

MORGAN COUNTY PLANNING COMMISSION
January 8, 2018 MINUTES

The Morgan County Planning Commission met on Monday, January 8, 2018 at 6:00 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Joe Ewertz, Pete Krohn, Bob Elrick, Robert Pennington, Dave Musgrave, Mike Bailey and Nathan Troudt. Also present were Pam Cherry, Planning Administrator; Jody Meyer, and Laurie Cromwell, Planning Assistants. Invited guests present were Board of Adjustments member Mike Erker. Karina Graulus from the Assessor's Office was also present.

The meeting was called to order by Chairman Robert Pennington.

November 13, 2017 Minutes: It was moved by Joe Ewertz and seconded by Dave Musgrave to approve the November 13, 2017 minutes as presented.

Agenda: Joe Ewertz asked that discussion on mineral rights/subdivisions be added to the agenda. It was moved by Joe Ewertz and seconded by Mike Bailey to approve the agenda as corrected to add discussion on mineral rights/subdivision per Joe Ewertz. Motion carried 7-0.

Chairman Robert Pennington presented an overview of the review hearing process by the Planning Commission.

NEW BUSINESS:

1. APPLICANT: Sterling Energy Investment

LANDOWNERS:

Brett and Kathleen Cary

Centennial Valley Ranch, LLC

Daniel Madsen

John Fabrizius

Pat Kauffman, Trustee of Landra Kay Fabrizius Trust, Wyatt Frasco Trust, Lane Frasco Trust, and Dawson Frasco Trust

William F Fabrizius and Valeria M Fabrizius, et al

Donald Wickstrom

Wickstrom Land LLC

Abby Rimel and Dena Lund from Sterling Energy Investments LLC were present to represent this application.

Pam Cherry, Planning Administrator, presented the following File Summary:

This application is for a Conditional Use Permit to construct a buried natural gas gathering pipeline. The pipeline will begin at the west county line in the NW¼ of Section 6, T5N, R60W and terminate at the Jackson Lake Gas Processing Facility in the E½ of Section 27, T6N, R59W of the 6th P.M. Morgan County, Colorado. The pipeline will be constructed across the following properties:

S/2	Sec. 5	T5N R60W	Wickstrom Land LLC
S/2	Sec. 6	T5N R60W	Wickstrom Land LLC
SE/4	Sec. 5	T5N R60W	Wickstrom Land LLC
NE/4	Sec. 8	T5N R60W	Wickstrom Land LLC
N/2	Sec. 9	T5N R60W	Cary, Brett R. & Kathleen P.
E/2	Sec. 4	T5N R60W	Wickstrom Land LLC
SE/4	Sec. 33	T6N R60W	Wickstrom Land LLC
S/2	Sec. 34	T6N R60W	Wickstrom Land LLC
S/2	Sec. 35	T6N R60W	Wickstrom, Donald
NE/4	Sec. 2	T5N R60W	Wickstrom Land LLC
NW/4	Sec. 1	T5N R60W	Wickstrom Land LLC
NE/4	Sec. 1	T5N R60W	Centennial Valley Ranch LLC
N/2	Sec. 6	T5N R59W	Centennial Valley Ranch LLC
SE/4	Sec. 31	T6N R59W	Centennial Valley Ranch LLC
All/ S/2 & E/2	Sec. 32	T6N R59W	Centennial Valley Ranch LLC
W/2	Sec. 33	T6N R59W	Madsen, Daniel
All	Sec. 27	T6N R59W	Fabrizius, William F & Valeria M et al
SE/4	Sec. 28	T6N R59W	Fabrizius, William F & Valeria M et al
NE/4	Sec.33	T6N R59W	Fabrizius, William F & Valeria M et al

The properties are all zoned Agriculture Production. In this zone district Utility Service Facilities are conditional uses.

The pipeline will be less than 12” in diameter and will traverse approximately 12.2 miles and will be buried adjacent to a portion of another pipeline that is on the Wickstrom property. Section 4-495(F) of the Morgan County Zoning regulations require that all production oil and/or gas be transported from the well head to the production facilities by buried pipeline or other approved method. Sterling Energy owns and operates a gas gathering system located in northeastern Colorado and Southwestern Nebraska that serves Weld, Morgan and Logan counties. Sterling Energy has contracted with gas producers to gather, treat and process gas produced from wells in the vicinity of the gathering system. Sterling Energy owns and manages three processing facilities on its gas gathering system to treat the gas in order to achieve a sales-quality product for marketing. This expansion will allow Sterling to provide the service to new customers.

The pipeline will cross the 100-year floodplain so Floodplain Development Permits will be required for those portions of the alignment. In addition, Sterling Energy will submit a Storm Water Management Plan to the Colorado Department of Public Health and Environment, Water Quality Control Division and will adhere to it through construction. The disturbed ground will be returned to natural conditions in compliance with floodplain regulations and agreement with the property owners. Following reclamation of the disturbed area the surface will return to agricultural use.

Criteria for approval of Conditional Use:

- A. The application documents are complete and present a clear picture of how uses are to be arranged on the site.
- B. The Site Plan conforms to the design standard of these Regulations.
- C. There are no off-site impacts imposed by the conditional use proposed that require additional infrastructure or upgrades by the County or Special Districts.
- D. The use proposed is compatible with the surrounding uses and adequately buffered as necessary.
The property is located in Agriculture Production zone district. There will not be a visual impact to adjoining properties.

Suggested conditions of approval:

- 1. The pipeline will be constructed within three years of this approval or a new application will be required.
- 2. Road crossings will require a permit from Morgan County Road and Bridge. Road cuts are not permitted on paved roads.
- 3. Easement agreements must be obtained from the property owner then recorded with the Morgan County Clerk prior to commencing construction.

Pam Cherry requested recommendation of approval of the Conditional Use Application subject to the conditions stated above.

Abby Rimel from Sterling Energy Investments gave an overview of this project noting they have gotten all preliminary easements from the landowners. The pipeline will be 12" or smaller.

Dena Lund from Sterling Energy Investments explained the excavation process. The floodplain areas will be checked for surface levels and will be returned to original surface level when complete. She noted that 811 is notified of the location of these pipelines. They plan on working on the first 10 miles right away and then the last 2 miles at a later time but before the 3 years are up.

Discussion: Pam Cherry said she received correspondence from Mr. Sheets who is a neighboring landowner in this area. He stated his property is landlocked and wondered if there was something he could do to get access.

Planning Commission was concerned about fire issues. Dena Lund explained how they monitored the pipeline and also talked about pig launchers used for cleaning and inspections.

Dena Lund said there would be approximately 9 trucks each day in and out of the facility at full run. She said this pipeline was over built for future use.

PUBLIC TESTIMONY OPEN

There was no one present to speak in favor of or in opposition to this application

PUBLIC TESTIMONY CLOSED

It was moved by Mike Bailey and seconded by Nathan Troudt to recommend approval of this Application for a Conditional Use Permit to construct a buried natural gas gathering pipeline and send it on the Board of County Commissioners with conditions below. Applicant being Sterling Energy Investment and Landowners being Brett and Kathleen Cary; Centennial Valley Ranch, LLC; Daniel Madsen; John Fabrizius; Pat Kauffman, Trustee of Landra Kay Fabrizius Trust, Wyatt Frasco Trust, Lane Frasco Trust, and Dawson Frasco Trust; William F. Fabrizius and Valeria M. Fabrizius, et al; Donald Wickstrom; and Wickstrom Land LLC. Parcels located in:

S/2	Sec. 5	T5N R60W	Wickstrom Land LLC
S/2	Sec. 6	T5N R60W	Wickstrom Land LLC
SE/4	Sec. 5	T5N R60W	Wickstrom Land LLC
NE/4	Sec. 8	T5N R60W	Wickstrom Land LLC
N/2	Sec. 9	T5N R60W	Cary, Brett R. & Kathleen P.
E/2	Sec. 4	T5N R60W	Wickstrom Land LLC
SE/4	Sec. 33	T6N R60W	Wickstrom Land LLC
S/2	Sec. 34	T6N R60W	Wickstrom Land LLC
S/2	Sec. 35	T6N R60W	Wickstrom, Donald
NE/4	Sec. 2	T5N R60W	Wickstrom Land LLC
NW/4	Sec. 1	T5N R60W	Wickstrom Land LLC
NE/4	Sec. 1	T5N R60W	Centennial Valley Ranch LLC
N/2	Sec. 6	T5N R59W	Centennial Valley Ranch LLC
SE/4	Sec. 31	T6N R59W	Centennial Valley Ranch LLC
All/ S/2 & E/2	Sec. 32	T6N R59W	Centennial Valley Ranch LLC
W/2	Sec. 33	T6N R59W	Madsen, Daniel
All	Sec. 27	T6N R59W	Fabrizius, William F & Valeria M et al
SE/4	Sec. 28	T6N R59W	Fabrizius, William F & Valeria M et al
NE/4	Sec.33	T6N R59W	Fabrizius, William F & Valeria M et al

Approval is based on the following conditions:

- 1. The pipeline will be constructed within three years of this approval or a new application will be required.**
- 2. Road crossings will require a permit from Morgan County Road and Bridge. Road cuts are not permitted on paved roads.**
- 3. Easement agreements must be obtained from the property owner then recorded with the Morgan County Clerk prior to commencing construction.**

Motion carried 7-0.

Morgan County Zoning Regulation Amendments

Mike Erker (Board of Adjustments) and Karina Graulus (Assessor’s Office) participated in discussion on these amendments. There was no other public in attendance.

1. A RESOLUTION AMENDING SECTIONS 2-245, 1-245 AND 6-130 OF THE MORGAN COUNTY ZONING REGULATIONS REGARDING COMPLIANCE WITH THE ZONING REGULATIONS PRIOR TO THE SUBMISSION OF LAND USE APPLICATIONS

Pam Cherry, Planning Administrator presented her summary as follows:

The purpose of this proposed amendment is to clarify the Morgan County Zoning Regulations as they relate to acceptance of land use applications when a property is not in compliance.

Currently, the regulations do not permit the Planning and Zoning department to accept a land use application if any property owned by the applicant is under an enforcement action. This amendment will allow for the acceptance of an application for property in compliance even though other properties owned by the same owner are not in compliance.

In addition, the definition of enforcement action is revised to reference state statute 30-28-124 and 30-28-124.5 (attached).

Currently, if property taxes are delinquent, an application will be processed, reviewed, etc, but the permit will not be issued. This amendment requires that property taxes be current, not in delinquent status, prior to the acceptance of a land use application. Section 6-130 is a clarification of what constitutes the payment of property taxes. A tax sale does not constitute tax payment as the County is still responsible for collecting taxes owed from the property owner.

Pam Cherry requested the Planning Commission’s vote for a recommendation of approval to be referred to the Board of County Commissioners.

Proposed Resolution:

**MORGAN COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS**

RESOLUTION NO. 2018 BCC ____

A RESOLUTION AMENDING SECTIONS 2-245, 1-245 AND 6-130 OF THE MORGAN COUNTY ZONING REGULATIONS REGARDING COMPLIANCE WITH THE ZONING REGULATIONS PRIOR TO THE SUBMISSION OF LAND USE APPLICATIONS

WHEREAS, the Board of County Commissioners of Morgan County has adopted the Morgan County Zoning Regulations to protect the public health, safety and welfare;

WHEREAS, the Board of County Commissioners may make amendments to the Morgan County

Zoning Regulations upon its own motion or upon petition of the Morgan County Planning Commission;

WHEREAS, the Board of County Commissioners has determined that it is proper to clarify what circumstances would prevent the County from accepting the submission of a land use application; and

WHEREAS, the Board of County Commissioners has complied with all relevant provisions of the Morgan County Zoning Regulations, as well as the requirements of C.R.S. § 30-28-116, for amending the Morgan County Zoning Regulations.

NOW THEREFORE BE IT RESOLVED by the Morgan County Board of County Commissioners as follows:

1. Section 2-425 of the Morgan County Zoning Regulations is hereby renumbered and amended to read as follows:

1-130 Compliance with Regulations

- (A) No application for a permit, rezoning or any other action requiring County approval under these regulations shall be accepted by the County if the property subject to the application is under an enforcement action.
- (B) If, prior to final action on any application, the subject property becomes the subject of an enforcement action under these regulations the application shall be held at the current level of review until the conclusion of the enforcement action.

2. Section 1-425 of the Morgan County Zoning Regulations is hereby amended to read as follows:

1-425 Enforcement Action: A property shall be considered under an enforcement action upon the expiration of the time designated in the notice of violation, pursuant to C.R.S. §§ 30-28-124 and 30-28-124.5, to cure the violation, including any extension granted by the Planning Administrator.

3. Section 6-130 of the Morgan County Zoning Regulations is hereby amended to read as follows:

6-130 Payment of Property Taxes Required

No application for a permit, rezoning or any other action requiring County approval under these regulations shall be accepted by the County for any property which is delinquent or past due on the payment of property taxes. Taxes shall be considered delinquent if the County has not received payment by the set due date. The sale of a tax lien, pursuant to Colorado law, shall not cure a delinquency. This requirement may be waived by the Board of County Commissioners on the condition that adequate assurances and arrangements for the payment of overdue property taxes have been made.

APPROVED this ____ day of _____, 2018.

BOARD OF COUNTY COMMISSIONERS

MORGAN COUNTY, COLORADO

Mark A. Arndt, Chairman

Laura D. Teague, Commissioner

James P. Zwetzig, Commissioner

ATTEST:
(SEAL)

Susan Bailey, Clerk to the Board

Discussion: There was discussion on enforcement. Joe Ewertz said the County needed to be more proactive. They said there needed to be a way to find more money to help with this enforcement issue. Lots of discussion on this topic but had no solutions for finding more money.

PUBLIC TESTIMONY OPEN

There was no one present to speak in favor of or in opposition to this application.

PUBLIC TESTIMONY CLOSED

It Was Moved by Joe Ewertz to deny this Resolution Amending Sections 2-245, 1-245 and 6-130 of the Morgan County Zoning Regulations Regarding Compliance with the Zoning Regulations Prior to the Submission of Land Use Applications. Motion died for lack of a second.

No new motion was brought forth by the Board.

2. A RESOLUTION AMENDING THE MORGAN COUNTY ZONING REGULATIONS REGARDING THE MAXIMUM HEIGHT FOR FENCES WITHIN THE COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS

Pam Cherry, Planning Administrator, presented her summary as follows:

The purpose of this proposed amendment is to increase the permitted fence heights in the commercial and industrial zone districts as listed in Table 1 of Appendix B. Currently the maximum fence height in all zone districts is six feet. This resolution increases the maximum fence height to eight feet in the Light Industrial and Commercial zone districts. The resolution also deletes footnote "c." from Table 1 of Appendix B, in its entirety. Footnote "c" reads "front yard fence height must be maintained to front setback line in side yard areas."

Pam Cherry requested the Planning Commission's vote for a recommendation of approval to be referred to the Board of County Commissioners.

Proposed Amendment:

**MORGAN COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 2018 BCC ____**

**A RESOLUTION AMENDING THE MORGAN COUNTY ZONING REGULATIONS
REGARDING THE MAXIMUM HEIGHT FOR FENCES WITHIN THE COMMERCIAL
AND INDUSTRIAL ZONE DISTRICTS**

WHEREAS, the Board of County Commissioners of Morgan County has adopted the Morgan County Zoning Regulations to protect the public health, safety and welfare;

WHEREAS, the Board of County Commissioners may make amendments to the Morgan County Zoning Regulations upon its own motion or upon petition of the Morgan County Planning Commission;

WHEREAS, the Board of County Commissioners has determined that it is in the best interest of the County to amend the maximum fence height in the Commercial and Industrial Zone Districts; and

WHEREAS, the Board of County Commissioners has complied with all relevant provisions of the Morgan County Zoning Regulations, as well as the requirements of C.R.S. § 30-28-116, for amending the Morgan County Zoning Regulations.

NOW THEREFORE BE IT RESOLVED by the Morgan County Board of County Commissioners as follows:

1. Table 1 of Appendix B of the Morgan County Zoning Regulations is hereby amended as follows:
 - a. The maximum fence height in the C and LI zones shall be eight (8) feet, regardless of the location of the fence.
 - b. Footnote “c” shall be removed from Table 1 in its entirety.

APPROVED this ____ day of _____, 2018.

BOARD OF COUNTY COMMISSIONERS
MORGAN COUNTY, COLORADO

Mark A. Arndt, Chairman

Laura D. Teague, Commissioner

James P. Zwetzig, Commissioner

ATTEST:
(SEAL)

Susan Bailey, Clerk to the Board

Discussion: Everyone seemed to be on board with the amendment to the zoning regulations.

PUBLIC TESTIMONY OPEN

There was no one present to speak in favor of or in opposition to this application

PUBLIC TESTIMONY CLOSED

It was moved by Bob Elrick and seconded by Joe Ewertz to recommend approval of this Resolution Amending the Morgan County Zoning Regulations Regarding the Maximum Height for Fences within the Commercial and Industrial Zone Districts and send it along to the Board of County Commissioners. Motion carried 7-0.

PERMIT FEES:

The Board reviewed the Schedule of Fees that the Planning and Zoning Office had prepared regarding possible new fee rates. Bob Elrick did not want to raise rates because the incomes in this area are lower. Joe Ewertz wanted to raise the fees higher. Planning Commission wanted to meet with the Commissioners. Pam said they need to make a request for the meeting. Laurie Cromwell passed out Permit Stats for the last three years. There was discussion on the report. Mike Erker expressed the need for higher fees.

OTHER BUSINESS – added agenda items:

Joe Ewertz wanted to discuss Subdivisions and Planned Developments/minerals. He thought these applications needed to find the mineral owners. Pam Cherry said this is already in the regulations. Joe Ewertz suggested that a developer should be required to own a minimum of 50% of the mineral rights on the development. He continued that housing development would then not be drilling under them.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Jody Meyer, Planning Assistant