



City of Ontario
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**City of Ontario Department of Community Development-Planning Division
City Staff Report**

**Request for Approval of a Conditional Use Permit
2019-05-38 CUP**

REPORT DATE: June 13, 2019

Report Prepared By: Dan K. Cummings, Community Development Director

I. GENERAL INFORMATION AND FACTS

Applicant/Agent: Jack B Parson Companies
(Idaho Concrete Co.)
2350 S. 1900 W., Ste 100
Ogden, UT 84401

Property Owners: Jack B Parson Companies
(Idaho Concrete Co.)
2350 S. 1900 W., Ste 100
Ogden, UT 84401

Land Use Review: Conditional Use Permit 10A-52-160 (7) & (15).

Property Description: Tax Lot 200 , Tax Map 18S4711C, Existing plant
address is 1784 SE 5th Avenue , Ontario, Oregon 97914
(Exhibit "A").

Location: At the south end of East Lane approximately 1300 feet
South of the Intersection of East Lane and Central Drive.
(Exhibit "B").

Existing Development: Jack B Parson Companies (aka Idaho Concrete Co) runs
an existing mining operation and concrete batch plant at
1784 SE 5th Avenue on Tax Lots 18S47 200 (in City),
18S4711B 1701(in County / City UGA) and 18S4711C
100 (in County / City UGA).

Proposal: To expand their mining operation onto their adjacent
property which is Tax Lot 18S4711C 200.

Zone: UGA I-2 (Urban Growth Area Heavy Industrial).

EXHIBIT # 4

Size of Tract

The expansion area (Tax Lot 18S4711C 200) is approximately 11.98 acres. (Total Plant/Mining after approval of this action site would be approximately 66.13 acres.

II. Summary & Background:

- A) Idaho Concrete Company has a large and productive gravel mining operation south of SE 5th Ave and east of East Lane along the edge of the Snake River. They also own vacant land immediately west (tax lot 18S4711C 200) of the currently approved mining operation for which they are seeking a mining permit from the State of Oregon Department of Geology and Mineral Industries.

The City permits mining only by successful completion of a conditional use permit. A conditional use permit is also required within the City urban growth area in which the proposed mine expansion is located. Idaho Concrete Company is therefore requesting approval of such a permit as a joint action between the City of Ontario and Malheur County.

- B) The City of Ontario experiences a variety of land development proposals, most of which are land surface types such as retail or residential subdivision expansion. The City exercises control over these developments in the interest of the citizens and property owners of the city, assuring appropriate continuation and extension of streets and utilities.

The proposal of Idaho Concrete to expand a gravel extraction mine is a land development but one which, when completed has an impact far greater than other types of land development. Common types of development sit upon the surface of the earth and from time to time may be improved or modified but gravel mining operation changes the earth itself and because of cost, is not generally considered a reversible or modifiable act.

- C. The City Comprehensive Plan is fully acknowledged by the State of Oregon and as a part of that Plan there is a Transportation System Plan (TSP) element that delineates street classifications and future street extensions or expansions. Among the street extensions is a connection to be made between SW 18th Ave and SE East Lane which together, is classed as an arterial. These two streets run at 90 degrees of each other and if each of these streets is extended toward the other, they would approximately intersect above Interstate 84. Although expensive because of a street structure to cross the freeway, this connection will form an important cross-town connection. Because of the investment thus far made on 18th Ave, a railroad overpass, as part of East Lane connector, it is vital to the City's future to preserve a right of way on Idaho Concrete Company property over which the East Lane segment of the connector must pass.

- D. The City Comprehensive Plan is fully acknowledged by the State of Oregon and as a part of that Plan there is a Parks Master Plan element that delineates a Green Belt Type Trail/Path along the banks of the Snake River and both Parties recognize the need for the enjoyment of the citizens of Ontario and Malheur County this Trail/Path needs to be planned into the Development of this property for future use.

III. CODE IMPLICATIONS:

- A. There is a strong correlation between any other development of land for commercial, residential, or industrial development and that of a gravel mine. The first three types of development go upward from the surface of the ground and the forth type goes down. In all cases the continuation and improvement of new streets and utilities are a cost that the City attaches to the proposed land development. Specific requirements begin in City code 10C-20.
- B. The Se 18th Avenue to East Lane connection is a City arterial benefitting the City as a whole. As is common in the case of arterial thoroughfares, adjacent property owners may have little or no immediate access to them. In the case of SE 18th Avenue to East Lane the issue of access has not been determined, but it is expected to be limited in some way. Therefore, the assignment of financial responsibilities for construction of the new street must wait for the time when building the arterial is eminent. Utility extension may also be part of that project also.
- C. Of necessity, the City focuses upon the end results of a development proposal, not its costs to the developer. Never-the-less, there are some special long term issues that the gravel mine presents as compared to other forms of land development. The key differential is the potential for complete loss of, or the substantial integrity of the soil upon which the road must rest. This means that the initial decisions made in regard to the gravel mine conditional use permit must lay a good foundation for the future.

IV. FRAMEWORK FOR ACTION

As in the case of all physical development in the City and its Urban Growth Area, all proposed development uses City streets and facilities. Each new development owes its operation and viability to those developments that preceded it. Each new development is therefore required to do its part to pass-on these City benefits to the next development. The proposed gravel mining development must do its part to perpetuate the “pass-on” benefits of the City. Recognition of that fact is a part of the conditional use permit decision making. The following discussion sets out specific step that need to be included in the conditional use permit action.

Therefore, it is recommended that a conditional use permit be granted as follows:

- 1. River Trail: That an easement for City development of a recreational trail be given along the bank of the Snake River for the full length of the Idaho Concrete property river frontage (Tax Lots 18S47 200 and 18S4711C 100). This should be at a width of 100 feet that includes and continues the width of the easement for the City well field recorded under Instrument Number 99-1927. To avoid conflict between citizens and commercial operations Idaho Concrete may stipulate stages of mine operation that must be completed, or the type of security improvements that must be in place before the recreational trail easement may be used. This easement is proposed to be grant as part of a DIA (Deferred Improvement Agreement) between the Jack B Parson Companies and the City of Ontario.
- 2. Existing East Lane: Dedication of a half street right-of-way of fifty (50) feet shall be provided for that portion of East Lane running from the North End of Tax Lot 18S47 200 to the South end of said Tax Lot owned by Jack B Parson Companies.

3. New East Lane:
 - a) Dedication of a full street right-of-way of at least one hundred (100) feet in width (final width will be determined by the final street design) shall be provided for the extension of East Lane crossing Idaho Concrete Company land to the south edge of Tax Lots 18S4711C 100 and 200. This right of way is proposed to be grant as part of a DIA (Deferred Improvement Agreement) between the Jack B Parson Companies and the City of Ontario.
 - b) It is proposed to allow Idaho Concrete to remove for mining purposes the land below the future right of way of East Lane with the understanding that at the complete cost of Idaho Concrete/Jack B Parson Companies this road base shall be replaced to City, County and State road specification and street section constructed as part of the reclamation process of this site. This excavation and reconstruction is proposed to be grant as part of a DIA (Deferred Improvement Agreement) between the Jack B Parson Companies and the City of Ontario.
4. A ten (10) foot landscape easement shall be provided on Idaho Concrete land immediately adjacent to the half, and the full street rights of way of East Lane. This easement is for possible back fill adjacent to the surface street right of way for future enhancement of the street's appearance by trees and other plant life. This easement is proposed to be grant as part of a DIA (Deferred Improvement Agreement) between the Jack B Parson Companies and the City of Ontario.
5. That portion of the proposed expanded mine adjacent to Interstate 84 shall be the manner of a downward one-to-one slope and have a surface separation of at least thirty (30) feet from the east edge of the freeway right-of-way.

VI. FINDINGS OF FACT

- 1) The proposal complies with applicable provisions of the Ontario Comprehensive Plan, Title 10 and its zone and administrative sections 10A and 10B, and;
- 2) The City of Ontario has a State acknowledged Comprehensive Plan, a part of which is Transportation System Plan element which requires an arterial to occupy the alignment of East Lane for connection to South 18th Ave, and;
- 3) The subject site is within the City of Ontario Urban Growth Area and thus approved under the rules and regulations of the State of Oregon for annexation to the City in the future, and;
- 4) By the Urban Growth Area Management Agreement between Malheur County and the City of Ontario, the City has controlling interest over applications for development, and;
- 5) The subject Urban Growth Area is classified as UGA Heavy Industrial and processing of ready-mix Portland cement concrete (10A-52-160(7)) and mining operations (10A-52-160(15)) may be approved, conditionally approved or denied in that zone, and;

- 6) The City of Ontario is interested in promoting business activities within and adjacent to the City and recognizes the importance and benefit to the local economy of having gravel available for making concrete locally, and;
- 7) The City has a long term need for an arterial street system that will assist in the growth and development of the City and the East Lane/SE 18th Ave is among the most important arterials because it will cross the major obstacles of the railroad tracks and the freeway, and;
- 8) Consideration has been given to determine the minimum necessary conditions of approval that will assure compliance with the City Comprehensive Plan.

VI. CONDITIONS OF APPROVAL:

1. The conditional use permit granted by the County is valid for a period of one year from the date the permit becomes effective, which is 12 days after the notice of decision is sent provided there is no appeal.
2. That all conditions outlined in section IV FRAMEWORK FOR ACTION be met and agreed upon and supported by a bond in the reclamation agreement with DOGAMI.
3. That Jack B Parson Companies shall inter into, sign and record with the Malheur County Clerk a Deferred Improvement Agreement (DIA) with the City of Ontario for the conditions outlined in section IV FRAMEWORK FOR ACTION of this report prior to final approval of the Conditional Use permit.

VI. RECOMMENDATION:

It is recommended that the conditional use permit request by Idaho Concrete to expand their gravel mine be conditionally approved by the Malheur County Planning Commission. The recommended conditions are listed in this report under section VI. CONDITIONS OF APPROVAL. The conditions for approval are to be acted upon and completed prior to COUNTY notification to the Oregon Department of Geology and Mineral Industries that the terms of the permit have been met.

VIII. Exhibits:

Exhibit "A" Site plan of Expansion
Exhibit "B" Site Plan showing proposed ROW & Trail Easement

Approved by City of Ontario Hearings Officer:

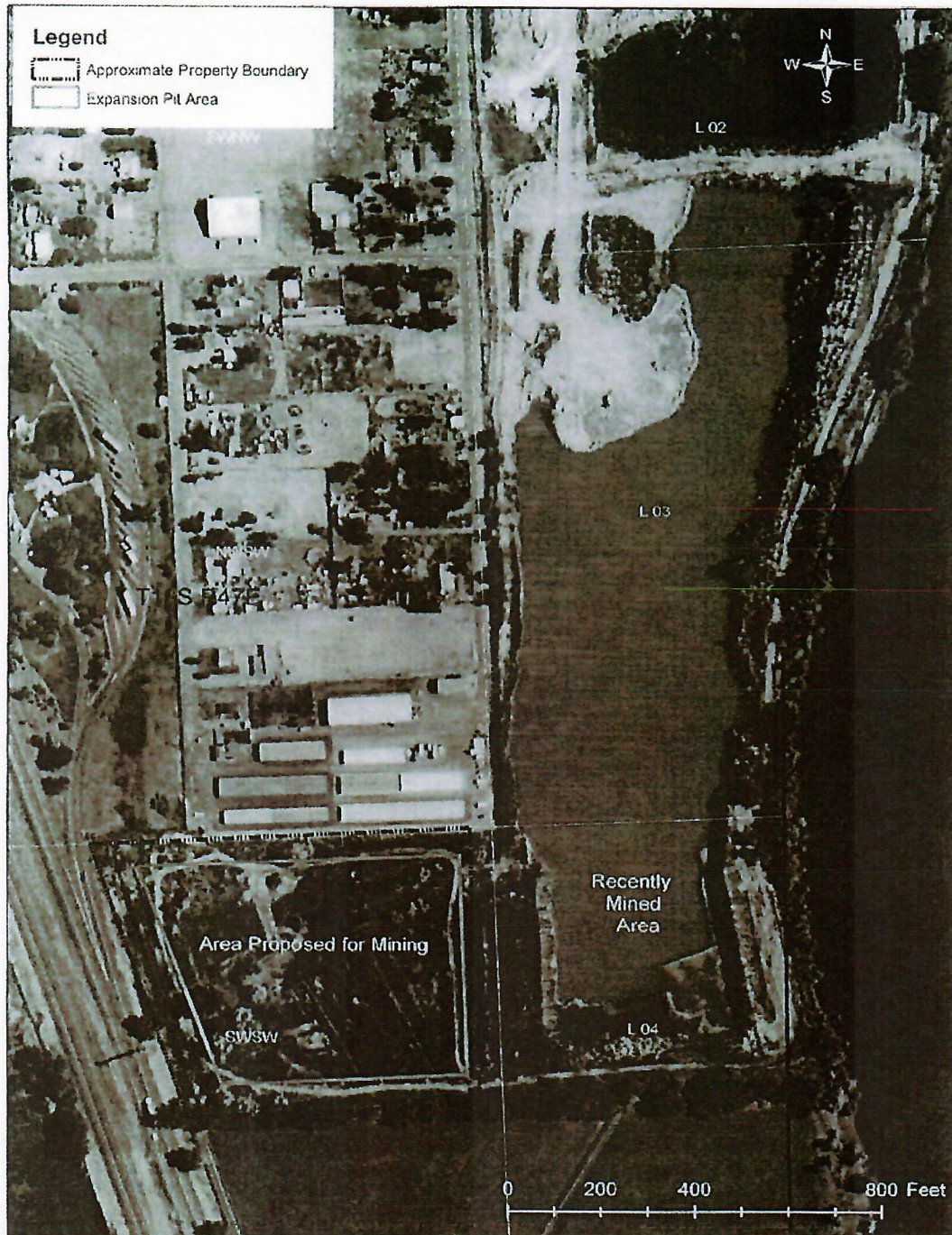


Dan K. Cummings
Community Development Director

cc: Applicant, Malheur County Planning Department

Exhibit "A"

Idaho Concrete Proposed Pit Expansion



Based on 2017 NAIP Photography

Prepared for Idaho Concrete by ERO September 2018

Attachment A

Exhibit "B"

