

Tatiana Burgess

From: PRO*WEST Owner <prowest01@msn.com>
Sent: Thursday, July 1, 2021 4:40 PM
To: kathy.clarich@malheurco.org; kelsey.sullivan@malheurco.org;
ed.anthony@malheurco.org; teresa.ballard@malheurco.org; john.faw@malheurco.org;
clark.forsyth@malheurco.org; chad.gerulf@malheurco.org;
rob.kindschy@malheurco.org; robert.quick@malheurco.org;
linda.simmons@malheurco.org; Eric Evans; Tatiana Burgess
Subject: Darren Lee application
Attachments: Malheur County Planning.docx

Please consider the attached position letter when making your decision regarding the Darren Lee conditional use application.

Thank you for your consideration.

Bill Downing
5151 Power Rd.
Ontario, OR 7914

Malheur County Planning & Zoning

Commission Members,

My name is Bill Downing. I am a resident at 5151 Power Rd., Ontario OR 97914. I am writing in reference to the special use zoning application by Darrin Lee for gravel mining at the Jasmine Road location.

I have listened to both P & Z calls to date and am concerned by a number of half truths and misrepresentation which it appears is being entered into the record as fact. I have not spoken on either call and am asking an opportunity to address you in this writing.

1) NO ONGOING GRAVEL OPERATIONS.

Mr. Lee is very fond of saying that the existing gravel pits in our neighborhood are proof that there have always been ongoing gravel operations here. I know for fact that the gravel dug on my property was part of a deal between previous owner Fred Coons and Malheur County where Fred provided material in exchange for getting Jasmine / Power roads built. That occurred in approx. 1974.

When I bought in 2009 there had been no further digging at this location. And there has been none in the 12 years since. I would not have bought if there had been active gravel pit operations anywhere in the area. That's 47 years with no significant digging - a far cry from Mr. Lee's ongoing gravel depiction.

I have full view of the Dallas Head pit. Same story. Only in extremely rare occasions had there been a load or two of gravel dug until Mr. Lee himself hauled 50+ loads in 2020 to the Yano Farm steel building construction site. THERE IS NO ONGOING GRAVEL OPERATION - IT'S A RESIDENTIAL NEIGHBORHOOD

2) MALHEUR COUNTY RESIDENCE PERMITS.

When I bought in 2009 the property was listed by Brandt Agency and the area pits were described as inactive with no digging in 30 years. Malheur County issued permits for 2 residences on my property.

I fail to understand how Malheur County could have issued building permits for residences in 2009 and again in 2013 - and NOW they want to put a gravel mining operation within 150' of the houses. Can there even be two less compatible uses? How can they even be considering approving a gravel mining operation right in the middle of 10 residences. Where is the integrity of the Malheur County zoning system?

3) MIS-STATED ITEMS.

Do the existing home owners get any chance for rebuttal of statements we hear in the calls? This application is awful on many levels.

Your own road guy was not the least bit favorable to the backside alternate access road off Mesquite. He pointed out that the road was only 21 feet wide and required a 90 degree turn onto the proposed access road. In addition, they have to immediately cross the canal and there is an elevation change.

I have had my own expert analyze the proposed access and his finding was far less favorable than your road guy's. His opinion was that a normal dump truck might make it OK. A 40' Semi would find it exceedingly difficult. And a belly dump such as Baumgarner Excavation uses (and hauls from Mr. Lee's existing pit) - could flat out not make the turn. Mr. Lee's own trucks are not the only ones that haul out of his pit. All would create a high risk of damage to the canal crossing and existing road shoulder.

Mr. Lee said he hauls only 3 weeks in spring and 3 weeks in fall. Today is Sunday 6/27/21 and one of our neighbors has watched Mr. Lee's truck come and go 3 times already from his existing pit on Dehaven's property. The existing road structure was never built to handle that kind of heavy traffic.

One thing I can say is that if Mr. Lee gets this approved he will be working under a microscope. 10 families will be watching and all will have MSHA on speed dial.

There will be zero new jobs creation or economic impact to Malheur County. The applicant is just going to move his existing operation to the new location BECAUSE HE HAS TO.

4) MITIGATION.

I don't know how you do your process. But in my 20 years of Banking and 20 years of Construction any application always meant that the applicant's references would be checked. Has your office checked Mr. Lee's existing operation ?

We have. And I believe the information we received would become relevant in any future legal proceeding. I for one can assure you that if this application gets approval there will be legal proceedings. There is just no end to the number of things that are wrong with this proposal....and are seemingly being ignored.

The access road. Noise ! (I live over a mile from Mr. Lee's existing operation and hear his trucks and loaders on a regular basis.) Air pollution - dust control. Water contamination and depletion. Residential well disruption. The Goal 5 violations. Public Highway safety for residents and families. That's just a start.

You say Mr. Lee will get a list of items to mitigate. But when do the home owners get to see that list and his responses. It seems as if the mitigation process is just a means of giving the applicant a list of concerns and more time for him to check more boxes until he can get an approval. The commission was clear that they didn't want to hear any more from the homeowners. After 2 extensions this process seems to be structured entirely toward facilitating an approval for the applicant. Why do the people who might have to live with the results not have a voice in whether the concerns have been truly mitigated or not ?

5) RECUSE QUESTION

Do we as homeowners have any opportunity or right to request a recusal ? It was abundantly clear that John Faw was completely biased in favor of this application. To the extent that he changed the entire direction of the conversation with nothing more than his opinion. He said gravel operations next door aren't that bad. They don't decrease surrounding property values. And that all that dust is already out there.

I can provide other realtor opinions that say a gravel operation definitely does decrease both value and marketability of adjacent property. And I know that I sure wouldn't have bought if I knew there was one close by. As for dust - anybody who knows this country also knows that the vegetation keeps the dust in place and when the vegetation is disturbed the dust will fly. And as regards " they aren't that bad" - I live a mile from Mr. Lee's existing pit and am frequently offended by having to listen to it. Obviously Mr. Faw and I have different opinions. But I have a home that is being threatened and I will be glad to provide documentation to back my opinions up.

Taken together with Mr. Faw's obvious relationship with the Lee family and possible business dealings with parties involved with this application I believe he should have recused himself.

Chad lives in this neighborhood and knew he was going to be biased against approval. So he did the right thing and recused himself. John should have done the same. Because right now it costs the homeowners one no vote and still lets Mr. Faw's yes vote count. By my math that's a 2 vote swing before we even start. What chance do the homeowners have of a fair outcome ?

5) LONG TERM CONFLICT.

If this gets approved I promise you there will be a lawsuit or multiple lawsuits. I will be one. This is our lives. These are our homes. Some have been here for 40 years. Now you want to let some guy who doesn't even have an ownership interest come in and destroy it ? Are you familiar with the " Fight or Flee" scenario ? We are being threatened and will not flee. We will fight long and hard.

If you get on Google - and draw a line from Mr. Lee's existing pit to Ontario and you will find 6 existing gravel operations. Why would Mr. Lee's gravel operation ever need to be planted right in the middle of a residential neighborhood ? Go put this somewhere out there where there are no houses. Mr. Lee can find another location.....the homeowners cannot ! That seems very basic and simple.

And why would Mr. Lee ever want to locate his business in a place where it will be subjected to a 24/7 spotlight ? The residents here have a neighborhood watch system that is second to none. Check with your own Malheur County Sheriff office to see how frequently they get called out here just to roust the druggies and vagrants out of the pits. They are already under staffed but approving this is going to increase the Sheriff's load exponentially.

MSHA will get calls any time a violation is observed. You should expect that both Malheur County Sheriff and MSHA will see large increases in demands for their services if Mr. Lee's operation is

allowed to operate in the middle of all these houses. And that one will be on the Planning and Zoning Commission.

It is my belief that if this application gets approved it will only end when Mr. Lee's license to operate is revoked over complaints and violations....because those will be the remedies available to the homeowners.

And how is any of this in the best interests of the citizens of Malheur County ?

Please do the right thing and vote no on this application.