

NOTICE OF PUBLIC HEARING
BEFORE THE LATAH COUNTY ZONING COMMISSION
Wednesday, January 21, 2009
5:30 p.m.

The Latah County Zoning Commission will hold a public hearing on Wednesday, January 21st, 2009 in Room 2-B of the Latah County Courthouse, Moscow, Idaho, to receive comments on:

5:30 p.m. – CUP # 788 – A request by Pat Henderson for a conditional use permit to operate a mineral resource development including excavation and crushing on a portion of Andrew R. Brown's property located in the Agriculture/Forest zone. The site is located approximately 700 feet northeast of the intersection of Lenville Road and Genesee-Juliaetta Road and is accessed off of Genesee-Juliaetta Road. The property is located in Section 26, Township 38 North, Range 04 West, B.M. in Latah County and referenced as Latah County Assessor's parcel numbers RP38N04W261300A and RP38N04W267360A.

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

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

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

Drew Blankenbaker
Associate Planner

(This a public service announcement)

**PAT HENDERSON
CONDITIONAL USE PERMIT APPLICATION #788
STAFF REPORT**

SUMMARY OF APPLICATION:

A request by Pat Henderson for a Conditional Use Permit (CUP#788) to operate a mineral resource development including excavation and crushing on a portion of Andy Brown's property which is located in the Agriculture/Forest zone. The property is located approximately 700 feet northeast of the intersection of Lenville Road and Genesee-Juliaetta Road and is accessed off of Genesee-Juliaetta Road. The property is located in Section 26 of Township 38 North, Range 04 West, B.M., in Latah County and referenced as Latah County Assessor's parcel numbers RP38N04W261300A and RP38N04W267360A.

Site Characteristics:

Size of Parcel(s): 119.11 and 80.00 acres
Soils: Bluesprin-Keuterville complex, 35-65% slopes
(Latah County Soil Survey Sheet #48)
Floodplain: Zone "C" (FIRM Panel #160086 0455 B)

Land Use and Regulations:

Comprehensive Plan Designation: Productive
Existing Zoning: Agriculture/Forest (A/F)
Existing Uses: Gravel Pit and Timber
Neighboring Zoning: Agriculture/Forest (A/F)
Neighboring Uses: Agriculture and Rural Residential

Infrastructure/Services:

Water: None
Sewer: Not Applicable
Access: Genesee-Juliaetta Rd, South Latah County Highway Dist.
Schools: Genesee School District #282
Fire Protection: Genesee Fire District
Law Enforcement: Latah County Sheriff

EXHIBITS:

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

- Exhibit #3.** Letter to Latah County Planning and Building Department received December 22nd, 2008 from the South Latah Highway District
- Exhibit #4.** Notice of Filed Reclamation Plan from Idaho Department of Lands, dated January 13, 2009
- Exhibit #5.** Staff Introduction for Latah County Zoning Commission hearing for CUP #788 held on January 21st, 2009

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

APPLICABLE STATUTE, ORDINANCE, AND COMPREHENSIVE PLAN SECTIONS:

Local Planning Act: Idaho Code 67-6512

Latah County Land Use Ordinance #269, as amended:

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

Latah County Comprehensive Plan

CRITERIA WORKSHEET

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

Type of request:

Conditional Use Permit for Mineral Resource Development

Description of application:

A request by Pat Henderson for a Conditional Use Permit (CUP#788) to operate a mineral resource development including excavation and crushing on a portion of Andy Brown's property which is located in the Agriculture/Forest zone. The property is located approximately 700 feet northeast of the intersection of Lenville Road and Genesee-Juliaetta Road and is accessed off of Genesee-Juliaetta Road. The property is located in Section 26 of Township 38 North, Range 04 West, B.M., in Latah County and referenced as Latah County Assessor's parcel numbers RP38N04W261300A and RP38N04W267360A.

Facts of application and the information submitted

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

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

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

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

3) Section 7.01.02 requires:

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

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

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

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

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

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

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

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

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

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

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

5) Section 4.03.02 requires the following

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

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

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

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

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

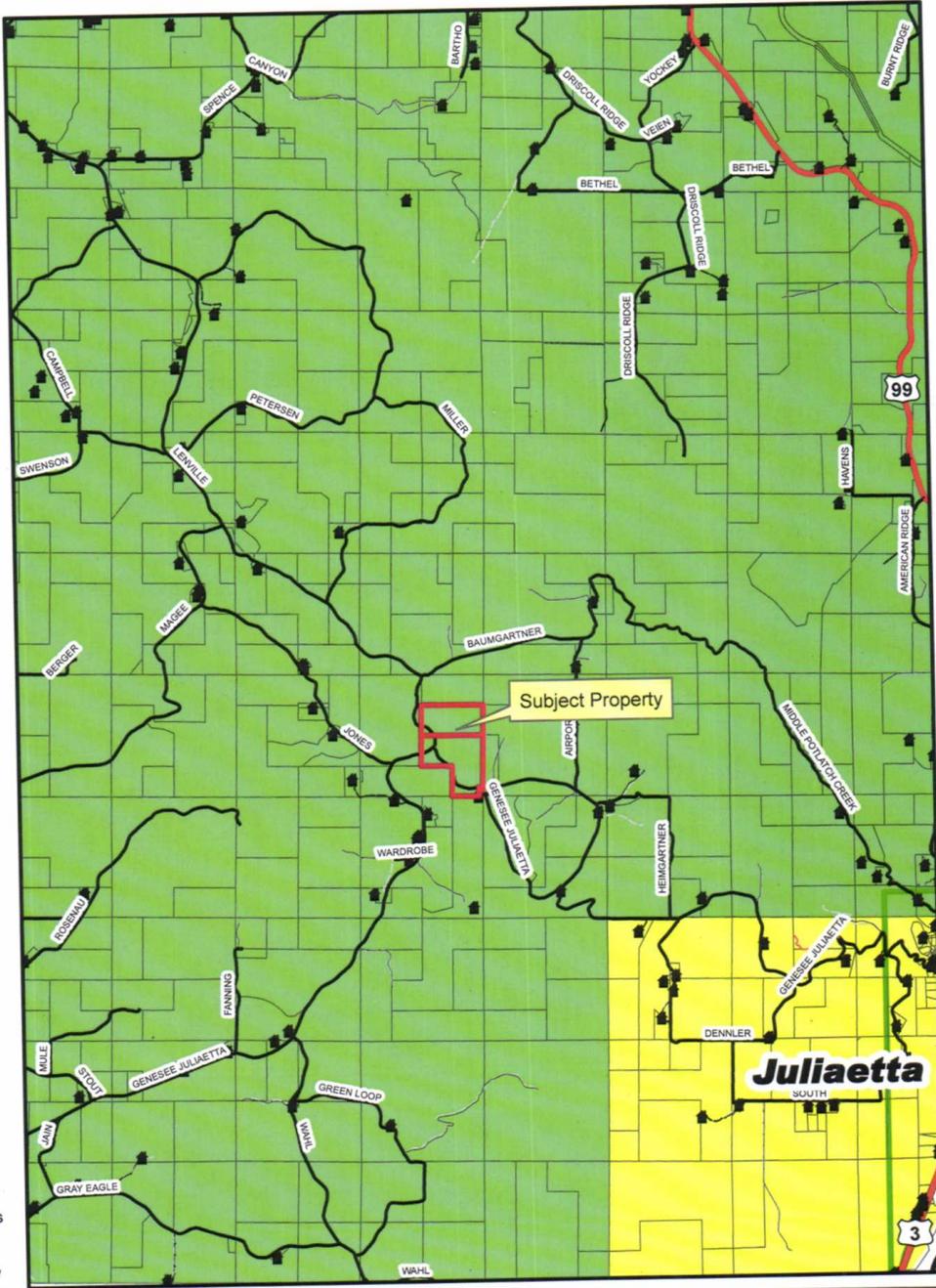
- A. Damage to public roads or structures that require immediate repair.
- B. Road construction or repair that is scheduled during nighttime hours to reduce traffic conflicts.

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

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

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

CUP # 788 Vicinity and Comprehensive Plan Land Use Map



Legend

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

1 0.5 0 1 Miles

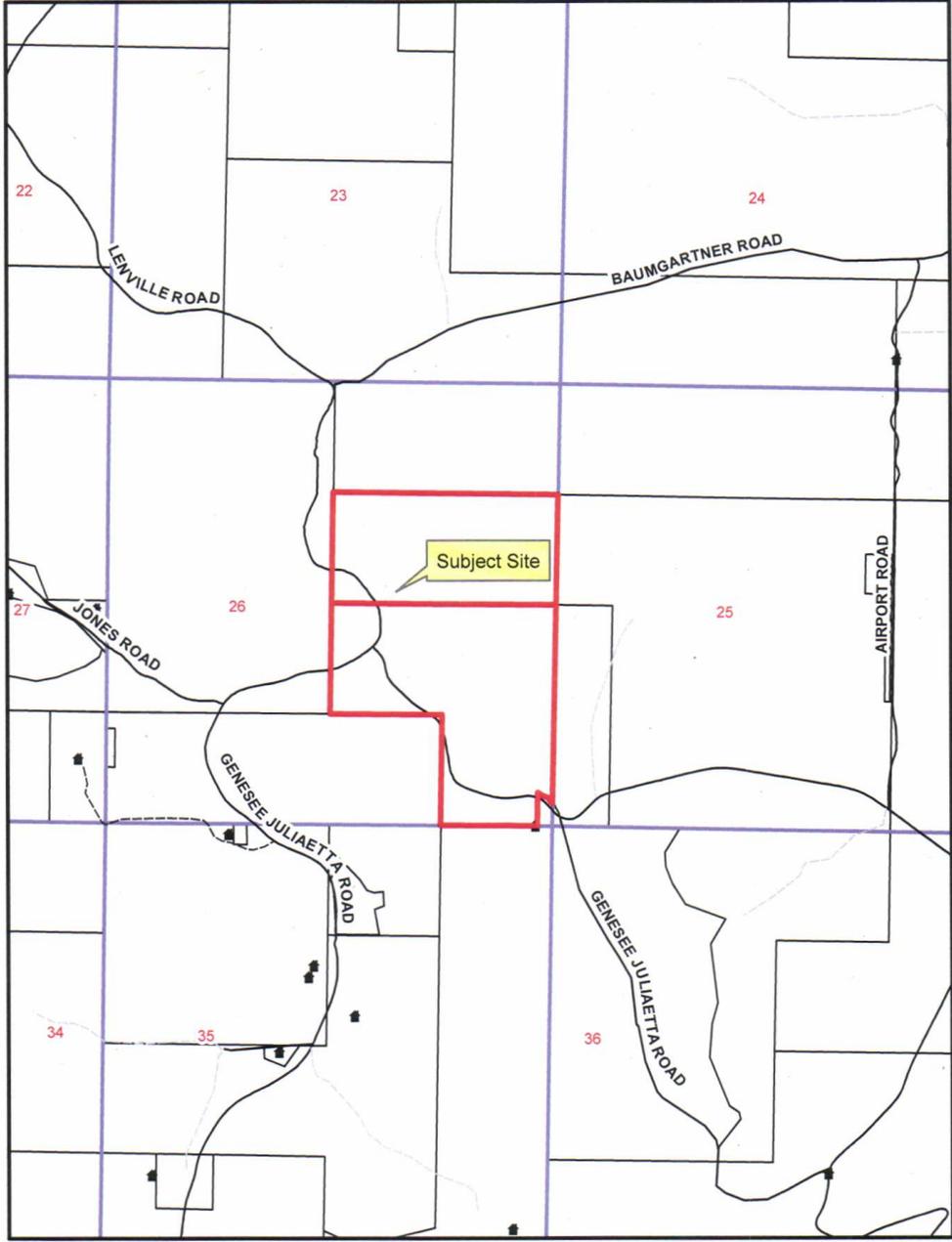
NOTE: This Document is a representation only.
Latah County bears no responsibility for errors or omissions.

*Created on 1/12/09 by DB



LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 1B
Date: 1/21/2009

CUP #788 Zoning Map



Legend

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

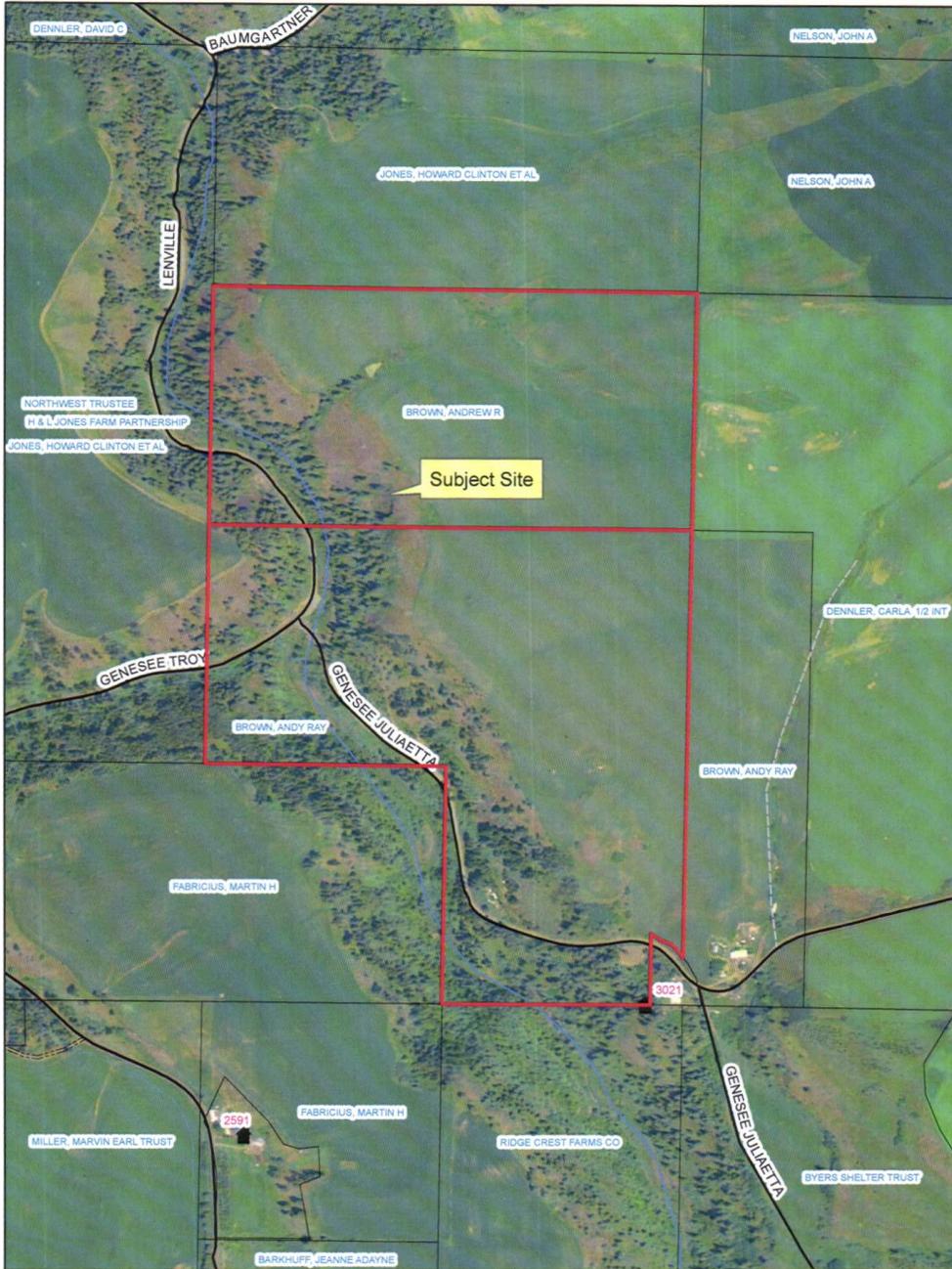


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LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 1C
Date: 1/21/2009

CUP # 788 Aerial Photo and Adjacent Property Owners Map



Legend

- Rural Addresses
- Parcel
- Subject Property
- Floodplain



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

*Created on 1/12/09 by DB

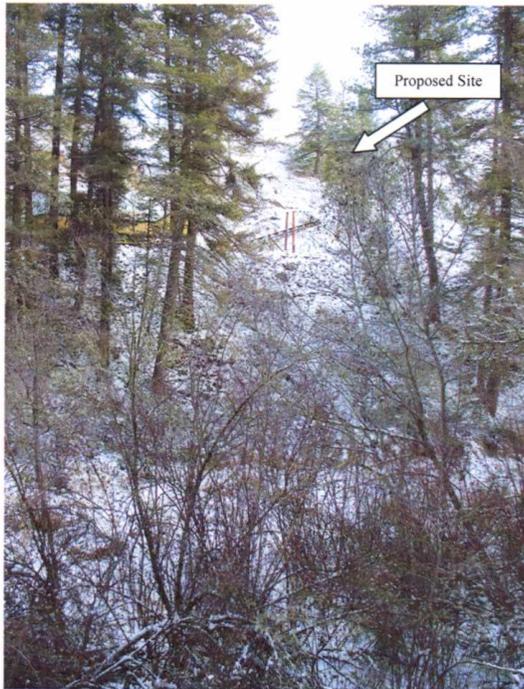


LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 1D
Date: 1/21/2009

PHOTOS OF SUBJECT PROPERTY FOR CUP # 788



(Photo taken from access point off of Genesee-Juliaetta Rd)



Typical Vegetation & Topography

LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 1E
Date: 1/21/2009

CUP # 788 Soils and Topographic Map

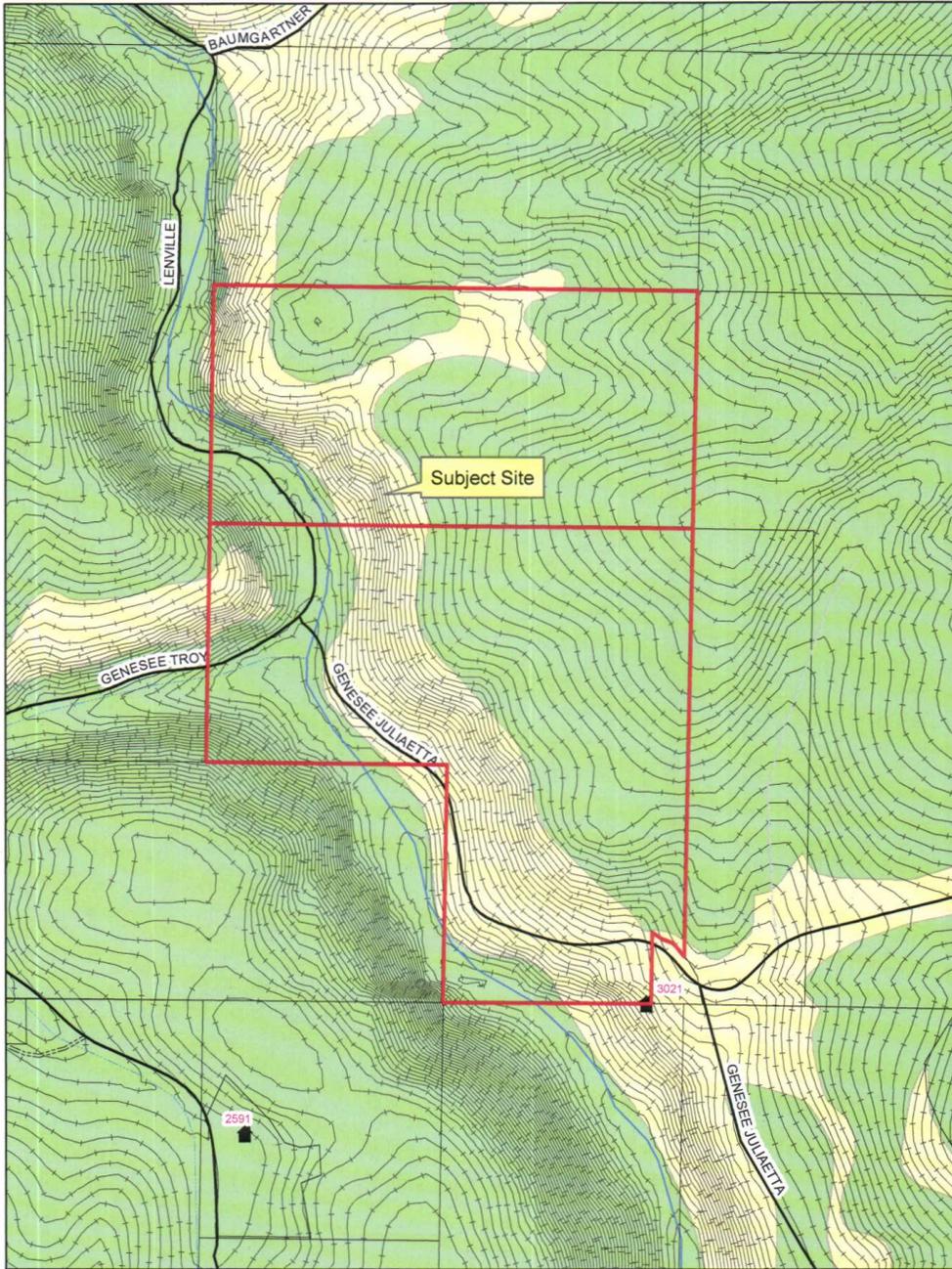


Legend

- Rural Addresses
- Parcel
- Subject Property
- 10 ft contour

Soils

- Less productive
- Productive



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

*Created on 1/12/09 by DB

LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 1F
Date: 1/21/2009



Application for Conditional Use Permit

Instructions

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

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

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

| | | | |
|--|---|---|---|
| 1. Applicant Information | | | |
| a. Applicant Name PAT HENDERSON | | b. Home Phone 208-476-7503 | c. Work Phone SAME |
| d. Mailing Address 4386 McIVER RD | | e. City KENDRICK | f. State ID |
| g. Zip code 83537 | | h. Property Owner (if different than applicant) ANDY BROWN | |
| i. Home Phone 208-276-4401 | | j. Work Phone SAME | |
| k. Mailing Address 3021 GEN - Sub RD | | l. City SULIATTA | m. State ID |
| n. Zip code 83535 | | | |
| 2. General Site Information | | | |
| a. Assessor's Parcel Number(s) RP38N04W261300 & RP38N04W267360 | | b. Parcel Address (if applicable) | |
| c. Acreage of Existing Parcel 119.11 & 80 | d. Zoning A/F | e. Comprehensive Plan Designation Productive | f. Floodplain designation(s) Zone C |
| g. FEMA Panel # 160086-0455 B | | h. Is the parcel within an Area of City Impact? <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No. | |
| i. Impact City N/A | | j. Road Used to Access Site OLD EXISTING ROAD | |
| 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 ROCK PIT | | | |
| 3. Service Provider Information (please attach additional information if requested) | | | |
| a. Fire District Genesee | b. Road District South Latah | c. School District Genesee #282 | |
| d. Source of Potable Water (i.e. water district or private well) N/A | e. Sewage Disposal (i.e. sewer district or private septic system) N/A | | |
| 4. Adjacent Properties Information | | | |
| a. Zoning of Adjacent Properties A/F | b. Existing Uses of Adjacent Properties AGRICULTURAL | | |
| 5. Permit Information | | | |
| a. Proposed Use CRUSH ROCK FOR SLHD - Hours of operation would vary upon equipment failures and such 7 AM - 11 PM | | | |
| 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? Section 3.06.02 & 4.03 | | | |
| 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 | | 7. Attachments | |
| The applicant does hereby certify that all of the above statements and information in any attachments transmitted herewith are true, and further acknowledges that approval of this application may be revoked if it is found that any such statements are false. | | All attachments should be reproducible in black and white at 8 1/2" x 11" | |
| a. Signature of Applicant <i>Pat Henderson</i> | b. Date 12-17-08 | <input checked="" type="checkbox"/> Fee: (\$200.00) Make checks payable to Latah County. | |
| c. Signature of Property Owner (if different than applicant) <i>Andy Brown</i> | d. Date 12-17-08 | <input checked="" type="checkbox"/> Completed Narrative Worksheet: See instructions on the Conditional Use Permit Narrative Worksheet. | |
| Office Use Only | | <input checked="" type="checkbox"/> 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. | |
| Date Received 12/22/08 | Amount \$200.00 | Receipt No. 466248 | By DB |
| <input checked="" type="checkbox"/> Vicinity Map: The map should show the site location in relation to neighboring communities and natural features. | | <input checked="" type="checkbox"/> Assessor's Plat Map: Include a copy of that portion of the map that shows the subject parcel and adjoining parcels. | |
| CUP # 788 | Date Determined Technically Complete 12/22/08 | By DB | |
| <input checked="" type="checkbox"/> Other Attachments: Required by staff / Zoning Commission for certain proposed uses. see Section 4.03.0 | | | |
| Hearing Date 1/21/09 | | | |

LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 2
Date: 1/21/2009



Conditional Use Permit Narrative Worksheet

Application Information

Applicant's Name Pat Henderson Phone Number 208-476-7503

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

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

Description of Proposal

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

Want to use this existing Rock Pit to crush rocks for SLHD. The activities this site would consist of is excavating about ten thousand tons of pit-run rock out of an existing rock slide and crushing it into gravel for SLHD. If this rock qualifies and works well for SLHD the district would like to crush here once each year. NO Blasting. Dust will not be a problem - SLHD has covered the road to pit site. SLHD puts dust abatement on existing county rd. by pit site. In addition if needed we would sprinkle rolls with water while crushing.

Existing Uses of Property

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

The use of this property in the past was a Rock Quarry. No structures are to be built. Do not intend to build anything.

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.

It will not affect or be detrimental to the health or safety of anyone in the surrounding area as any of the public. Rock crushing is mandated by federal, state and local laws to protect streams, floodplains, wetlands and air quality. This crushing site would stay consistent with all of the above.

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

The use of this rock will not cost the public or the tax payers a dime. It will in fact save them money because of the location and transportation costs of the gravel.

LCZC Hrg: CUP 788 Applicant: Henderson Exhibit #: 2A Date: 1/21/2009

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

This operation would not be in conflict with any of the above. This operation would save SLHD a considerable amount of dollars for rock and gravel because of its location. In return it would save Latah County taxpayers the same dollars. It ~~is~~ would be consistent with the type of commercial and industrial uses located in rural areas away from densely populated residential areas and is hid out in a place in Latah County that should be very unnoticeable to any public eye.

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

a. Community Design Element

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

b. Population Element

Population in this area is limited. There are no near-by homes.

c. Housing Element

This land is unsuitable for housing.

d. Economic Development Element

This proposal will help with the needs of local entities without affecting existing residences. A reclamation plan will be implemented to ensure that there will be other uses for the property.

e. Public Services, Facilities, and Utilities Element

This quarry will help the SLHD by providing a rock source nearer to where the rock needs to be applied. No public services will be needed to operate this site. Fire suppression alert. Benesee fire dept. shovels, buckets, axes, power saws and fire extinguishers are in shop van on site fire tools and equip.

f. School Facilities and Student Transportation Element

No schools or student transportation will be affected.

- g. Transportation Element

This site has an approved approach off of the Genesee-Julietta Road. The access road is gravel and is graded and drained. This will be a low-speed approach. Warning signs have already been installed along County Road by SLHD.

- h. Natural Resource Element

This site is over 1000' from any stream and will be properly drained. Any buffer zones will not be affected. During operations the site will meet all Department of Lands criteria. A berm will be placed around the outside of the site to ensure that there is no run-off.

- i. Special Areas Element

This is not a Special Area Element location.

- j. Hazardous Areas Element

This is not a hazardous area, all slopes are stable and it is not in a flood plain. All equipment has mufflers and spark arrestors to ensure that there are no wild fires. There is no hazardous material stored on job site.

- k. Recreation Element

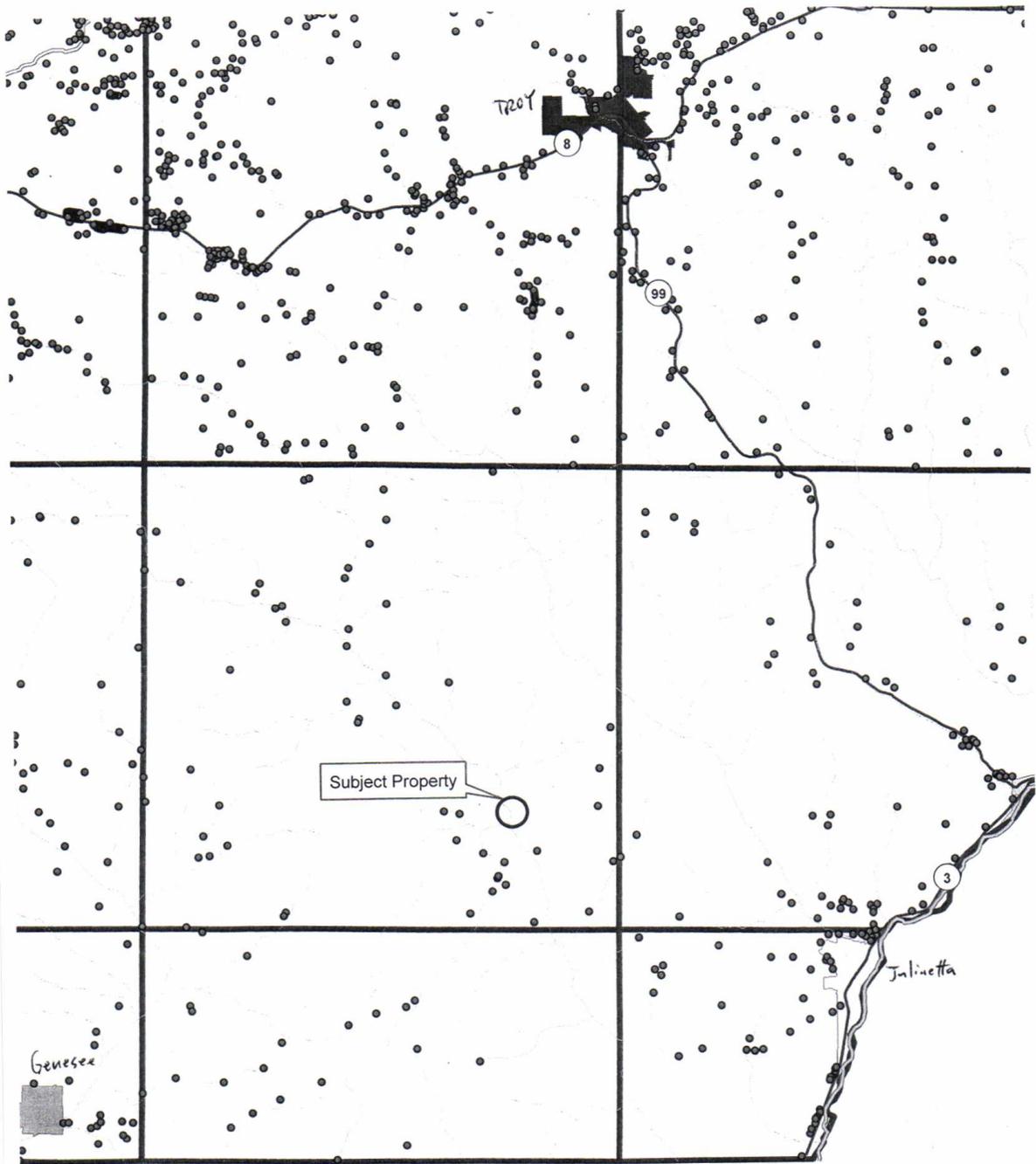
There is no recreation areas within the parcel

- l. Land Use Element

This site lies in the productive area of Latah County. This site is not in farm ground and never will be. The timber is very marginal and there is only four trees that need to be cut yet. The prices are so poor on sawlogs and they says if I decide to take existing four trees out when time comes he will cut them up for firewood.

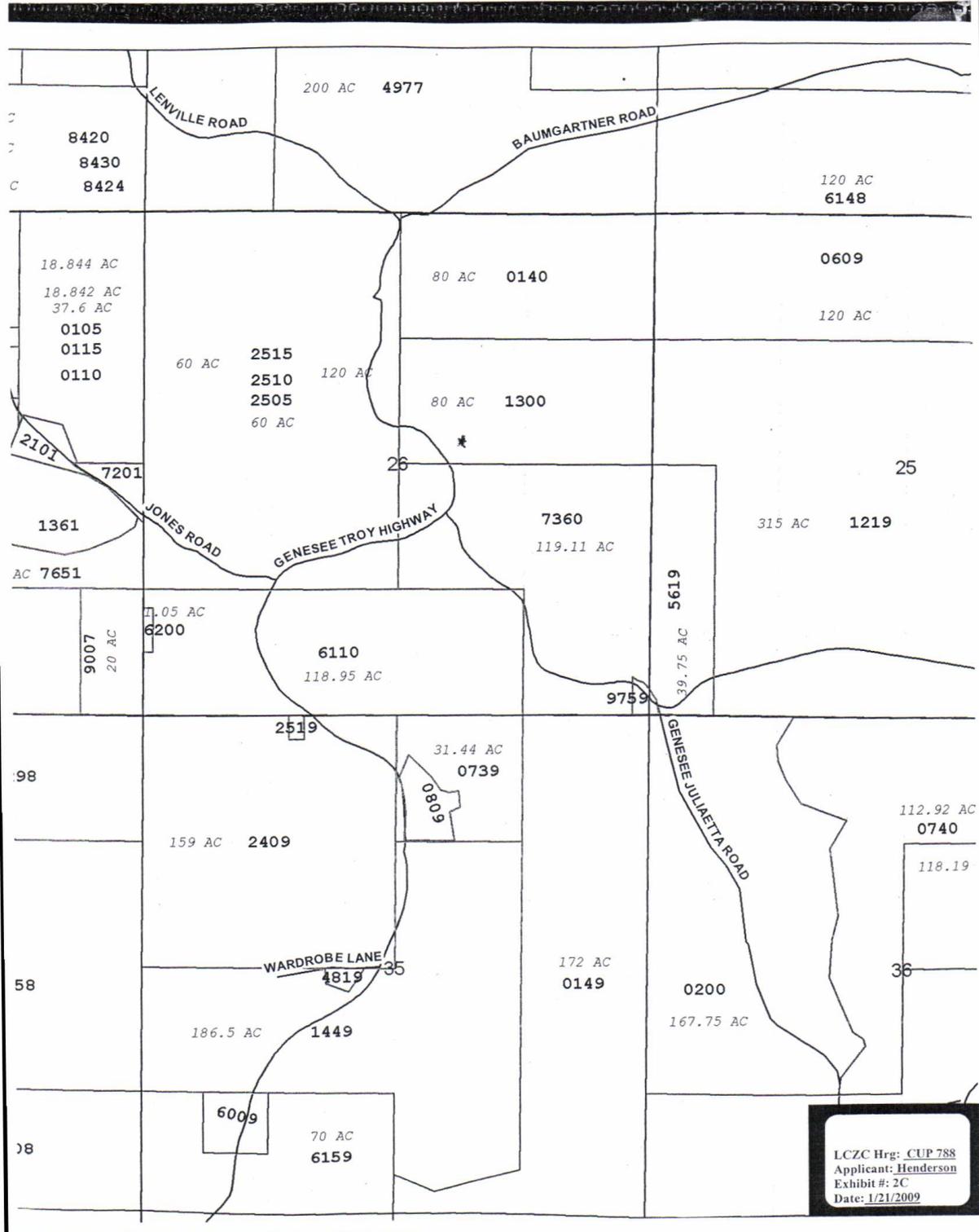
- m. Property Rights Element

The use of this parcel will not affect any neighboring land owners



"VICINITY MAP"

LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 2B
Date: 1/21/2009

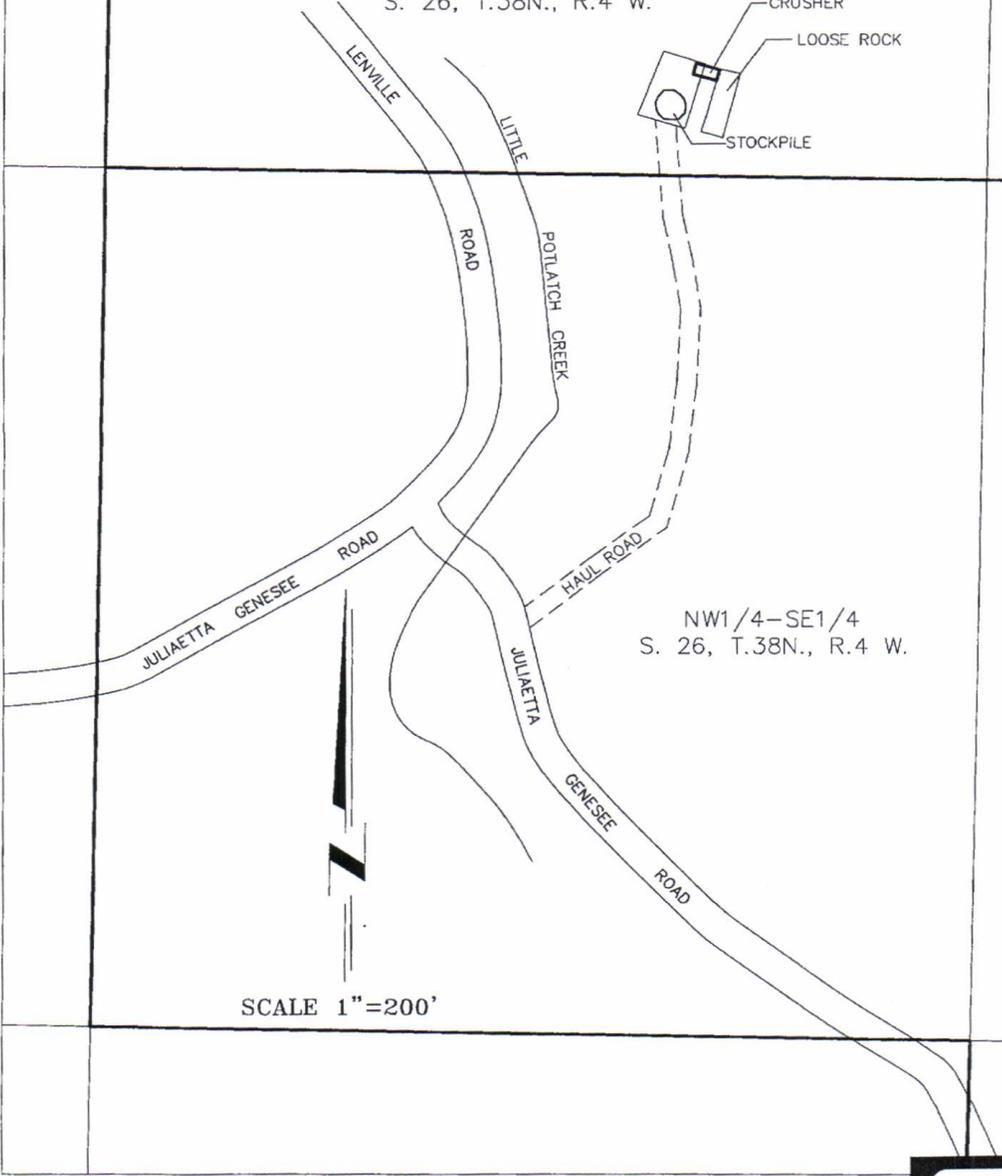
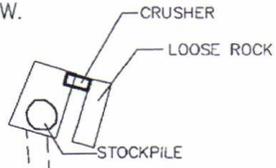


LCZC Hrg: CUP 788
 Applicant: Henderson
 Exhibit #: 2C
 Date: 1/21/2009

SITE LOCATION MAP

SW1/4-NE1/4
S. 26, T.38N., R.4 W.

PARCEL NO. 1300



NW1/4-SE1/4
S. 26, T.38N., R.4 W.



SCALE 1"=200'

LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 2D
Date: 1/21/2009



SOUTH LATAH HIGHWAY DISTRICT

Genesee - Kendrick - Juliaetta

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

TO: LATAH PLANNING AND ZONING
MOSCOW, IDAHO

RECEIVED
DEC 22 2008
LATAH COUNTY

TO WHOM IT MAY CONCERNE:

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

THANK YOU,

Robert 'Hunk' Leonard

ROBERT 'HUNK' LEONARD
ROAD SUPERINTRNDANT

LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 3
Date: 1/21/2009

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



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

January 13, 2009

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

RECEIVED

JAN 13 2009

LATAH COUNTY

**NOTICE
RECLAMATION PLAN APPLICATION**

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

NAME OF OPERATOR: Pat Henderson
ADDRESS OF OPERATOR: 4386 Mc Iver Rd. Kendrick, ID 83538
PLAN NUMBER: 2773
LEGAL DESCRIPTION: SW ¼ NE ¼ Section 26
T 38 North, R 4 West

IDL has reviewed the application for completeness in accordance with Section 47-1506, Idaho Code. If the application could impact surface waters, it has been submitted to the Idaho Department of Water Resources, Department of Environmental Quality, and Department of Fish and Game with a request for comments within 30 days. This review process must be finalized and the operator notified within 60 days or the reclamation plan becomes automatically approved as submitted under the statute.

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

Sincerely,


Jason Svancara
Resource Specialist

PC: Eric Wilson, Navigable Waters/Minerals Program Manager

LCZC Hrg: CUP 788
Applicant: Henderson
Exhibit #: 4
Date: 1/21/2009

CUP #788 – Staff Introduction

A request by Pat Henderson for a Conditional Use Permit (CUP#788) to operate a mineral resource development including excavation and crushing on a portion of Andy Brown's property which is located in the Agriculture/Forest zone. The property is located approximately 700 feet northeast of the intersection of Lenville Road and Genesee-Juliaetta Road and is accessed off of Genesee-Juliaetta Road. The property is located in Section 26 of Township 38 North, Range 04 West, B.M., in Latah County and referenced as Latah County Assessor's parcel numbers RP38N04W261300A and RP38N04W267360A.

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

Section 7.01.02 requires:

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

Section 4.03.03 New Mineral Resource Developments states the following:

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

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

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

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

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

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

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

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

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

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

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

Section 4.03.02 requires the following for mineral resource developments:

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

Exhibits will now be entered into the record.

The following exhibits were submitted with the staff packet:

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

- Exhibit #2. Application Form (Submitted by Applicant)
- Exhibit #2A. Applicant's Narrative (Submitted by Applicant)
- Exhibit #2B. Vicinity Map (Submitted by Applicant)
- Exhibit #2C. Plat Map (Submitted by Applicant)
- Exhibit #2D. Site Plan (Submitted by Applicant)
- Exhibit #3. Letter to Latah County Planning and Building Department received December 22nd, 2008 from the South Latah Highway District
- Exhibit #4. Notice of Filed Reclamation Plan from Idaho Department of Lands, dated January 13, 2009
- Exhibit #5. Staff Introduction for Latah County Zoning Commission hearing for CUP #788 held on January 21st, 2009

That is all staff has unless the Commission has questions.