

NOTICE OF PUBLIC HEARING
BEFORE THE LATAH COUNTY ZONING COMMISSION
Wednesday, December 2, 2009
5:35 p.m.

The Latah County Zoning Commission will hold a public hearing on Wednesday, December 2, 2009 in Room 2-B of the Latah County Courthouse, Moscow, Idaho, to receive comments on:

5:35 p.m. – CUP #653C – A request by George Lisher to modify CUP #653 to increase hours of operation, and to delete conditions 6 and 7. Mr. Lisher's rock pit is located approximately three miles south of the City of Potlatch and adjacent to Flannigan Creek Road, in Section 23, Township 41 North, Range 5 West, B.M., in Latah County, and is currently referenced as Assessor's Parcel Number RP41N05W230023A.

All interested parties are encouraged to attend the hearing. 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 hearing in order to acquire accommodations.

This hearing 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.

Written exhibits will be accepted at the Latah County Planning and Building Department no later than 5:00 p.m. on Wednesday, November 25th, 2009. Written exhibits will not be accepted after that time. Written comments, submissions, exhibits, videos, recorded audio, DVDs, PowerPoint presentations, slide shows, photographs, e-mails, and regular mail/submittals are all considered written exhibits. All PowerPoint and/or electronic presentations (excluding videos/movies) must also be submitted in printed form.

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.

Aimee Shipman
Associate Planner

(This is a public service announcement)

**GEORGE LISHER
CONDITIONAL USE PERMIT APPLICATION #653C
STAFF REPORT**

SUMMARY OF APPLICATION:

A request by George Lisher to modify CUP #653 to:

- A. Increase hours of operation to 6:00 AM to 6:00 PM.
- B. Delete condition 6. This states, "No more than 75,000 tons of rock shall be blasted, crushed or removed from the site."
- C. Delete condition 7. This states, "No more than 60 loads or 870 tons, whichever is greater, shall be hauled from the site during any week, excepting during any state of emergency duly declared by the appropriate jurisdiction, wherein the use or removal of the rock is necessary to protect life and property. The applicant shall maintain records of loads and tonnages in order to allow County staff to verify compliance with this condition.

Mr. Lisher's rock pit is located approximately three miles south of the City of Potlatch and adjacent to Flannigan Creek Road, in Section 23, Township 41 North, Range 5 West, B.M., in Latah County, and is currently referenced as Assessor's Parcel Number RP41N05W230023A.

Site Characteristics:

Size of Parcel:	280 acres
Soils at Site of Proposed Operations:	Farber-Minaloosa association, very steep; Klickson silt loams, 25 – 35% slopes; Taney silt loams, 7 – 25% slopes; (Latah County Soil Survey Sheet #14)
Floodplain:	Zone "C" (FIRM Panel #0135B & #0145B – No Map for #0145B)

Land Use and Regulations:

Comprehensive Plan Designation:	Rural
Existing Zoning:	Agriculture/Forest (A/F)
Existing Uses:	Grazing, Natural Mineral Resource Extraction
Neighboring Zoning:	Agriculture/Forest (A/F)
Neighboring Uses:	Grazing, Timber, Agriculture

Infrastructure/Services:

Water:	N/A
Sewer:	N/A
Access:	Flannigan Creek Road, North Latah County Highway District
Schools:	Potlatch School District
Fire Protection:	Potlatch Rural 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.** Adjacent Owners and Aerial Photograph Map
- Exhibit #1E.** CUP 653B Findings of Fact and Conclusions of Law (Zoning Commission)
- Exhibit #1F.** CUP 653A Findings of Fact and Conclusions of Law (Board of County Commissioners)
- Exhibit #1G.** CUP 653A Findings of Fact and Conclusions of Law (Zoning Commission)
- Exhibit #1H.** CUP 653 Findings of Fact and Conclusions of Law (Board of County Commissioners)
- Exhibit #1I.** List of Latah County Rockpit CUPs
- Exhibit #2.** Application Form (Submitted by Applicant)
- Exhibit #2A.** Applicant's Narrative (Submitted by Applicant)
- Exhibit #2B.** Site Plan Map (Submitted by Applicant)

- Exhibit #2C.** Site Plan Map on Aerial Photo (Submitted by Applicant)
- Exhibit #2D.** Topographic Map (Submitted by Applicant)
- Exhibit #2E.** Cross Section Map (Submitted by Applicant)

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 67-6511, Zoning Ordinance.

Latah County Land Use Ordinance:

- Section 3.01 Agriculture/Forest Zone (A/F)
- Section 4.03 Mineral Resource Development
- Article 7 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

Description of application:

A request by George Lisher to modify CUP #653 to increase hours of operation, and delete conditions 6, and 7. Mr. Lisher's rock pit is located approximately three miles south of the City of Potlatch and adjacent to Flannigan Creek Road, in Section 23, Township 41 North, Range 5 West, B.M., in Latah County, and is currently referenced as Assessor's Parcel Number RP41N05W230023A.

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 site is owned by Walser Ranch, Incorporated. Terry Walser signed the application on behalf of Walser Ranch, Inc. George Lisher, the applicant, signed and submitted the application on November 4, 2009.

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 finding 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.

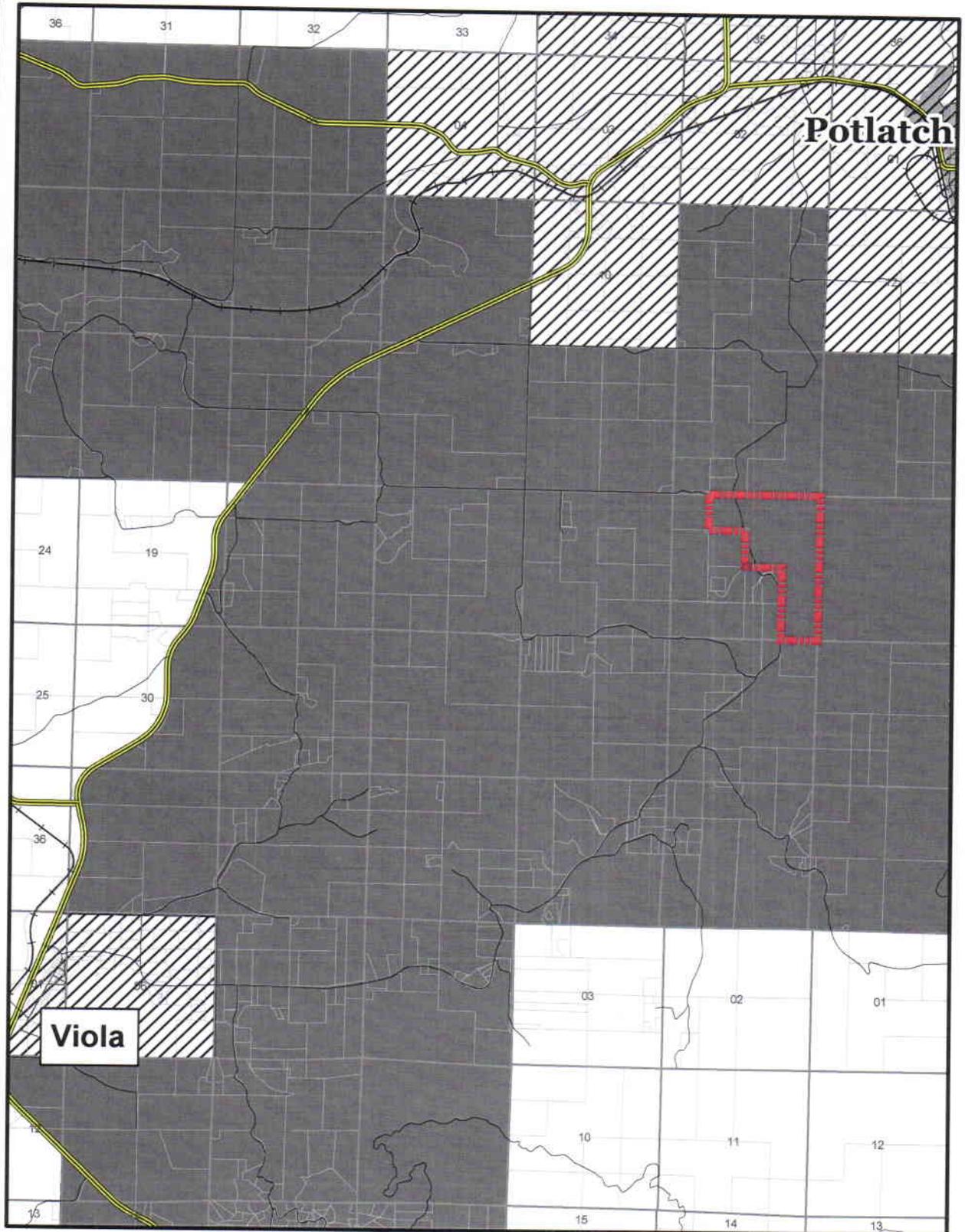
3. The excavation site, any overburden and stockpiles, and a 50 foot buffer strip surrounding these areas shall be maintained so that they are continuously free of all noxious weeds as determined by the Latah County Noxious Weed Control Superintendent.

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 (¼) 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.

Additional information

In 2007 Mr. Lisher requested several modifications to his existing rock crushing and excavation operation (CUP 653). This request (CUP 653B) was denied by the Latah County Zoning Commission with the exception of approving the request to delete condition #4 related to the recovery of cultural resources by the Coeur d'Alene Tribe. Mr. Lisher has submitted a similar request which is the subject of the current proposal.

CUP#653 C Vicinity and Comprehensive Plan Land Use Map



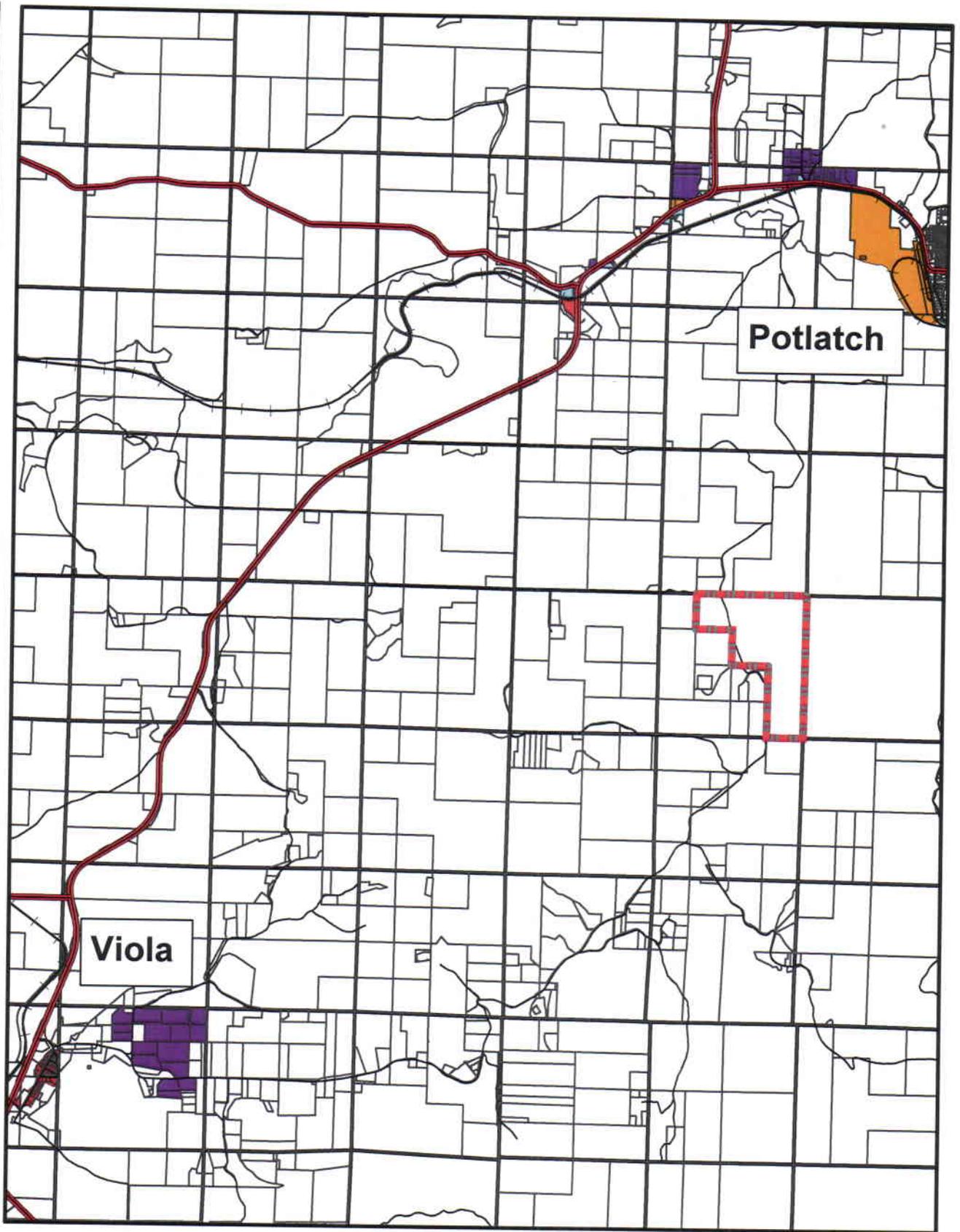
Legend

-  Subject CUP Property
-  Parcels
-  Productive
-  Rural
-  Residential, Commercial Industrial
-  Incorporated Places



LCZC Hrg: CUP653C
 Applicant: Lisher
 Exhibit #: 1B
 Date: 12/2/2009

CUP # 799 Zoning Map



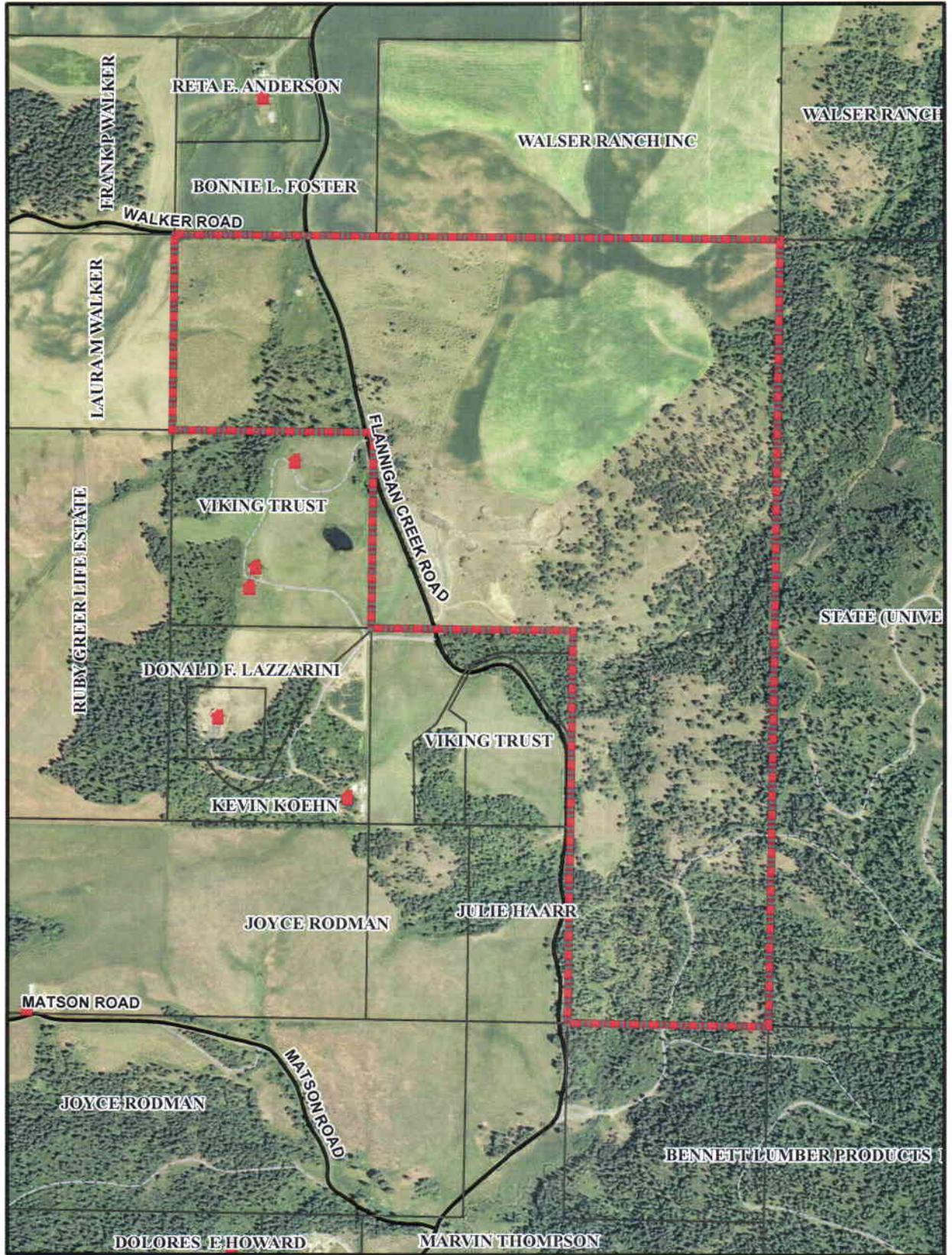
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- | | |
|--|--|
|  Subject CUP Parcel | Zoning Districts |
|  Parcels |  Agriculture / Forest |
| |  Commercial |
| |  Industrial |
| |  Rural Residential |
| |  Suburban Residential |



LCZC Hrg: CUP653C
Applicant: Lisher
Exhibit #: 1C
Date: 12/2/2009

CUP #653 C Adjacent Property Owners



Legend

-  Subject CUP parcel
-  Location of Structures
-  Parcels



LCZC Hrg: CUP653C
 Applicant: Lisher
 Exhibit #: 1D
 Date: 12/2/2009

**BEFORE THE ZONING COMMISSION
COUNTY OF LATAH, STATE OF IDAHO**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING A PETITION FOR AN AMENDMENT TO CONDITIONAL USE PERMIT 653 (CUP 653) BY GEORGE LISHER TO EXPAND HIS ROCK CRUSHING AND EXCAVATION SITE TO FIVE ACRES, TO INCREASE HOURS OF OPERATION, DELETE PORTIONS OF CONDITIONS TWO (2) AND FIVE (5), AND DELETE CONDITIONS FOUR (4), SIX (6), SEVEN (7), AND THIRTEEN (13). THE EXISTING EXCAVATION SITE IS LOCATED APPROXIMATELY THREE MILES SOUTH OF POTLATCH AND ADJACENT TO FLANNIGAN CREEK ROAD IN SECTION 23, TOWNSHIP 41 NORTH, RANGE 5 WEST, B.M., IN LATAH COUNTY. THE PROPERTY IS CURRENTLY REFERENCED AS ASSESSOR'S PARCEL NUMBER RP41N05W230023A.

WHEREAS, George Lisher made application for a conditional use permit on March 19th, 2007; and

WHEREAS, a duly noticed public hearing was held on Wednesday May 2nd, 2007 before the Zoning Commission to take testimony and consider the conditional use permit application; and

THE LATAH COUNTY ZONING COMMISSION, STATE OF IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY MAKES THE FOLLOWING:

I. FINDINGS OF FACT

1. The Latah County Zoning Commission considered the request pursuant to the Latah County Comprehensive Plan, Latah County Land Use Ordinance, the Local Land Use Planning Act, and other applicable local and state regulations.
2. The existing excavation site is located approximately three miles south of the city of Potlatch and adjacent to Flannigan Creek Road, in Section 23, Township 41 North, Range 5 West, B.M., in Latah County, Idaho.
3. This site is owned by Walser Ranch, Incorporated. Terry Walser signed the application on behalf of Walser Ranch, Inc. George Lisher, the applicant, signed and submitted the application on March 19th, 2007.
4. The subject property is zoned Agriculture/Forestry.
5. The existing uses of the property are grazing and natural mineral resource extraction.

6. The subject property is designated "Rural" on the Comprehensive Plan Land Use Map. The Comprehensive Plan states, "This area should be protected from conversion to more concentrated residential, commercial, or industrial development; however, sites within this area may be suitable for consideration for further low-density residential development."
7. The parcel is located in an area designated "Zone C" on panels #0135B and #0145B of the Flood Insurance Rating Map (FIRM) for Latah County provided by the Federal Emergency Management Agency (FEMA).
8. The surrounding properties are currently zoned Agriculture/Forestry (A/F).
9. The surrounding property uses are agriculture, grazing, timber, and residential.
10. In accordance with the Latah County Land Use Ordinance §3.01.02(7), mineral resource development, subject to Section 4.03, is a conditionally permitted use in the Agriculture/Forest (A/F) Zone.
11. The applicant proposes to expand his rock excavation and crushing site from two to five acres.
12. The applicant proposes to increase hours of operation, requesting that crushing and blasting be allowed Monday through Saturday from 6:00 a.m. to 11:59 p.m. and general operations be allowed seven days a week from 6:00 a.m. to 9:00 p.m.
13. The applicant proposes to delete the portion of Condition Two (2) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653 that limits the hours and days of blasting, crushing, loading, hauling, maintenance, and ancillary operations.
14. The applicant proposes to delete the portion of Condition Five (5) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653 that places a limit of 30,000 tons per blast.
15. The applicant proposes to delete Condition Four (4) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "The applicant shall provide the Coeur d'Alene Tribe with a written monthly schedule of excavation and blasting, and shall allow a Tribal representative to be present during excavation. If cultural resources are identified by the Tribal representative at the site, the applicant shall cease operations in order to allow the cultural resources to be recovered from the excavation site without undue delay, up to a maximum of forty-eight hours. This condition is intended only to allow recovery of any culturally resources from the immediate excavation site, not to authorize the tribe to remove the items from the property nor to assign ownership of any cultural resources found."

16. The applicant proposes to delete Condition Six (6) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "No more than 75,000 tons of rock shall be blasted, crushed or removed from the site."
17. The applicant proposes to delete Condition Seven (7) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "No more than 60 loads or 870 tons, whichever is greater, shall be hauled from the site during any week, excepting during any state of emergency duly declared by the appropriate jurisdiction, wherein the use or removal of the rock is necessary to protect life and property. The applicant shall maintain records of loads and tonnages in order to allow County staff to verify compliance with this condition."
18. The applicant proposes to delete Condition Thirteen (13) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "The conditional use permit shall expire six years from the date of issuance, at which time the implementation of the reclamation plan shall begin."
19. According to Condition Six (6) of CUP 653, "No more than 75,000 tons of rock shall be blasted, crushed, or removed from the site." The applicant testified that 60,000 tons of rock have been blasted and crushed to-date.
20. The applicant testified that he has contacted the Coeur d'Alene Tribe, as stated in condition 4 of CUP #653. However, the tribe has only visited the site once to monitor his operation. The applicant stated the tribe told him that they are not interested in the rock pit area on the hilltop, only the area near Flannigan Creek, as this is the area most likely to have cultural remains.
21. A representative of the North Latah Highway District (NLDH) presented evidence that the current hours of operation and the limitation on the amount of rock removed from the site are restrictive to the needs of the County. He also testified that high-quality crushed rock in northern Latah County would be beneficial to public service providers within the Potlatch area.
22. The applicant testified that he would like to extend his hours of operation in order to accommodate crushing companies who prefer to work double shifts to maximize production of crushed rock that can be done per contract.
23. There was testimony that the conditions were set forth in Conditional Use Permit 653 (CUP 653) to protect the health and safety of the public.
24. Testimony was given that the current conditions set on CUP 635 are effective at making the gravel operation have less impact on the neighboring properties.

25. Neighboring property owners testified that an increase in operations would lead to increased traffic, and subsequently an increase in major accidents on Flannigan Creek Road, however the applicant submitted an accident report, generated from the Latah County Sheriffs office showing only five accidents of Flannigan Creek road since March 2004.
26. Neighbors testified that an increase in operations will lead to a substantial increase in road traffic, and possibly endangering the pedestrians and cyclists who utilize the road.
27. Testimony was presented that allowing operations to continue indefinitely would result in a significant reduction in residential property values in the area.
28. There was testimony from an adjacent property owner that their well failure was likely related to blasting at the rock excavation site. They have filed a claim with their insurance company, however that claim has been denied.
29. The applicant offered rebuttal that he hired a professional who conducted seismographic vibrating monitoring at a neighboring well site during one occasion of blasting, and that the reading did not show evidence of damage to said well.
30. The applicant testified that there have been no material changes of conditions since the initial hearings for the Conditional Use Permit 653 (CUP653).
31. The Commission discussed that the conditions imposed by CUP 653 were reasonable and, in large measure, addressed legitimate concerns raised during the hearings by surrounding property owners.

Based on the above findings of fact, the Zoning Commission enters the following:

BASED UPON THE FOREGOING FINDINGS, THE ZONING COMMISSION OF LATAH COUNTY HEREBY MAKES THE FOLLOWING:

II. CONCLUSIONS OF LAW

1. The Zoning Commission has reviewed the application and concludes that the use, as conditioned under CUP #653 with the deletion of condition #4, is not detrimental to the health or safety of those in the surrounding area and will not adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone.
2. The Zoning Commission has reviewed the application and concludes that the use, as conditioned under CUP #653 with the deletion of condition #4 will not require facilities or services with excessive costs to the public.

3. The Zoning Commission has reviewed the application as it relates to the Latah County Comprehensive Plan. Taken as a whole and as conditioned under CUP #653, and with the deletion of condition #4, the Zoning Commission concludes that the use is consistent with goals and policies of the Comprehensive Plan.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Zoning Commission approves the following amendment to George Lisher's Conditional Use Permit (CUP #653):

1. Delete condition 4 which states, "The applicant shall provide the Coeur d'Alene Tribe with a written monthly schedule of excavation and blasting, and shall allow a Tribal representative to be present during excavation. If cultural resources are identified by the Tribal representative at the site, the applicant shall cease operations in order to allow the cultural resources to be recovered from the excavation site without undue delay, up to a maximum of forty-eight hours. This condition is intended only to allow recovery of any culturally resources from the immediate excavation site, not to authorize the tribe to remove the items from the property nor to assign ownership of any cultural resources found."

PASSED BY THE ZONING COMMISSION OF LATAH COUNTY THIS 6 DAY OF June, 2007.


Wayne Sprouse, Chairman
Zoning Commission

NOTICE OF EFFECTIVE DATE AND NOTICE OF RIGHT TO APPEAL

An appeal period of fifteen (15) days shall begin upon the day of the mailing, or if hand delivery the day of delivery, of the Zoning Commission's or Land Use Board of Appeals' signed findings of fact and conclusions of law. The applicant or other affected person must specify the issues on appeal and shall submit the written appeal to the Planning Department within the time period described above. The written appeal must specify which findings or conclusions the appellant finds to be in error and explain the appellant's reasons for determining that the findings and conclusions are in error. Any affected person may submit a written response to the appeal within 15 days of the filing of a conforming written notice of appeal. If approved, no conditional use permit shall become effective nor shall any buildings or installation permit be issued until the fifteen (15) day appeal period has elapsed or until the Board has made a decision upon appeal.

NOTICE OF RIGHT TO REQUEST REGULATORY TAKINGS ANALYSIS

The owner of the property that is the subject of this decision may make a written request to the Latah County Planning and Building Department for a Regulatory Takings Analysis within twenty-eight (28) days from the date of this decision as provided by Chapter 80, Title 67, Idaho Code.

**BEFORE THE BOARD OF COMMISSIONERS
COUNTY OF LATAH, STATE OF IDAHO**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING A PETITION FOR AN AMENDMENT TO CONDITIONAL USE PERMIT 653 (CUP 653A) BY GEORGE LISHER TO EXPAND HIS ROCK CRUSHING AND EXCAVATION SITE TO FIVE ACRES, TO INCREASE HOURS OF OPERATION, DELETE PORTIONS OF CONDITIONS TWO (2) AND FIVE (5), AND DELETE CONDITIONS FOUR (4), SIX (6), SEVEN (7), AND THIRTEEN (13). THE EXISTING EXCAVATION SITE IS LOCATED APPROXIMATELY THREE MILES SOUTH OF POTLATCH AND ADJACENT TO FLANNIGAN CREEK ROAD IN SECTION 23, TOWNSHIP 41 NORTH, RANGE 5 WEST, B.M., IN LATAH COUNTY. THE PROPERTY IS CURRENTLY REFERENCED AS ASSESSOR'S PARCEL NUMBER RP41N05W230023A.

WHEREAS, George Lisher made application for a conditional use permit on June 7th, 2005; and

WHEREAS, this matter came before the Latah County Zoning Commission for public hearing on Wednesday, July 6th, 2005, and said hearing was continued on Wednesday, July 27th, 2005; and

WHEREAS, the Zoning Commission forwarded a recommendation to the Board of Commissioners to deny the requested amendments; and

WHEREAS, this matter came before the Board of Latah County Commissioners for public hearing on Wednesday, August 31st, 2005, and said hearing was continued on Monday, September 26th, 2005; and

WHEREAS, after reviewing the conditional use permit application and the entire record, and finding good cause therefore:

THE BOARD OF LATAH COUNTY COMMISSIONERS, STATE OF IDAHO, HEREBY MAKES THE FOLLOWING FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION:

I. FINDINGS OF FACT

1. The applicant is requesting to amend an existing conditional use permit, CUP 653A.
2. The existing excavation site is located approximately three miles south of the city of Potlatch and adjacent to Flannigan Creek Road, in Section 23, Township 41 North, Range 5 West, B.M., in Latah County, Idaho.

3. This site is owned by Walser Ranch, Incorporated. Terry Walser signed the application on behalf of Walser Ranch, Inc. George Lisher, the applicant and operator of the site, signed and submitted the application on June 7th, 2005.
4. The subject property is zoned Agriculture/Forestry.
5. The existing uses of the property are grazing, natural mineral resource extraction, and timber.
6. The subject property is designated "Rural" on the Comprehensive Plan Land Use Map. The Comprehensive Plan states, "This area should be protected from conversion to more concentrated residential, commercial, or industrial development; however, sites within this area may be suitable for consideration for further low-density residential development."
7. The parcel is located in an area designated "Zone C" on panels #0135B and #0145B of the Flood Insurance Rating Map (FIRM) for Latah County provided by the Federal Emergency Management Agency (FEMA).
8. The surrounding properties are currently zoned Agriculture/Forestry (A/F).
9. The surrounding property uses are agriculture, grazing, residential, and timber.
10. In accordance with the Latah County Zoning Ordinance §3.03(F), natural mineral resources development is a conditionally permitted use in the Agriculture/Forestry (A/F) zone.
11. The applicant is requesting to expand his rock excavation and crushing site from two to five acres.
12. The applicant is requesting to increase hours of operation, requesting that crushing and blasting be allowed Monday through Saturday from 6:00 a.m. to 11:59 p.m. and general operations be allowed seven days a week from 6:00 a.m. to 9:00 p.m.
13. The applicant is requesting to delete the portion of Condition Two (2) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653 that limits the hours and days of blasting, crushing, loading, hauling, maintenance, and ancillary operations.
14. The applicant is requesting to delete the portion of Condition Five (5) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653 that places a limit of 30,000 tons per blast.
15. The applicant is requesting to delete Condition Four (4) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "The applicant shall provide the Coeur d'Alene Tribe with a written monthly schedule of excavation and blasting, and shall allow a Tribal representative to be present during excavation. If cultural resources are identified by the Tribal representative at the site, the applicant shall cease operations in order to allow the cultural resources to be

recovered from the excavation site without undue delay, up to a maximum of forty-eight hours. This condition is intended only to allow recovery of any cultural resources from the immediate excavation site, not to authorize the tribe to remove the items from the property nor to assign ownership of any cultural resources found."

16. The applicant is requesting to delete Condition Six (6) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "No more than 75,000 tons of rock shall be blasted, crushed or removed from the site."
17. The applicant is requesting to delete Condition Seven (7) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "No more than 60 loads or 870 tons, whichever is greater, shall be hauled from the site during any week, excepting during any state of emergency duly declared by the appropriate jurisdiction, wherein the use or removal of the rock is necessary to protect life and property. The applicant shall maintain records of loads and tonnages in order to allow County staff to verify compliance with this condition."
18. The applicant is requesting to delete Condition Thirteen (13) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "The conditional use permit shall expire six years from the date of issuance, at which time the implementation of the reclamation plan shall begin."
19. The applicant testified that the conditions requested, as stated in his application for conditional use permit, were ultimately halved the by the Board of Latah County Commissioners.
20. The applicant testified that his operation has lost a significant amount of money, as crushers, contractors, and haulers have taken their business elsewhere due to the limitations placed on Conditional Use Permit 653.
21. According to Condition Six (6) of CUP 653, "No more than 75,000 tons of rock shall be blasted, crushed, or removed from the site." The applicant testified that 60,000 tons of rock have been blasted and crushed to-date.
22. The applicant testified that, after having a representative from the Coeur d'Alene Tribe visit the site, the Tribe has no interest in the being present during blasting and excavation.
23. The applicant testified that other conditionally permitted natural mineral resource excavation sites within Latah County have nominal restrictions on hours of operations; excavation acreage; tonnages blasted, crushed, and removed; surface water management; reclamation on site; and the expiration date of said conditional use permit.
24. There was testimony that excavation and crushing on site occurs only several weeks out of the year.
25. There was testimony that truck traffic is likely safer than car traffic on Flannigan Creek Road,

as large-load truckers tend to be in constant contact with one another over citizens-band units (CB radios).

26. Testimony was presented that the current hours of operation, specifically not extending to Saturdays, are restrictive to the needs of the private consumer, as weekends are when the general population works on home improvement projects.
27. Neighboring property owners testified that the conditions imposed by CUP 653 were reasonable and, in large measure, effective at making the gravel operation have less impact on the neighboring properties.
28. Neighbors testified that the conditions were set forth in Conditional Use Permit 653 (CUP 653) to protect the health and safety of the public.
29. Neighboring property owners testified that allowing operations to continue indefinitely would result in a significant reduction in residential property values in the area.
30. Neighbors testified that an increase in operations will generate a significant increase in noise pollution.
31. Neighboring property owners testified that an increase in operations will lead to a substantial increase in road traffic, thus endangering the pedestrians, cyclists, horseback riders, and motorists who utilize the road.
32. Neighbors testified that an increase in operations could increase the occurrence of traffic accidents on Flannigan Creek Road.
33. Neighboring property owners testified that Mr. Lisher is not maximizing the uses and conditions set forth in Conditional Use Permit 653 as it stands.
34. Neighbors testified that there are several other excavation, crushing, and stockpiling operations within Latah County that can meet any additional public or private need for crushed rock.
35. There was discussion that Mr. Lisher's rock pit is situated in a very different location than the other mineral excavation sites within the county, i.e. different zoning designations and site characteristics, lending the need for the stricter regulations.
36. There was discussion that the conditions imposed by CUP 653 were effective at making the gravel operation have less impact on the neighboring properties.
37. There was discussion that, in hindsight, the strict regulations may be more of a hindrance to Mr. Lisher and his business than anticipated by the County.
38. There was discussion that the need for the County to haul rock from other excavation sites that are further away [due to the CUP 653 limitations on loads of rock that can be hauled from Mr. Lisher's site] seems counterintuitive.

39. The Board of Latah County Commissioners considered the request pursuant to the Latah County Comprehensive Plan, Latah County Zoning Ordinance, the Local Land Use Planning Act, and other applicable local and state regulations.

BASED ON THE ABOVE FINDINGS OF FACT, THE BOARD OF LATAH COUNTY COMMISSIONERS ENTERS THE FOLLOWING:

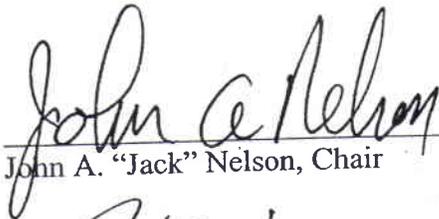
II. CONCLUSIONS OF LAW

1. As required by §13.10.04.A.1 of the Latah County Zoning Ordinance, the Board of Latah County Commissioners has reviewed the proposed amendments to CUP 653 as they relate to the Latah County Comprehensive Plan. Taken as a whole, the Board of Latah County Commissioners concludes that these amendments are not consistent with goals and policies of the Latah County Comprehensive Plan.
2. As required by §13.10.04.A.2 of the Latah County Zoning Ordinance, the Board of Latah County Commissioners has reviewed the proposed amendments to CUP 653 and the uses they permit and determined that these amendments would be detrimental to the health or safety of those in the surrounding area or region.
3. As required by §13.10.04.A.3 of the Latah County Zoning Ordinance, the Board of Latah County Commissioners has reviewed the proposed amendments to CUP 653 and determined that the proposal will adversely affect surrounding properties to any greater extent than would a permitted use in the zoning district.
4. As required by §13.10.04.A.4 of the Latah County Zoning Ordinance, the Board of Latah County Commissioners has reviewed the proposed amendments to CUP 653 and determined that these amendments will not require facilities or services with excessive costs to the public.

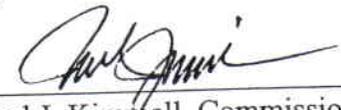
III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Board of Latah County Commissioners denies the application by George Lisher for an amendment to Conditional Use Permit 653.

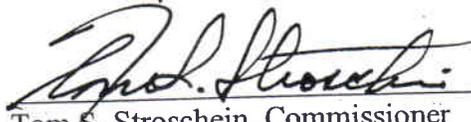
PASSED BY THE BOARD OF LATAH COUNTY COMMISSIONERS THIS 24 DAY OF October, 2005.



John A. "Jack" Nelson, Chair



Paul J. Kimmell, Commissioner

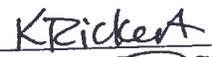


Tom S. Stroschein, Commissioner

ATTEST:

DATE:

10-24-05



Clerk / Deputy Clerk

NOTICE OF EFFECTIVE DATE AND NOTICE OF RIGHT TO APPEAL

This decision is effective on the date passed and signed by the Latah County Board of Commissioners. This is a final action. An affected person aggrieved by this decision may within twenty-eight (28) days after the effective date seek judicial review as provided by Chapter 52, Title 67, Idaho Code.

NOTICE OF RIGHT TO REQUEST REGULATORY TAKINGS ANALYSIS

The owner of the property that is the subject of this decision may make a written request to the Latah County Planning and Building Department for a Regulatory Takings Analysis within twenty-eight (28) days from the date of this decision as provided by Chapter 80, Title 67, Idaho Code.

**BEFORE THE ZONING COMMISSION
COUNTY OF LATAH, STATE OF IDAHO**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING A PETITION FOR AN AMENDMENT TO CONDITIONAL USE PERMIT 653 (CUP 653A) BY GEORGE LISHER TO EXPAND HIS ROCK CRUSHING AND EXCAVATION SITE TO FIVE ACRES, TO INCREASE HOURS OF OPERATION, DELETE PORTIONS OF CONDITIONS TWO (2) AND FIVE (5), AND DELETE CONDITIONS FOUR (4), SIX (6), SEVEN (7), AND THIRTEEN (13). THE EXISTING EXCAVATION SITE IS LOCATED APPROXIMATELY THREE MILES SOUTH OF POTLATCH AND ADJACENT TO FLANNIGAN CREEK ROAD IN SECTION 23, TOWNSHIP 41 NORTH, RANGE 5 WEST, B.M., IN LATAH COUNTY. THE PROPERTY IS CURRENTLY REFERENCED AS ASSESSOR'S PARCEL NUMBER RP41N05W230023A.

WHEREAS, George Lisher made application for a conditional use permit on June 7th, 2005; and

WHEREAS, this matter came before the Latah County Zoning Commission for public hearing on Wednesday, July 6th, 2005.

WHEREAS, this matter came before the Latah County Zoning Commission for deliberation and decision on Wednesday, July 27th, 2005.

THE LATAH COUNTY ZONING COMMISSION, STATE OF IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:

I. FINDINGS OF FACT

1. The existing excavation site is located approximately three miles south of the city of Potlatch and adjacent to Flannigan Creek Road, in Section 23, Township 41 North, Range 5 West, B.M., in Latah County, Idaho.
2. This site is owned by Walser Ranch, Incorporated. Terry Walser signed the application on behalf of Walser Ranch, Inc. George Lisher, the applicant, signed and submitted the application on June 7th, 2005.
3. The subject property is zoned Agriculture/Forestry.
4. The existing uses of the property are grazing and natural mineral resource extraction.

5. The subject property is designated "Rural" on the Comprehensive Plan Land Use Map. The Comprehensive Plan states, "This area should be protected from conversion to more concentrated residential, commercial, or industrial development; however, sites within this area may be suitable for consideration for further low-density residential development."
6. The parcel is located in an area designated "Zone C" on panels #0135B and #0145B of the Flood Insurance Rating Map (FIRM) for Latah County provided by the Federal Emergency Management Agency (FEMA).
7. The surrounding properties are currently zoned Agriculture/Forestry (A/F).
8. The surrounding property uses are agriculture, grazing, timber, and residential.
9. In accordance with the Latah County Zoning Ordinance §3.03(F), natural mineral resources development is a conditionally permitted use in the Agriculture/Forestry (A/F) Zone.
10. The applicant proposes to expand his rock excavation and crushing site from two to five acres.
12. The applicant proposes to increase hours of operation, requesting that crushing and blasting be allowed Monday through Saturday from 6:00 a.m. to 11:59 p.m. and general operations be allowed seven days a week from 6:00 a.m. to 9:00 p.m.
13. The applicant proposes to delete the portion of Condition Two (2) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653 that limits the hours and days of blasting, crushing, loading, hauling, maintenance, and ancillary operations.
14. The applicant proposes to delete the portion of Condition Five (5) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653 that places a limit of 30,000 tons per blast.
15. The applicant proposes to delete Condition Four (4) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "The applicant shall provide the Coeur d'Alene Tribe with a written monthly schedule of excavation and blasting, and shall allow a Tribal representative to be present during excavation. If cultural resources are identified by the Tribal representative at the site, the applicant shall cease operations in order to allow the cultural resources to be recovered from the excavation site without undue delay, up to a maximum of forty-eight hours. This condition is intended only to allow recovery of any culturally resources from the immediate excavation site, not to authorize the tribe to remove the items from the property nor to assign ownership of any cultural resources found."

16. The applicant proposes to delete Condition Six (6) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "No more than 75,000 tons of rock shall be blasted, crushed or removed from the site."
17. The applicant proposes to delete Condition Seven (7) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "No more than 60 loads or 870 tons, whichever is greater, shall be hauled from the site during any week, excepting during any state of emergency duly declared by the appropriate jurisdiction, wherein the use or removal of the rock is necessary to protect life and property. The applicant shall maintain records of loads and tonnages in order to allow County staff to verify compliance with this condition."
18. The applicant proposes to delete Condition Thirteen (13) from the Board of Latah County Commissioners (BOCC) Findings of Fact, Conclusions of Law, and Decision for Conditional Use Permit 653. This states, "The conditional use permit shall expire six years from the date of issuance, at which time the implementation of the reclamation plan shall begin."
19. According to Condition Six (6) of CUP 653, "No more than 75,000 tons of rock shall be blasted, crushed, or removed from the site." The applicant testified that 60,000 tons of rock have been blasted and crushed to-date.
20. The applicant testified that, after having a representative from the Coeur d'Alene Tribe visit the site, the Tribe has no interest in the being present during blasting and excavation.
21. A representative of the North Latah Highway District (NLDH) presented evidence that the current hours of operation and the limitation on the amount of rock removed from the site are restrictive to the needs of the County. He also testified that high-quality crushed rock in northern Latah County would be beneficial to public service providers within the Potlatch area.
22. Testimony was presented that the current hours of operation, specifically not extending to Saturdays, are restrictive to the needs of the private consumer, as weekends are when the general population works on home improvement projects.
23. There was testimony that the conditions were set forth in Conditional Use Permit 653 (CUP 653) to protect the health and safety of the public.
24. Testimony was given that the current conditions set on CUP 635 are effective at making the gravel operation have less impact on the neighboring properties.
25. Neighboring property owners testified that an increase in operations would lead to increased traffic, and subsequently an increase in major accidents on Flannigan Creek Road, which is unpaved and varies in width from 18 to 25 feet.

26. Neighbors testified that an increase in operations will lead to a substantial increase in road traffic, and possibly endangering the pedestrians, cyclists, and horseback riders who utilize the road.
27. Testimony was presented that allowing operations to continue indefinitely would result in a significant reduction in residential property values in the area.
28. There was testimony from an adjacent property owner that their well failure was likely related to blasting at the rock excavation site. However, they have not filed a claim against the blasting company or Mr. Lisher.
29. The applicant testified that he hired a professional who conducted seismographic vibrating monitoring at a neighboring well site during one occasion of blasting, and that the reading did not show evidence of damage to said well.
30. The applicant testified that there have been no material changes of conditions since the initial hearings for the Conditional Use Permit 653 (CUP653).
31. The Commission found that the conditions imposed by CUP 653 were reasonable and, in large measure, addressed legitimate concerns raised during the hearings by surrounding property owners.
32. The Latah County Zoning Commission considered the request pursuant to the Latah County Comprehensive Plan, Latah County Zoning Ordinance, the Local Land Use Planning Act, and other applicable local and state regulations.

Based on the above Findings of Fact, the Latah County Zoning Commission enters the following:

II. CONCLUSIONS OF LAW

1. As required by §13.10.04.A.1 of the Latah County Zoning Ordinance, the Zoning Commission has reviewed the proposed amendments as they relate to the Latah County Comprehensive Plan. Taken as a whole, the Zoning Commission concludes that these amendments are not consistent with goals and policies of the Latah County Comprehensive Plan.
2. As required by §13.10.04.A.2 of the Latah County Zoning Ordinance, the Zoning Commission has reviewed the proposed amendments and the uses they permit and determined that these amendments would be detrimental to the health or safety of those in the surrounding area or region.
3. As required by §13.10.04.A.3 of the Latah County Zoning Ordinance, the Zoning Commission has reviewed the proposed amendments and determined that the proposal

will adversely affect surrounding properties to any greater extent than would a permitted use in the zoning district.

4. As required by §13.10.04.A.4 of the Latah County Zoning Ordinance, the Zoning Commission has reviewed the proposed amendments and determined that these amendments will not require facilities or services with excessive costs to the public.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Latah County Zoning Commission forwards a unanimous recommendation of denial to the Board of Latah County Commissioners of the application by George Lisher for an amendment to Conditional Use Permit 653.

PASSED BY THE ZONING COMMISSION OF LATAH COUNTY THIS 5 DAY OF
August, 2005.


Wayne Sprouse, Vice Chair
Zoning Commission

LATAH COUNTY BOARD OF COMMISSIONERS

RE: Conditional Use Permit for rock excavation, crushing and processing operation
 Applicant: George L. Lisher
 File No. CUP-653

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) *Accty*
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**FINDINGS OF FACT,
 CONCLUSIONS OF LAW,
 AND DECISION**

Chair: _____
 Clerk: _____
 Attest: *K. Beckert, Deputy* 7-27-05
 Copy: _____
 Agenda Item Approve Deny
 For Discussion

This matter came before the Board of Commissioners for public hearing on February 11, 2004, with a recommendation from the Latah County Zoning Commission. After review of the conditional use permit application and the entire record, and finding good cause therefore, the Board of Commissioners hereby makes the following findings of fact, conclusions of law, and decision:

I. FINDINGS OF FACT

In reviewing we found all issues in compliance except the holiday activities which was resolved

1. The application requests a conditional use permit for a rock excavation/crushing/processing/stockpiling operation with ancillary uses on a portion of 280 acres of land, with the actual site to be excavated limited to two acres. Natural mineral resources development is a conditionally permitted use in the Agriculture/Forestry (A/F) Zone. The site is on property in the A/F Zone.
2. The site is located three miles south of the City of Potlatch, adjacent to, and east of, Flannigan Creek Road, in Section 23, Township 41 North, Range 5 West, Boise Meridian, Latah County, Idaho.
3. The site is currently referenced as County Assessor's tax parcel number RP41N05W230023A.
4. The applicant for the proposal is George L. Lisher. The property is owned by Walser Ranch, Inc. Mr. Lisher and Terry Walser (on behalf of Walser Ranch) signed the completed application.
5. The Zoning Commission conducted a public hearing on the proposal on December 17, 2003. The requirements for notice of public hearing were met.
6. On January 16, 2004, the Chair of the Latah County Zoning Commission signed the Findings, Conclusions and Decision adopted by the Commission relating to the application, and recommended approval with a number of conditions.
7. The Board of Commissioners conducted a public hearing on the proposal on February 11, 2004. The requirements for notice of public hearing were met.

CUP 653

BOCC Findings, Conclusions and Dec

LCZC Hrg: CUP653C
 Applicant: Lisher
 Exhibit #: 1H
 Date: 12/2/2009

8. Attendance at the hearing was significantly greater than at the hearing before the Zoning Commission. The time provided was insufficient to receive testimony from all those who wished to testify; consequently, after nearly five hours of testimony from those in attendance, the Board announced that the hearing would be continued to the following week during a special meeting of the Board of Commissioners on February 18, 2004.
9. To better familiarize themselves with the site, members of the Board of Commissioners visited the site on February 17, 2004 during a regular meeting of the Board. The Board of Commissioners announced to those in attendance at the hearing of February 11 the scheduling of the site visit and the visit was placed on the Board's agenda. No new written or oral testimony was received, nor did the Board discuss the proposal, during the site visit.
10. Due to an unforeseen scheduling conflict, the special meeting was cancelled, and a hearing was subsequently ordered to be held on February 25, 2004. Notice of the change was sent to the applicant, the property owner, owners of lands within 300 feet of the external boundary, as well as those who legibly signed the roster with a complete mailing address.
11. The continued hearing on February 25, 2004 lasted for six hours. This provided sufficient time to conclude testimony from those opposed to the application, as well as general testimony. Due to the late hour however, the Board of Commissioners announced to those in attendance that the hearing would be continued to a special meeting on March 11, 2004 to allow rebuttal from the applicant, and allow all interested parties an opportunity to rebut new testimony. In addition to this announcement, those notified of the first continuation, as well as those who legibly signed the roster for the meeting on February 25, 2004 with a complete mailing address, were notified of this continuation.
12. The Board required that written testimony received after the continued hearing of February 25, 2004 be limited to rebuttal of written testimony and be received by the Latah County Planning and Building Department by 4:59 p.m., March 3, 2004. This requirement was announced to those at the hearing on February 25, 2004 and included in the noticed described in the previous finding.
13. The public hearing on the application concluded on March 11, 2004 with rebuttal from the applicant, as well as rebuttal of new testimony from all interested parties.
14. During the course of the public hearing, beginning February 11, 2004 and concluding March 11, 2004, 116 exhibits were accepted for consideration and entered into the record of the proceedings. An additional ten exhibits submitted to the Board of Commissioners were not considered, as the Board determined they were irrelevant or did not meet the criteria set forth at the February 25, 2004 meeting.
15. The Board deliberated on the application on March 24, and April 5, 2004. At the April 5 deliberation session, the Board found sound and legal cause to reopen the public hearing in that they had insufficient information on the applicant's site plan, marketing and operation plan, an updated reclamation plan, a surface water management plan, and information on bonding costs and the appropriateness of the same. The Board required that any written

testimony in regard to these matters must be received by April 23, 2004. The reopened hearing was scheduled for April 28, 2004. All parties heretofore noticed, including all those who gave testimony, were noticed of the reopened hearing. Said notice stated the purposes of the reopened hearing as listed above.

16. At the reopened hearing the Board considered relevant written testimony that was received by April 23, 2004, as well as oral testimony from the applicant and other interested parties presented during the hearing. Testimony presented and considered was related to the aforementioned five items. A total of six additional exhibits were received. The hearing was closed and deliberations continued immediately thereafter and concluded that night.
17. The Board of Commissioners considered the request pursuant to the Latah County Comprehensive Plan, Latah County Zoning Ordinance, the Idaho Local Land Use Planning Act, related case law and other applicable development regulations.
18. The record includes the documents in the proposal file at the time of the public hearing, the record of the proceedings, and the written recommendation of the Zoning Commission, as well as exhibits offered at the hearings, and the items taken notice of by the Board of Commissioners.
19. The property varies in topography and vegetation. Flannigan Creek enters the property at the southern boundary, approximately one-half mile southeast of the proposed excavation site, flows northerly through the property, then veers to the northeast, exiting the property about one-quarter mile due east of the site. The site is slightly more than 1000 feet away, and 140 feet higher in elevation, than the nearest segment of the Creek. The area surrounding the Creek is mostly treed, while there are few trees in the area immediately surrounding the proposed excavation site. There are moderately steep slopes on the property. The proposed excavation site is approximately 60 to 80 feet higher in elevation, and 800 feet northeast of, Flannigan Creek Road.
20. There is an existing rock excavation pit on the property directly south of the proposed pit. The rock in this pit is composed of decomposing granite. Historically, most of the rock from that site has been removed by the use of methods less intensive than blasting, and is consequently considered "rip-rock." Testimony from several long-term residents of the area stated that blasting has occurred at the site. During the site visit, the Board observed surface water adjacent to this pit flowing towards Flannigan Creek. Other existing uses on the site include grazing and agriculture.
21. Surrounding uses include agriculture, timber, and grazing. There are four residences more than one-quarter mile, but less than one-half mile, from the site. These dwelling units gain access to Flannigan Creek Road approximately 120 feet south of the existing access to the proposed site. A number of other residences exist along Flannigan Creek Road, Walker Road and Four Mile Road; primary roads to the site from the state-maintained highways.
22. The conditional use permit application was submitted on November 7, 2003. The application includes three copies of a topographical map showing the location of the

proposed excavation site and existing road access. The application includes plans for blasting, excavating and crushing rock on-site. The proposed excavation site will be less than two acres and will be fenced and gated. Stock-piling of crushed rock would occur adjacent to Flannigan Creek Road, south of the excavation site. The applicant initially sought to operate an asphalt hot plant from time to time on the site; however, the Zoning Commission recommended that such an operation not be allowed and consequently, the applicant stated before the Board that he would be amenable to the prohibition of the asphalt hot plant from the operations.

23. Drilling and blasting would be accomplished through contracts with a licensed drilling company. The applicant stated that he intends to contract with a company that is insured up to five million dollars. The applicant proposed to excavate 150,000 tons of rock from the site. The applicant intends to concentrate most of the blasting excavation and crushing in the first year of operations, completing most work in two to three months. The applicant stated that as many as 20 to 30 truckloads of crushed rock would be hauled off the site during operation days. Operations are expected to continue for approximately six years. Under the proposal, additional blasting and crushing may occur three to four years from the inception of operations. Overburden will be stockpiled for use in site reclamation. The applicant has submitted a reclamation plan to the Idaho Department of Lands (IDL), and is waiting for final approval on the plan.
24. The completed reclamation plan was included in the proceedings of this application as Exhibits Nos. 40 and 117, with the latter being a revised version of the former. The revised version (117) included a site plan showing the approximate locations of the various components of the operation. Stockpiling would occur downhill towards the road from the excavation site. The updated submittal also includes plans for a pond to prevent sediment and surface water from the site from entering into Flannigan Creek.
25. The applicant included several proposed conditions as part of his application, including limiting operation hours to six days a week from 7:00 a.m. to 5:00 p.m.; written notification of blasting within 24 hours prior to blasting to be given to property owners or occupants of residences on parcel Nos. RP41N05W234233A and RP41N05W234820A; compliance with applicable local, state, and federal laws, rules, and regulations; and limiting blasts to 30,000 tons per blast and confining all fly-rock to the subject property.
26. The North Latah Highway District (NLHD) is a quasi-municipal jurisdiction that maintains local roads in the greater portion of Latah County, including Flannigan Creek Road. Responsibilities of NLHD including paving, graveling, snow-plowing and granting access to county roads in the District's boundaries. Exhibit Nos. 2G, 52 and 67 include testimony and information from NLHD expressing interest in an additional source of gravel and calculating the reduction in hauling distance that could result in obtaining rock from the applicant. During the March 11, 2004 portion of the hearing, a representative of NLHD testified that the figures presented were merely speculative, as no contract had been entered into with the applicant. Moreover, NLHD urged the Board to consider the application independent of any prospect of a future contract between NLHD and the applicant.

27. There was considerable testimony in opposition to the proposed operation. Many of those in opposition raised issues over the adequacy of Flannigan Creek Road for the increased truck traffic. Flannigan Creek Road is unpaved several miles in either direction from the subject property. Civil engineers testified that the impact caused by loaded trucks on unpaved and paved surfaces far exceeds the impact of an equal number of automobiles traveling on the same surfaces (see Exhibits Nos. 68 and 41). The average width of Flannigan Creek Road is 24 feet. There were a number of concerns raised regarding the adequacy of the road width in relation to traffic conflicts involving trucks traveling to and from the operation, and school buses, pedestrians, passenger vehicles, and other large trucks such as logging trucks.
28. In both the hearing before the Zoning Commission and the hearings before the Board, neighboring property owners expressed concern that the operation of the pit would result in a significant reduction in residential property values in the vicinity. There were a number of written statements by realtors familiar with rural properties in Latah County expressing their professional opinion that rock quarries and crushing operations reduce values of nearby residential properties due to increased noise, dust and traffic.
29. The Latah County Assessor testified before the Board on the impact rock pits and similar activities have on appraisals in Latah County. Appraisals conducted for the purposes of tax assessment are reactive, in that they reflect market changes and values after their occurrence. The Assessor has not, in his professional judgment, seen any devaluation of properties situated near similar activities.
30. A consultation report dated March 8, 2004 prepared by a certified general real estate appraiser was entered into the record (see Exhibit No. 105). The appraiser considered the impact the operation would have on neighboring property owners. In his professional opinion, "no discernable difference can presently be found for listing or sales of property near rock pits versus property near other permitted uses in the AF zone (*sic*). This leads to a conclusion that the value impact on property near a rock pit is similar to the impact on property near other permitted uses in the AF zone."
31. There was lengthy discussion related to elevated noise levels generated by crushing and blasting operations. Crushing and excavation operations require heavy machinery that is unarguably noisy. However, actual noise levels vary in part according to the distance from their sources. Large trucks can cause similar or even greater noise levels at similar distances (see Exhibit Nos. 58 and 84) as will be found between the proposed operation and neighboring residences.
32. There was also testimony concerning the possible impact blasting has on wells adjacent to rock pits. Testimony from the applicant indicated the driller/blaster would likely be responsible for wells destroyed or damaged by blasts. Written testimony from a neighbor of a rock quarry in Washington State informed the Board that when his well was damaged by a blast at the rock quarry, the company performing the work brought in a well driller shortly thereafter to repair the damaged well (See Exhibit No. 54).

33. The applicant acknowledged that the existing access to the site does not meet standards for sight distances. The applicant has met with NLHD officials who have tentatively determined that moving the access point approximately 20 feet south of the current access point will improve sight distances to the site and bring the access into compliance with sight distance requirements of NLHD.
34. Issues raised by neighbors regarding the safety of school children boarding buses are a legitimate concern, primarily with regards to blasting on the site. Limiting blasting to hours when school children would not normally be present on the road would help mitigate potential hazards.
35. Testimony conflicted as to whether there are any known unique, scenic or natural amenities in the vicinity requiring protection. The Board does not agree with testimony stating that the view of the subject property in its current state or special acoustics in the vicinity are somehow unique to an extent to require special protection.
36. Written testimony submitted by representatives of the Coeur d'Alene Tribe expressed concerns of the impacts of the operations on the aboriginal territory of the Tribe (see Exhibits Nos. 18 and 48). There is a possibility of Native American artifacts in the area (see also Exhibit No. 64). The Tribe proposed a number of conditions, including a request that it be notified on a regular basis of excavation and blasting and be permitted to be present during such activities in case Tribal cultural resources are found, and subsequently be allowed to remove the items from the site.
37. Opponents expressed a number of other concerns. These concerns included the potential for groundwater pollution; the loss of wildlife wintering range; the impacts to riparian habitat on Flannigan Creek; the lack of posted speed limits on Flannigan Creek Road; the effect blasting may have on domesticated animals; the economic feasibility of the proposed operations; the impact that radioactive elements found in rock types that are common to the area may cause on human health in the region; the suitability of the rock on the site for application on roads; the effect hauling will have on non-vehicular uses of the road including walking and horseback riding; the potential for aggravated dust problems along the unpaved portions of the county roads in the area with related concerns for respiratory health; and inadequate enforcement capabilities of the Planning and Building Department. The Board finds that these concerns are either 1) relevant to the proposal and are adequately addressed by the adopted conditions, so as to bring the operations into compliance with the criteria provided by the Latah County Zoning Ordinance for approving conditional use permits; 2) relevant, but are impacts and concerns which are common to uses permitted in the A/F Zone; or 3) irrelevant or not substantiated by fact; or a combination of the above.
38. The Economic Development element of the Latah County Comprehensive Plan establishes several goals that are relevant to the application. The proposed land use is appropriate to local and regional needs and brings about a greater economic diversification. The required reclamation plan will ensure that the site can be restored so that the land is suitable for other beneficial uses in the future.

39. The proposed excavation site is not in a floodplain and does not compromise wetlands in the area. Protecting Flannigan Creek from possible sedimentation from the operations by implementing a surface water management plan will ensure that the proposed use furthers the goals of the Natural Resource Element of the Comprehensive Plan.
40. The Transportation Element of the Comprehensive Plan promotes an "efficient and safe transportation system in Latah County." Existing uses in the area such as logging and farming, as well maintenance of the county roads, require trucks that have similar impacts to county roads and adjoining properties as trucks hauling loads from the excavation site. The Board finds that truck traffic along Flannigan Creek Road will increase during operating hours, but limiting the number of loads that can be hauled from the site, and limiting the number of tons that may excavated, will prevent an undue traffic burden on the road and limit potential traffic conflicts. The increased truck traffic will not significantly disrupt traffic flow.
41. The Community Design, Population and Housing elements of the Latah County Comprehensive Plan are only marginally applicable to the subject application. These elements relate to residential and commercial uses. The proposal does not substantially interfere with proposed residential developments in the county more than a permitted use in the A/F Zone.
42. The Special Areas, Hazardous Area, and Recreation elements of the Latah County Comprehensive Plan promote the protection of areas of significant hazardous, recreational, historical, or environmental uniqueness. With the possible exception of Native American artifacts, the site does not contain any areas of significant hazardous, recreational, historical, or environmental uniqueness. The possibility of Native American artifacts being present can be addressed by allowing a Coeur d'Alene Tribal representative to be present to observe excavations and notifying the Tribe of blasting schedules.
43. The Comprehensive Plan Land Use Map designates this area as being suitable for rural land uses. The Plan remarks that this area should be protected from more concentrated residential, commercial or industrial development.
44. The Agriculture/Forestry Zone allows a number of natural-resource based uses and buildings, including farming, logging, the construction and operation of grain elevators, seed warehouses, feedlots, and small sawmills. Public buildings such as schools and fire stations are also allowed in the A/F Zone. Some of these allowed uses generate impacts similar to those created by natural mineral resources excavation, including noise, dust and increased traffic.
45. The Board finds that conditions of approval are necessary to maintain consistency with the Latah County Comprehensive Plan and to protect the health and safety of the residents of Latah County. Furthermore, the conditions herein adopted exhibit a reasonable relationship to the goals and elements of the Comprehensive Plan and the Latah County Zoning Ordinance.

46. The Latah County Zoning Ordinance requires applicants requesting a conditional use permit subject to Section 11.04 of the Ordinance post a bond to assure full compliance with the proposed plans and the Ordinance, unless the Board finds that the posting of a bond would not be in the public interest or contrary to law. The satisfactory completion of reclamation activities are assured by an annual fee paid by the permit holder to the Idaho Department of Lands. Assurance of compliance with the conditions of approval can be met by enforcement measures. The Board finds that the posting of the bond would not be in the public interest nor is necessary to assure compliance with the conditions of approval.
47. The Board finds that an additional source of high-quality crushed rock in northern Latah County will be beneficial to public service providers and private consumers.

Based on the above findings of fact and the entire record, the Board enters the following:

II. CONCLUSIONS OF LAW

1. The proposed operations, as conditioned, are consistent with the provisions of Section 11.04 of the Latah County Zoning Ordinance.
2. The proposed operations, as conditioned, are consistent with the goals and policies of the Latah County Comprehensive Plan.
3. The proposed operations, as conditioned, are not detrimental to the health or safety of those in the surrounding area or region.
4. The proposed operations, as conditioned, will not adversely affect surrounding properties to any greater extent than would a permitted use in the Agriculture/Forestry Zone.
5. The proposed operations, as conditioned, will not require facilities or services with excessive costs to the public.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Latah County Board of Commissioners approves the subject application for a conditional use permit, to maintain a rock excavation/crushing/processing/stockpiling operation with ancillary uses, with the explicit exclusion of asphalt hot plants, in the Agriculture/Forestry Zone, subject to the conditions of approval stated below.

- ✓ 1. All operations on the site shall comply with all local, state and federal laws, rules and regulations.

2. Operating hours. Blasting, crushing, loading, hauling, maintenance, and ancillary operations shall be limited to Monday through Friday of any given week, from 7:00 a.m. to 5:00 p.m. Operations shall not occur on federally-recognized holidays. The gate to the facility shall be closed and locked at all other times.
3. Notice of blasting. Written notification, at least 24 hours prior to blasting, shall be given to owners or occupants of residences within one mile of the site.
4. The applicant shall provide the Coeur d'Alene Tribe with a written monthly schedule of excavation and blasting, and shall allow a Tribal representative to be present during excavation. If cultural resources are identified by the Tribal representative at the site, the applicant shall cease operations in order to allow the cultural resources to be recovered from the excavation site without undue delay, up to a maximum of forty-eight hours. This condition is intended only to allow recovery of any cultural resources from the immediate excavation site, not to authorize the tribe to remove the items from the property nor to assign ownership of any cultural resources found.
5. Blasts shall be limited to 30,000 tons per blast and all fly-rock shall be confined to the subject property.
6. No more than 75,000 tons of rock shall be blasted, crushed or removed from the site.
7. No more than 60 loads or 870 tons, whichever is greater, shall be hauled from the site during any week, excepting during any state of emergency duly declared by the appropriate jurisdiction, wherein the use or removal of the rock is necessary to protect life and property. The applicant shall maintain records of loads and tonnages in order to allow County staff to verify compliance with this condition.
8. Blasting shall not occur between 7:00 a.m. to 9:30 a.m. or 2:30 p.m. to 4:00 p.m. on days that local school districts are in session. Reasonable measures shall be made to protect vehicular and pedestrian traffic on Flannigan Creek Road which should include warning signs, or similar advisory notice, along said road during blasting.
9. Operations shall not begin until a surface water management plan is designed by a professional engineer registered in the State of Idaho, and subsequently constructed under the direction of said engineer. In addition, said plan, as well as verification by the engineer that implementation has occurred accordingly, must be received and approved by the Latah County Planning & Building Department before operations begin.
10. Operations shall not begin until a reclamation plan is approved by the Idaho Department of Lands and notification of such approval is received by the Latah County Planning & Building Department.
11. The current ingress/egress point onto Flannigan Creek Road shall be moved so that sight distances from both directions on said road adequately meet minimum sight distance standards of 200 feet. The ingress/egress point must also be approved by the North Latah

Highway District, and notification of such approval must be received by the Latah County Planning and Building Department before operations begin.

12. The excavation site shall be limited to two acres and shall be fenced, posted and gated as required by Section 11.04 of the Latah County Zoning Ordinance.
13. This conditional use permit shall expire six years from the date of issuance, at which time the implementation of the reclamation plan shall begin.
14. The Board of County Commissioners shall conduct a review of this conditional use permit approximately one year from the date of issuance to determine whether the conditions of approval are met.

PASSED BY THE LATAH COUNTY BOARD OF COMMISSIONERS THIS 12th DAY OF

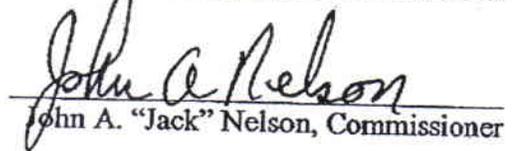
May, 2004.



Paul J. Kimmell, Chair



Tom S. Stroschein, Commissioner



John A. "Jack" Nelson, Commissioner

ATTEST:

DATE:


Clerk/Deputy Clerk

5-12-04

NOTICE OF EFFECTIVE DATE AND NOTICE OF RIGHT TO APPEAL

This conditional use permit is effective on the date passed and signed by the Latah County Board of Commissioners. This is a final action. An affected person aggrieved by this decision may within twenty-eight (28) days after the effective date seek judicial review as provided by chapter 52, title 67, Idaho Code.

NOTICE OF RIGHT TO REQUEST REGULATORY TAKINGS ANALYSIS

The owner of the property that is the subject of this decision may make a written request to the Latah County Planning and Building Department for a Regulatory Takings Analysis within twenty-eight days from the date of this decision as provided by chapter 80, title 67, Idaho Code.

LATAH COUNTY ROCKPIT CUPS

CUP #	Applicant	Year	Hours of Operation	Blasting Hours	Dates of Operation	Limits on Blasting	Limits on Amount to Haul	Other
148	Western Crushing (Jack Brown)	1980	7 am -6 pm	not specified	Monday - Saturday	time period limited to first 3 months of CUP	-----	-notify neighbors w/in 1/4 mile of blasting -posting of adequate signage
228	Neis N. Cox N.A. Degerstrom, Inc.	1984	not specified	not specified	not specified	-----	-----	-limited to 12-acres -Expiration in 5 years -notice of blasting to neighbors
281	Carl Carbon Jr.	1986	7 am- 6 pm Extended hours of operation granted by BOCC to 6 am-9 pm for 15 working days between 5/29/86 - 6/30/86	not specified	not specified	---	-----	-post signage -dust abatement -neighbor notification prior to blasting
314	Martin Haarr	1986	7 am - 5 pm	not specified	Monday - Friday	-----	-----	-sufficient dust abatement -Compliance w/DEQ air quality standards -Notification to City of Troy and residents in area 3 days prior to blasting -review in 2009
314A	Martin Haarr	1992	7 am - 5 pm	not specified	Monday - Friday	-----	-----	-compliance w/local, state, fed, rules and regulations -dust abatement to be employed while crusher is in operation -lighting to be directed away from residents to maximum extent possible
488	North Idaho Crushing	1994	Crushing, loading and hauling: 6 am-10 pm Jan1-Mar31 7 am-8 pm Apr 1-Oct31 6 am-10 pm Nov 1-Dec31	Not specified	six days per week	Shall not occur w/in 600 ft of tanks containing ag chem	-----	-written notification 24 hrs prior to blasting to be given to adjacent prop owners and those within 300 ft
488A	North Idaho Crushing	2001	Drilling, blasting, crushing loading, hauling 6 am-9pm loading and hauling 7 am-5 pm	blasting 6 am-9 pm	Monday - Friday Saturday	limited to 75,000 tons per blast	Maximum of 200,000 tons per year	-written notification 3 days prior to blasting to be given to landowner: within 1/2 mile radius 300 ft

LCZC Hrg: CUP653C
 Applicant: Lisher
 Exhibit #: 11
 Date: 12/2/2009

LATAH COUNTY ROCKPIT CUPS

4/27/2007

556	Donald Eichner	1997	not specified	not specified	not specified	-----	-----	<ul style="list-style-type: none"> -Compliance w/federal, state county and local statutes -notification of Kendrick School District 2 days prior to crushing/hauling operations
653	George Lisher	2004	7 am- 5 pm	Blasting shall not occur between 7 am-9:30 am and 2:30pm-4 pm on days school in session	Monday - Friday Not on Federally recognized holidays	No more than 30,000 tons per blast	No more than 60 loads or 870 tons whichever is greater shall be hauled from site during any week	<ul style="list-style-type: none"> -No more than 75,000 tons shall be blasted, crushed, removed from site -excavation site limited to 2-acres -permit expires in 6 years
658	Scarsella Brothers, Inc.	2004	not specified	not specified	not specified	-----	-----	<ul style="list-style-type: none"> -compliance w/local, state, fed, rules and regulations -future excavation limited to add'l 10-acres
663	North Latah Hwy District	2004	5 am- 9 pm	5 am - 9 pm	not specified	-----	-----	<ul style="list-style-type: none"> -compliance w/local, state, fed, rules and regulations -dust abatement to be employed while crusher is in operation -lighting to be directed away from residents to maximum extent possible -written notification 48 hrs prior to blasting to be given to adjacent prop owners and those within 300 ft -site to be gated and locked while not in use -permit to expire in 10 years
673	Del Cone	2005	6 am- 9pm	6 am- 11:59 pm Monday-Saturday	Monday-Sunday	-----	-----	<ul style="list-style-type: none"> -All property owners w/in one mile of pit notified 24 hours prior to blasting -lighting directed away from adj. properties and Hwy 6 to eliminate glare



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

1. Applicant Information

a. Applicant Name George Lisher		b. Home Phone 875-1466	c. Work Phone	
d. Mailing Address 1090 Lisher Cutoff		e. City Potlatch	f. State	g. Zip code 83855
h. Property Owner (if different than applicant) Wasser Ranch Inc		i. Home Phone		j. Work Phone
k. Mailing Address 1221 Flannigan Crk		l. City Potlatch	m. State ID	n. Zip code

2. General Site Information

a. Assessor's Parcel Number(s) RP41W05W230023A			b. Parcel Address (if applicable)	
c. Acreage of Existing Parcel 270	d. Zoning A16	e. Comprehensive Plan Designation Ruel	f. Floodplain designation(s) C	g. FEMA Panel # 0135-045
h. Is the parcel within an Area of City Impact? <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.		i. Impact City	j. Road Used to Access Site Flannigan Creek	

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
Ag & Rock pit

3. Service Provider Information (please attach additional information if requested)

a. Fire District Potlatch	b. Road District North Latah HD	c. School District Potlatch
d. Source of Potable Water (i.e. water district or private well) na	e. Sewage Disposal (i.e. sewer district or private septic system) na	

4. Adjacent Properties Information

a. Zoning of Adjacent Properties Ag / forest	b. Existing Uses of Adjacent Properties Grazing - Timber - Ag
--	---

5. Permit Information

a. Proposed Use
Ammend Cup 653 to crush more Rock

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?

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.

6. Authorization

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.

a. Signature of Applicant <i>George Lisher</i>	b. Date 11-1-09
c. Signature of Property Owner (if different than applicant) <i>Wasser Ranch, Inc. Tony Wasser</i>	d. Date 11-1-09

Office Use Only

Date Received 11-4-09	Amount 200-	Receipt No. 371815	By AS
CUP # 653C	Date Determined Technically Complete 11-4-09	By AS	
Hearing Date 12-2-09			

7. Attachments

All attachments should be reproducible in black and white at 8 1/2" x 11"

- Fee:** (\$200.00) Make checks payable to Latah County.
- Completed Narrative Worksheet:** See instructions on the Conditional Use Permit Narrative Worksheet.
- Site Plan:** 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.
- Vicinity Map:** The map should show the site location in relation to neighboring communities and natural features.
- Assessor's Plat Map:** Include a copy of that portion of the map that shows the subject parcel and adjoining parcels.
- Other Attachments:** Required by staff / Zoning Commission for certain proposed uses.

LCZC Hrg: CUP653C
 Applicant: Lisher
 Exhibit #: 2
 Date: 12/2/2009



Conditional Use Permit Narrative Worksheet

Application Information

Applicant's Name

George Lisher

Phone Number

875-1466

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.

Crush more Rock Aprox 200,000 tons

Current Reclamation Plan on file At Dept of Land

need to Change operating hours 6 to 6

Change Current Restriction - 60 Tons per week

Existing Uses of Property

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

Current Rock pit - Grazing - Ag - forest

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.

Current Cup 653

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

no

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

Current Cap 653

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

b. Population Element

Rural Low Density

c. Housing Element

~~Current~~ ~~Cap~~ nearest Dwelling 1/2 mile Away

d. Economic Development Element

GIVES ME A JOB

e. Public Services, Facilities, and Utilities Element

County Benefited by lowering transportation costs

f. School Facilities and Student Transportation Element

Current School Bus turnaround 140 feet to the south

g. Transportation Element

Connects to Glanville Ck Rd

h. Natural Resource Element

Rock pit

i. Special Areas Element

NA

j. Hazardous Areas Element

fenced area

k. Recreation Element

Hunting

l. Land Use Element

Ag - forest

m. Property Rights Element

need to be equal to other properties

CONDITIONAL USE PERMIT NARRATIVE WORKSHEET

Name – George Lisher
208-875-1466

Description of Proposal

The applicant proposes to blast, excavate, and crush basalt rock from the site described in the Application for Conditional Use Permit and shown on the site plan map, for sale to both private and public businesses or entities, including the North Latah County Highway District. The applicant anticipates that purchasers of crushed rock may at times want to operate asphalt hot plants on the site and applicant seeks approval for crushing and asphalt hot plant operations and activities incidental to such operations. Drilling and blasting will be accomplished through contracts with a licensed blasting company. Crushing will be performed on site and rock will be stockpiled on site until sold and removed by the purchaser. Applicant intends to conduct operations for a period of at least six years and estimates excavation of approximately 150,000 tons of rock. The size of the area to be excavated is expected to be two acres or less. Much of the rock to be excavated has no overburden. Applicant intends to stockpile all overburden for use in reclamation. Reclamation will be completed as required by the Latah County zoning ordinance. Applicant will submit a reclamation plan for state approval upon receiving the conditional use permit. The excavated area will be fenced as required by the zoning ordinance and access will be controlled by locked gates.

Existing Uses of Property

grazing, natural mineral resources

Consistency Requirements

1. The use does not significantly affect any of the objectives of the comprehensive plan. While the site is identified as having productive soils, the soils mapping is in error. The site to be excavated has little to no topsoil and is therefore unsuitable for agriculture. It is marginal timber land at best for the same reasons. The use will help achieve a solid broad-based and sustainable economic foundation because it makes use of land otherwise unsuited to any economic activity except grazing. The use will require no public services other than public road access and therefore does not offend the objective of clustering commercial uses in and around areas with adequate public services. The rural character of Latah County will not be significantly affected and there are no known unique cultural, scenic or natural amenities in the vicinity requiring protection. Lastly, the proposed use is consistent with the objective of ensuring that land use policies do not unconstitutionally violate private property rights.

- a. **Community Design Element** – The community design element is only marginally relevant. The proposed use is best located in rural areas

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Applicant: Lisher
Exhibit #: 2A
Date: 12/2/2009

because of its potential adverse effects on residential uses. There are no residential developments in the vicinity and the nearest single family residences are approximately one-half mile from the site.

- b. **Population Element** – This element is not applicable as the proposed use involves no residential development.
- c. **Housing Element** – This element is not applicable because the proposed use involves no residential construction.
- d. **Economic Development Element** – The proposed use is consistent with and furthers the goals and policies of the economic development element. It should be considered a supporting activity for forestry because of the need for gravel on existing and newly constructed forest roads. It is a land use appropriate to local economic needs because it generates economic activity from the use of a basic resource. The North Latah County Highway District commissioners have indicated that they are very receptive to a rock source being opened at the site “since it would be of great benefit to the North Latah County Highway District, and to Latah County in general.” (See attached letter). The use furthers the goal of encouraging economic diversification consistent with other goals and policies of the comprehensive plan, and development of the site can be controlled so as to be compatible with the natural environment and existing land uses. The site’s location in a sparsely populated rural area minimizes potential impacts of excavation and processing operations on existing residences and the requirements of the zoning ordinance for reclamation and restoration help ensure that when operations are completed, other beneficial uses will not be precluded. The conditions proposed by the applicant will further ensure protection of existing residences.
- e. **Public Services, Facilities, and Utilities Element** – This element is inapplicable because the proposed use requires no additional public facilities or services.
- f. **School Facilities and Student Transportation Element** - This element is inapplicable because the proposed use involves no new residential development having potential impact on school facilities or student transportation.
- g. **Transportation Element** - This element is only marginally affected by the proposed use. Trucks will be entering and leaving the site during hours of operation. Flannigan Creek Road is not heavily traveled and there are no apparent significant impacts of traffic associated with the proposed use.

- h. **Natural Resource Element** - The site is approximately one-quarter mile from Flannigan Creek. It is not in a floodplain and no wetlands will be affected. The area directly to the east of the site is sparsely timbered. There are no other areas of natural significance in the vicinity. The use will generate dust during hours of operation in dry weather and if asphalt hot plants are operated, smoke will be produced. As the prevailing winds are from the west, it is expected that the dust and smoke will move to the east away from the nearest residences which are approximately one-half mile west of the site. Activities on the site will not affect ground water. There is no known critical wildlife habitat in the vicinity.
 - i. **Special Areas Element** - This element is inapplicable because there are no special areas in the proximity of the site.
 - j. **Hazardous Areas Element** - This element is inapplicable because no hazardous areas, such as floodplains or unstable slopes, are affected.
 - k. **Recreation Element** - This element is inapplicable because it neither proposes nor affects recreational uses.
 - l. **Land Use Element** - The proposed site is designated as rural by the comprehensive plan. Its soils are less productive. The proposed use is consistent with the objective of protecting the area from conversion to more concentrated residential, commercial or industrial development because this is a single isolated development with minimum impact on existing residential or other uses in the vicinity.
 - m. **Property Rights Element** - This element is inapplicable except to the extent that approval of the use would permit the landowner, through the applicant, to make economic use of its private property.
2. The use is not detrimental to the health and safety of those in the surrounding area or region. The impact of the proposed use will be confined to the site. Blasting will be controlled and no flyrock is expected to leave the site. The closest potential impact of flyrock would be to traffic on Flannigan Creek Road, approximately one-quarter mile from the site. It is unlikely that flyrock would reach the road. The closest residents will hear the blasts. These will occur infrequently, estimated at one day every three to four years. Smoke from asphalt hot plants is unlikely to have any effect on persons living in the area because of the distance to the nearest residences and the likelihood that any smoke will dissipate before reaching those residences.
3. The use will not adversely affect surrounding properties to a greater extent than would a permitted use in the zoning district. Permitted uses in the zone include agriculture, grain elevators, seed warehouses and agricultural service industries, as well as small sawmills and fire stations. The proposed use is expected to generate no more

dust or noise than these permitted uses, with the exception of infrequent blasting, as indicated above.

4. The use will not require facilities or services with excessive costs to the public. No new facilities or services will be required. To the extent there will be additional truck traffic on Flannigan Creek Road, it is not expected to substantially increase maintenance costs.

George Lisher
MAP 1

(N)

Purposed
New Ad

SWNE Section 23
Township 41 N Range 5 West

TOTAL
5 Acres

3d
3h
West property
line 887 feet
from pit site

Flanigan Creek Road

State Hwy 6 3.7 miles

530'

2

2

916'

3h
Property line
1000 feet from
pit site

3A

327'

Pit
Site

400'

400'

3E
Sediment
Pond

main haul Road

New Road

existing Road

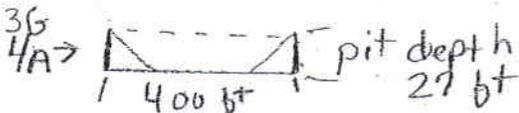
3F 1
Overburden
Piles

3F 2
Stock piles

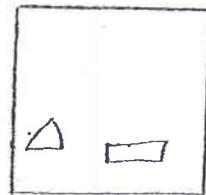
3E
Flanigan
Creek F.
1080 feet
S.E. of P

Total site with
stock piles 3 Acres

pit wall will be
put at A top slope



Current surface



pit site

Rock Crusher
Generator will
house fuel storage

1 inch = 400 feet

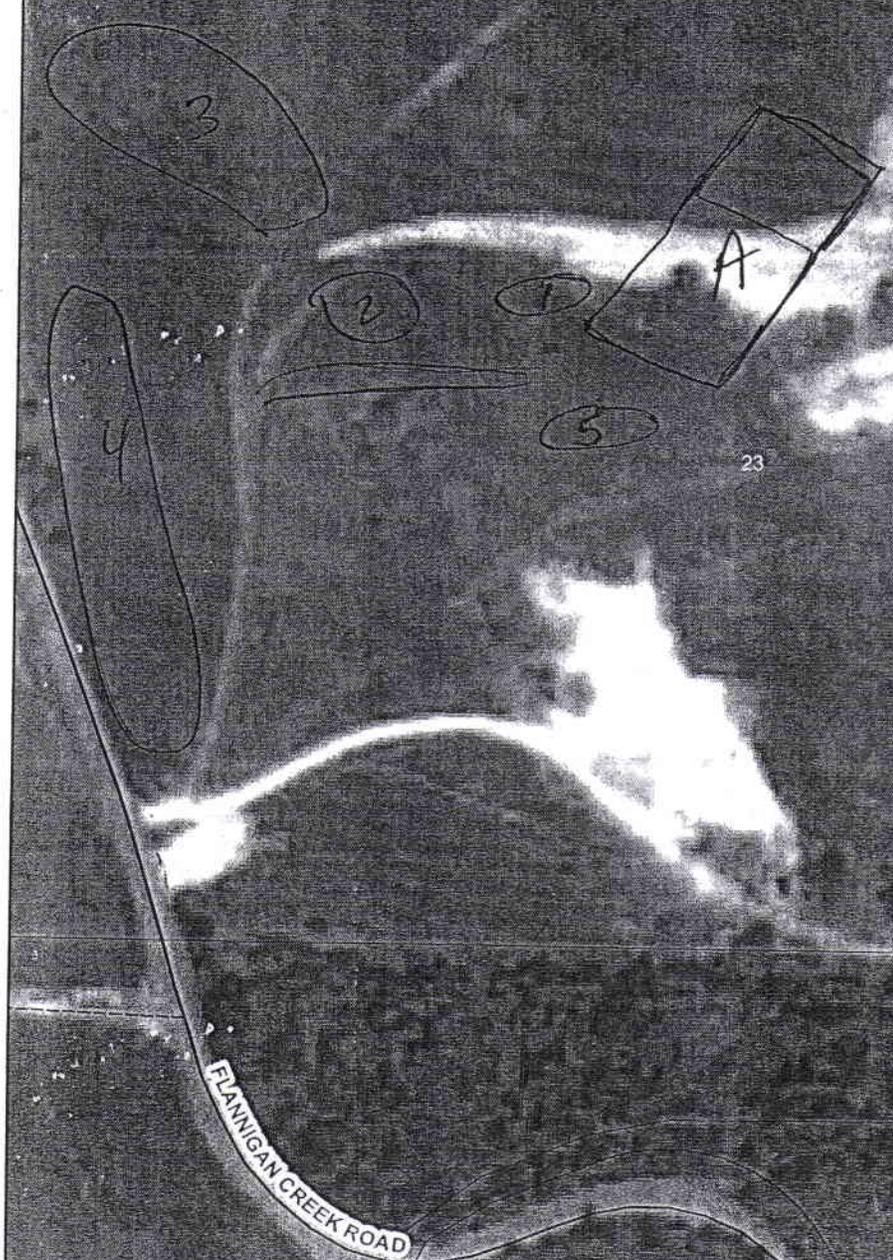
LCZC Hrg: CUP653C
Applicant: Lisher
Exhibit #: 2B
Date: 12/2/2009

RECEIVED

1, 2, 3, 4 St on piles

1A/1B Site

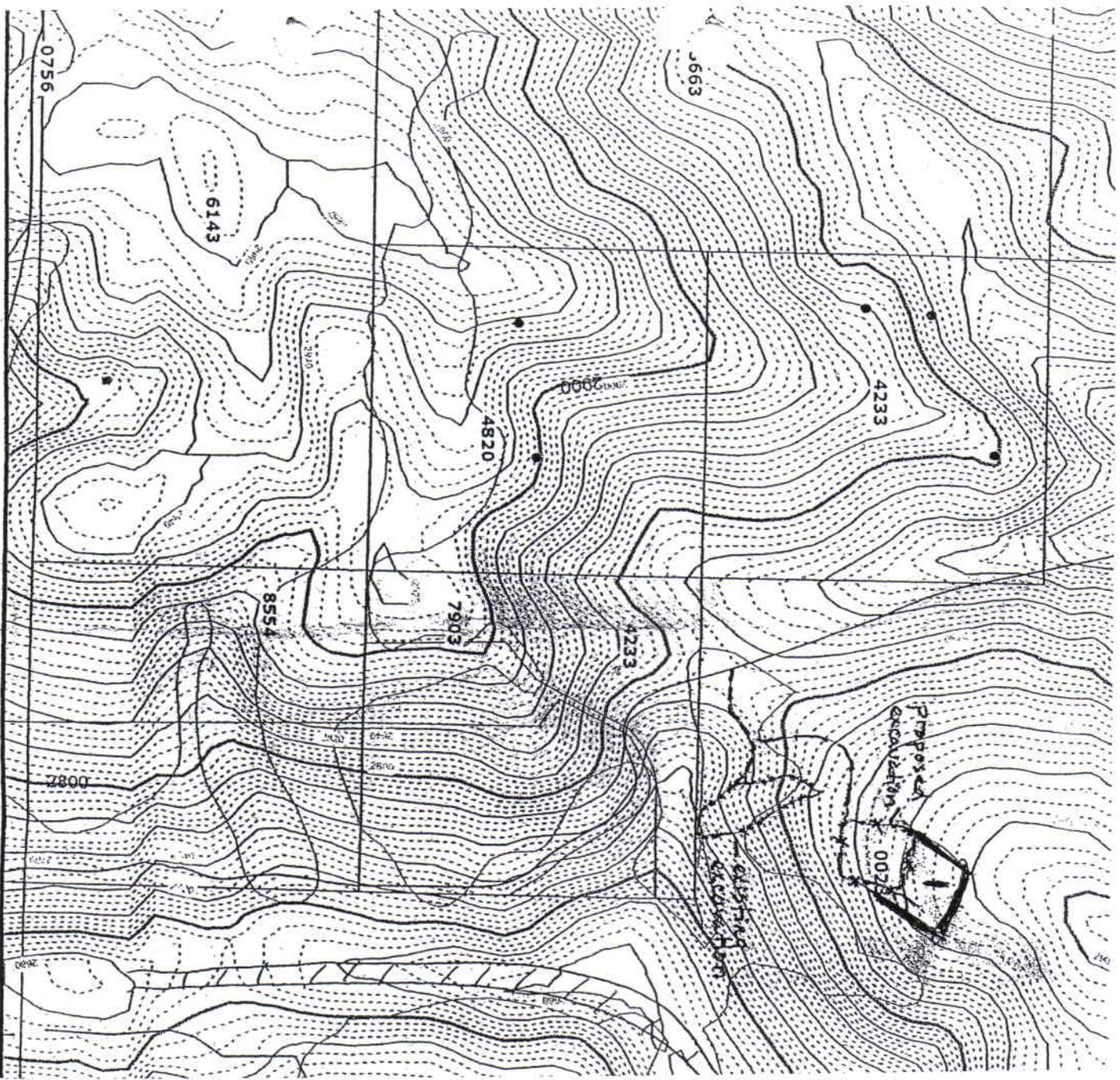
5 Sediment pond



not to scale

LCZC Hrg: CUP653C
 Applicant: Lisher
 Exhibit #: 2C
 Date: 12/2/2009

1 inch equals 600 feet



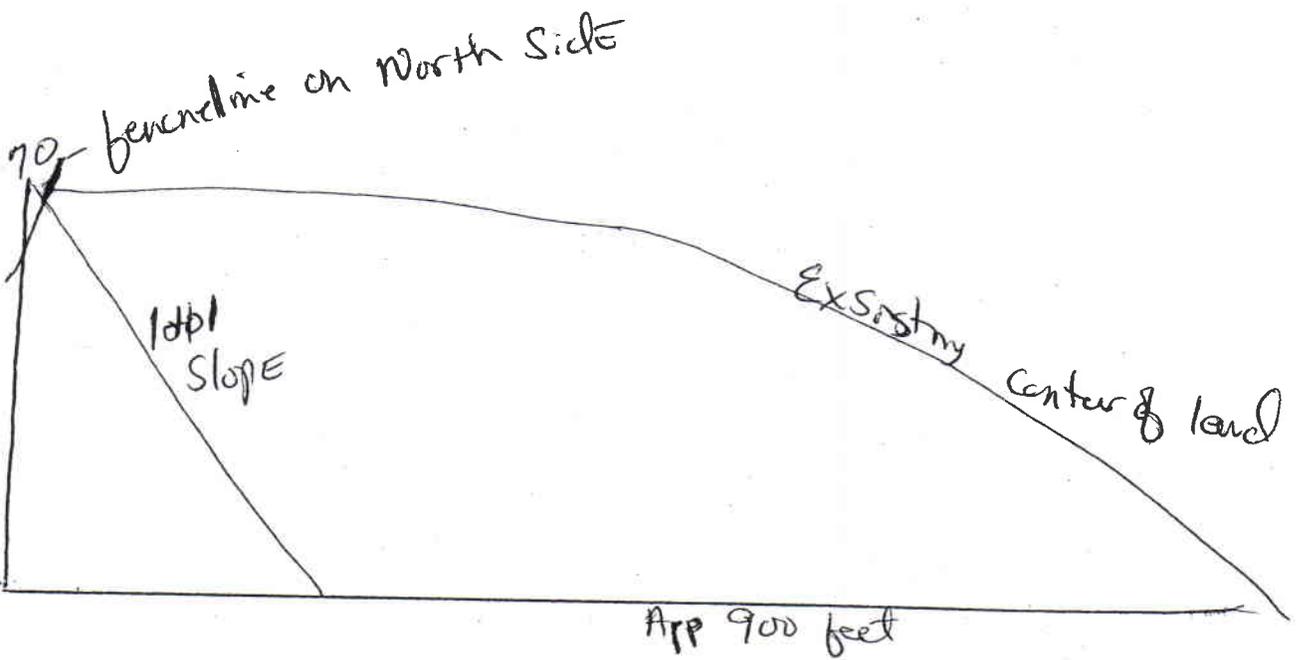
CUP 653

New Expansion

LCZC Hrg: CUP653C
 Applicant: Lisher
 Exhibit #: 2D
 Date: 12/2/2009

Cup 050 Cross Section

N
E + W
S



Not to Scale

LCZC Hrg: CUP653C
Applicant: Lisher
Exhibit #: 2E
Date: 12/2/2009