

**MORGAN COUNTY PLANNING COMMISSION**  
**April 10, 2017 MINUTES**

The Morgan County Planning Commission met on Monday, April 10, 2017, at 7:00 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Joe Ewertz, Pete Krohn, Bob Elrick, Dave Musgrave, Robert Pennington, Mike Bailey, and Nathan Troudt. Also present were Pam Cherry, Planning Administrator; and Jody Meyer, Planning Assistant.

The meeting was called to order by Chairman Robert Pennington.

**It was moved by Nathan Troudt and seconded by Bob Elrick to approve the minutes of the March 13, 2017 meeting as presented. Motion carried 7-0.**

Joe Ewertz wanted to set up a meeting with the County Commissioners on an evening around 6 p.m. regarding clean-up around the County. Pam Cherry said she would look into setting this meeting up. **It was moved by Joe Ewertz and seconded by Pete Krohn to approve the agenda as corrected to set up a time with the County Commissioners to discuss clean-up issues etc. Motion carried 7-0.**

Pam Cherry also told the Planning Commission that the Board of County Commissioners gave Mr. Potthoff 90 days to reconsider his Exemption application.

**NEW BUSINESS:**

Robert Pennington reviewed the hearing process for tonight's hearing.

**OPEN PUBLIC HEARING**

Rick Bailey from NE Colorado Cellular dba Viaero Wireless was present to represent this application for Viaero and for the Ely Family Trust.

Pam Cherry, Planning Administrator, read the following file summary.

**APPLICANT: NE COLORADO CELLULAR DBA VIAERO WIRELESS**

**LANDOWNER: ELY FAMILY TRUST**

Two applications – A Special Use Permit and an Exemption from Subdivision Regulations which are undergoing concurrent review which will shorten the amount of time from original submittal to final approval.

The subject property 3.7 acres is located in part of the SW ¼ Section 36, Township 2N, Range 56W of the 6<sup>th</sup> P.M., Morgan County, Colorado. It is part of a 301.78 acre parcel located in the W ½ of Section 35, T2N, R56W, Morgan County, Colorado that is also known as 6286 Highway 71, Brush, CO 80723.

The property to be exempted is 3.7 acres from a 301.78 acre parcel. The request is in compliance with subdivision exemption regulations.

The property is zoned A, Agriculture Production and is used for grazing. Within the “A” zone district free standing CMRS facilities are permitted by a Special Use Permit. That application has been submitted and is under review. Viaero will be operating a new broadband facility tower and support equipment that will provide infrastructure to benefit residents and visitors to Morgan County. The facility will be secured with a 60’ x 70’ x 6’ chain link fence topped with barbed wire. The purpose is to enhance Viaero’s 4G service in the network of Southeast Morgan County that currently has unreliable wireless service.

A tower site that is located between Brush and Last Chance will be removed from the network. An additional tower to improve wireless coverage will be installed south of Woodrow in Washington County.

Electric service will be provided by Morgan County Rural Electric. The use does not require a water supply.

Access – An existing driveway located on the West side of Highway 71 will provide access to the site for construction and periodic maintenance. The traffic impact will not be significant.

I recommend approval of the Ely Subdivision Exemption.

I recommend approval of the Special Use application to permit the construction of a CMRS facility in the “A” Agriculture Production zone district subject to conditions.

- 1.) If the facility is not used for a period of 12 consecutive months, it shall be removed within 90 days of the end of the 12 month period.
- 2.) Co-location with other providers will be granted by NE Colorado Cellular if and when possible as required by the zoning regulations.

**Additional information provided at Planning Commission meeting of April 10, 2017.**

Comments have been received from two property owners:

Want to know if the tower move approximately ¼ mile to the north. Why wasn’t it?

Will Viaero be addressing the “Cone of Silence”?

In addition a “Determination of No Hazard to Air Navigation” has been received from the Federal Aviation Administration.

Prior to recommending approval of the Special Use there are specific criteria listed in Sections 2-245 and 2-345 of the Regulations that should be considered:

1. The application conforms to specific review criteria as provided below.
  - a. The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan.

Utility Planning Goal is to ensure that all development in Morgan County have adequate infrastructure and plans to expand utilities for future growth:

11. Utility facility siting should consider the consolidation with or joint tower use, paralleling of existing facilities where appropriate with regard to sound environmental planning, system reliability, structural integrity and where economically feasible.

- 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 requirement or other mitigation measures.  
There are not any sorts of impacts that are required to be mitigated.
- e. The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.  
Site is suitably buffered from adjacent residential structures.
- f. The special use poses only the minimum amount of risk to the public health, safety and welfare as set by either federal, state or county regulations, whichever is the strictest.

Many studies have been conducted that conclude the risk to the public is minimal.

- g. The special use proposed is not planned to be developed on a non-conforming parcel.  
The parcel on which the tower will be located is a conforming parcel.
- 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.
- 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.  
This use does not require a water supply.

I recommend approval of the Special Use application to permit the construction of a CMRS facility in the "A" Agriculture Production zone district subject to conditions:

- 1.) If the facility is not used for a period of 12 consecutive months, it shall be removed within 90 days of the end of the 12 month period.
- 2.) Co-location with other providers will be granted by NE Colorado Cellular if and when possible as required by the zoning regulations.
- 3.) Within five days after the construction reaches its greatest height notify the FAA as required by 7460-2.
- 4.) All other conditions by the “FAA per the Determination of No Hazard” dated February 28, 2017 will be satisfied.

Pam Cherry said to the referral to the Fire Department was resent to the Brush Fire Department.

John Bailey handed out to the Planning Commission colored maps of the Existing Composite Area and aerial maps, Exhibit “A”.

There was discussion on tower sites in the area and co-locating. Rick Bailey said they are re-doing networks in this area by removing 2 towers and adding 1 tower between Last Chance and Woodrow. He said they try to look at pasture areas for these towers. He said there are houses located to the north of this site as well. He has access off of Hwy 71 noting that Co Rd G is not a public road at this point.

Pam Cherry could not find any information regarding a “cone of silence”. Rick Bailey they cannot interfere with other bands and explained the band spectrum. Nathan Troudt read the definition of “Cone of Silence” which he googled.

#### **OPEN PUBLIC COMMENT:**

Those in FAVOR: None

Those in OPPOSITION:

Keith Weaver 5601 Hwy 71, Brush, CO 80723, lives about a quarter of a mile south of the tower site. He has two residences within 1200 ft. of the tower site. He is not anti-cellular and is not for or against this application. If the applicant would just move the tower site to the north at the end of the section, it would be a better location even though the elevation drops. They could then use Co Rd H as an access. Electromagnetic force was a concerning factor for Mr. Weaver.

Rick Bailey handed out a pamphlet from the American Cancer society regarding Cellular Phone Towers, Exhibit “B”.

Bernett Peske-Weaver, 5601 Hwy 71, Brush, CO, owns property in the area and told the Planning Commission they should consider moving the cell tower because of possible health issues.

#### **CLOSE OF PUBLIC COMMENT**

Robert Pennington noted that a permit for access on Hwy 71 has been approved. Rick Bailey said traffic is minimal, once a month.

When asked about moving the tower north, Mr. Bailey responded there were houses in that area also.

**It was moved by Joe Ewertz and seconded by Bob Elrick to APPROVE an Application from NE Colorado Cellular Inc. d/b/a Viaero Wireless as applicants and Ely Family Trust as landowner for a Special Use Permit to place a CMRS facility in the "A" Agriculture District Zone, being located in the SW1/4 of Section 36, Township 2 North, Range 56 West of the 6<sup>th</sup> P.M., aka 6159 Hwy 71, Brush, CO 80723, and send it to the Board of County Commissioners. Motion carried 7-0.**

**It was moved by Joe Ewertz and seconded by Nathan Troudt to APPROVE an Application from NE Colorado Cellular Inc. d/b/a Viaero Wireless as applicants and Ely Family Trust as landowner for an Exemption from Subdivision Regulations to create a 3.7 acre parcel being located in the SW1/4 of Section 36, Township 2 North, Range 56 West of the 6<sup>th</sup> P.M., aka 6159 Hwy 71, Brush, CO 80723, and send it to the Board of County Commissioners subject to being in compliance with the County Regulations. Motion carried 7-0.**

There being no further business, the meeting was adjourned.

Respectfully submitted,

Jody Meyer, Planning Assistant