

**NOTICE OF PUBLIC HEARING**  
**BEFORE THE LATAH COUNTY ZONING COMMISSION**  
**Wednesday, May 6, 2009**  
**5:30 p.m.**

The Latah County Zoning Commission will hold a public hearing on Wednesday, May 6<sup>th</sup>, 2009 in Room 2-B of the Latah County Courthouse, Moscow, Idaho, to receive comments on:

**5:30 p.m. – CUP # 793** – A request by Pat Henderson for a conditional use permit to operate a mineral resource development including excavation, crushing, and blasting on a portion of a 250-acre parcel owned by Mader Tomlinson Land LLC located in the Agriculture/Forest zone. The site is accessed off of Galloway Road and is approximately 2.5 miles west of Highway 3. The property is located in Section 24, Township 39 North, Range 03 West, B.M. in Latah County and referenced as Latah County Assessor's parcel number RP39N03W240016A.

All interested parties are encouraged to attend the hearings. Accommodations for individuals who qualify under the Americans with Disabilities Act are available upon request. Notice is required in the Planning Office three working days prior to the hearings in order to acquire accommodations.

These hearings will be held pursuant to the Latah County Hearing Procedures Ordinance and under authority of the Idaho Local Planning Act, the Latah County Comprehensive Plan and the Latah County Land Use Ordinance. The Latah County Zoning Commission reserves the right to limit the length of testimony.

Additional information on this request, including full copies of the proposal, is available from the Planning and Building Department at the Latah County Courthouse, Moscow, Idaho. Phone (208) 883-7220. Written comments will be accepted at the above office prior to the public hearing.

Drew Blankenbaker  
Associate Planner

(This is a public service announcement)

**PAT HENDERSON  
CONDITIONAL USE PERMIT APPLICATION #793  
STAFF REPORT**

**SUMMARY OF APPLICATION:**

A request by Pat Henderson for a conditional use permit to operate a mineral resource development including excavation, crushing, and blasting on a portion of a 250-acre parcel owned by Mader Tomlinson Land LLC located in the Agriculture/Forest zone. The site is accessed off of Galloway Road and is approximately 2.5 miles west of Highway 3. The property is located in Section 24, Township 39 North, Range 03 West, B.M. in Latah County and referenced as Latah County Assessor's parcel number RP39N03W240016A.

**Site Characteristics:**

**Size of Parcel(s):** 250 acres  
**Soils:** Klickson cobbly loam, 35-65% slopes  
(Latah County Soil Survey Sheet #34)  
**Floodplain:** Zone "C" (FIRM Panel #160086 0360B)

**Land Use and Regulations:**

**Comprehensive Plan Designation:** Rural  
**Existing Zoning:** Agriculture/Forest (A/F)  
**Existing Uses:** Gravel Pit and Forestry  
**Neighboring Zoning:** Agriculture/Forest (A/F)  
**Neighboring Uses:** Agriculture, Forestry and Rural Residences

**Infrastructure/Services:**

**Water:** None  
**Sewer:** Not Applicable  
**Access:** Galloway Road, South Latah Highway Dist.  
**Schools:** Kendrick School District #283  
**Fire Protection:** Deary Fire District  
**Law Enforcement:** Latah County Sheriff

**EXHIBITS:**

**Exhibit #1.** Staff Report  
**Exhibit #1A.** Criteria Worksheet  
**Exhibit #1B.** Vicinity and Comprehensive Plan Land Use Map  
**Exhibit #1C.** Zoning Map  
**Exhibit #1D.** Aerial Photograph and Adjacent Property Owners Map  
**Exhibit #1E.** Photos of Subject Property  
**Exhibit #1F.** Soils and Topographic Map  
**Exhibit #2.** Application Form (Submitted by Applicant)  
**Exhibit #2A.** Applicant's Narrative (Submitted by Applicant)  
**Exhibit #2B.** Vicinity Map (Submitted by Applicant)  
**Exhibit #2C.** Plat Map (Submitted by Applicant)  
**Exhibit #2D.** Site Plan (Submitted by Applicant)

- Exhibit #3.** Notice of Filed Reclamation Plan from Idaho Department of Lands, dated April 9, 2009
- Exhibit #4.** Letter to Planning and Building Department from South Latah Highway District dated April 6, 2009.
- Exhibit #5.** Letter to Planning and Building Department from Idaho Department of Environment Quality dated April 23, 2009.
- Exhibit #6.** Staff Introduction for Latah County Zoning Commission hearing for CUP #793 held on May 6, 2009.

**NOTE: Exhibits not included in the staff packet are available for review in the Planning Office, and will be entered into the record during the public hearing.**

**APPLICABLE STATUTE, ORDINANCE, AND COMPREHENSIVE PLAN SECTIONS:**

**Local Planning Act:** Idaho Code 67-6512

**Latah County Land Use Ordinance #269, as amended:**

- Section 3.01 Agriculture/Forest Zone
- Section 4.03 Mineral Resource Development
- Section 7.01 Conditional Use Permits

**Latah County Comprehensive Plan**

## CRITERIA WORKSHEET

Note: This criteria worksheet does not represent staff analysis of information provided by the applicant supporters, or opponents; however, staff has identified policies which may be applicable to this particular request. Information submitted to the Planning Department prior to the mailing of the staff packet has been organized herein in relation to the applicable criteria for approval or denial. This worksheet is intended only to help identify if all relevant criteria have been addressed with supporting factual information and to provide a juxtaposition of any conflicting testimony that has been presented.

### Type of request:

Conditional Use Permit for Mineral Resource Development

### Description of application:

A request by Pat Henderson for a conditional use permit to operate a mineral resource development including excavation, crushing, and blasting on a portion of a 250-acre parcel owned by Mader Tomlinson Land LLC located in the Agriculture/Forest zone. The site is accessed off of Galloway Road and is approximately 2.5 miles west of Highway 3. The property is located in Section 24, Township 39 North, Range 03 West, B.M. in Latah County and referenced as Latah County Assessor's parcel number RP39N03W240016A.

### Facts of application and the information submitted

*1) Section 7.01 requires that specific uses within a particular zone require special consideration prior to being permitted in that zone (Section 3.01, Latah County Land Use Ordinance)*

The Latah County Land Use Ordinance, under section 3.01.02(7), lists mineral resource developments subject to Section 4.03 as a conditionally permitted use in the Agriculture/Forest (A/F) Zone.

*2) Section 7.01.01 requires that an application for a conditional use be made by the owner of the affected property.*

The conditional use permit application was signed by Pat Henderson, the Applicant and Dan Mader, owner of the subject property.

*3) Section 7.01.02 requires:*

**1. A conditional use permit may be granted if the Zoning Commission finds that the proposed use conforms to each of the following criteria:**

- A. The use is not detrimental to the health and safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone;
- B. The use will not require facilities or services with excessive costs to the public;

C. The use is consistent with the goals and policies of the Latah County Comprehensive Plan.

2. **If the Zoning Commission finds that a proposed use is essential to the public health, safety, or welfare, such use may be permitted even if the use is not found to meet the criteria listed above.**
3. **The Zoning Commission shall have the authority to set an expiration date for any conditional use permit so long as the reasons for such are included in their findings of fact and conclusions of law.**

**4) Section 4.03.03 New Mineral Resource Developments states the following:**

Any mineral development which is not registered as an existing development or does not qualify to be registered as an existing development, not exempt as per Section 4.03.04 of this ordinance, or does not have an existing conditional use permit, shall be considered a new development. Prior to operation, all new developments must obtain a conditional use permit under the provisions of Section 7.01 of this ordinance. In addition the Zoning Commission shall, as a minimum, place the requirements of Section 4.03.02 upon any newly permitted mineral development, unless making specific findings supporting the omission or alteration of the requirements of Section 4.03.02. Mineral resource developments which have been granted a valid conditional use permit prior to one year after adoption of this ordinance shall be considered permitted and shall observe all conditions previously established. New mineral resource developments shall be exempt from the provisions of Section 7.01.07 of this ordinance. The following are requirements for operation of all new mineral resource developments:

1. Activity associated with a mineral resource development shall be at least 1,000 feet from any home existing at the time of application for conditional use permit, unless a lesser distance is approved by the Zoning Commission. A lesser distance shall not be approved unless the applicant submits a signed notarized form, approved by the Planning Department, from all owners of record of any residential building within 1000 feet of the development consenting to the location of the mineral resource development. Each form shall be recorded in the Latah County Recorder's Office by the Planning Department. Approval of a distance less than 1000 feet shall be within the discretion of the Zoning Commission, even if all owners of residential buildings within 1000 feet approve of the location of the development.
2. The operator of a mineral resource development must provide at least a 75 foot undisturbed or natural buffer on the perimeter of mineral resource development operations. The buffer and the area of mineral resource development operations shall be maintained so that they are continuously free of all noxious weeds as determined by the Latah County Noxious Weed Control Superintendent. Frontage on a public road does not require a buffer. Activities associated with a mineral resource development shall not be allowed within the 75 foot buffer area. Location and specifications for access road(s) shall be determined by the Zoning Commission.

3. To protect aquatic and terrestrial habitat and other biological resources, all mineral resource developments and mineral resource development operations shall be set back at least 75 feet from perennial streams and 30 feet from any intermittent streams shown on USGS 7.5 minute maps; except for stream crossings that are regulated by a state or federal regulatory system and those activities permitted under the Idaho Placer and Dredge Mining Protection Act from the Idaho Department of Lands, a Stream Channel Alteration Permit from the Idaho Department of Water Resources, a Dredge and Fill Permit from the U.S. Army Corps of Engineers, a Development Permit from the Latah County Planning Department, and / or a National Pollution Discharge Elimination System permit from the U.S. Environmental Protection Agency. Applicable permit documentation shall be provided to the Zoning Administrator prior to onset of mineral resource development.

4. The applicant shall prepare and submit the following plans with the application for a conditional use permit:

- A. Dust abatement plan to include mineral resource development operations and all access roads.
- B. A plan for coordination with County response units for hazardous materials transport and use and emergency spill response.
- C. A plan for procedures and protocols for spill containment and storage of oil, fuels, and/or chemicals; and documentation of compliance with the state and federal laws or documentation of exemption from requirements.
- D. A plan for fire suppression and response, including an inventory of tools stored on-site to implement planned suppression and response.

5. The applicant may be required to post a bond with the Latah County Planning Department to assure full compliance with the proposed plans and provisions of this section. The amount of the bond shall be determined by the Latah County Zoning Commission.

**5) Section 4.03.02 requires the following**

- 1. Hours of operation are limited to 9 AM to 6 PM daily. An operator may vary from this requirement by applying for a conditional use permit under the provisions of Section 7.01 of this ordinance.
- 2. Written verification of compliance with the Idaho Surface Mining Act, including filing of any reclamation plan required by the Idaho Surface Mining Act.
- 3. The excavation site, any overburden and stockpiles, and a 50 foot buffer strip surrounding these areas shall be maintained so that they are continuously free of all

noxious weeds as determined by the Latah County Noxious Weed Control Superintendent.

4. The operator shall provide, by certified mail, written notification to all residences within one mile of any blasting. The notification shall be distributed and in the possession of the occupants of these residences at least 72 hours prior to any blasting. The notification shall give the date and time of the planned blast.

5. Blasting shall be restricted to the hours of 9:30 AM to 4:30 PM, Monday through Friday. No blasting shall occur on Saturdays, Sundays, or the following holidays: January 1, Memorial Day, Labor Day, Thanksgiving Day, and December 25.

6. An owner or operator may request, and the Director may grant, an exception to provide for additional hours of operation for a mineral resource development when additional hours of operation are needed to alleviate a public emergency. Public emergencies include the following:

- A. Damage to public roads or structures that require immediate repair.
- B. Road construction or repair that is scheduled during nighttime hours to reduce traffic conflicts.

7. Signs, upon approval of the signs by the Planning Department, warning of truck entrances shall be posted within one-quarter ( $\frac{1}{4}$ ) mile of the site's entrance onto a public road.

8. The mineral resource development shall be marked by warning signs posted 200 feet from mine operations.

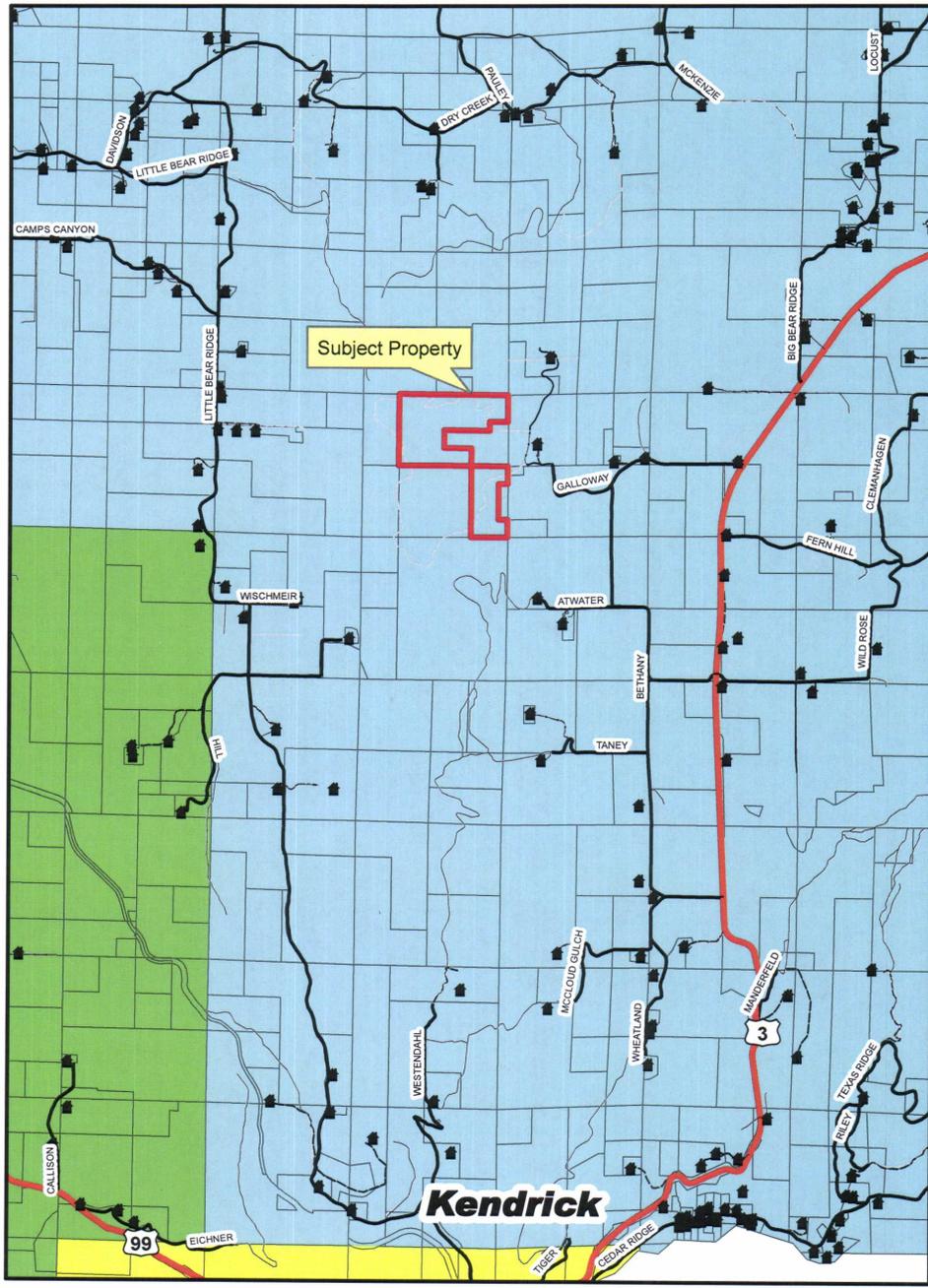
9. A plan to retain storm water runoff within the mineral resource development boundaries.

CUP # 793 Vicinity and Comprehensive Plan Land Use Map



**Legend**

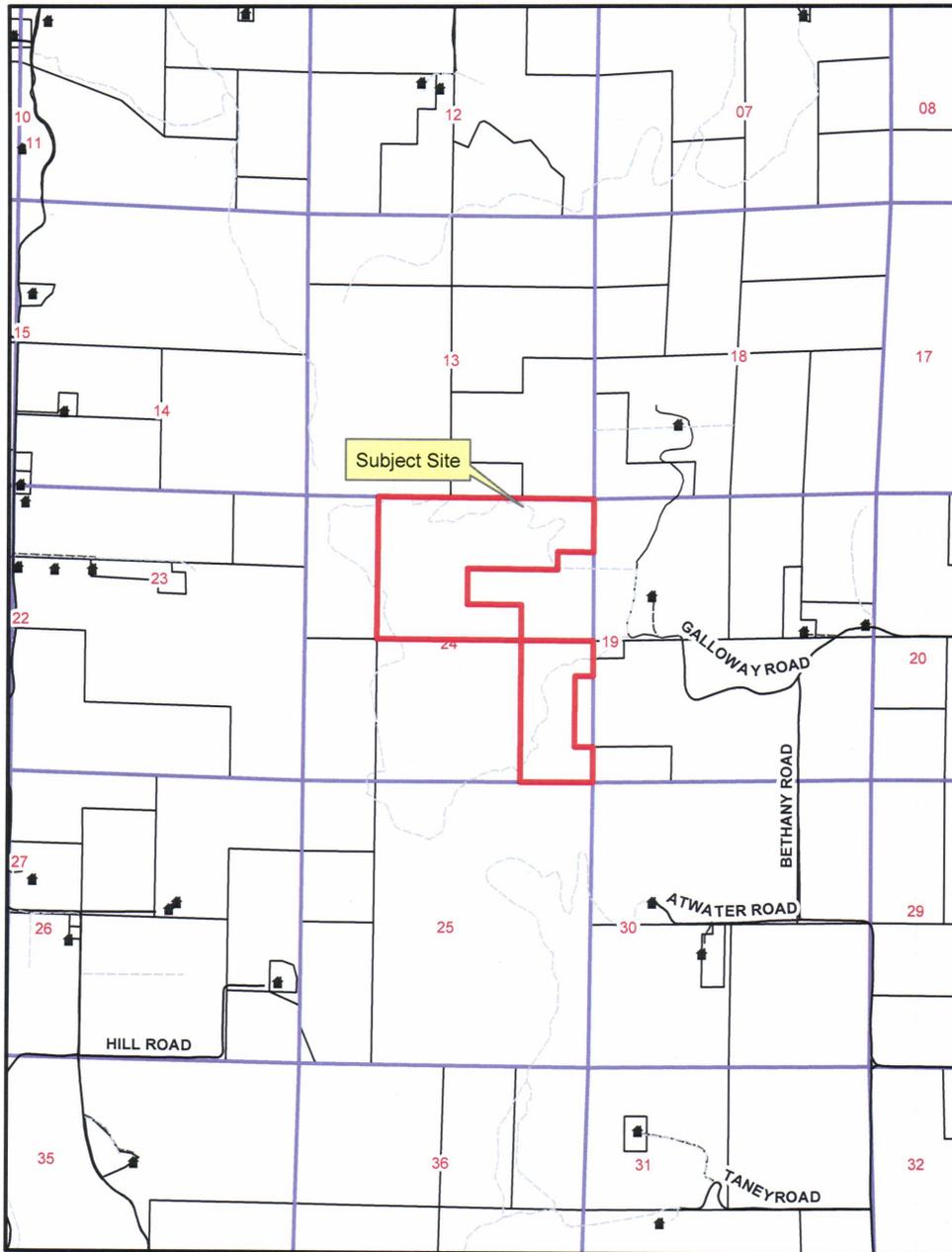
- Rural Addresses
  - Parcel
  - Subject Property
- Comprehensive Plan**
- Rural
  - ICR
  - Productive
  - AOI



NOTE: This Document is a representation only.  
Latah County bears no responsibility for errors or omissions.  
\*Created on 5/1/09 by DB

LCZC Hrg: CUP 793  
Applicant: Henderson  
Exhibit #: 1B  
Date: 5/6/2009

# CUP #793 Zoning Map



### Legend

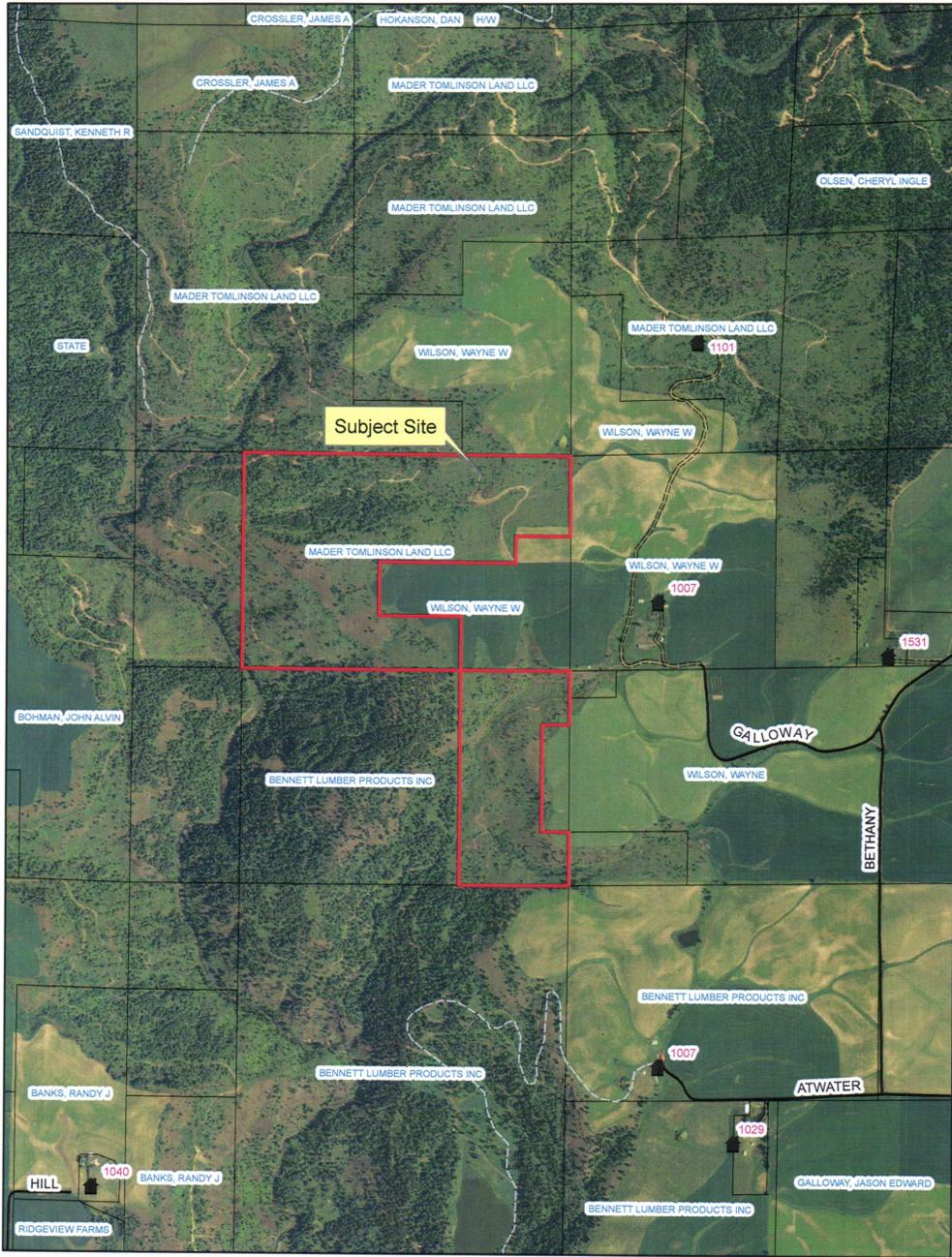
- Rural Addresses
- Parcel
- Subject Property
- Agriculture / Forestry
- Sections

NOTE: This Document is a representation only.  
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 \*Created on 5/1/09 by DB



LCZC Hrg: CUP 793  
 Applicant: Henderson  
 Exhibit #: 1C  
 Date: 5/6/2009

# CUP # 793 Aerial Photo and Adjacent Property Owners Map



## Legend

- Rural Addresses
- Parcel
- Subject Property

2,000 1,000 0 2,000 Feet

NOTE: This Document is a representation only.  
Latah County bears no responsibility for errors or omissions.  
\*Created on 5/1/09 by DB



LCZC Hrg: **CUP 793**  
Applicant: **Henderson**  
Exhibit #: **ID**  
Date: **5/6/2009**

**PHOTOS OF SUBJECT PROPERTY FOR CUP # 793**



**(Both Photos taken looking West)**

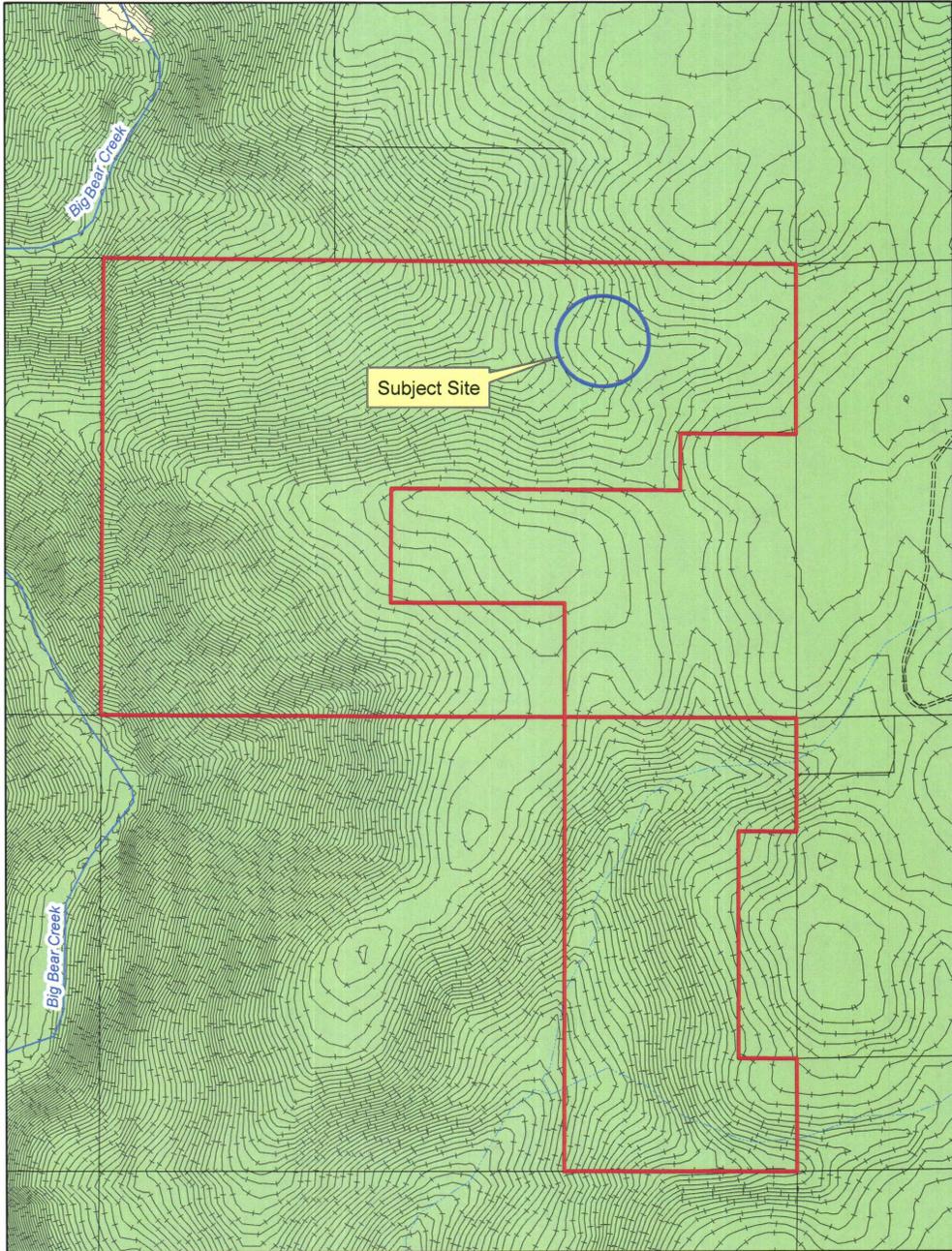
LCZC Hrg: CUP 793  
Applicant: Henderson  
Exhibit #: 1E  
Date: 5/6/2009

# CUP # 793 Soils and Topographic Map



## Legend

- Rural Addresses
- Parcel
- Subject Property
- 10 ft contour
- Soils**
- Less productive
- Productive



1,000 500 0 1,000 Feet



NOTE: This Document is a representation only.  
Latah County bears no responsibility for errors or omissions.

\*Created on 5/1/09 by DB

LCZC Hrg: CUP 793  
Applicant: Henderson  
Exhibit #: 1F  
Date: 5/6/2009



# Application for Conditional Use Permit

## Instructions

Please complete the application and required attachments. For certain uses, additional information may be necessary. Incomplete applications or applications without all required attachments will not be accepted. A public hearing will be scheduled only after Staff has determined the application is technically complete.

Please submit to: **Latah County Department of Planning & Building**

Latah County Courthouse 522 S Adams, Room 205, P.O. Box 8068, Moscow, ID 83843 (208) 883-7220

<b>1. Applicant Information</b>					
a. Applicant Name <b>PAT HENDERSON</b>		b. Home Phone <b>208-476-7503</b>		c. Work Phone <b>SAME</b>	
d. Mailing Address <b>4386 McIVER RD</b>		e. City <b>KENDRICK</b>		f. State <b>ID.</b>	g. Zip code <b>83537</b>
h. Property Owner (if different than applicant) <b>DAU MADER</b>		i. Home Phone <b>208-285-0135</b>		j. Work Phone	
k. Mailing Address <b>17509 Hillside rd. dba Mader Tomlinson Land LLC</b>		l. City <b>GENESEE</b>		m. State <b>ID</b>	n. Zip code <b>83832</b>
<b>2. General Site Information</b>					
a. Assessor's Parcel Number(s) <b>RP39N03W240016</b>			b. Parcel Address (if applicable)		
c. Acreage of Existing Parcel <b>250</b>	d. Zoning <b>A/F</b>	e. Comprehensive Plan Designation <b>Rural</b>	f. Floodplain designation(s) <b>Zone C</b>	g. FEMA Panel # <b>160086 0360 B</b>	
h. Is the parcel within an Area of City Impact? <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.		i. Impact City <b>N/A</b>	j. Road Used to Access Site <b>OLD EXISTING ROAD</b>		
Note: Sites within an area of city impact may require additional notification time prior to public hearings or a hearing before the other jurisdiction.					
i. Existing Uses <b>ROCK QUARRY</b>					
<b>3. Service Provider Information (please attach additional information if requested)</b>					
a. Fire District <b>DEARY</b>		b. Road District <b>SLHD</b>		c. School District <b>KENDRICK</b>	
d. Source of Potable Water (i.e. water district or private well) <b>N/A</b>			e. Sewage Disposal (i.e. sewer district or private septic system) <b>N/A</b>		
<b>4. Adjacent Properties Information</b>					
a. Zoning of Adjacent Properties <b>A/F</b>			b. Existing Uses of Adjacent Properties <b>AG and Timber</b>		
<b>5. Permit Information</b>					
a. Proposed Use <b>CRUSH ROCK FOR SLHD - Hours of operation would vary would like 6-11 - same as our other pits</b>					
b. What provision of the Latah County Zoning Ordinance allows the proposed use to be considered for a Conditional Use Permit in the Zoning District in which the property is located?				<b>Section 3.01.02 - 4.03</b>	
Note: If the proposed use is not specifically listed, please contact the Department prior to submittal to determine if the use is similar to those that are specifically listed as conditionally permitted uses. The Department may require additional information in order to make a determination.					
<b>6. Authorization</b>			<b>7. Attachments</b>		
The applicant does hereby certify that all of the above statements and information in any attachments transmitted herewith are true, and further acknowledges that approval of this application may be revoked if it is found that any such statements are false.			All attachments should be reproducible in black and white at 8 1/2" x 11"		
a. Signature of Applicant <i>Pat Henderson</i>		b. Date <b>2-26-09</b>	<input checked="" type="checkbox"/> <b>Fee: (\$200.00)</b> Make checks payable to Latah County.		
c. Signature of Property Owner (if different than applicant) <i>Dau Mader</i>		d. Date <b>2-26-09</b>	<input type="checkbox"/> <b>Completed Narrative Worksheet:</b> See instructions on the Conditional Use Permit Narrative Worksheet.		
Office Use Only			<input checked="" type="checkbox"/> <b>Site Plan:</b> The site plan should include a north arrow, location of roads and rights-of-way, existing buildings, improvements and features; the location and dimensions of proposed facilities, improvements and operations; as well as any other details necessary for the Zoning Commission to make a decision.		
Date Received <b>4/2/09</b>	Amount <b>200.00</b>	Receipt No. <b>466324</b>	By <b>DB</b>		
CUP # <b>73</b>	Date Determined Technically Complete <b>4/15/09</b>		By <b>DB</b>		
Hearing Date <b>5/6/09</b>			<input checked="" type="checkbox"/> <b>Vicinity Map:</b> The map should show the site location in relation to neighboring communities and natural features.		
			<input checked="" type="checkbox"/> <b>Assessor's Plat Map:</b> Include a copy of that portion of the map that shows the subject parcel and adjoining parcels.		
			<input checked="" type="checkbox"/> <b>Other Attachments:</b> Required by staff / Zoning Commission.		

LCZC Hrg: CUP 793  
Applicant: Henderson  
Exhibit #: 2  
Date: 5/6/2009



# Conditional Use Permit Narrative Worksheet

### Application Information

Applicant's Name

Est. HENDERSON

Phone Number

208-476-7503

**Purpose:** To assist the Zoning Commission in making an informed decision regarding the applicant pursuant to the requirements of the Latah County Land Use Ordinance.

**Instructions:** Please respond to each section of this form. If you need more space, you may attach additional sheets to the worksheet.

### Description of Proposal

Describe your proposal in detail. Include all aspects of your proposal.

There is an existing pit already there. It was used in 2007. We would like to crush there for SLHD. It is located on a ridge top drainage is no problem. There is an old existing road already to the site. This would allow SLHD to have gravel on top of Bear Ridge without having to truck it up from Kendrick. Therefore it would save dollars for SLHD. We are looking at about seven to ten thousand ton of gravel on the site. No nearby residents just would not be a problem on this site as it is located well off of the beaten track in a canyon owned by Don Mader. We do not need to drill and shoot now we might have to later on if the site gets to hard to dig enough rock out.

### Existing Uses of Property

Please describe what uses, structures and features currently occupy the property.

The use of this property in the past was a rock Quarry and cattle pasture. All structures are to be built, just a stockpile of gravel for SLHD

### Consistency Requirements

Please respond to each of the three criteria listed in Section 7.01.02 of the Latah County Land Use Ordinance by explaining how your proposal meets each criteria. If the provided space is insufficient, please attach your responses to this packet.

A. The use is not detrimental to the health or safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone.

Would not affect or be detrimental to health or safety of anyone in surrounding area or to any of public. We would comply with State and local laws to protect surrounding area.

B. The use will not require facilities or services with excessive costs to the public.

The use of this site would not cost the public or taxpayers anything. It would save SLHD dollars in the long run because they would not be trucking all the way from Kendrick up to Big Bear Ridge.

LCZC Hrg: CUP 793  
Applicant: Henderson  
Exhibit #: 2A  
Date: 5/6/2009

C. The use is not in conflict with the goals and policies of the Comprehensive Plan.

This operation and site would not be in conflict with any of the above. This site would save SLHD money because of its location. It would be consistent with the type of commercial and industrial uses located in rural areas away from densely populated areas residential areas, and it is hid out in a canyon that the public would never see.

In addition to your response above, please explain your proposal's consistency with the proceeding elements of the Comprehensive Plan. If a certain element is not applicable to your proposal, please explain why. Please refer to the Latah County Comprehensive Plan for specific goals and policies of the particular elements.

a. Community Design Element

This parcel lies in a rural area and will not affect any residential or commercial development. No existing land uses will be affected.

b. Population Element

This is one reason we want to use this pit there are no houses around. No nearby residents.

c. Housing Element

N/A

d. Economic Development Element

This proposal will help with the needs of the local communities without affecting any residents. A reclamation plan will be on file with IDL.

e. Public Services, Facilities, and Utilities Element

This quarry will provide rock closer to where SLHD needs to apply the rock to those County roads. No public services are needed by anyone. If fire suppression would come from nearby rural fire district fire equipment in Shop Van on site.

f. School Facilities and Student Transportation Element

N/A Schools or buses would not be affected in this location.

g. Transportation Element

This site has a road already established into it, as they hauled logs out of it and hauled rock out of it in 2007. Warning signs will be put up by SLHD.

h. Natural Resource Element

This site is on a ridge top so drainage will not be a problem. There is no dirt or overburden on the rock.

i. Special Areas Element

N/A

j. Hazardous Areas Element

N/A None stored on job site.

k. Recreation Element

N/A The only recreation on this parcel is with the man that owns it Dan Mader.

l. Land Use Element

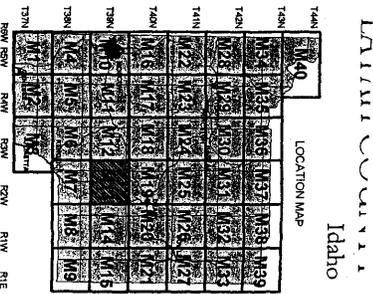
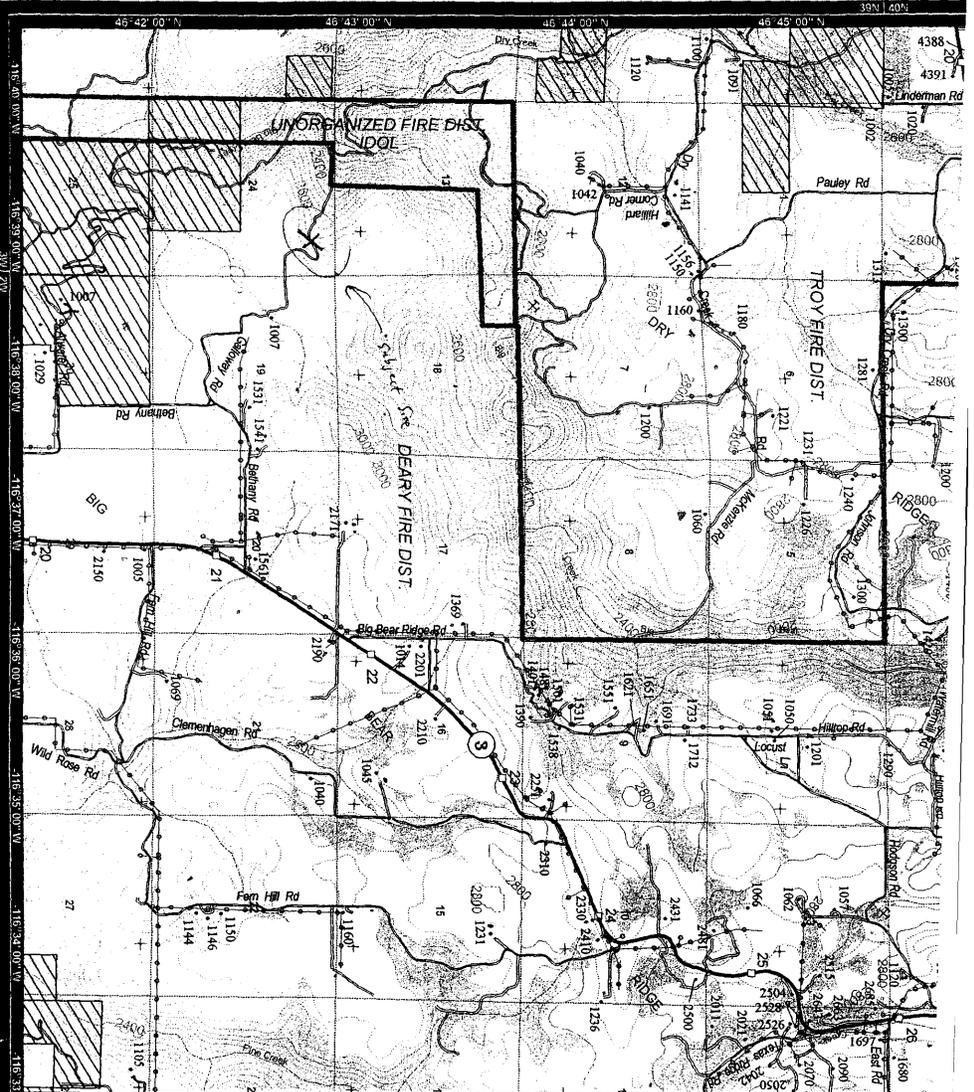
This site is not in farm ground or timber either one, it is a rocky ridge top.

m. Property Rights Element

N/A will not affect any adjacent land owners.

LCZC Hrg: CUP 793  
 Applicant: Henderson  
 Exhibit #: 2B  
 Date: 5/6/2009

Vicinity Map



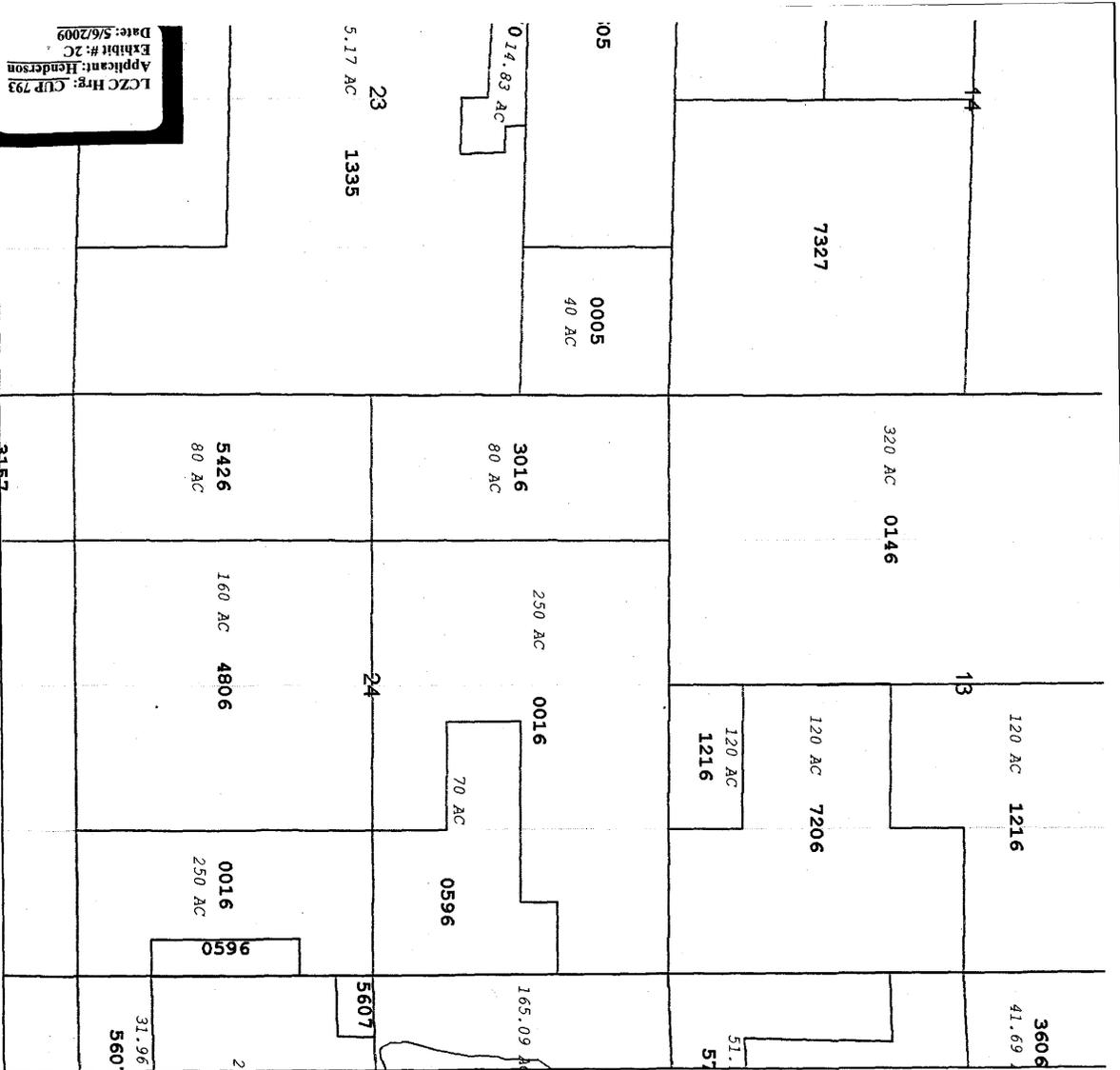
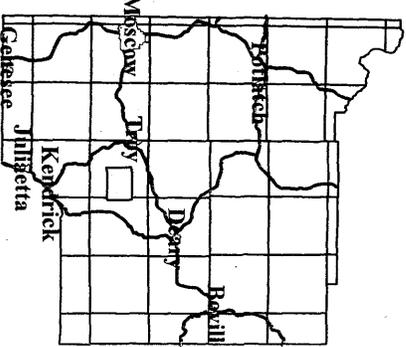
- FEATURES**
- \*124 Address Location
  - Trailer Court
  - + Lending Tr
  - × Mine / Rock Pit
  - ~ Fire District Line
  - ~ Character Powerline
  - ~ Stream/Creek
  - ~ Law / Pond
  - Meadow
  - ▨ Bernett Property
- ROAD SYSTEM**
- ~ Highway
  - ~ Paved
  - ~ Gravel
  - ~ Dirt
  - ~ Unimproved
  - ~ Trail
  - ~ Railroad
- CPFTA** Clearwater - Pollock Timber Protection Assoc.  
**IDOL** Idaho Department of Lands
- Legend for symbols:  
 123 Marker  
 1-10 Gate Location (non-fire service rd)  
 1234 Forest Service Rd



Bernett Lumber Products, Inc.  
 PO Box 49 Princeton Idaho 83857  
 Maps produced by Lisa Nieber

**M13**

1" = 1200'



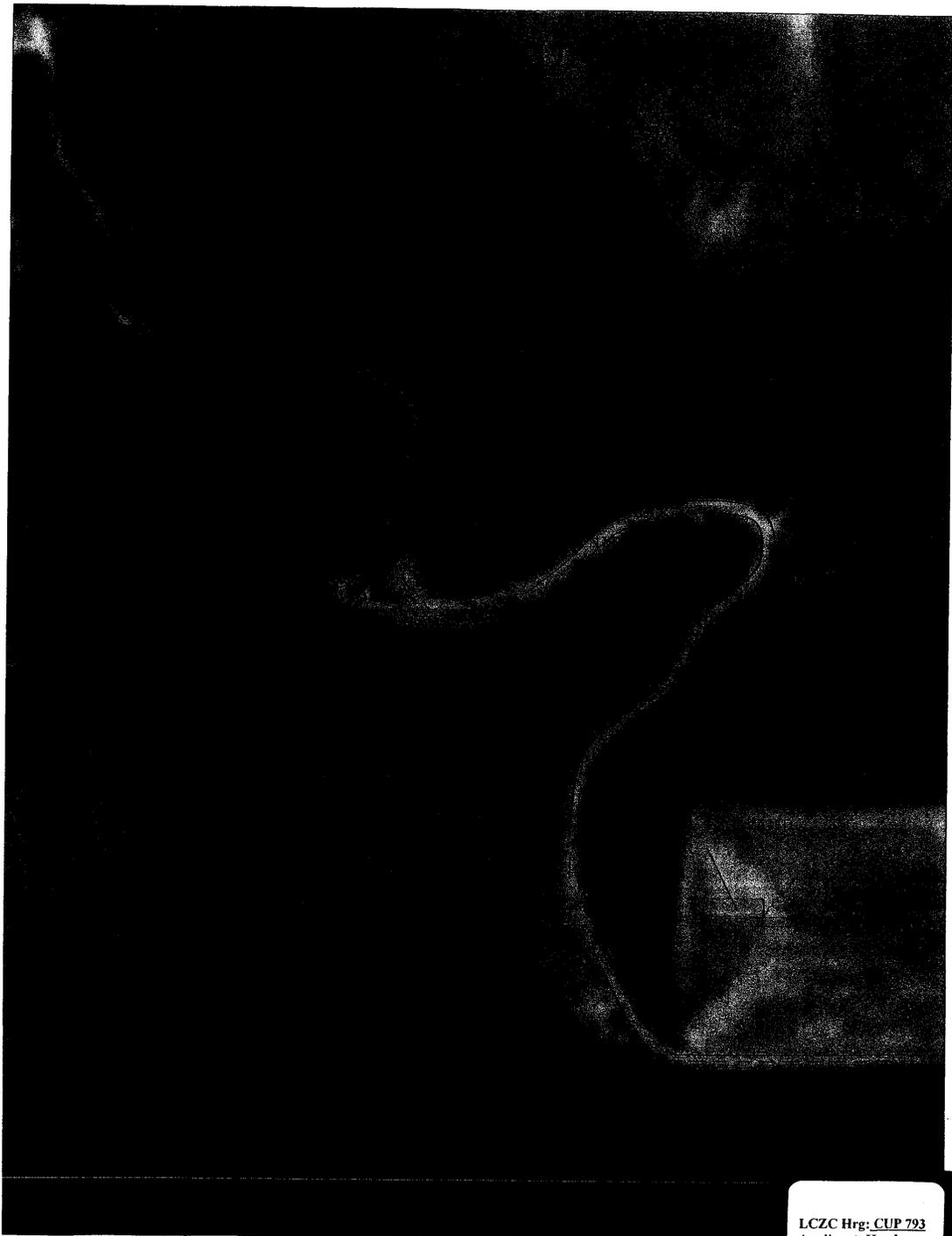
Latah County Official Plat Record  
 Applicant: Henderson  
 LCZC Hrs: CUP 793  
 Exhibit #: 2C  
 Date: 5/6/2009

© Latah County Official Plat Record.  
 This map is provided by The Latah County Assessor.  
 Due to the variability of sources used Latah County  
 makes no claims or warranties regarding  
 the data contained herein.



Revised: Jul 09, 2008  
 CMR

M63



LCZC Hrg: CUP 793  
Applicant: Henderson  
Exhibit #: 2D  
Date: 5/6/2009



**PONDEROSA  
SUPERVISORY AREA**  
3130 Highway 3  
Deary ID 83823  
Phone (208) 877-1121  
Fax (208) 877-1122

**STATE BOARD OF LAND COMMISSIONERS**  
C. L. "Butch" Otter, Governor  
Ben Yursa, Secretary of State  
Lawrence G. Wasden, Attorney General  
Donna M. Jones, State Controller  
Tom Luna, Sup't of Public Instruction

April 9, 2009

Latah County Planning and Building Department  
PO Box 8068  
522 South Adams  
Moscow, Idaho 83843

RECEIVED  
APR 0 2009  
LATAH COUNTY

**NOTICE  
RECLAMATION PLAN APPLICATION**

The State of Idaho, Department of Lands (IDL), as required by the Idaho Surface Mining Act, 47-1505 (6) Idaho Code, is giving your county or city notice of the individual or company proposing mining activity.

NAME OF OPERATOR: Pat Henderson  
 ADDRESS OF OPERATOR: 4386 Mc Iver Rd. Kendrick, ID 83838  
 PLAN NUMBER: 2788  
 LEGAL DESCRIPTION: NE ¼ NE ¼ Section 24  
T 39 North, R 3 West

IDL has reviewed the application for completeness in accordance with Section 47-1506, Idaho Code. If the application could impact surface waters, it has been submitted to the Idaho Department of Water Resources, Department of Environmental Quality, and Department of Fish and Game with a request for comments within 30 days. This review process must be finalized and the operator notified within 80 days or the reclamation plan becomes automatically approved as submitted under the statute.

Cities and counties may review the non-confidential portions of the plan at the Lands' office nearest the county or the state office in Boise. IDL works with other agencies to ensure environmental, water quality and reclamation standards are maintained. We rely on cities and counties to address multiple-use issues, including planning and zoning and other operating requirements, i.e., hours of crushing and hauling, etc. If you have any questions or comments you may contact me at the above address.

Sincerely,

Jason Svancara  
Resource Specialist

PC: Eric Wilson, Navigable Waters/Minerals Program Manager

LCZC Hrg: CUP 793  
Applicant: Henderson  
Exhibit #: 3  
Date: 5/6/2009



**SOUTH LATAH HIGHWAY DISTRICT**

Genesee - Kendrick - Juliaetta

Box 307 - Genesee, Idaho 83832 - 208-285-1412

TO: LATAH PLANNING AND ZONING  
MOSCOW, IDAHO

TO WHOM IT MAY CONCERNE:

South Latah Highway District [SLHD] supports the conditional use of the Dan Mader Quarry. The use of this site will cause a considerable savings to the district. There should be no adverse affects on any adjacent property owners or the community. SLHD hopes this proposal goes through in a timely manner so we can use this site as soon as possible.

THANK YOU,

ROBERT 'HUNK' LEONARD  
ROAD SUPERINTRNDANT

LCZC Hrg: CUP 793  
Applicant: Henderson  
Exhibit #: 4  
Date: 5/6/2009

04/06/2009 08:28 FAX



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

RECEIVED

APR 24 2009

LATAH COUNTY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370

C.L. "Butch" Otter, Governor  
Toni Hardesty, Director

April 23, 2009

Drew Blankenbaker  
Associate Planner  
Latah County Zoning Commission  
PO Box 8068  
Moscow, ID 83843

Re: CUP #793

Dear Mr. Blankenbaker:

Thank you for notifying The Idaho Department of Environmental Quality (DEQ) regarding the request for comments for a conditional use permit made by Pat Henderson. DEQ anticipates receiving a notice for comments from the Idaho Department of Lands (IDL) during their permitting process, should this proposed activity progress that far. DEQ will comment on the IDL permit at that time.

Please contact our office at 208-799-4370 or toll free at 877-541-3304 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel D. Stewart".

Daniel D. Stewart  
Watershed Monitoring Coordinator

cc: John Cardwell, Water Quality Manager

LCZC Hrg: CUP 793  
Applicant: Henderson  
Exhibit #: 5  
Date: 5/6/2009

## CUP #793 – Staff Introduction

A request by Pat Henderson for a conditional use permit to operate a mineral resource development including excavation, crushing, and blasting on a portion of a 250-acre parcel owned by Mader Tomlinson Land LLC located in the Agriculture/Forest zone. The site is accessed off of Galloway Road and is approximately 2.5 miles west of Highway 3. The property is located in Section 24, Township 39 North, Range 03 West, B.M. in Latah County and referenced as Latah County Assessor's parcel number RP39N03W240016A.

The Latah County Land Use Ordinance, under section 3.01.02(7), lists mineral resource developments as subject to Section 4.03 as a conditionally permitted use in the Agriculture/Forest (A/F) Zone.

### *Section 7.01.02 requires:*

- 1. A conditional use permit may be granted if the Zoning Commission finds that the proposed use conforms to each of the following criteria:**
  - A. The use is not detrimental to the health and safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone;
  - B. The use will not require facilities or services with excessive costs to the public;
  - C. The use is consistent with the goals and policies of the Latah County Comprehensive Plan.
- 2. If the Zoning Commission finds that a proposed use is essential to the public health, safety, or welfare, such use may be permitted even if the use is not found to meet the criteria listed above.**
- 3. The Zoning Commission shall have the authority to set an expiration date for any conditional use permit so long as the reasons for such are included in their findings of fact and conclusions of law.**

### *Section 4.03.03 New Mineral Resource Developments states the following:*

Any mineral development which is not registered as an existing development or does not qualify to be registered as an existing development, not exempt as per Section 4.03.04 of this ordinance, or does not have an existing conditional use permit, shall be considered a new development. Prior to operation, all new developments must obtain a conditional use permit under the provisions of Section 7.01 of this ordinance. In addition the Zoning Commission shall, as a minimum, place the requirements of Section 4.03.02 upon any newly permitted mineral resource development, unless making specific findings supporting the omission or alteration of the requirements of Section 4.03.02. New mineral resource developments shall be exempt from the provisions of Section 7.01.07 of this ordinance. The following are requirements for operation of all new mineral resource developments:

1. Activity associated with a mineral resource development shall be at least 1,000 feet from any home existing at the time of application for conditional use permit, unless a lesser distance is approved by the Zoning Commission. A lesser distance shall not be approved unless the applicant

submits a signed notarized form, approved by the Planning Department, from all owners of record of any residential building within 1000 feet of the development consenting to the location of the mineral resource development. Each form shall be recorded in the Latah County Recorder's Office by the Planning Department. Approval of a distance less than 1000 feet shall be within the discretion of the Zoning Commission, even if all owners of residential buildings within 1000 feet approve of the location of the development.

2. The operator of a mineral resource development must provide at least a 75 foot undisturbed or natural buffer on the perimeter of mineral resource development operations. The buffer and the area of mineral resource development operations shall be maintained so that they are continuously free of all noxious weeds as determined by the Latah County Noxious Weed Control Superintendent. Frontage on a public road does not require a buffer. Activities associated with a mineral resource development shall not be allowed within the 75 foot buffer area. Location and specifications for access road(s) shall be determined by the Zoning Commission.

3. To protect aquatic and terrestrial habitat and other biological resources, all mineral resource developments and mineral resource development operations shall be set back at least 75 feet from perennial streams and 30 feet from any intermittent streams shown on USGS 7.5 minute maps; except for stream crossings that are regulated by a state or federal regulatory system and those activities permitted under the Idaho Placer and Dredge Mining Protection Act from the Idaho Department of Lands, a Stream Channel Alteration Permit from the Idaho Department of Water Resources, a Dredge and Fill Permit from the U.S. Army Corps of Engineers, a Development Permit from the Latah County Planning Department, and / or a National Pollution Discharge Elimination System permit from the U.S. Environmental Protection Agency. Applicable permit documentation shall be provided to the Zoning Administrator prior to onset of mineral resource development.

4. The applicant shall prepare and submit the following plans with the application for a conditional use permit:

A. Dust abatement plan to include mineral resource development operations and all access roads.

B. A plan for coordination with County response units for hazardous materials transport and use and emergency spill response.

C. A plan for procedures and protocols for spill containment and storage of oil, fuels, and/or chemicals; and documentation of compliance with the state and federal laws or documentation of exemption from requirements.

D. A plan for fire suppression and response, including an inventory of tools stored on-site to implement planned suppression and response.

5. The applicant may be required to post a bond with the Latah County Planning Department to assure full compliance with the proposed plans and provisions of this section. The amount of the bond shall be determined by the Latah County Zoning Commission.

***Section 4.03.02 requires the following for mineral resource developments:***

1. Hours of operation are limited to 9 AM to 6 PM daily. An operator may vary from this requirement by applying for a conditional use permit under the provisions of Section 7.01 of this ordinance.
2. Written verification of compliance with the Idaho Surface Mining Act, including filing of any reclamation plan required by the Idaho Surface Mining Act.
3. The excavation site, any overburden and stockpiles, and a 50 foot buffer strip surrounding these areas shall be maintained so that they are continuously free of all noxious weeds as determined by the Latah County Noxious Weed Control Superintendent.
4. The operator shall provide, by certified mail, written notification to all residences within one mile of any blasting. The notification shall be distributed and in the possession of the occupants of these residences at least 72 hours prior to any blasting. The notification shall give the date and time of the planned blast.
5. Blasting shall be restricted to the hours of 9:30 AM to 4:30 PM, Monday through Friday. No blasting shall occur on Saturdays, Sundays, or the following holidays: January 1, Memorial Day, Labor Day, Thanksgiving Day, and December 25.
6. An owner or operator may request, and the Director may grant, an exception to provide for additional hours of operation for a mineral resource development when additional hours of operation are needed to alleviate a public emergency. Public emergencies include the following:
  - A. Damage to public roads or structures that require immediate repair.
  - B. Road construction or repair that is scheduled during nighttime hours to reduce traffic conflicts.
7. Signs, upon approval of the signs by the Planning Department, warning of truck entrances shall be posted within one-quarter (1/4) mile of the site's entrance onto a public road.
8. The mineral resource development shall be marked by warning signs posted 200 feet from mine operations.
9. A plan to retain storm water runoff within the mineral resource development boundaries.

**Exhibits will now be entered into the record.**

The following exhibits were submitted with the staff packet:

- |                     |  |
|---------------------|--|
| <b>Exhibit #1.</b>  | Staff Report                                       |
| <b>Exhibit #1A.</b> | Criteria Worksheet                                 |
| <b>Exhibit #1B.</b> | Vicinity and Comprehensive Plan Land Use Map       |
| <b>Exhibit #1C.</b> | Zoning Map   |
| <b>Exhibit #1D.</b> | Aerial Photograph and Adjacent Property Owners Map |
| <b>Exhibit #1E.</b> | Photos of Subject Property                         |
| <b>Exhibit #1F.</b> | Soils and Topographic Map                          |

- Exhibit #2.** Application Form (Submitted by Applicant)
- Exhibit #2A.** Applicant's Narrative (Submitted by Applicant)
- Exhibit #2B.** Vicinity Map (Submitted by Applicant)
- Exhibit #2C.** Plat Map (Submitted by Applicant)
- Exhibit #2D.** Site Plan (Submitted by Applicant)
- Exhibit #3.** Notice of Filed Reclamation Plan from Idaho Department of Lands, dated April 9, 2009
- Exhibit #4.** Letter to Planning and Building Department from South Latah Highway District dated April 6, 2009.
- Exhibit #5.** Letter to Planning and Building Department from Idaho Department of Environment Quality dated April 23, 2009.
- Exhibit #6.** Staff Introduction for Latah County Zoning Commission hearing for CUP #793 held on May 6, 2009.

**That is all staff has unless the Commission has questions.**