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BOARD OF COUNTY COMMISSIONERS Minutes of Meeting October 29, 2019

The Board of Morgan County Commissioners met Tuesday, October 29, 2019 at 9:02 a.m. with Chairman James Zwetzig, Commissioner Mark Arndt and Commissioner Jon Becker in attendance. Chairman Zwetzig asked Morgan County Clerk and Recorder Susan Bailey to lead the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

There was no citizen comment provided.

ADOPTION OF THE AGENDA

Commissioner Arndt made a motion to adopt the agenda as presented, with Commissioner Becker seconding the motion. Motion carried 3-0.

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated October 8, 2019
2. Ratify the Board of County Commissioners approval of meeting minutes dated October 22, 2019
3. Ratify the Board of County Commissioners approval of Contract 2019 CNT 134, Paramount Technology, Term of Contract October 22, 2019 through December 31, 2019
4. Ratify the Board of County Commissioners approval of Contract 2019 CNT 135, Hill Petroleum, Vehicle Fuel, Term of Contract October 1, 2019 through March 31, 2020
5. Ratify the Board of County Commissioners approval of Contract 2019 CNT 136, Runbeck Election Services Inc., Term of Contract October 25, 2019 through October 24, 2020
6. Ratify the Board of County Commissioners approval on assignment of debt collections to State Collections, Client # 1914768
7. Ratify Chairman Jim Zwetzig's signature on the Memorandum of Agreement between Morgan County and the Federal Emergency Management Agency Integrated Public Alert and Warning System Program Management Office (IPAWS) dated for October 23, 2019

Commissioner Becker made a motion to approve items 1-7 as presented, Commissioner Arndt seconded the motion. At this time the motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

There was no general business or administrative items.

UNFINISHED BUSINESS

There was no unfinished business.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated October 25, 2019 through November 5, 2019 with no changes and indicated there will be no board meeting held on Tuesday, November 5, 2019 due to Election Day.

Commissioner Arndt provided the weekly road and bridge report ending October 25th 2019.

Morgan County Clerk and Recorder Susan Bailey provided an update regarding the 2019 Coordinated Election.

Morgan County Planning and Zoning Administrator Pam Cherry provided an update regarding the Planning and Zoning Department as well as an update regarding the fire that occurred in the Town of Snyder, indicating those properties were currently under enforcement.

PUBLIC HEARING

Chairman Zwetzig called the hearing to order at 9:31 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman James Zwetzig, Commissioner Mark Arndt and Commissioner Jon Becker were present. Also present was Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry and by phone Kathryn Sellars, County Attorney.

1. Le-An Than - Applicant

Le-An Than and Joanna Vu and Tran N. Nguyen - Landowners

Legal Description- Parcel located in the SE1/4 of Section 24, Township 2 North, Range 60 West of the 6th p.m., Morgan County, Colorado.

Reason - Special Use Permit to use property for agricultural production, handling, storage, and processing pursuant to Section 2-325 of the Morgan County Zoning Regulations; a use not listed in the Morgan County Zoning Regulations will be processed as a Special Use.

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At this time, Chairman Zwetzig and County Attorney Kathryn Sellars provided a summary of the public hearing process and asked the applicant to come forward to present the application.

Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry presented to the Board a Special Use Permit to use property for agricultural production, handling, storage, and processing pursuant to Section 2-325 of the Morgan County Zoning Regulations; a use not listed in the Morgan County Zoning Regulations will be processed as a Special Use.

Application Overview

Ms. Cherry explained that the property owner has submitted an application for a Special Use Permit for approval to operate an Agricultural Product Handling, Storage and Processing facility including a lab. The property is approximately 35.27 acres (more than 20 acres) and is located in the SE¼ of Section 24, T2N, R60W of the 6th P.M., Morgan County, Colorado and addressed as 5561 County Road I. The property is located in the Agriculture Production Zone District.

- a. Pursuant to Section 2-325, any use, not designated as a Use by Right, Accessory Use, Conditional Use and Use by Special Review or not otherwise prohibited in a particular zone, may be approved as a Use by Special Review pursuant to the criteria and procedures as established by these Regulations.
- b. Section 3-175, Parcels larger than 20 acres does not list a laboratory as a Use by Right, Conditional Use or Use by Special Review.

In addition, hemp oil will be produced on the property. This permit will be applicable to product handling, storage and processing of any agricultural product (not restricted to hemp) permitted in Morgan County. The property is zoned "A" Agriculture Production Zone District.

Criteria – Special Use Permits

Ms. Cherry explained 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 Southwest Planning area.

Goal. Encourage the preservation of agricultural production land to ensure continuation of this important industry. The project is in compliance with the Morgan County Comprehensive Plan and will diversify the economy to broaden business employment opportunities. The proposed use is compatible with existing land uses and a new driveway to County Road I has been approved by Road and Bridge.

Comprehensive Plan - Chapter 6: Land Use Planning: Section VI - Agriculture is a highly valued resource in Morgan County. Conservation of agricultural resources and land is paramount and such land and resources must be protected from adverse impacts resulting from uncontrolled and undirected business, commercial, industrial and residential uses. Agriculture areas are established to maintain and promote agriculture as an essential industry in Morgan County. Agriculture zones are established to provide areas for the conduct of agriculture activities and activities related to agriculture and agricultural production with the interferences of other incompatible uses.

GOAL: The County will encourage the preservation of agricultural enterprises when considering growth and changes in land use.

Policy 10: The County will protect existing agricultural operations, allowing them to continue, while directing growth so as not to restrict private property rights.

- (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.
The property currently has one home and a shop upon it. There are nine greenhouses proposed as well as a laboratory that will be enclosed in a building.
- (D) All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.
*Impacts are mitigated by distance, additional mitigation may be required for the property to be in compliance with 3-695 which states:
In all Zone Districts, *** sources of light shall be shielded so that beams or rays of light will not shine directly onto adjacent properties; neither the direct nor reflected light from any light source may create a traffic hazard to operators of motor vehicles on public or private streets; no colored lights may be used which may be confused with or construed as traffic control devices.*
- (E) The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.
The agriculture nature of the proposed Special Use is compatible with surrounding uses, buffering from adjacent Agriculture Production zoned property is not necessary.

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- (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 regulations, whichever is the strictest. *This operation will be required to obtain necessary permits from state or federal agencies and remain in compliance with any requirements.*
- (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.
Expansion of agriculture related businesses in the County is necessary to increase and broaden the employment opportunities and the economy in Morgan County.
- (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.
The applicant has submitted Colorado Division of Water Resources permit #314041 as a commercial well. Notification from the Colorado Division of Water Resources dated July 30, 2019 indicates that the well is to be reclassified for the use proposed. In addition, Morgan County Quality Water has submitted documentation that states the Board has approved two tap equivalents for the property. The contract is being prepared by Quality Water and is pending final approval by the Board.

Public Comments/Concerns

Ms. Cherry stated that all agency referrals have been completed with comment received from the State Engineer related to the use and need to reclassify the well if it is to be used for this operation.

There have been concerns from the public related to the operation. Some of which were calls of visits to our offices or at Planning Commission on August 12, 2019. The concerns thus far expressed:

- Property depreciation
- Traffic
- Waste
- Lights emitting from the property during the night time hours
- Dust
- Commercial greenhouse and processing operation as opposed to agriculture
- Water and ability to obtain commercial well permit
- Road upgrades
- Odor
- Security
- Legality of CBD
- Greenhouses blowing over
- Lab not agriculture use
- Cross pollination
- Noxious weeds
- Storage of chemicals
- Use of household well for operation

Ms. Cherry stated that the Planning Commission reviewed this application on August 12, 2019 and the applicants received a unanimous recommendation of approval subject to the listed conditions.

Recommendation and Conditions

At this time, Ms. Cherry recommended for approval the Special Use application to permit Agriculture Processing and laboratory on the property subject to:

1. Operation of the facility shall not commence until the water supply has been finalized as required.
2. To remain in compliance with Section 3-695 of the Morgan County Zoning Regulations mitigation measures shall be put in place to limit the amount of light that leaves the property.
3. 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.

Ms. Cherry stated she has had correspondence with Morgan County Quality Water about the purchase of the two water taps.

Ms. Powell stated she received two telephone calls this morning regarding the ability to travel here and wanted permission to call in to make public comment. Chairman Zwetzig mentioned those individuals who called and asked County Attorney Sellars if that is allowable, with the Ms. Sellars stating it is not typically allowed for citizens to call in to make public comment and provide her recommendations. At this time, it was requested that Ms. Cherry provide these individuals concerns and comments that were expressed during the Planning Commission meeting at

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which time, Ms. Cherry stated those concerns of Jesse Nichols. Kay Aldrich was not present at the Planning Commission meeting as per Ms. Cherry, so was not able relay those concerns of this individual.

Ms. Cherry asked that it be clarified for the record regarding the requirements for what is being considered under the special use permit application with Ms. Cherry summarizing the information. Further discussion followed as to what will be considered under the special use permit.

At this time, the applicant, Le-An Than and Joanna Vu and Tran N. Nguyen being represented by the following individuals: Aaron Schrage, 612 Curtis Street, Brush, Co; Hoang Than, 5561 County Road I, Wiggins, CO and Dray Wharton, 1577 East Prentice Drive, Centennial, CO were seated at the table.

Mr. Schrage asked to present a power point presentation to the Board, at which time he provided information regarding the property location and other pertinent information clarifying the concerns expressed during the planning commission meeting, specifics included the Hemp/CBD legality.

At this time, Chairman Zwetzig opened the matter for public comment of the hearing.

At this time, several individuals spoke in opposition of the application providing detailed reasons for their opposition. Those citizens were:

Pat Heeley, 5961 County Road I, Wiggins, CO
Gary Reidell, 8610 County Road 7, Wiggins,
Howard Heeley, 5961 County Road I, Wiggins, CO
Mitch Midcap, 8920 County Road 7, Wiggins, CO
Glen Stencil, 8414 County Road 6, Wiggins, CO
Diane Reidell, 8610 County Road 7, Wiggins, CO

At this time, the public comment portion of the hearing was concluded.

At this time, Chairman Zwetzig moved into discussion and decision. At this time, Commissioner Arndt asked the question as stated in the beginning of the hearing they are here to talk about the lab production of the oil, not the growing of the hemp and asked if he is correct to say that hemp is the only product that is protected under the state constitution. Ms. Sellars stated it is possible, and has not compared it to any other agricultural product, with Commissioner Arndt stating it is a product in the state constitution that it is legally grown and processed in the State of Colorado with Ms. Sellars stating that is correct. Ms. Sellars stated hemp production is legal both in Colorado and at the federal level as well as the THC level is under the .3percent and that testing is done by the Colorado Department of Agriculture. She is not aware if the federal government does any testing. Commissioner Arndt asked about the public comment regarding the blowing plants and feels he has to compare it the same as corn stalks blowing, although there is the question about the seeds being spread somewhere else stating they get many complaints about ragweed blowing into the other properties as well as rye getting into good seed areas. He stated this is truly a protected crop allowed by state constitution and wants that fresh in his mind in his thinking process. He also commented about the light issues, asking if they have mitigated that and how they have mitigated the light problem affecting other people's lives and the water issue is a big question as that is a precious commodity in this area. He stated the water supply needs to be solid in this matter. He further stated the posting needs to be posted and asked about where the posting was placed, with Ms. Sellars stating the physical posting on the property is at least one sign facing each adjacent public right of way at least 15 days prior to the public hearing. She read aloud the regulation verbatim. She stated it is determined that this requirement is met by the Planning Department with Ms. Cherry stating the applicant sent her photographs but did not go on site, but did confirm the placement by photograph. Chairman Zwetzig asked what the process would be if the posting of the sign did not comply, with Ms. Sellars stating it could be required to be reposted and a new hearing date be set for 15 days out.

Mr. Schrage stated they posted one sign closest to the home where the building is to be built, with Ms. Cherry stating she did not understand there should be two signs placed and her department would need to order more signs if this is the case.

Ms. Sellars further stated the parcel of property being in the southeast parcel, is her understanding where the processing facility will be located and that is the only property subject to the special use permit, and that is where the sign needs to be placed as to relation to County Road I, and Commissioner Arndt stated the question has been answered it was properly posted as it was posted appropriately in relation to County Road I.

Commissioner Becker stated his first question being for either Ms. Cherry or Ms. Sellars asking can a processing facility be only for those 25 acres or can it bring in other product from other areas, so this could be opened up to other farmers from other fields for processing with Ms. Cherry stating that is correct. Commissioner Becker also asked the question about the method of research is to be done, and the first question is what is this hearing about, and the growing can continue whether or not this hearing is held or not. He stated he understands the concerns about the blowing of product and stated he receives calls from other landowners complaining about corn blowing into their yards, and explained these are protected crops, and specifically stated the farm bill that protects hemp and the growing of this product. He stated there is not a way to stop the growing and should it be treated differently or the same, and believes the two main questions that were asked by Commissioner Arndt, is there adequate water and the light nuisance. He stated he does not believe the blowing of hemp is not what can be addressed here and it is not something the Board can say it has to stop given it is an agricultural product and compared it to corn.

Commissioner Becker stated the light shield and the water needs need to be addressed, and wanted to clarify this processing unit is not only for the 25 acres, that it can be used to process additional crops.

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Commissioner Arndt stated the comment farm facilities, come into this facility is where this comment is coming and that the Planning Commission recommended the only product that comes to this facility be what is grown or produced by this applicant. Ms. Cherry stated this was not included in the Planning Commission's motion for approval. Commissioner Arndt read aloud the conditions that were put in place at the Planning Commission meeting with questions raised as to how the application is being presented as well as what the motion was made at the Planning Commission meeting. Ms. Sellars stated it is only a recommendation that is made by the Planning Commission, not definitive and the Commissioners can decide whether or not this be made a condition of this application.

Commissioner Becker asked the question how often if we have processing, does the Department of Agriculture go there onsite and what are they looking for, and after harvest, what is the proper way to treat the field afterwards.

Mr. Than stated when they harvest, they would pick it up with a combine and process, at this time, they are field drying and plan to disc the ground, and intend to move the product into an area for drying in the future. Mr. Wharton stated there is nothing concerning about the wind blowing a plant onto others property, and the value of this product being in their best interest not wanting it to blow on adjacent property. It was asked if the seeds would grow another plant, with Mr. Than explaining how the plants are produced and provided an explanation as to the difference between female and male plants, stating that is something the County may want to discuss further. He stated these seeds are coming from other farms, with Mr. Schrage for the purposes of CBD oil you want female plants only, as the male plant is what causes problems and stated it is not the easiest plant to start growing outdoors. A question was asked if any of the neighbors have hemp growing in their yard now, with members of the audience stating not yet.

Chairman Zwetzig asked the applicant the question what is in place at this time, with Mr. Wharton stating they currently have greenhouses in place for growing purposes. The purpose of building a building the size they are asking for was due to economic reasons as per Mr. Schrage, with Ms. Cherry stating what requirements there would be for a larger building, indicating a drainage report with Mr. Schrage stating they have completed a drainage report which is included as part of the application.

Discussion followed as to how the plants are grown, and the use of water. Chairman Zwetzig mentioned he believes there is a difference between growing the plant in the ground versus growing it in containers. The applicant confirmed they grow the plant in containers.

Chairman Zwetzig asked how many acres of hemp can be processed in the building of this size, with Mr. Schrage stating the processing will only be inside of the lab in the building, and the majority of the building will be for storage of container and maintenance of equipment and storage of product. He stated the area for the processing will be seen due to yields. Mr. Wharton stated they can only grow what they can irrigate so feels they are limited to about 36 acres given the amount of water they have for their property. Discussion followed regarding the issue of product coming from other farms to process, with the applicant stating they do not have the ability today to process biomass and explained the process they have in place.

The facility itself to permit today, how many acres can it process, with Mr. Than stating the current setup would only allow for the farm of their size at this time. Discussion followed as to how the permit would be approved, and if it should be limited as to the number of acres it could process. Ms. Sellars stated if the special use permit is silent as to where the product comes from, then yes, they could bring it in from anywhere as much as they want as much as they can process unless the Board would want to limit it. Ms. Sellars stated the Board could limit the amount that is processed daily.

Chairman Zwetzig asked about the current lighting and if it is controlled under the current regulations with Ms. Cherry stating she has not heard about it impacting other property directly and has asked for pictures and has not received any pictures from any others. Chairman Zwetzig asked could a landowner come in now and file a nuisance report regarding lighting with Ms. Cherry stating yes, and lighting is considered a nuisance. Chairman Zwetzig stated he believes that is a different issue for him versus the processing facility they want to permit. Mr. Schrage stated the only external light on the processing facility would be a light on the entry door and a flood light over the garage door for entry and there would be no external lights on the barn other than that. Chairman Zwetzig asked if a plan could include where the lighting would be with Mr. Schrage stating he could provide that, and he further commented as to his concerns about what the metric is that is used to determine the beam and the lighting and assured the Board the applicant wants to comply with the regulations.

Chairman Zwetzig asked if the applicant notices any lights from adjoining neighbors with the applicant stating of course, any yard light, porch light and spoke about the fact the plastic structures being over a hoop, you will be able to see the lighting and explained they are bright lights, over the plant pointed down and those hoops do glow, like the light you may see on a sunroof or a skylight on their home. Chairman Zwetzig spoke about the requirement of some type of blockage and ways of mitigating the light illumination and stated he would like to see the applicant offer some type of mitigation for this issue.

Mr. Wharton stated the purposes for the lighting, and they have tried to accommodate the neighbors turning them off at 9 p.m. and they turn back on until 2 a.m. in hopes that this would alleviate the issue for the neighbors. He stated the hours of processing of hemp will be daylight hours, with less than ten employees, probably five employees, and there will not be a huge traffic impact. The applicant stated he does not believe it is possible to process hemp 24 hours a day, and explained the processing and the clean up. It was stated that there is currently 8 months worth of processing time at the present time.

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Chairman Zwetzig asked about security and if that is an issue for hemp processing, with Mr. Wharton stating the hemp plant is not valuable to an individual unless they have the ability to process it. Chairman Zwetzig stated he and Commissioner Arndt did tour the facility located in Weldona and explained what they observed and seen while there and encouraged others to tour a processing facility.

Discussion followed regarding what it requires to process with Mr. Than providing an overview of the process and the fact he does have a chemistry degree. He further stated the seeds go out to the field, both the plant and the seeds, with Mr. Schrage explaining what they do use. Much detailed discussion followed as to how the processing operation is completed as to how much, the time it takes and other details. As for any odors, a carbon filter can be used to mitigate any odors that it may create. Mr. Schrage stated the biomass does present an odor just like what is growing in the field, stating manure has an odor as well.

Chairman Zwetzig stated he has some conditions that could be made, with one of his concerns being odor, stating he believes the carbon filter would be something to look at. Commissioner Becker stated they are not dealing with the drying of the product here, with Chairman Zwetzig stating he believes it is pertinent, with Mr. Schrage confirming there is a filter that will be in place for the processing and would mitigate the concerns.

Chairman Zwetzig then spoke about the proof of adequacy of water, with Mr. Schrage explained the current well permits and how those are to be utilized and indicated they have been approved for the purchase of two quality water permits from Morgan County Quality Water District. He stated the domestic well has been permitted according to how it will be used. Chairman Zwetzig spoke about being privileged to the discussion held at Quality Water given he is a board member and stated there is the concern about how much water they will be using. The applicant believes they have the adequate water for this proposed facility. Mr. Schrage stated the current domestic well has been permitted and the information is in the original application. At this time, Commissioner Arndt stated his main concern was about the domestic well water being used in the greenhouses, and that is a violation. Mr. Than stated the pictures they provided are pictures of trucks bringing water in from Quality Water, and confirmed the greenhouses are regulated by the State, and this has been permitted by the State. The Quality Water is being used for just the greenhouses and will stop using that water once the taps have been purchased. Mr. Schrage stated if there were instances where the domestic well was being used, was by an employee who should not have done so and that has been taken care of, with Mr. Wharton stating there may have been someone using the domestic well the very next morning after the Planning Commission hearing and that has been resolved.

Further discussions followed regarding there will be no lighting issues as a result of the processing facility and understands the applicant has agreed to mitigate the lighting issues where the greenhouses are.

Ms. Patricia Heeley, 5961 County Road I, Wiggins, thought the permit was asking for up to five labs, that they were looking at additional labs inside the building, with Chairman Zwetzig stating it is his understanding they are permitting a lab and they can make it as large as they want. Ms. Heeley stated she has concerns about the possibility of it expanding and placing more labs and that taking part of the storage area. Chairman Zwetzig stated the building could be added onto and it could be made larger at a later time.

Chairman Zwetzig commented about the concern expressed about the notification to landowners within the 1,320 feet and the fact that there are complaints about this stating Weld County is at 650 feet, and Commissioner Arndt stated it has been ¼ of a mile since 1993 or 1994, and there has been comment from the public on both sides.

At this time, Commissioner Arndt asked to see the slide where the inside of the proposed building is asking the question about the building being built today as a storage building as for a drying facility, with Mr. Schrage stating yes. Discussion followed as to the proposed 20x14 and that being the processing lab facility, with that proposed lab site being 20x14, and if the lab is limited to the size within the building itself, it will limit the amount of production. Mr. Schrage stated they could fit more than one processing machine into this proposed area, but the reason for this size of the lab being proposed was explained.

Commissioner Becker spoke about touring facilities and stated there was no odor during the tours, stating he has toured others on the western slope being four to five times this size, and it only had 12-14 employees doing way more than here, and feels it is a very clean system, only during the day is there traffic that goes to it and uses it, and there were higher end engineers helping them work through economically. He believes these are facilities the County is going to see and does not see this any different as any other processing facilities that have been approved. He stated in full disclosure there were a few senators participating in this business and they were in agricultural areas, not drying in the field, given that is wasting a lot of the product, and wanted to get the product inside. He has since spoken with the senator involved and the adjoining neighbor concerns seem to be solved.

How often do they see the Department of Agriculture, with Mr. Wharton stating when they first made contact, they were looking for farms to volunteer to have crops tested and they volunteered, and allowed them to come in and test, where they explained their business practices and spoke in detail about the lack of resources and the need for their services. He stated as soon as they are processing they will see CDA out to inspect, and they do not regulate labs, anything post cultivation, and believes that will be tacked on at a later time where rules will need to be made.

Chairman Zwetzig mentioned he believes there are conditions that need to be discussed asking if they see a need to limit the facility or how they wish to proceed. Commissioner Arndt stated in looking at this and the comment made by no processing on "off farm", feeling it is no different than a farmer in the County using their own product and processing efforts, wanting to caution in how the tracking would be done to limit the tonnage, and sees the size limiting given they would be aware of something going on, is the proposed lab is 20x14, and that is the size that they are limited to in the building, the lab itself, feeling that is the one way they can limit size or growth and that it does not become a lab larger than that, feeling they truly have to require a true "as built" plan. Mr. Wharton stated they would be amenable to that and Mr. Schrage will prepare a revised plan to indicate that size.

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Commissioner Becker stated he does not believe there is any way to limit tonnage and feels if they are going to be doing these plans, have approved engineer as built plans, and any change to must be approved by the BOCC or an amended permit process. Filtration has been indicated as being a part of the as built plans, with Commissioner Becker stating he feels there is the ability for more production and explained why he believes the limits placed on CAFO's as being done in a previous matter.

The facility will not be harm to the adjoining landowners and asked the applicants to help with alleviating the concerns by the adjoining landowners.

As to the water issue, Commissioner Arndt read aloud what language is currently being proposed, and Mr. Schrage asked if they are speaking in specifics to the processing facility with Chairman Zwetzig stating that is correct. The well permit that is included in the application as being an acceptable water source, with Chairman Zwetzig stating they would have to follow the state water rules.

Ms. Sellars read aloud the conditions as she hears being referred to by the BOCC, "Submit engineering as built plans representing one proposed lab of 20x14 in size before commencing operations of the processing facility" and as to the water, further discussion followed, with Commissioner Arndt explaining they have satisfied according to the law and according to the County's regulations. Ms. Sellars expressed concerns about the letter from the State dated in July and has questions regarding that letter but reminded the board they are only looking at the processing facility and not the water for the greenhouses.

Chairman Zwetzig asked about the lighting issues and if that could be part of the design build, with Ms. Sellars stating a lighting component is usually separate from the design, and the Board could make it a condition as to an improved lighting plan approved by the Planning Director.

Further discussion followed as to how the lighting issue be measured to alleviate the issue, with Chairman Zwetzig stating he would ask the applicants to work on mitigating the issue the best they can and it be on good faith of the applicants and good neighbors to try and work with the adjoining neighbors.

Ms. Sellars asked to confirm the location of the processing facility as being on Parcel 3, and also asked about the driveway access approval letter and the 18" culvert being required, with the applicant stating they have not installed the culvert as of yet, nor is the driveway and their plans are if this is approved, the second driveway will be installed as well as the culvert. Discussion followed that would be considered as part of the "as built" plans.

Commissioner Arndt read aloud the Division of Water information dated in July 2019, and asked about the well permit being changed to light industrial and if that has been placed on file, with Mr. Schrage indicating he was not made aware of the letter, only the one dated July 3, 2019 which pertains to the ag well and the one he is speaking of is the domestic well. The water from Morgan County Quality Water District will be used for the greenhouses and the domestic well will be used for the processing facility, with Ms. Cherry confirming she does have the letters on file that is being discussed. Mr. Schrage stated they are three separate sources of water for three separate uses. A copy of the letter regarding the light industrial use will be placed on record and included as part of the minutes.

Commissioner Arndt made the statement that the ability to grow hemp is not in question, they are here for a proposal for the processing facility and stated in order to be good neighbors, they need to do what they can to be good neighbors. He then asked either Mr. Stencil or Mr. Midcap the question about the lights at the gas facility being brighter, with both of them stating the glow from the grow facility being brighter stating the neighbor across the road cannot sleep at night given the amount of light coming from the greenhouses. It was discussed that a later time, this matter may need to be discussed to be made a part of county regulations.

The applicant stated he believes they have to do what they need to do for their own economical needs and follow the county's guidelines and it is hard to determine the problem of the lighting, as they reside closer to the lights and how that is measured. Commissioner Becker stated the issue with getting into light issues, and how that leads into other nuisances, a fan running all night for instance, and it is important to be considered "ag" and be able to have that ability.

Commissioner Arndt made a motion to approve a Special Use Permit to use property for agricultural production, handling, storage, and processing pursuant to Section 2-325 of the Morgan County Zoning Regulations; a use not listed in the Morgan County Zoning Regulations will be processed as a Special Use, with the Applicant being Le-An Than and the Landowner being Le-An Than and Joanna Vu and Tran N. Nguyen as proposed with the internal lab size to be limited to 20x14 and as built plans must be provided to the County and an inspection of the proposed building be done by the Planning and Zoning Administrator. He stated he believes the water requirement has been made given the letters that are in the file, but also the operation does have to comply with all government agencies over this facility and does not see how they can limit the processing of the tonnage, and this is the lab for the applicant and not that for a commercial use from non-produced product, stating it must be their product, the owner of the product being processed. Regards to the lighting for the processing plant, a lighting design and plan will be required as well as the general permit requirements.

At this time, Ms. Sellars reviewed the motion, stating as Condition #1, they must submit as built plans, and the Planning Director shall review them and inspect them. As part of this condition, those as built plans the processing lab may only be 20x14 square feet in size. Condition #2, they shall obtain and comply with all permitting requirements set forth by other Federal, State and local agencies that have jurisdiction over the operation of the processing of the hemp. Condition #3, a lighting plan needs to be submitted for the proposed processing plant to

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show any outside lighting on that facility. Commissioner Arndt stated that any other documents that are part of the file should be adhered to which includes the driveway access and then amended the motion to say the recommendation of an 18” culvert and the proposed second driveway shall be required.

Commissioner Becker asked the question about the comment they can only process their own product, asking if that is part of the notion. Commissioner Arndt stated he feels that is what the applicant is proposing today as it to be their sole use to use their own product to process, with Mr. Wharton he felt that would be self-defeating, as they could buy the product and that would become their own product. Discussion followed regarding this matter, with Commissioner Arndt stating his motion still limits the product as the applicant’s own product. Ms. Sellars stated that means a lot of defining, and the difficulty of that condition, explaining that will be difficult to enforce.

Commissioner Becker questioned the ability to enforce them owning and processing, and stated the Board is saying there has to be a lighting plan as to what extent that approval must be met, with Ms. Cherry stating there are some standards in place, and explained that will be tough, but if they have a lighting plan and someone designs that lighting plan and it is documented, she has no problems with that. Mr. Schrage stated he has not problems with providing that detailed plan.

Commissioner Becker further stated he would like to amend and pull out the sole use and leave it as to the as built 20x14 lab space and stated that would be a substitute motion to include the other conditions as well.

Commissioner Arndt asked the question by limiting the size is not the best way to allow the County to limit the size of the operation and finds it difficult to enforce whether it is rented land, or somewhat contracted out to another farmer to bring it in, with Ms. Cherry stating it is very hard to apply the language in practice and would have a great deal of difficulty in enforcing that condition feeling the easiest way to maintain the size of activity is by the building size.

Commissioner Arndt stated his past history has been they try to put a motion to satisfy everyone’s concerns and then in the future there is no way to enforce it and people have been given false hope that the County is going to do something and accepted the amendment to the motion by seconding the amended motion. At this time, the amended motion carried 3-0.

A brief recess was taken at 12:01 p.m.

1. Proposed Amendments to the Morgan County Subdivision Regulations – (Resolution 2019 BCC 27):

Proposed Amendments to the Morgan County Subdivision Regulations regarding various sections and the addition of a new Chapter 10 regarding Boundary Line Adjustments, Amended Plats, Plat Correction, Plat Vacations and Correction Plats

Chairman Zwetzig asked Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry to present the file at which time Ms. Cherry read aloud the following information.

Ms. Cherry stated that On October 7, 2019, Planning Commission met to consider amendments to various sections and the addition of a new Chapter 10 regarding Boundary Line Adjustments, Amended Plats, Plat Correction, Plat Vacations and Correction Plats.

Planning Commission on a vote of 7 in favor, 0 opposed, unanimously recommends approval of the amendments and addition of Chapter 10.

Morgan County Attorney Kathryn Sellers provided an overview of what the amendments entail regarding boundary line adjustment, amended plats, plat correction, plat vacations and correction plats as part of the subdivision regulations with Commissioner Arndt stating it is basically establishing a more user friendly process with Ms. Sellars stating that is correct and an attempt to make it a much more simplified process.

At this time, Chairman Zwetzig opened the matter for public comment at which time there was no public comment.

At this time, Chairman Zwetzig moved into discussion and decision.

Commissioner Becker made a motion to approve Resolution 2019 BCC 27, a Resolution Amending to the Morgan County Subdivision Regulations regarding various sections and the addition of a new Chapter 10 regarding Boundary Line Adjustments, Amended Plats, Plat Correction, Plat Vacations and Correction Plats. Commissioner Arndt seconded the motion and after no further discussion, the motion carried 3-0.

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

s/James P. Zwetzig
James P. Zwetzig, Chairman

s/Mark A. Arndt
Mark A. Arndt, Commissioner

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s/Jon J. Becker

Jon J. Becker, Commissioner

(SEAL)

ATTEST:

s/Susan L. Bailey

Susan L. Bailey

Being no further business the meeting was then adjourned at 12:09 p.m.

Respectfully Submitted,

Susan L. Bailey
Clerk to the Board

(Minutes ratified November 12, 2019)

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

s/James P. Zwetzig

James P. Zwetzig, Chairman

s/Mark A. Arndt

Mark A. Arndt, Commissioner

s/Jon J. Becker

Jon J. Becker, Commissioner

(SEAL)

ATTEST:

s/Susan L. Bailey

Susan L. Bailey