

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting June 20, 2017

The Board of Morgan County Commissioners met on Tuesday, June 20, 2017 at 9:05 a.m. with Chairman James Zwetzig, Commissioner Laura Teague and Commissioner Mark Arndt in attendance. Chairman James Zwetzig called the meeting to order and asked Morgan County Deputy Clerk Denise Gettman to lead the meeting in the Pledge of Allegiance.

ADOPTION OF THE AGENDA

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

CONSENT AGENDA

Ratify the Board of County Commissioners approval on Contract 2017 CNT 133, Coberly Web Creations, Morgan County Website Development, Term of Contract June 12, 2017 through October 31, 17
Ratify the Board of County Commissioners approval on Contract 2017 CNT 134, Y-Not Construction, trenching of conduit at Fairgrounds, Term of Contract May 16, 2017 until completed
Ratify the Board of County Commissioners approval for disposal of assets, (1) 2013 Chevrolet Impala, asset #1806, dated on June 14, 2017
Ratify Commissioner Laura Teague's signature on the letter addressed to a Morgan County citizen in reference to jake brakes noise on County Road 16 and Hwy 34 signed on June 14, 2017
Ratify Commissioner Laura Teague's signature on the letter to Colorado State Patrol in reference to a citizen complaint in regards to jake brakes noise signed on June 14, 2017
Ratify Commissioner Laura Teague's signature on the letter to CDOT Citizen's Advocate in reference to a citizen complaint in regards to jake brakes noise signed on June 14, 2017
Ratify Commissioner Laura Teague's electronic signature on the Court Security Grant Funds signed on June 12, 2017

Commissioner Arndt made a motion to approve all items on the Consent Agenda as presented. Commissioner Teague seconded the motion and motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval – RESOLUTION – 2017 BCC 20 – A Resolution approving an Amended Special Use for property located in Section 34, Township 5 North, Range 58 West of the 6th P.M., and is located 1 ¼ miles North of the intersection of County Road X and County Road 16, Morgan County, Colorado

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2017 BCC 20

A RESOLUTION APPROVING AN AMENDED SPECIAL USE FOR PROPERTY LOCATED IN SECTION 34, TOWNSHIP 5 NORTH, RANGE 58 WEST OF THE 6TH P.M., AND IS LOCATED 1 ¼ MILES NORTH OF THE INTERSECTION OF COUNTY ROAD X and COUNTY ROAD 16, MORGAN COUNTY, COLORADO

WHEREAS, Morgan Sand and Gravel, Inc. (the "Owner") owns property located in the Section 34, Township 5 North, Range 58W of the 6th P.M., Morgan County, located 1 ¼ miles north of the intersection of County Road X and County Road 16, Morgan County, Colorado ("Property");

WHEREAS, the Owner filed an application to amend its Special Use permit issued in 2008 for mining on another parcel, consisting of 40 acres;

WHEREAS, the Owner has nearly completed mining of the property subject to the current Special Use Permit desires to amend its Special Use Permit to include an additional 36.4 acres;

WHEREAS, mining in the Agriculture Zone requires approval as a special use as set forth in Section 3-180(G) of Morgan County Zoning Regulations ("Zoning Regulations");

WHEREAS, on May 30, 2017, the Board of County Commissioners of Morgan County, Colorado, held a properly noticed public hearing on Owner's application to amend its Special Use Permit; and

WHEREAS, the Board of County Commissioners, after taking staff and applicant testimony and reviewing the material provided to it, desires to conditionally approve the amendment to the Special Use Permit.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MORGAN COUNTY, COLORADO:

1. FINDINGS OF FACT:

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- (a) The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan:
 - i. The project will preserve the manmade and natural environment in order to enhance the quality of life in Morgan County through the development of mineral resources with permits requiring mitigation of adverse impacts to surrounding land uses. (Page 3, Morgan County Comprehensive Plan)
 - ii. The use is compatible with existing land uses and there is access to established public infrastructure. (Page 41, Morgan County Comprehensive Plan)
 - iii. The project has obtained all necessary State of Colorado permits to mitigate the impacts of fugitive dust, noise, erosion, vibration and water runoff on surrounding land uses. (Page 24, Morgan County Comprehensive Plan)
 - (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 Section 3-180 and Sections 3-620 through 3-705 of the Morgan County Zoning Regulations.
 - i. The proposed expansion does not decrease the distance from any existing residence, from any county residential zone, occupied commercial building or from any residential building site for which a building permit has been issued.
 - ii. The required permits from the Colorado Board of Reclamation, The State Department of Water Resources, Colorado Board of Reclamation Colorado Department of Health and Environment have been issued.
 - (d) The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.
2. The Board of County Commissioners hereby conditionally approves the amendment to the Special Use Permits subject to the following conditions:
- a. The mining operation shall remain in compliance with all current permits and permitting requirements of any and all agencies that have jurisdiction over the mining operations..

Dated this 20th day of June, 2017.

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

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

s/Laura D. Teague
Laura D. Teague, Commissioner

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

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry presented to the Board for approval, Resolution 2017 BCC 20, a Resolution approving an Amended Special Use for property located in Section 34, Township 5 North, Range 58 West of the 6th P.M., and is located 1 ¾ miles North of the intersection of County Road X and County Road 16, Morgan County, Colorado. Ms. Cherry stated the Board originally had reviewed this resolution at last week's meeting and this resolution being presented now includes the revisions as necessary and outlined those named changes.

Commissioner Teague made a motion to reconsider the prior approval of Resolution 2017 BCC 20, a Resolution approving an Amended Special Use for property located in Section 34, Township 5 North, Range 58 West of the 6th P.M., and is located 1 ¾ miles North of the intersection of County Road X and County Road 16, Morgan County, Colorado, to correct the address as outlined Morgan County Planning and Zoning Administrator Pam Cherry. Commissioner Arndt seconded the motion and motion carried 3-0

Commissioner Teague made a motion to amend the Resolution 2017 BCC 20, a Resolution approving an Amended Special Use for property located in Section 34, Township 5 North, Range 58 West of the 6th P.M., and is located 1 ¾ miles North of the intersection of County Road X and County Road 16, Morgan County, Colorado to correct and approve as outlined Morgan County Planning and Zoning Administrator Pam Cherry and motion carried 3-0.

Consideration of Approval – FIREWORKS DISPLAY – I-76 Speedway, Butch Speicher

Morgan County Administrative Services Manager Kristi Waite presented to the Board the application submitted by Butch Speicher for I-76 Speedway for a Fireworks Display Permit on July 3, 2017. The address for the fireworks display will take place is 16359 County Road S, Fort Morgan CO also known as the race track. Ms. Waite stated the necessary paperwork has been submitted and the Fort Morgan Fire Department has approved this fireworks permit.

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Commissioner Arndt made a motion to approve the Fireworks Display Permit, indicating the address of such display as being 16359 County Road S, Fort Morgan, CO, stating the date and times of the permit with the notation that if there should be any fire ban in place, the permit will not be authorized with the applicant being Butch Speicher for I-76 Speedway as outlined by Morgan County Administrative Services Manager Kristi Waite and authorized the Chair to sign and Commissioner Teague seconded the motion and motion carried 3-0.

Consideration of Approval – FIREWORKS DISPLAY – Mike Cook

Morgan County Administrative Services Manager Kristi Waite presented to the Board the application submitted by Mike Cook for a Fireworks Display Permit on July 3, 2017. The address for the fireworks display will take place is 18282 County Road 25, Brush, CO. Ms. Waite stated there is no rain date provided, so this permit will be as indicated. Ms. Waite stated the necessary paperwork has been submitted and the Brush Fire Department has approved this fireworks permit and this will be contingent upon any fire ban that may be in place at the time.

Commissioner Teague made a motion to approve the Fireworks Display Permit, for July 3, 2017 with the notation that if there should be any fire ban in place, the permit will not be authorized with the applicant being Mike Cook as outlined by Morgan County Administrative Services Manager Kristi Waite and authorized the Chair to sign and Commissioner Arndt seconded the motion and motion carried 3-0.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated May 26, 2017 through June 6, 2017 with changes.

UNFINISHED BUSINESS

There was no unfinished business.

CITIZEN'S COMMENT

There was no citizen's in attendance to provide citizens comment.

At this time, the Board recessed until 9:30 a.m. at which time they moved into the Public Hearing matters on the agenda as follows:

PUBLIC HEARING

Application is for a Variance to Section 5-115(A)(3) minimum front yard setback in the "PD" Planned Development Zone from the required 50 feet to the first measurement of 40 feet 11 inches, the second measurement of 36 feet 9 inches and the third measurement is 27 feet and 11 inches. The property is located at Lot 40, Replat of Lots 39, 40 and 45, Blue Sky Preserve PD located in the NW1/4 of Section 19, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado aka 40 Preserve Drive, Fort Morgan, Colorado 80701

Chairman Zwetzig called the hearing to order at 9:30 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman James Zwetzig, Commissioner Laura Teague and Commissioner Mark Arndt. Also present were Pam Cherry, Planning Administrator and Zach Cesar the applicant.

Applicant: Zach Cesar
Landowner: Baessler Residential Colorado, LLC

Chairman Zwetzig asked Planning Administrator Pam Cherry to present the file at which time Ms. Cherry read aloud the following information.

Background Information

Ms. Cherry stated the property owner, Baessler Residential Colorado, LLC has applied for a variance to the front setback for a home located at 40 Preserve Drive, Fort Morgan, CO, 80701. The home is completely constructed. There was a misunderstanding in the covenants for Blue Sky. It was thought that the setback is measured from the edge of asphalt, which is not the property line.

Ms. Cherry explained the property is zoned PD, Planned Development, which is the Blue Sky subdivision. The legal description of the property is a Replat of Lots 39, 40 and 45, NW ¼ of Section 19, T4N, R57W of the 6th P.M., Morgan County, Colorado.

Ms. Cherry stated that the PD required a front setback of fifty feet (50'). The variance amount is different across the property. Three measurements were taken for the application. The first measurement is forty feet eleven inches (40' 11"), the second is a thirty-six feet nine inches (36' 9"), the third location measured was twenty-seven feet eleven inches (27' 11"). The last measurement is a reduction of fifty-six (56%) percent from the required fifty feet.

Ms. Cherry explained that six (6) adjacent property owners were sent notices of this application and no objections or inquiries have been received. Granting the request will not be detrimental to the neighborhood or Morgan County citizens.

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Ms. Cherry stated the applicant submitted a complete, thorough and well documented application. This application for a variance to the front setbacks is the only request for this property. All other aspects of the property are in compliance with Morgan County regulations.

At this time Ms. Cherry recommended approval of the variance to reduce the 50' front setback requirement to twenty-seven feet, eleven inches (27' 11") subject to all building inspections be completed prior to the issuance of a Certificate of Occupancy. Ms. Cherry stated if there should be any questions regarding the building inspections, Mr. Dustin Heid is present as well as Steve Gable, VP of Operations of Baessler Homes, indicated the subject address 3780 West 10th, Suite 200, Greeley, CO 80634. Mr. Gable indicated he had nothing more to add to the application stating the information was covered by Planning Administrator Pam Cherry. He did state that the lot is a bit odd shaped and the home is completely built at this time.

Dustin Heid, Morgan County Building Inspector, spoke stating from an inspection standpoint, his biggest concern was he was not notified during the initial construction phase stating there had been some miscommunication between the contractor and himself. He did not check this location until in February and at this time; the home was more or less framed and ready to go. He then notified Baessler Homes that he had not been notified of any inspections up to this point and contact was made with the new General Manager who has been fantastic in communicating with him since. He did state that he had been in the house to see what he can see, checking mechanical, framing, and plumbing and feels that things are appropriate and will still be checking on minor matters but nothing that would hold up the certificate of occupancy.

Commissioner Teague asked about the notification to the six landowners and asked if the Homeowners Association was notified regarding the setback rule, with Ms. Cherry stating she has had conversations with Mr. Erker of the HOA, and did explain that she was able to tell them how the setbacks should be measured from and the HOA is in agreement with this information. Ms. Cherry also has emails from Mr. Erker that she can add the documentation regarding this issue and make it a part of the file.

At this time, Chairman Zwetzig opened the matter for public comment at which there was no public comment in favor or against the application being presented today.

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

Chairman Zwetzig stated that he had reviewed the regulations in regards to setbacks and asked if the Planning Administrator feels this setback allowance could create any public safety concerns, with Ms. Cherry responding no.

Dustin Heid, Building Inspector, stated it was expressed to him at one occasion that the streets were designed to accommodate larger trucks, with emergency vehicles being mentioned, and his concern would be if a larger vehicle should need to turn around in this cul-de-sac area, there could be some concern, but nothing that would suppress them from being able to do so. Ms. Cherry stated that this issue was not created by the construction of this home; it was created by the original plat and design.

Chairman Zwetzig asked Mr. Gable if he now has a clear understanding that Morgan County does have regulations in place that need to be adhered to. Mr. Gable stated they build in many jurisdictions and Morgan County is like other jurisdictions where there are regulations in place and absolutely do their best to be on track with whatever requirements in place in the jurisdiction in which they are working.

At this time, a motion was made by Commissioner Arndt to approve the application is for a Variance to Section 5-115(A)(3) minimum front yard setback in the "PD" Planned Development Zone from the required 50 feet to the first measurement of 40 feet 11 inches, the second measurement of 36 feet 9 inches and the third measurement is 27 feet and 11 inches indicating the last measurement as being a reduction of 56 percent from the required fifty feet setback. The property is located at Lot 40, Replat of Lots 39, 40 and 45, Blue Sky Preserve PD located in the NW1/4 of Section 19, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado aka 40 Preserve Drive, Fort Morgan, Colorado 80701, naming the applicant as being Zach Cesar and Landowner as Baessler Residential Colorado, LLC and requested the preparation of a resolution. Commissioner Teague seconded the motion, and the motion carried 3-0.

Being no further business, the meeting was adjourned at 9:44 a.m.

Respectfully Submitted,
Susan L. Bailey
Clerk to the Board

(Minutes ratified June 27, 2017)

THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

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

s/Laura D. Teague
Laura D. Teague, Commissioner

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

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(SEAL)

ATTEST:

s/ Susan L. Bailey

Susan L. Bailey