mark Becker was allowed to voice concerns and he showed the board pictures of a dip in the road and waste of feed along the road. (See attached)

Allyn Wind stated there is so much discussion regarding the roads and dust issues and wanted the board to focus more on the actual application. He thought the road issues would be more of a Board of County Commissioner issue. Others agreed. They encouraged the applicant to have discussion with the Commissioners. Mike Bailey did not think the road issues were their concern, but the County Commissioners concern. Mike Erker agreed.

It was then moved by Mike Erker and seconded by Allyn Wind to approve this Amended Special Use Application for Magnum Feedyard as landowner for an expansion of a feedyard footprint. Said expansion is located in the W½ of Sections 5 and 8 (compost area), Township 2 North, Range 60 West of the 6th P.M., Morgan County, Colorado. The expansion is to add an additional 122.23 acres to the feedlot footprint. The animal units that were previously approved under Special Use 1998 BCC 16 are 35,000 and will not be increased with this application. Motion of approval on the following conditions:

1. Animal units are limited to 35,000.
2. Trees will be planted, at recommended separation distances (depending on species), on the north side adjacent to the pens in phase 2, for dust and visual mitigation purposes.
3. Applicant shall remain in compliance with all other rules and regulations of other federal, state or local agencies with jurisdiction.
4. Applicant is required to follow all nuisance control measures set out in the Environmental System Design and the Management Plan for Nuisance Control. Enhanced measures may become necessary at some time in the future if there is unreasonable impact on surrounding properties. Enhanced measure would be required following written notice to the applicant and a hearing before the Board of County Commissioners if requested by the applicant.
5. The facility shall not commence operations until it has received approval from all federal and state agencies with jurisdiction over the operation and all required permits have been issued.
6. The wells serving the Property shall be operated in compliance with all applicable decrees, court orders, and substitute water supply plans.

Motion carried 7-0.

More discussion regarding the road issues in the County. Pam suggested anyone can come before the Board of County Commissions and verbalize road issues at a Comment Period on most Tuesday morning meetings of the Board.

There being no further business, the meeting was adjourned by motion from Allyn Wind and second by Mike Erker. Motion carried 7-0.

Respectfully submitted,
Jody Meyer, Planning Assistant