

MORGAN COUNTY PLANNING COMMISSION
September 21, 2020 MINUTES

The Morgan County Planning Commission met on Monday, September 21, 2020, at 7:00 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Robert Pennington, Mike Erker and Mike Bailey were present; and Nathan Troudt, Terry Rutenbeck, Mike Bailey and Clay Miller appeared remotely by the Zoom platform. Also present in person were Pam Cherry, Planning Administrator, and Jody Meyer, Planning Assistant, and Ahna Raygoza, Planning Clerk. Kathryn Sellars, Morgan County Attorney attended remotely by Zoom and Karol Kopetsky, Morgan County IT Administrator attended remotely by Zoom.

The meeting was called to order by Chairman Nathan Troudt.

It is noted that this Planning Commission meeting for September 21, 2020 was held in person with an option to attend remotely through the Zoom platform.

Approval of Minutes: August 10, 2020

It was moved by Robert Pennington and seconded by Mike Erker to approve the August 10, 2020 minutes as presented. Motion carried 6-0 with Pete Mercer recusing himself as he was not in attendance on August 10, 2020.

Approval of Agenda:

It was moved by Mike Erker and seconded by Robert Pennington to approve the Agenda as presented. Motion carried 7-0.

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

NEW BUSINESS:

APPLICATIONS:

Wagon Wheel Homes LLC – applicant and landowner

Legal Description: Parcel of land located in the SW1/4SE1/4 Section 3, Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado aka 21589 Co Rd R, Fort Morgan, CO 80701.

Reason- Use by Special Review to permit a non-conforming Mobile Home Park

Richard and Helen Migchelbrink, 1505 Teakwood Court, Fort Collins, CO were present to represent this application as landowners.

Pam Cherry, Planning Administrator, read her file summary as follows:

Application Overview

Wagon Wheel Homes, LLC, as landowner, has submitted an application for a special use permit for an existing, non-conforming mobile home park in order to permit the removal and installation of new mobile homes. The property is approximately 2.38 acres (less than 20 acres) in the SW¼ of the SE¼ Section 3, Township 3 North, Range 57 West of the 6th P.M. Morgan County, Colorado and addressed as 21589 CO RD R, Fort Morgan, Colorado.

The property is zoned Agriculture Production and has been used as a mobile home park prior to the adoption of the County's Zoning Regulations which would have required a permit for the mobile home park. As a result, the mobile home park is a non-conforming use. In addition to the use of property being non-conforming, many of the mobile homes currently on the property are also non-conforming as having been installed prior to the requirement to obtain certain permits and prior to the regulation that did not permit as a use by right multiple mobile homes on one property in the Agriculture Production. All homes are currently on a rent basis. The applicant proposes to sell

mobile homes and rent space, and continue to rent the other homes. The underlying real property cannot be sold unless the property is subdivided pursuant to the County's Subdivision Regulations.

The property has a long history with Morgan County. In 1994, the Board of County Commissioners denied a special use permit to a previous owner of the property to build an off-site waste treatment facility. The previous owner and the County litigated whether the off-site waste treatment facility was an expansion of the non-conforming use. The Morgan County District Court found that was the case.

Earlier this year, the County issued stop work orders because of construction work on one of the stick built buildings and two of the mobile homes which was being performed without the requisite County permits. Additionally, a new home was brought onto the property in violation of several provisions of the Morgan County Zoning Regulations and building codes. Additionally, State of Colorado permits have not been obtained for plumbing and electrical work that has occurred on the property. After the stop work orders were issued, the County also issued a Notice of Violation in May.

In response to those stop work orders and Notice of Violation, the owner submitted the special use permit application.

Analysis and Applicable Regulations

Under the County's Zoning Regulations related to non-conforming uses, the owner is not permitted to expand the mobile home park or replace any old mobile homes with newer mobile homes. Further, the owner is not permitted to repair the existing mobile home if the values of those repairs are more than 50% of the value of the mobile home. Due to the age of the mobile homes, most needed repairs are well over 50% of the value of the mobile home. Because a mobile home park is not a use-by-right, a conditional use or a use by special review in the Agriculture Production zone district a special use permit is required to allow such activities. See Sec. 2-175, 2-230, and 2-325, Morgan County Zoning Regulations (attached to this summary).

Criteria – Special Use Permits

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.

- (A) The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan. The property is located in the northeast planning area.

Chapter 2

2.II.A - Economic Development

Goal – Diversify the economy in Morgan County to broaden business employment opportunities for residents and to further economic growth.

This project will support economic development by offering affordable residential options for local workers.

2.II.C

Goal - To encourage development where it is in proximity to the activity centers, compatible with existing land use, and there is access to established public infrastructure.

This project is located adjacent to existing infrastructure, roads and Morgan County Quality Water. The project is not compatible with the surrounding agricultural uses.

Goal - The County will encourage the preservation of agriculture production lands in balance with pressure for land use changes to higher intensity development.

This project will not impact the preservation of agriculture production lands. It will create an area where the land use change will increase the intensity of land use and the density of the area, creating more demand on public infrastructure.

Goal – Improve Morgan County’s image by dealing with community design issues in relation to land use.

While the surrounding agricultural uses provide a natural buffer to area farming operations and residential uses it will have an impact on property owners in the vicinity that have long understood that the non-conforming use would not expand. Often this sort of use results in the creation of a nuisance that may be required to be addressed through enforcement as it is in this case.

- (B) 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.
- (C) The Site Plan conforms to the district design standards of these Regulations.
- (D) All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.
Offsite impacts include visual and traffic/infrastructure that have not been addressed in this plan, enhanced mitigation measures are not proposed. The majority of the homes are in poor condition and have needed maintenance for many years. Repairs and/or replacement of the units are necessary. Fencing and landscaping the perimeter would lessen the visual impact of this project. If approved, including landscape and fencing for buffer would reduce the impact.
- (E) The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.
The addition of privacy fencing and landscaping would reduce the visual impact of the mobile home park, but has not been proposed.
- (F) The special use poses only the minimum amount of risk to the public health, safety and welfare as set by federal, state or county regulation, whichever is the strictest.
Level of risk based on increase in traffic to the property is difficult to measure, though increased occupancy will increase traffic and increase risk to farmers that use County Road S, a road utilized for the transport of equipment and other normal traffic upon the road in the area.

Wagon Wheel Mobile Home Park has begun to perform long needed maintenance on the property, without county or state permits. The work that has been done is long overdue; to continue improvements and maintenance on the property a Special Use Permit is required.

Colorado Department of Public Health and Environment and the Northeast Colorado Health Department are in contact with the applicant on the needed improvements to the septic system which should be completed, if this project is approved, prior to any additional homes being brought onsite or occupied.
- (G) The special use proposed is not planned to be developed on a non-conforming parcel.
The parcel is conforming.

(H) 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.
There is a need for affordable housing in Morgan County. The applicant owns the property and mobile homes outright.

(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.
Morgan County Quality Water provides water to the property and homes. In addition, there is an existing well 333-WCB and decreed as Schwindt Well #1 in Division 1 water court case no. W267.

Pam Cherry noted that she received:

1. Email from John Sneed dated today 9-21-20 offering support of the Migchelbrink character and history and experience with similar projects.
2. Call from Kristen Basil Director of Morgan County Economic Development
3. PowerPoint presentation from landowners
4. May 15th letter from Mandy Mercer Colorado Department of Public Health and Environment regarding the septic system.

Recommendation and conditions

Suggested conditions if Planning Commission recommends approval to the County Commissioners:

1. The applicant shall obtain necessary permits and comply with the requirements and conditions of those permits as determined by other governmental agencies with jurisdiction over this operation.
2. The septic/waste treatment system shall be installed prior to sales, placement or occupation of additional homes.
3. Submit plans for onsite lighting and service buildings.
4. Re-permit and transfer ownership of the existing well through the State Engineer's office.
5. Construct six foot privacy fencing along the north, east and west property lines.
6. Add landscape to south side for buffer purposes without impeding line of sight for motor vehicles.

Helen and Richard Migchelbrink, landowners, 1505 Teakwood Court, Fort Collins, CO, and both engineers along with their two sons, which comprises their business. Helen also is the Town Manager of Mead, Colorado. Helen gave an overview presentation for the Planning Commission, see attached. Helen also noted that previously that she and Richard are professional engineers for septic /sewers. The people that come to the park have the option of leasing or the opportunity of buying these mobile homes and then paying rent space.

Septic: Richard Migchelbrink said he removes waste everyday (not ideal at all). They need a leach field. He wants more flexibility on the fencing condition. He believes the fencing won't be needed; that if the park is cleaned up like they propose, a fence might even hinder the look by catching weeds and corn stalks etc. Richard said what they need is a leach field - to expand the property but not the number of units. Mike Erker agreed with not having to fence the parcel.

There was discussion on the septic system. Richard Migchelbrink said there were 2 leach fields on the property. They started the pumping when the County would not allow adding more land for the leach field. They might be able to split leach fields – they have talked with the City of Fort Morgan about using one of their manholes but would need an easement across adjoining property and to get under the railroad. Pennington asked if they would be allowed to use vaults. Pam Cherry noted that a septic system is part of the building permit process. Richard said the original well was for the old farm house; then Morgan County Quality came in. Erker said to ask the State about transfer of ownership. Richard said the leach field is in the way of the well – it has to be pulled up anyway.

Foundations: Terry Rutenbeck asked what if the mobile homes were to be put on permanent foundations and legally attached to the land. Richard said it would not give the people an opportunity to own a new home.

Stop Work Order: Richard Migchelbrink said they did start work not knowing Morgan County's process. They were following a procedure being done in other counties. Morgan County said they should get a Special Use first. Kathryn Sellars, Attorney, we are dealing with the non-conforming use issue.

PUBLIC COMMENT OPEN

Those speaking in favor: None present or on Zoom line

Those speaking in opposition: Bill Lauck, 21801 Hwy 34, Fort Morgan, CO 80701. He stated that it is a non-conforming lot. The well was used for livestock. The owners have cleaned up the parcel and it looks much better. His concern is if they sell the parcel and it falls back into disarray again. That is why he is against this application. He does understand their dilemma.

PUBLIC COMMENT CLOSED

Richard Migchelbrink said the parcel will be conforming when built out. Helen added again because they give the opportunity for someone to buy the mobile they can feel part of the project to keep it nice looking.

Setbacks: Robert Pennington asked Pam Cherry if the homes met the required setbacks. Pam was not sure as it was hard to tell looking at the site plans. Kathryn Sellars said they may have to ask for a variance for each home by going through a variance process with the Board of Adjustments. Pam stated that the site plan shows a 15' setback; the actual setback requirement is 20' in the Agriculture Production zone, any homes that do not meet the 20' setback requirement would require a variance.

Pete Mercer thought their plan was good. It will just stay in disrepair if left alone.

Robert Pennington wanted a more concrete plan related to the septic; figure it out, he is not sure how. They discussed the criteria sheet that was in their packet.

It was moved by Clay Miller and seconded by Mike Erker refer a recommendation of approval to the County Commissions on this special use application with a recommendation of approval subject to with the following conditions listed in Pam Cherry's File Summary (omitting #4 and #5):

- 1. The applicant shall obtain necessary permits and comply with the requirements and conditions of those permits as determined by other governmental agencies with jurisdiction over this operation.**
- 2. The septic/waste treatment system shall be installed prior to sales, placement or occupation of additional homes.**
- 3. Submit plans for onsite lighting and service buildings.**
- 4. Add landscape to south side for buffer purposes without impeding line of sight for motor vehicles.**

Motion carried 4-3 with Clay Miller, Pete Mercer, Mike Erker and Terry Rutenbeck in favor and Mike Bailey, Robert Pennington and Nathan Troudt having the dissenting votes.

It was moved by Mike Erker and seconded by Pete Mercer to adjourn this meeting. Motion carried 7-0.

Jody Meyer
Planning Assistant