

MORGAN COUNTY PLANNING COMMISSION
September 9, 2019 MINUTES

The Morgan County Planning Commission met on Monday, September 9, 2019 at 7:00 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Robert Pennington, Pete Mercer, Terry Rutenbeck, Nathan Troutd, Dave Musgrave, Mike Bailey and Clay Miller. Also present were Pam Cherry, Planning Administrator; and Jody Meyer, Planning Assistant, and Shannon Shields, Planning Clerk.

The meeting was called to order by Chairman Nathan Troutd.

August 12, 2019 minutes:

It was moved by Robert Pennington and seconded by Dave Musgrave to approve the August 12, 2019 minutes as presented. Motion carried 7-0.

Agenda:

It was moved Robert Pennington and seconded by Pete Mercer to approve the Agenda as corrected by taking out 1(b) under Old Business. Motion carried 7-0.

Nathan reviewed the Process that will be used for this hearing.

NEW BUSINESS:

APPLICANT: Felimon Castaneda
LANDOWNER: Cargill Meat Solutions Corporation

Those present representing Cargill Meat Solution were: Feli Castaneda, Fort Morgan; Gene Guerrero, Fort Morgan; Alex McHugh, Fort Morgan; and Brian Mulinix from HDR Engineering, Nebraska.

Pam Cherry, Planning Administrator, read her file summary recommending approval:

This application is to amend Special Use Permit 2017 BCC 35 to construct a third covered anaerobic lagoon that will be adjacent to two existing lagoons. The property is located in the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 8 Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701.

All uses under Resolution 2017 BCC 35 continue to be permitted; this amendment is an expansion of the previously permitted uses. The property is zoned Light Industrial and two other lagoons are currently in use on the property. With construction of the third lagoon a backup will be available while existing ponds are being relined and will provide Cargill flexibility for operations. Impacts on adjacent areas are not anticipated. The project will also enable them to remain in compliance with regulations of the Colorado Department of Public Health and Environment.

The proposal is in compliance with the Morgan County Comprehensive Plan and the criteria for approval of the Special Use permit.

- a. The use and its proposed location are in conformance with the Morgan County Comprehensive Plan. Specifically:
 - i. The project will broaden employment opportunities for residents and will further economic growth.
 - ii. The proposed use is compatible with existing land uses and there is access to established public infrastructure.
 - iii. The use will protect existing agriculture operations by allowing it to continue while not restricting private property rights.
- b. The Application is complete and presents a clear picture of how the use is to be arranged on the site.
- c. The site conforms to the district design standards of Section 4-555 through 4-570 of the Morgan County Zoning Regulations. Specifically:
 - i. The proposed anaerobic lagoon is located in excess of seven hundred and fifty feet (750') from any residence or one hundred feet (100') from the property line.
 - ii. The Applicant shall construct the facility according to the final design plans as submitted to Morgan County, and as approved by the Colorado Department of Public Health and Environment.
- d. The special use is compatible with surrounding uses and is adequately buffered from any incompatible uses by distance and topography.
- e. The special use poses no or minimal risk to the public health, safety and welfare.
- f. The special use will not be located on a nonconforming parcel of land.
- g. 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 use is an improvement to the existing operation which has been in place for many years. The addition of the third, covered, anaerobic lagoon will provide redundancy for Cargill which will protect the health, safety and welfare of the residents of Morgan County.

All on and offsite impacts are determined to be satisfactorily mitigated, provided the following conditions are met:

- a. The Applicant shall rigorously follow the engineered plans as submitted and accepted by Morgan County and the Colorado Department of Public Health and Environment.

- b. Access to the facility shall be limited through property owned by Cargill Meat Solutions Corporation.
- c. The entire lagoon area shall be securely fenced with a six foot (6') chain link fence with three strands of barbed wire atop, in excess of the 6' fence. Gate access to the fenced lagoon shall be securely locked and monitored for security.
- d. The lagoon area shall be shielded from public view by planting trees and shrubs approved by the Morgan County Extension Service, the Morgan County Soil Conservation District, or the Colorado State Forestry Service.
- e. The entire 46.95 acre parcel on which the anerobic lagoon is located shall be planted into a grass seed mixture approved by the Morgan County Extension Service or the Morgan County Soil Conservation District. The subject parcel shall be kept free of weeds and properly mechanically mowed.
- f. The lagoons shall be monitored for leaks by the leak detection system submitted in the design plan, and monitoring wells to assure water quality. All leak detection design and monitoring wells shall be approved and in compliance with the Colorado Department of Public Health and Environment.
- g. The Applicant shall submit quarterly Salinity Test results from the brine lagoon to the Morgan County Planning and Zoning Department.
- h. The applicant shall provide CDPHE reports to the Morgan County Planning and Zoning Department whenever submitted to CDPHE.

GENERAL PROVISIONS.

- a. The Board of Commissioners retains continuing jurisdiction over this Permit to ensure compliance with this Permit and the Morgan County Zoning Regulations. County representatives are authorized to inspect the Property at any reasonable time upon notice to the Applicant.
- b. The Applicant shall comply with all governmental and regulatory agency requirements and permits, including without limitation those promulgated for the protection of health, safety and welfare of the inhabitants of Morgan County. Such compliance shall include without limitation compliance with the regulations of the Colorado Department of Public Health and Environment and the United States Environmental Protection Agency.
- c. Material alterations to the proposed development as set forth in this Application shall require an amendment to this Permit, after hearings before the Morgan County Planning Commission and the Board of County Commissioners. Nonmaterial alterations may be approved by the Morgan County Planning Administrator, upon receipt of written application requesting approval of the proposed alterations.

- d. The Applicant shall comply with all the requirements, conditions and design standards set forth herein. Noncompliance shall be grounds for revocation of this permit by the Morgan County Board of Commissioners after notice and hearing.
- e. Applicant shall submit a survey as required under Sec. 2-480, which shall conform with Section 8-180 of the Morgan County Subdivision Regulations, as required.

Pam Cherry recommended that this application be forwarded to the County Commissioners with the Planning Commission's recommendation of approval.

Gene Guerrero, Cargill, said by adding a new lagoon (third) they can now switch over to the new lagoon and decommission one of their old lagoons in order to clean it out. This lagoon will be in line with the other lagoons already in place and will be the same size as the others.

Brian Mulinix from HDR Engineering this application is very consistent with earlier applications. Gene Guerrero said it would take about 6 months to clean one lagoon and reline it. Brian Mulinix said it will be a double lined system this time and all 3 lagoons will be up to code. Gene Guerrero reviewed the brine lagoon process to the Board and said there will be some odor as they dig out the lagoon. Brian Mulinix said the lagoon size is 250 ft. by 330 ft. They do not allow snow or rain water in the lagoon. Mr. Guerrero said this will be a 5-6 year project.

PUBLIC TESTIMONY OPEN:

No one spoke in favor of or in opposition to this application – No one in audience.

PUBLIC TESTIMONY CLOSED

It was then moved by Terry Rutenbeck and seconded by Dave Musgrave to APPROVE this Application by Cargill Meat Solutions Corporation as read. Motion carried 7-0.

Proposed Amendments to the Morgan County Zoning Regulations:

- a. Repeal Airport Influence Area Overlay District: Sections 1-165, 3-830, 3-835, 3-840, 3-845, 3-850 and 3-855

Pam Cherry told the Planning Commission that the above amendment was tabled at the August 2019 meeting and the Planning Commission requested that we have the County Attorney here to answer some questions. She said the Board of County Commissioners just want to remove the Airport Influence Area Overlay District from the regulations and they are requesting that you give your recommendation either by denial or approval of the amendment. They want to remove them primarily because of property owner rights. BCC doesn't see heights becoming a problem within the airport area. The Part 150 deals with noise and Part 77 deals with approaches. Pam Cherry said the influence area was put together by a consultant for the City of Fort Morgan – it's a takings issue. Pam said the BCC would like to take it out (even though not officially adopted) because there is a whole separate document that goes with it and because of the taking issue.

Terry Rutenbeck said the purpose of it is so you can't build something over a certain height within those areas. Discussion on pros and cons of this decision. Mike Bailey said this would be a double-edged sword. This would cover both the Brush and Fort Morgan airports. Terry said it was proposed back in

2011 and it was never adopted. Pam Cherry said if we got in an application dealing with airport issues, the FAA would be a referral agency and would be notified. Pam said it is just taking something out of our regulations, but there are still regulations in place through FAA that would cover something like that. Pete Mercer said the FAA would trump other regulations then. They talked about avigation easements. There was more discussion on the heights on the Part 77 obstructions map. Pam Cherry requested that the Board vote to either recommend approval or denial and not table this amendment. Takings is a major concern of the Board of County Commissioners. Robert Pennington said it is limiting the power of the government.

It was moved by Pete Mercer and seconded by Dave Musgrave to remove this from the Zoning Regulations as read. Motion carried 6-1 with Terry Rutenbeck having the dissenting vote. Terry thought if you don't have something in a plan or written down you are going to run into problems.

There being no further business, the meeting was adjourned; Motion by Terry Rutenbeck and second by Mike Bailey. Motion carried 7-0.

Respectfully submitted,

Jody Meyer, Planning Assistant