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MORGAN COUNTY BOARD OF COMMISSIONERS August 2, 2019 MINUTES

The Morgan County Board of Commissioners met on Friday, August 2, 2019 at 10:00 A.M. in the Assembly Room of the Morgan County Administration Building. Present were Commissioners Jim Zwetzig, Mark Arndt and Jon Becker. Also present were Pam Cherry, Planning Administrator; Jody Meyer, Planning Assistant; and Morgan County Attorney, Kathryn Sellars.

WELCOME – CALL TO ORDER - The hearing was called to order by Chairman Commissioner Zwetzig.

ROLL CALL:

Commissioner Arndt
Commissioner Becker
Commissioner Zwetzig

CITIZEN COMMENT PERIOD: - Skipped

NEW BUSINESS:

APPLICANT and LANDOWNER: Jared and Jamie Bodine

Special Use Permit for a shop and equipment storage for applicant's Roadway Safety Solution business.

Legal Description - approximately 5 acres of the Southeast corner of Parcel #1 (1225-170-01-002) and 20 acres in the North half of Parcel #2 (1225-170-00-005) Parcel #1 is located in Lot 2, Endsley Minor Subdivision, being a portion of the N1/2 of Section 17, Township 3 North, Range 59 West of the 6th p.m., Morgan County, Colorado. Parcel #2 is located in the SW¹/₄NE¹/₄ of Section 17, Township 3 North, Range 59 West of the 6th p.m., Morgan County, Colorado, aka 7550 Co Rd Q, Wiggins, CO 80654.

Jared and Jamie Bodine, applicants were present to represent their application.

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

Application Overview

This application is for a Special Use Permit to allow for a shop and equipment storage used in applicant's business, Roadway Safety Solutions, on five acres of the southeast corner of parcel 1225-170-01-002 and the north half (twenty acres) of parcel #1225-170-00-005, a forty acre parcel. This is not an application to change the zoning of the property to commercial. The twenty-five acres is located in the NE¹/₄ of Section 17, Township 3 North, Range 59 West of the 6th P.M., Morgan County, and addressed as 7550 County Road 8, Wiggins, Colorado 80654. The property is zoned Agriculture Production where equipment storage not associated with agriculture is not designated as a land use in the Agriculture Production zone district. Section 2-325 of the Morgan County Zoning Regulations states: Any use, not designated as a Use by Right, Accessory Use, Conditional Use, Use by Special Review or not otherwise prohibited in a particular zone, may be approved as Use by Special Review pursuant to the criteria and procedure as established by these Regulations.

Citizen comments

There were forty-one property owners notified of this application. Feedback received from those notified were related to setbacks from the equipment storage area to the adjoining properties, the construction of a concrete structure for use as a shooting platform without a permit and the use as a personal shooting range.

Criteria – Special Use Permits

Special use permits are governed under Sec. 2-430 of the County's Zoning Regulations. Under that section, special use permits are subject to the following criteria 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. In this area Comprehensive Plan goals include:

- a. Encourage the preservation of agricultural production land to ensure continuation of this important industry.

This request will not modify the land and is in the North Kiowa Bijou a closed basin. This is a use that does not require water service.

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 the location of the 25 acres of property that will be used for the special use to permit the shop and equipment storage.

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 3-650 Bulk Regulations.

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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 by distance from adjoining properties.

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

Buffering from adjacent properties is provided by distance.

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.

A portion of this use has been operating in this location since 2013 and does not pose risk to public health, safety and welfare as set by federal, state or county regulations.

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 has been demonstrated with the growth that Roadway Safety Solutions has experienced.

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.

A water supply is not necessary for the workshop and equipment storage use.

Recommendation

Pam Cherry recommended approval of this application and Planning Commission considered this application on July 8, 2019 and unanimously recommended approval subject to the following conditions:

1. There shall be 100 feet setbacks on the east and west sides of the 20 acre portion of the permitted area.
2. Operation and/or charging of all equipment shall be limited to hours between 6 a.m. – 9 p.m.
3. The workshop and equipment storage shall be limited to the twenty-five acres designated in the application.
4. Any increase in the area needed for the workshop and equipment storage will require an amendment to this permit.
5. Equipment stored shall be used in the operation of Roadway Safety Solutions business.

At Planning Commission on July 8, the requirement of Section 2-480 of the zoning regulations were not presented or discussed. So, in addition, Section 2-480 of the Zoning Regulations requires:

All application maps, surveys and plats shall conform with Section 8-180 of the Morgan County Subdivision Regulations. Section 8-180 states:

- (A) Said plat shall be in the form of a black inked Mylar that is capable of reproducing clear and sharp reproductions of all details, signatures, and notary seals.
- (B) Reproductions using an ammonia based process will not be accepted.
- (C) No plats using sepia ink, pencil, containing stick-ons, or rub-ons will be accepted.
- (D) All signatures on the plat are to be in black permanent ink. It is preferred that all signature blocks be placed in the lower right quadrant of the plat.
- (E) The plat sheet shall have outer dimensions of 24" x 36" or 18" x 24". Outside margin / border shall not be less than one half inch (1/2") or greater than two inches (2").
- (F) Applicants are encouraged to use more than one sheet in order to avoid the crowding of information on one sheet. Sheets are to be designed as sheet x of y sheets.
- (G) The scale of the plat drawing shall be a common engineer scale. The scale shall be indicated with both alpha numeric and bar graph.

Kathryn Sellars, Morgan County Attorney, noted that the Planning Commission had discussion on what constitutes the definition of "equipment" which could be a broad range of items and the Board of County Commissioners may want to further refine or not.

Jamie Bodine, applicant, 7550 Co Rd Q, Wiggins, Colorado 80654, said they started this business in Orchard in 2003 and had no issues. They are very invested in the community. This is a one neighbor issue rather than a business issue. She has lived here all her life; kids are in school and 4-H clubs here; they support Morgan County businesses; and they hope to continue to do so.

PUBLIC COMMENT OPEN

Those in favor:

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Jim Groves, 7850 Co Rd P.3, Wiggins, CO, father of Jamie Bodine, said the business is out of sight/out of mind; you really can't see the equipment. There is very little traffic, only a truck and one hired hand in a day. He is all for the business being there.

Jennifer Ferguson, 3768 CO Rd P, Wiggins, CO 80654. She is in favor of this application. She said their business was there before most houses in Stable Ridge were built out and Bodines should be able to stay where they are.

Tyler Price of 3768 Co Rd P, Wiggins, Colorado, stated there are no traffic problems, Bodine business good for the community and helps Morgan County as a whole. They are willing to abide by regulations.

Those in opposition: No one present to speak in opposition to this application.

CLOSE PUBLIC COMMENT

Commissioner Arndt asked about the 100 ft. setback condition made by Planning Commission and if Bodines agreed with that along with the hours of operation. Pam Cherry noted there was discussion at Planning Commission on hours of operation because of the noise and Planning Commission wanted to put a restriction on it. Mark Arndt said if they ever wanted to expand the business, they would have to come back in for another process. He also said that it would be hard to make an equipment list. Commissioner Becker agreed.

Jamie Bodine explained to the Board that the buffer of land should help keep equipment in the right area and should appease the neighbors. Commissioner Zwetzig asked if they could have a Special Use (this is not a rezoning) on a portion of their property. Kathryn Sellars said sure. She told the Board that one of the conditions is that the applicants need to submit a map which will show the portion of the property that is being used for the business (the yellow portion shown on the submitted site plan).

Commissioner Zwetzig asked about the testimony received from Jason Hagen and Pam Cherry noted the Hagens were not present at the Planning Commission meeting. Discussion on date of site plan presented. He asked about the generators and Bodines said they try to run them during the day and keep closer to the shop and they move them to mow. Zwetzig asked applicants if they will stay inside the proposed business line shown on the site plan shown in yellow. Zwetzig noted there are two different parcels and the land is zoned "A" Agriculture Production. He noted also that the Planned Development was platted before the Bodines moved to the present location. Kathryn Sellars noted the Planned Development (Stable Ridge) has an underlying zone of "RR" Rural Residential use. Pam Cherry said no one objected to the use of the business. Kathryn Sellars said the proposed setbacks are to take care of possible future issues that may come up. They are proposing mitigation to alleviate any issues. Zwetzig noted this application would allow a Special Use Permit for a Commercial Use (Pam Cherry thought it to be more Light Industrial use) next to a Rural Residential use. No one in the residential use objected to the light industrial use. Pam Cherry said that was right. People knew the business was there before they bought.

Commissioner Zwetzig – there is a proposal of shooting ranges next to Rural Residential zone that is coming up in the next legislature. Bodines said that is an entirely different issue. Commissioner Zwetzig wants to establish this proposed land use and present facts that the Board can make a decision on – that the people in the PD were not really concerned with the commercial business being there.

Commissioner Arndt questioned the setback area and why is it not setback from the residence to the north with the red roof -Tom and Brandi Ishida. Commissioner Arndt wanted to know why there wasn't a 100 ft. setback from that property. Kathryn Sellars said this property is also zoned Ag and is not part of the Planned Development. Bodines said owner does not care.

Commissioner Zwetzig wants to see if 100 ft. buffer is enough. He asked for the aerial to be pulled up on the screen. Jamie Bodine handed out two pictures and noted the letters from the School District, Dick and Jackie Cutshaw -president of the HOA, and Cody Daig. Pam Cherry pulled up an aerial on the computer for all to see.

Fence: Pam Cherry said the Planning Commission didn't think a fence was needed as it was very costly. Jason Hagen, a neighboring landowner did make a request for a fence.

Commissioner Arndt thought the corners of the 25 acre parcel should be permanently marked. Kathryn Sellars said a map should be attached to the Resolution. There was discussion on the survey. Bodines did not understand the survey requirement. Kathryn Sellars said it is a submittal requirement. Commissioner Zwetzig said they would have to do a survey of the area which requires a surveyor. Bodines felt they had put a lot of money into this application already because one person complained. The Board noted it is required in the land use regulations.

Commissioner Becker said essentially what we are asking them to do is go through a PD process. Zwetzig said no, it is a designation process and part of our regulations. Mark Arndt said it is no different than a footprint of a CAFO. Any Special Use would need to follow this regulation. There was discussion on conditions being placed that might need to be enforced by future boards. Becker didn't like the survey regulation and thought they could mark location with a wheel. He asked the Bodines if they had a problem with the designated hours and they said no. Becker does not think they could possibly list all the equipment. Jamie Bodine said they wanted to go with the buffer and 100 ft. setbacks – they are trying to be reasonable. Jared Bodine asked what their time line would be to get the survey done. Pam Cherry said they are going to need at least 2 months to get the survey done.

It was then moved by Commissioner Jon Becker and seconded by Commissioner Mark Arndt to recommend approval of this Special Use Application for Jamie and Jared Bodine as landowners for a shop and equipment storage for Roadway Safety Solution business located at: Business is approximately 5 acres of

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the Southeast corner of Parcel #1 (1225-170-01-002) and 20 acres in the North half of Parcel #2 (1225-170-00-005). Parcel #1 is located in Lot 2, Endsley Minor Subdivision, being a portion of the N1/2 of Section 17, Township 3 North, Range 59 West of the 6th p.m., Morgan County, Colorado. Parcel #2 is located in the SW¹/₄ NE¹/₄ of Section 17, Township 3 North, Range 59 West of the 6th p.m., Morgan County, Colorado, aka 7550 Co Rd Q, Wiggins, CO 80654, with the following conditions put forth by the Planning and Zoning Administrator, Pam Cherry, and the Planning Commission and adding the highlighted portion of Pam Cherry's file summary as follows:

1. 100 foot setbacks on the east and west sides of the 20 acre portion.
2. Operation and/or charging of all equipment shall be limited to hours between 6 a.m. – 9 p.m.
3. The workshop and equipment storage shall be limited to the twenty-five acres designated in the application.
4. Any increase in the area needed for the workshop and equipment storage will require an amendment to this permit.
5. Equipment stored shall be used in the operation of Roadway Safety Solutions business.
6. All application maps, surveys and plats shall conform with Section 8-180 of the Morgan County Subdivision Regulations. Section 8-180 states:
 - (A) Said plat shall be in the form of a black inked Mylar that is capable of reproducing clear and sharp reproductions of all details, signatures, and notary seals.
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 - (F) Applicants are encouraged to use more than one sheet in order to avoid the crowding of information on one sheet. Sheets are to be designed as sheet x of y sheets.
 - (G) The scale of the plat drawing shall be a common engineer scale. The scale shall be indicated with both alpha numeric and bar graph.
7. Applicants, Jamie and Jared Bodine shall be given 4 months to complete the map.

Discussion: Commissioner Zwetzig said a formal Resolution shall be prepared and ratified at the next meeting. Pam Cherry asked if they wanted to record the Resolution without the survey. Commissioner Zwetzig said no. Kathryn Sellars said they should be recorded together. Zwetzig said they can approve the Resolution subject to getting a survey from the Bodines. Ms. Sellars was not sure the Resolution would be done by the Commissioners next meeting.

Motion carried 3-0.

Proposed Amendments to the Morgan County Zoning and Subdivision Regulations

- A. Proposed amendments to the Morgan County **Subdivision** Regulations regarding Planned Unit Developments and Major Subdivision in various Chapters and Sections.
- B. Proposed amendments to the Morgan County **Zoning** Regulations regarding private covenants and developments plans for Planned Developments in various Chapters and Sections.

Pam read the following:

Planning Commission reviewed these proposed changes on the Zoning and Subdivision Regulations at their meeting on May 13, 2019. At that time they continued the meeting until July 8, 2019 to and asked the County Attorney to make suggested changes provided in the draft at the June meeting.

In your packets are two different documents related to this change. The first is a redline document to show what is being deleted, changed or added to the regulations. The yellow highlights are recommended changes made by the Planning Commission, and the blue wording is a basic statement of what the amendments are trying to accomplish and the red lines reflect the changes. This amendment effects both the zoning and subdivision regulations.

The second document is the draft resolution which, when approved by the Board of County Commissioners, will be recorded to finalize the changes.

The Planning Commission considered those changes at the public hearing on July 8, 2019 and they recommended unanimous approval subject to their proposed revisions. The Resolution included in the packet includes the suggested Planning Commission revisions.

PUBLIC COMMENT – No public comment; no one present.

Kathryn Sellars reviewed the amendments with the Board. As we discussed previously the Planned Development process was basically used for subdivisions that were over a certain number of lots and the County had no major subdivision process that didn't involve a rezone, which is what the PD process is. To remedy that situation, these

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amendments remove the Planned Development process from the subdivision regulations and create a Major Subdivision process which has no rezoning component so if someone wants to come in and apply to divide a certain number of lots over 4 lots, and they could just do this and it would just be a subdivision and they would not be a PD and all the other hoops they would have to jump through.

The other thing it does, it revises the language regarding private covenants and the County's role in approving, or bringing amendments up or enforcing private Covenants. The wording of "requiring covenants" is still in there, but the County doesn't have any role in the covenants – they are completely privately dealt with once the subdivision is approved.

Pam Cherry asked if this takes care of the covenants out there already. Kathryn Sellars thought this new amendment would trump the language in the private covenant what is out there now. The County always has the discretion to get involved in the enforcement side or not. Pam Cherry said so far everyone is pretty accepting of us saying we do not get involved in enforcing covenants.

Kathryn Sellars discussed the difference in Major and Minor Subdivisions. A Major will have more engineering requirements/infrastructure. The Planning process is still going to be the same but the preliminary and final plat process will be different. A Minor will have only one survey plat process and there will be a lot less infrastructure you have to do because it is only 4 lots.

Mark Arndt had questions on water taps. Commissioner Zwetzig said in municipalities, all infrastructure, money and surety get in place first. A Developer's Agreement would list the entire infrastructure. Municipalities are more concerned with infrastructure being in place before lots are sold. Kathryn Sellars thought the County would be more concerned with the roads and development agreements. The County is not a utility provider. There was more discussion on phasing, requirements and having a final plat on each phase, Master development agreement and individual improvement agreements for each phase.

Kathryn Sellars asked to go back to the process question and said there would be a preliminary meeting where all the details are worked out and it goes to both the Planning Commission and moves on to the Board of Commissioners at public hearings. The final plat only goes to the Board of Commissioners.

Kathryn Sellars said she is working on the School District dedications in a separate section of the Regulations in specific detail to match state regulations.

It was moved by Commissioner Arndt and seconded by Commissioner Jon Becker to approve the Proposed Amendments to the Morgan County Zoning and Subdivision Regulations as presented to the Planning Commission on July 8, 2019, becoming Resolution #2019BCC19. Motion carried 3-0.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Jody Meyer, Planning Assistant