

RESOLUTION NO. PCPC 17- 020

THE PUEBLO COUNTY PLANNING COMMISSION (PCPC)

A RESOLUTION APPROVING SPECIAL USE PERMIT NO. 709 (AKA SPECIAL USE PERMIT NO. 1990-016 FOR FILING PURPOSES ONLY) AMENDED, TO ADD A SENTENCE TO CONDITION NO. 6, NEW WORDING TO REPLACE CONDITION NO. 9 AND REMOVE CONDITION NO. 10 AND REPLACE WITH A NOTATION IN AN A-1, AGRICULTURAL (MINIMUM 35 ACRE) ZONE DISTRICT AND S-1, PUBLIC USE ZONE DISTRICT LOCATED ON A 1,046+ ACRE PARCEL LOCATED WITHIN THE S½ OF SECTION 21, A PORTION OF THE N½ OF SECTION 21, A PORTION OF THE NW¼ OF SECTION 22 AND THE N½ OF SECTION 28, TOWNSHIP 21 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF PUEBLO, STATE OF COLORADO

WHEREAS, the Pueblo County Planning and Development Department received an application for Special Use Permit No. 709 AMENDED on July 5, 2017, submitted by Fremont Paving and Redi-Mix, Inc.; and

WHEREAS, the amendment requested is to modify Condition Nos. 6 and 9 as listed in that administrative review approval letter of September 28, 1994. Condition No. 6 proposes to include the following wording at the end: *"Pueblo County Engineering and Public Works may accept other methods of documentation for this purpose."* Condition No. 9 proposes to be modified as follows: *"During the hours of 3:00 pm and 4:00 pm, loaded trucks leaving the site will leave in 10-minute intervals on days that school is in session. Should the applicant provide evidence from local schools that these hours need to be changed due to changes in school hours, these hours can be amended through the regular special use permit application procedure."*; and

WHEREAS, staff would like to remove Condition No. 10 and replace with the standard notation, *"The Department of Planning and Development acknowledges that during the preparation of this Administrative Review that all of the conditions of approval were considered to be in compliance. In addition, this Department further acknowledges that it is unnecessary to schedule this special use permit for further review unless the use and/or property do not maintain compliance with the Pueblo County Code and/or a complaint is received and verified that there is a violation of the conditions of approval as imposed above, and/or if a review is specifically requested by the Planning Commission."*; and

WHEREAS, pursuant to the Pueblo County Code, Title 17, Land Use, Chapter 17.12, Agricultural One (A-1) and Two (A-2), Section 030, Uses-by-Review, *"Mineral and natural resource extraction, mining operation and processing"* is allowed as a use-by-review and Chapter 17.84, Public Use District (S-1), Section 030, Uses-by-Review, is any proposed use of land or buildings by a public agency or others on public land if approved by the Pueblo County Planning Commission; and

WHEREAS, the property owned by the State of Colorado is legally described as *"The S½ of Section 21, a portion of the N½ of Section 21, a portion of the NW¼ of Section 22, and the N½ of Section 28, Township 21 South, Range 63 West of the 6th P.M., Pueblo County, Colorado."*; and

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WHEREAS, a public hearing, preceded by proper public notice, was held by the Pueblo County Planning Commission on August 16, 2017, at which time, all those present at the hearing who desired to be heard were heard and their testimony recorded; and

WHEREAS, the Pueblo County Planning Commission has reviewed and taken administrative notice of the application documents, evidence presented at the hearing, and the contents of the Planning Director's file; and

WHEREAS, at the conclusion of the public hearing for Special Use Permit No. 709 AMENDED, the Planning Commission made the following findings:

- "Mineral and natural resource extraction, mining operation and processing" is a Use-by-Review in the A-1 and S-1 Zone District. This is an amendment of two (2) conditions of approval; there is no change to mining operation and processing.
- The stated purpose of the A-1 Zone District is "...*designed to retain and promote the appropriate use of dry range and irrigated lands and encourage open use of the land in keeping with its natural characteristics and agricultural functions.*" The use approved in 1990, which has been established, will not substantially modify the Land Use plan or the intent, purpose, and spirit of this Title.
- The applicant is proposing to modify the time restriction in Condition No. 9. Comments received from District 70 do not support the modification in time restrictions and method in which the trucks are going to leave the site. District 70 would prefer to keep the same restriction with a modification to the times. The modification of the times would be due to school hours and days have changed since 1990.
- District 70 has stated that after much discussion and input from their community members, they have decided that the exact restrictions remain with a modification to the times. The proposed modification of 10-minute timed intervals in which trucks will leave the site between 3:00 p.m. and 4:00 p.m. on days that school is in session does not incorporate reasonable means to create an environment harmonious with that of surrounding properties.
- The applicant is proposing to add a sentence to Condition No. 6 to update the method in which documentation of defects in the roadway surface are taken. As Public Works has stated in their comments regarding VZ 2017-019, "*We did recommend modification of the condition so that in the future videotaping would not be the sole way to determine repairs.*" Public Works has also established a method for review of roadways and to log citizen complaints. This will ensure that any damage to the road which could pose a safety hazard is taken care of by the proper Department. This incorporates reasonable means to create an environment harmonious with that of the surrounding properties.

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- The modifications to Condition No. 6 will not adversely affect the public health, safety, or welfare. The modification of Condition No. 9 **will** adversely affect the public health, safety, or welfare due to it not coinciding with the recommendation made by District 70.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of Pueblo County, Colorado, by a vote of 9 to 0 does hereby for Special Use Permit No. 709 **AMENDED APPROVE** modifying Condition No. 6 regarding other methods of documentation and **DENY** the time restriction proposed by the applicant and based upon comments from Pueblo County School District 70 update the time restrictions in No. 9, and per Staff's recommendation remove Condition No. 10 and replace with a notation as follows:

1. The applicant shall provide the Department of Planning and Development with a copy of any future MLRB applications, permits, amendments, or releases pertaining to Special Use Permit No. 709 within 30 days of their submittal to and approval by the MLRB.
2. The applicant shall provide the Department of Planning and Development with a copy of any additional State or local permit applications (e.g., air quality, augmentation, NPDES, etc.) and approvals thereof within 30 days of said application or approval.
3. The applicant shall notify the beneficiaries of the utility easements prior to commencement of any mining activity adjacent to the easement. A copy of the notice shall be provided to the Department of Planning and Development.
4. No mining should occur within fifty feet of Colorado Interstate Gas Company's (CIG) pipeline. No blasting should take place within the mining area without the written concurrence of CIG. Excavation should be sloped away (3:1) from CIG's pipeline to assure that erosion will not adversely affect the pipeline. Any haul roads constructed across the pipeline should be reviewed and approved by CIG prior to their construction. CIG's District Superintendent, P.O. Box 276, Pueblo, Colorado 81002, should be notified in writing prior to any excavations in Sections 21 and 22.
5. Access to the property will be via 36th Lane to Highway 50. The applicant will be responsible for repairing damage to the roadway that occurs during the applicant's hauling period. No bond will be requested.
6. Upon completion of all mining related activities under this SUP or every six (6) months (during mining activity only), whichever is less, the applicant shall paint a hash mark perpendicular to the centerline of 36th Lane at tenth (.10) of a mile intervals up to the end of the asphalt on 36th Lane. Adjacent to the hash marks, the applicant shall paint the appropriate tenth (.10) of a mile reading beginning at the State Highway right-of-way line, e.g., .10 at the first hash mark, .20 at the second hash mark, and so on. Pueblo County Engineering Department shall then videotape the road, at Broderick and Gibbons, Inc.'s expense, from the State Highway right-of-way to the end of asphalt at South Road. The videotape shall be made in the standard VHS

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format and in such a way and at such a speed that any defects in the roadway surface shall be easily discernible by viewers. This will be the established base line for all repair requirements. Pueblo County Engineering and Public Works may accept other methods of documentation for this purpose.

7. The applicant shall repair in a good workmanlike manner any damage his hauling operation has caused to 36th Lane as determined by the Engineering Department immediately upon notification by Pueblo County of such damage. Repairs shall include but not be limited to patching potholes and restoring the road to a condition as good as or better than existed prior to commencement of the applicant's operation under this SUP. The videolog will be used by the Engineering Department to determine the extent of repairs required.
8. Prior to any washing of gravel on this site, the applicant shall provide to the Department of Planning and development proof of legal documentation regarding the water source and discharge (i.e., well permit, NPDES, etc.).
9. The applicant's haul trucks shall not operate on the haul route (see Condition No. 5) between 7:00 a.m. and 8:00 a.m. and 2:45 p.m. and 3:45 p.m. during school days. This condition applies to the truck independent of whether they are empty or loaded. This condition does not provide for the use of a secondary or alternate haul route to be used.

NOTATION: The Department of Planning and Development acknowledges that during the preparation of this Administrative Review that all of the conditions of approval were considered to be in compliance. In addition, this Department further acknowledges that it is unnecessary to schedule this special use permit for further review unless the use and/or property do not maintain compliance with the Pueblo County Code and/or a complaint is received and verified that there is a violation of the conditions of approval as imposed above, and/or if a review is specifically requested by the Planning Commission.

PASSED AND ADOPTED this 16th day of August 2017, in Pueblo County, Colorado.

**THE PLANNING COMMISSION
OF PUEBLO COUNTY, COLORADO:**

By: Donald L. Bruestle
Donald L. Bruestle, Chairman

ATTEST:

By: Sandy Blanco
Recording Secretary