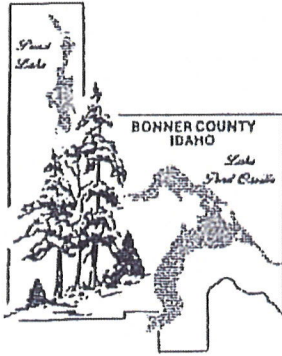


EXHIBIT A

KEY DOCUMENTS IN 1995 CUP



BONNER COUNTY

PLANNING DEPARTMENT

Martin E. Taylor, Planning Director

November 21, 1997

Mr. Jim Brady, Minerals Specialist
Idaho Department of Lands
1910 NW Boulevard, Suite 201
Coeur D'Alene, Idaho 83814-2615

SUBJECT: Linscott (*Sandpoint Sand and Gravel*) Reclamation Plan

Dear Jim:

Thank you for the opportunity to review the referenced plan.

I have conducted a cursory review of the reclamation plan, as submitted, for consistency with Idaho Code, Sections 47-1509 through 47-1512 and the plan appears complete.

Interstate Concrete and Asphalt applied for and had approved a conditional use permit to expand the existing operation (C565-95). The use permit, however, has not been issued. Highway 95 improvements were required that have not been completed. Thus, expansion of the site is occurring under Linscott's "grandfather" rights. That is, the acreage originally developed with the quarry can continue to be quarried by *Sandpoint Sand and Gravel*.

Please call if I can be of further assistance.

Sincerely,

Martin E. Taylor
Planning Director

A well is proposed to be constructed at the southwest of the project site.

The project site is not located within a floodplain.

No wetlands are present of the subject property.

The hydrogeologic evaluation of the proposed site concluded that the potential for impacting ground water quality within the glacial aquifers from operations of Interstate Concrete and Asphalt are small.

The Division of Environmental Quality and the Department of Water Resources require a minimum separation of 40 feet between groundwater and the bottom of the pit. The applicant shall demonstrate that this separation will be accomplished. This is required Condition 17.

The depth to water under the site is probably more than 100 feet except that small perched zones may exist in the fractured rock.

A final stormwater management plan was submitted that conforms with the requirements of BCRC, Section 12-2432.

Blasting was not applied for as part of this application and is prohibited. This is required Condition 5.

4. CONCLUSION:

The proposed use will not create a hazard or will not be dangerous to persons on or adjacent to the property.

CONDITIONS:

1. The use shall be in accordance with the approved site plan.
2. The Conditional Use Permit shall not supersede deed restrictions.
3. All county setbacks shall be met.
4. The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for a single extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing.

The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.

5. Blasting is prohibited.
6. The hours of operation for the shall be from 6:00 AM to 6:00 PM Monday through Saturday.
7. The applicant shall reclaim the site as required by the Idaho Department of Lands approved Reclamation Plan. This condition shall be completed to the satisfaction of the Idaho Department of Lands.
8. Prior to Conditional Use Permit issuance, the applicant shall install acceleration and deceleration lanes north of Linscott Road on U.S. Highway 95. This condition shall be completed to the satisfaction of ITD. A copy of ITD's final approval for completion of this improvement shall be submitted to the Planning Department.
9. Fuel storage or vehicle maintenance in the quarry is prohibited.
10. The applicant shall obtain a drilling permit from the Idaho Department of Water Resources prior to drilling the proposed well. A copy of the approved drilling permit shall be submitted to the Planning Department.
11. The applicant shall obtain a water right permit from the Idaho Department of Water Resources if water usage is greater than a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. A copy of the approved permit (if required) shall be submitted to the Planning Department.
12. Prior to Conditional Use Permit issuance, the applicant shall conduct an archaeological investigation of the subject ±45 acre site. Any sensitive areas shall be delineated and all resources removed or inventoried to the satisfaction of the Idaho State Historical Society. A copy of the approved archaeological report and clearance shall be submitted to the Planning Department.
13. The applicant shall install and maintain temporary sewage disposal facilities (chemical toilet) on the subject ±45 acre site.
14. Prior to Conditional Use Permit issuance, the applicant shall obtain air quality permits for the crushing and screening of aggregate. If the land owner changes contractors for processing said aggregate, new air quality permits shall be

obtained. A copy of the approved permit shall be submitted to the Planning Department. This condition shall be done to the satisfaction of the Division of Environmental Quality.

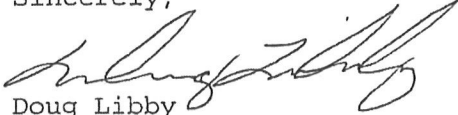
15. Prior to Conditional Use Permit issuance, the applicant shall submit a fugitive dust emissions plan to the Division of Environmental Quality for approval. This plan shall cover the entire site and show how dust emissions will be mitigated. A copy of the DEQ approved plan shall be submitted to the Planning Department. This condition shall be done to the satisfaction of the Division of Environmental Quality.
16. This project shall not exceed a maximum noise level of 70 Db. to be measured at the property line of the deed parcel (Instrument number 289624) as required by BCRC 12-1810 (c). The applicant shall provide at the Planning Department's request verification that this condition is adhered to. Berms or other noise abatement devices shall be use to comply with this condition.
17. Prior to Conditional Use Permit issuance, the applicant shall demonstrate that the required 40-foot separation between the proposed bottom of the quarry and groundwater is accomplished. This shall be accomplished by providing one on site well log within the area to be quarried confirming the required separation is met. This condition shall be completed to the satisfaction of the Planning Department.
18. The applicant shall install and maintain all stormwater management and erosion control measures as designed, including: Plastic covering may be used for short term erosion control which should only be used for immediate protection of bare soil for a duration not exceeding 3 weeks. Straw may be used if applied at a uniform depth of 2 inches or wood fiber used at an application of 1-1.5 ton/acre. Filter fabric fences should be used for small areas which have low volume of non-concentrated runoff. Filter fences will be utilized down gradient of the site prior to removing vegetation from the site and beginning quarry operations. Straw bales may also be used in place of silt fences. Permanent erosion control should be used on this project for all stockpile areas which will remain in place over 1 year and on all reclaimed areas. Permanent cover shall utilize temporary measures as discussed above. Seeding with native grasses as required in the reclamation plan is required for soil stockpiles. The project engineer shall provide to the Planning Department, a signed statement stating that these measures have been installed as per the designed specifications.

19. The applicant shall provide to the Planning Department a statement from a professional engineer, once per year, stating that the approved stormwater management system is functioning as designed.

Bonner County Revised Code, Section 12-451, provides an opportunity for affected persons to appeal Planning and Zoning Commission decisions to the Board of County Commissioners for the Board's consideration no more than 30 days after the final decision of the Planning and Zoning Commission. Any such appeal must be submitted in accordance with the referenced code section no later than 5:00p.m., Monday June 3, 1996. An appeal must be accompanied by a \$95.00 filing fee payable to the Bonner County Planning Department plus the actual cost of mailing notice and legal advertisement.

Please contact this department if you have any questions.

Sincerely,



Doug Libby
Assistant Planner

C: Jim Coleman, Project Representative
Dana Wetzel, Applicant's attorney



County to reconsider Sagle asphalt plant

FEBRUARY 15, 2019

By Lyndsie Kiebert

Reader Staff

Bonner County Commissioners voted unanimously Tuesday to hold a reconsideration hearing regarding the asphalt batch plant slated for the Linscott gravel pit in Sagle.

The reconsideration comes at the recommendation of the Bonner County Planning Department. Planning Director Milton Ollerton said his department reviewed 11 "alleged deficiencies" with the BOCC's Jan. 11 decision to approve a conditional use permit for the batch plant for use by Interstate Concrete & Asphalt. Planners recommend commissioners conduct a public hearing to discuss just one of the alleged deficiencies: "non-conforming land use."

This comes after Sagle citizens near the gravel pit raised concerns about possible non-compliance with a previous conditional use permit the Linscotts applied for in 1995.



Ollerton said Wednesday that his department first heard about the 1995 permit the morning of the Jan. 11 hearing, and based on a "quick read" thought it had been approved and issued. Upon further review following that hearing, the department discovered that the 1995 permit was never officially issued because the applicant did not meet certain conditions.

Ollerton said the permit of concern is not related to the proposed batch plant and played no role in the decision to approve Interstate's application.

"We just want the opportunity to clarify the role that that conditional use permit plays in (the asphalt plant) application, which is none," he said.

The hearing is scheduled for Friday, March 22, at 9 a.m. in the first floor meeting room of the Bonner County Administration Building.

EXHIBIT B

KEY DOCUMENTS IN 2015 DENIAL OF ASPHALT PLANT

**BONNER COUNTY PLANNING DEPT PLANNING AND ZONING COMMISSION
PUBLIC HEARING MINUTES (1-15-15)**

BONNER COUNTING COMMISSIONERS PUBLIC HEARING MINUTES (2-18-15)

**BONNER COUNTY PLANNING DEPT AM135-14 & ZC353-14 COMPREHENSIVE
PLAN AMENDMENT AND ZONE CHANGE REQUESTS (2-20-15)**

**BONNER COUNTY PLANNING DEPT DECISION LETTER AM135-14 & ZC353-14
COMPREHENSIVE PLAN AMENDMENT AND ZONE CHANGE REQUESTS (2-27-15)**

MINUTE ORDER

BONNER COUNTY PLANNING and ZONING COMMISSION PUBLIC HEARING MINUTES JANUARY 15, 2015

CALL TO ORDER: Chair Daar called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Roger Daar; Vice Chair Steve Temple; Margaret W. Hall; Brian Bailey; Mitch Martin; and Mark Dochnahl

ABSENT: Commissioner Greg Snow

ALSO PRESENT: Planning Director Clare Marley, AICP; Senior Planner II Dan Carlson, AICP; Associate Planner Saegen Neiman; Planning Technician KayLeigh Miller; and Administrative Secretary Tina Smith

PUBLIC HEARING:

COMPREHENSIVE MAP AMENDMENT AND ZONE CHANGE

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File AM135-14 – Comprehensive Plan Map Amendment & File ZC353-14 – Zone Change – Rural 5 to Industrial – Frank Linscott is requesting a comprehensive plan land use map amendment from Rural Residential to Transition and a conditional zone change from Rural 5 to Industrial for about 8 acres of land associated with the existing surface mine known as Linscott's Gravel Pit, for the purpose of maintaining a permanent asphalt batch plant. The project is located on Pit Road, west of U.S. Highway 95 and south of Sandpoint, in Section 10, Township 56 North, Range 2 West, B.M.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bailey disclosed that his business purchases materials from Interstate Concrete and Asphalt and noted it would not affect his decision. There were no other disclosures or conflicts.

Following a brief off-record discussion between Planning Director Marley and Senior Planner II Dan Carlson, Ms. Marley recommended that Commissioner Bailey not participate in this hearing. Commissioner Bailey recused himself.

STAFF PRESENTATION: Senior Planner II Dan Carlson, AICP, presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. The PowerPoint presentation has been submitted to the file. Mr. Carlson explained the difference between the comprehensive plan amendment and a zone change. He noted that no public comments had been received prior to the preparation of the staff report. However, several had been received after, and he provided an overview of the comments. He also discussed conditions.

APPLICANT PRESENTATION: Project Representative Lisa Ailport, AICP, of Ruen-Yeager & Associates, introduced General Manager Paul Franz of Interstate, Environmental Engineer Jana McDonald and Operations Manager Scott Rusho of Interstate Construction. Ms. Ailport provided an overview of the project and commented on past special use permits issued since 2001, the development agreement and compatibility with the goals and objectives of the comprehensive plan.

She discussed and submitted Exhibit A – June 15, 2005 staff report, special use permit.

Ms. Ailport explained the reasons the applicant requires overnight hours for flexibility and that the new plant has newer technology.

Paul Franz discussed truck traffic, cost effectiveness, details of the plant location buffering, and plant recycling. He also discussed dust, ground water, and the uniqueness of the Linscott plant. He noted there were no violations filed with the Department of Environmental Quality.

Jana McDonald discussed density and being a good neighbor. She displayed and discussed photographs of different plants in Washington.

Scott Rusho testified that Interstate is a resource-based company and provide employment in the community.

Ms. Ailport addressed inquiries regarding the expiration of the previous conditional use permit.

Mr. Franz addressed Commission inquiries regarding the facilities that are being relocated to the Linscott plant and odors. He noted the new dryer removes the odors. He discussed chemicals used at the plant and confirmed the plant is being moved for economic reasons. He also confirmed the amount of water to be transported to the site. Mr. Franz also addressed the expansion and said that the Department of Environmental Quality would not allow two plants on one site.

PUBLIC/AGENCY TESTIMONY:

K. C. Klosterman wanted to provide clarification regarding a Commission inquiry, however the Chair advised that any clarifications would need to be done by the presentation team.

The following members of the public spoke in opposition of this project and commented on intensity of use, property values, increase rock crushing, rural integrity, urban like services, access, easements, environment, sewage disposal, comprehensive plan goals & objectives, property rights, tax revenues, rural character, land capability, agency comments bond requirement, risk aquifer of public burden, hours of operation, noise, contaminants odor, health issues, traffic, complaints, natural gas, risks, leaching asphalt, aquifer pollution, and water flow.

Rich Faletto	Wheeler Summerhill	Sandra Smith
Paul Norstog	Jim Corcoran	Corene Jones
Jerry Hastriter	Larry Smith	Mark Redd
Jim Haynes, Chairman of Southside Water		

Betty Faletto allocated her time to another member of the public.

The following members of the public signed up but did not comment on this project:

Tamara Rusho	Jeff Meyer	Joe Campbell
Burt May	Scott Hanson	Ben Garrison
Larry Mozel	Lanny Beck	W. F. Hoffman
Donald Farley	Bob Staats	Brad Allard
John Shogren	Carol Hastriter	

APPLICANT REBUTTAL: Following public testimony, Ms. Ailport addressed rural integrity, availability of urban-like facilities, access to site, aquifer, design component, hours of operation, traffic, hot oil spills, property values, ground leaching, technical advances and co-existence.

Mr. Franz addressed the following secondary containments on concrete pads, leakage, hours of operation, employment, amount of product that goes to the county, and traffic. In response to Commission inquiries, Mr. Franz addressed the likelihood of conducting operations at night and also noted that Interstate would be agreeable to walls on tanks for containment.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed findings and conclusions.

ADDITIONAL STAFF INPUT: Mr. Carlson confirmed the application does state the type of plant to be used.

FILE AM135-14

MOTION: Commissioner Dochnahl moved to recommend approval to the County Commissioners this project FILE AM135-14 to change the comprehensive plan designation for the subject property from Rural Residential to Transition, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Dochnahl further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner Martin seconded the motion.

VOTED upon and the Chair declared the motion carried 3-1 with the following vote recorded: Commissioners Martin, Hall and Dochnahl voted yes and Commissioner Temple voted no.

Comprehensive Plan Findings of Fact

1. Surrounding properties range from approximately one acre to 139 acres.
2. The subject property is in the Sagle Valley Water and Sewer District. Water would be hauled in, and sewage disposal would be via on-site portable toilets for this use.
3. Access to the site is provided by U.S Highway 95. The site contains Pit Road, an existing, privately maintained roadway with a ±22-foot wide hard surface.
4. The subject property is generally flat.
5. Surrounding uses include residential, mining, commercial, and a Southside Water and Sewer District sewage disposal facility.
6. The subject property is located within the Sagle Fire District.
7. Idaho Department of Fish and Game commented that no additional impacts to fish or wildlife are anticipated from the comprehensive plan or zone change requests.

Comprehensive Plan Amendment Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposed comprehensive plan map amendment **is** in accord with the Bonner County Comprehensive Plan.

- | | |
|---------------------------------------|-----------------------|
| •Property Rights | •Population |
| •School Facilities and Transportation | •Economic Development |
| •Land Use | •Natural Resources |
| •Hazardous Areas | •Public Services |
| •Transportation | •Recreation |
| •Special Areas or Sites | •Housing |
| •Community Design | •Implementation |

File: ZC353-14

MOTION TO APPROVE: Commissioner Hall moved to recommend approval to the County Commissioners this project FILE ZC353-14 to change the zoning designation for the subject property from Rural 5 to Industrial, with conditions, for the purpose of maintaining a permanent asphalt batch plant, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Hall further moved to adopt the following findings of fact and conclusions of law as written with the addition of Conditions 9, 10 & 11. This action does not result in a taking of private property. Commissioner Martin seconded the motion.

Director Marley read proposed Conditions 9, 10 & 11 into the record.

VOTED upon and the Chair declared the motion carried 3-1 with the following vote recorded: Commissioners Martin, Hall and Dochnahl voted yes and Commissioner Temple voted no.

Zone Change Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposed zone change **is** in accord with the Bonner County comprehensive plan.

Property Rights	•Population	•School Facilities, Transportation
•Economic Development	•Land Use	•Natural Resources
•Hazardous Areas	•Public Services	•Transportation
•Recreation	•Special Areas or Sites	•Housing
•Community Design	•Implementation	

Conclusion 2

This proposal was reviewed for compliance with the zone change criteria and standards set forth at Sections 12-212, 12-215, and 12-216, Bonner County Revised Code.

Conclusion 3

The proposal **is** in accord with the purpose of the intended zoning district, provided at Chapter 3, Bonner County Revised Code.

Conditions of Approval:

- A. Prior to the recording of the ordinance authorizing the rezoning of the subject property from Rural 5 to Industrial, the applicant shall submit a notarized developer's agreement for recording simultaneously with the ordinance. The agreement shall be noted on the supplemental zoning map for the affected sections and shall be provided to Bonner County Planning Department for review prior to recording. The agreement shall include the following:
1. The rezone to Industrial is specifically for an asphalt batch plant and associated accessory uses.
 2. The applicant/landowner shall obtain a State of Idaho Air Quality Permit from Idaho Department of Environmental Quality. Operation of the plant shall maintain compliance with Idaho Department of Environmental Quality air quality requirements.
 3. The applicant shall control fugitive dust at the site and on the access road associated with batch plant traffic to the satisfaction of the Idaho Department of Environmental Quality.
 4. Provisions for management of odors, such as the odor mitigation measures submitted with File #CS962-13. These odor mitigation measures shall be provided to the satisfaction of Idaho Department of Environmental Quality

5. The applicant shall provide chemical toilets on-site during the entire operation of the batch plant to the satisfaction of the Panhandle Health District.
6. The applicant shall dispose of all solid waste generated by this project at an attended facility, consistent with Bonner County's commercial solid waste requirements.
7. Hours of operation shall be limited to 6:00 a.m. to 6:00 p.m., Monday through Friday. The plant shall not be operated on Christmas, New Years Day, Memorial Day, Independence Day, Labor Day or Thanksgiving holidays.
8. The agreement shall specify that future landowners, operators or successors in interest of the property are subject to the developer's agreement. The commitment may be modified only through the approval of Bonner County through a modification application and public hearing. The agreement can be terminated and the zoning designation reversed upon the failure of the landowner/operator to abide by the terms of the agreement, following notice to the landowner/operator by certified mail of the violations and after a reasonable time, as determined by the governing board, has been given to abate the violation. No such reversal of zoning may occur without appropriate notice and public hearing as set forth in Idaho Code and Bonner County Revised Code for zoning district amendments and proof beyond a reasonable doubt that a violation remains after attempts to abate have been exhausted. If the Board reverses the zoning designation after hearing, as aforementioned, and the decision is not appealed through procedures set forth in Idaho Code within 28 days, the decision shall become final.
9. The landowner/applicant shall design, implement and maintain a stormwater management plan to direct stormwater run-off away from the plant.
10. All lighting shall meet the lighting standards of BCRC 12-453(F).
11. The plant production shall be limited to a maximum of 250 tons per year, and shall employ the drum mix plant system proposed in the application or better.

MINUTE ORDER

**BONNER COUNTY COMMISSIONERS
PUBLIC HEARING MINUTES
FEBRUARY 18, 2015**

CALL TO ORDER: Chair Kelly called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Cary Kelly Chair; Glen Bailey, Vice Chair; and Todd Sudick

ABSENT: None

ALSO PRESENT: Clare Marley, AICP, Planning Director; Dan Carlson, AICP, Senior Planner II; Jeannie Welter, Planning Secretary; and, Valerie Fenton, Deputy Prosecuting Attorney

PUBLIC HEARING:

COMPREHENSIVE PLAN AMENDMENT AND ZONE CHANGE

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File AM135-14 – Comprehensive Plan Map Amendment & File ZC353-14 – Zone Change – Rural 5 to Industrial – Frank Linscott is requesting a comprehensive plan land use map amendment from Rural Residential to Transition and a conditional zone change from Rural 5 to Industrial for about 8 acres of land associated with the existing surface mine known as Linscott's Gravel Pit, for the purpose of maintaining a permanent asphalt batch plant. The project is located on Pit Road, west of U.S. Highway 95 and south of Sandpoint, in Section 10, Township 56 North, Range 2 West, B.M. The Planning and Zoning Commission at its regularly scheduled public hearing of January 15, 2015, recommended approval of this request to the Board of County Commissioners.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bailey disclosed he received a voicemail message from an individual in January, 2015 stating that he was against a Planning and Zoning issue. Commissioner Bailey contacted Director Marley and she informed him that it was a pending issue with the Planning and Zoning Commission. Commissioner Bailey said he did not contact the individual. The Chair noted that there were no other disclosures or conflicts.

STAFF PRESENTATION: Senior Planner Dan Carlson presented a Powerpoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

Commissioner Kelly asked what happens to the conditional industrial zone in the event the property is sold. Director Marley clarified the zone change and conditions would stay with the land and new owner of the land. She noted the development agreement would specify that successors in interest would also be bound by the development agreement. She stated if new owners wanted to do something other than what was approved in the conditions they would be back before the Board again.

Commissioner Bailey inquired about the length of previous special use permits obtained to operate the batch plant in the past. Director Marley stated they normally ran from summer to late fall.

APPLICANT PRESENTATION: Project Representative Lisa Ailport, AICP, of Ruen-Yeager & Associates, presented a summary of the project and noted the Planning and Zoning Commission found that this project did meet the Comprehensive Plan and zoning district and recommended the project for approval.

Ms. Ailport, AICP, submitted Exhibit C – Operation Hours 2013

Construction Manager Scott Rusho of Interstate, discussed Exhibit C, and submitted Exhibit D – Operation Hours 2014

Mr. Rusho testified that they would be moving the current Sandpoint asphalt plant to the same location as the gravel pit. He stated Interstate operates as a good neighbor and provides good jobs in the community.

General Manager Paul Franz of Interstate, discussed cost effectiveness of moving the plant, new modern technology, ground water, and dust issues and paved roads around the site. He stated that it is a low noise plant and there would be no issues complying with the county noise ordinance. He explained that the big portable plants are for the bigger highway paving projects and this plant would serve normal smaller scale projects.

Jana McDonald, Environmental Engineer, discussed density and being a good neighbor. She displayed and discussed photographs of different plants in Washington.

PUBLIC/AGENCY TESTIMONY: The following members of the public spoke on the record in opposition to the project noting issues regarding health, noise, property value, traffic and compliance with comprehensive plan and zoning standards:

Rich Faletto, 259 Meadow Lane; Dwayne Parsons, 631 Rocky Point Road; Jim Corcoran, 451 Sherwoods Road; Corene Jones, 96 Loch Mira Heights; Paul Norstog, 1535 Spades Road; Sandra Smith, no address given; Larry Smith, 253 Meadow

and conclusions of law as amended. This action does not result in a taking of private property. Commissioner Sudick seconded the motion.

VOTED upon and the Chair declared the motion to deny carried 2-1 with the following vote recorded.

ROLL CALL VOTE:

Commissioner Kelly: AYE
Commissioner Bailey: NAY
Commissioner Sudick: AYE

Background:

A. Site data: The subject property is a ±8.19-acre portion of a ±139-acre parcel that is the site of an existing grandfathered gravel quarry.

B. Access: Access to the site is provided by U.S Highway 95. The site contains Pit Road, an existing, privately maintained roadway with a ±22-foot wide hard surface. This road has an approved encroachment permit from Idaho Transportation Department for access onto the highway.

C. Environmental factors: The batch plant would be located within the confines of an existing permitted gravel quarry. The site does not contain any water courses, mapped floodplain, or critical wildlife habitat areas. The ±139-acre site does contain mapped wetlands per the U.S. Fish & Wildlife Service National Wetland Inventory maps, but they are located outside of the proposed batch plant area.

D. Services: Water would be hauled in for consumption or dust abatement. Sewage disposal would be provided by on-site portable toilets. The subject property is located within the Sagle Fire District.

E. Comprehensive Plan Goals, Objectives, and Policies:

In order to approve the comprehensive plan amendment and zone change request, the county must find that the requests are consistent with the comprehensive plan. The following goals, objectives, and policies relate specifically to the requests:

PROPERTY RIGHTS GOALS:

The issue of property rights is a “two-way street” and the property rights of the applicant, adjoining landowners and future generations shall be considered, as well as the short-term consequences of decisions.

Bonner County seeks to protect property rights by complying with state law relevant to any county land use action.

PROPERTY RIGHTS OBJECTIVES & POLICIES:

Impacts to other properties shall be taken into account when considering land use proposals, policies and codes.

Private property shall not be taken for public uses without just compensation or due process of law. Impacts to other properties shall be taken into account when considering land use proposals, policies and codes.

Bonner County shall consider the attorney general's checklist, proscribed at Idaho Code §67-8003 and provided in the "Property Rights" component of the county's comprehensive plan, for all land use decisions.

For all land use applications, specific findings shall be adopted and conclusions reached reflecting that the governing body's decision has not resulted in a taking.

Decisions shall reflect the justifications for exactions, conditions and restrictions and shall confirm that a taking of private property has not occurred.

ECONOMIC DEVELOPMENT GOAL:

Bonner County shall encourage economic diversity for the financial health of the community and maintenance of its rural atmosphere.

ECONOMIC DEVELOPMENT OBJECTIVES:

Bonner County shall provide areas for the growth of businesses, professional and technical services without adversely impacting the integrity of residential neighborhoods.

Future commercial and industrial developments shall provide adequate public/private services and access to suitable transportation systems.

Commercial and industrial areas shall be located in defined areas which encourage clustered development and discourage sprawl and strip development.

Bonner County shall consider the impact of commercial and industrial development on natural resources

ECONOMIC DEVELOPMENT POLICIES:

Low-impact and light industrial uses should be encouraged to provide a stable economic base while avoiding environmental impacts.

Historic natural-resource based industries such as mining, timber production, woodworking plants and agri-business are recognized as viable components of Bonner County's economic health and shall be retained and encouraged to develop.

The design and location of future commercial and industrial development shall not impede the flow of traffic on the state and county highway systems. Frontage roads shall be developed whenever possible to ensure free-flowing traffic.

Bonner County supports the development of industrial, commercial and rural service areas in locations where services and transportation networks are readily available and it will work to develop business and industrial parks where land-use designations and services have been pre-planned.

NATURAL RESOURCES GOAL:

Bonner County places a high value on its natural resources and amenities and desires to protect these features that make the county unique place to live, work and play. The county recognizes that natural resources, such as pure water, clean air and diverse wildlife, are important to preserve and once lost, they may not be recovered. Bonner County will strive to manage its natural resources to attain the greatest long term public benefit.

NATURAL RESOURCES OBJECTIVES:

Bonner County values its productive agricultural lands and forests, its fisheries, wildlife and wetlands, and will provide measures to protect and maintain these natural features.

Productive farmland and timberland shall be identified and protected from adverse effects of adjoining developments.

TRANSPORTATION GOAL:

Bonner County intends to provide a transportation system that is safe, uncongested, and well maintained.

TRANSPORTATION OBJECTIVE:

Future development shall not adversely impact the existing transportation system by reducing the quality or level of service or creating hazards or congestion.

COMMUNITY DESIGN GOAL:

Bonner County's goal is to maintain a variety of lifestyles and a rural character in the future development of Bonner County.

COMMUNITY DESIGN OBJECTIVES:

Bonner County intends for new development to locate in areas with similar densities and compatible uses.

Bonner County intends for new development to minimize the adverse impacts on adjacent areas.

Bonner County intends to consider the protection of natural resources and the rural features and surrounding uses of the community in the design and location of new development.

F. Standards review

Section 12-216 of BCRC specifies that "Staff and the governing bodies shall review the particular facts and circumstances of each proposal submitted and shall determine whether there is adequate evidence that the proposal is in accordance with the general and specific objectives of the comprehensive plan." Idaho Code stipulates that zoning districts "shall be in accordance with the policies set forth in the adopted comprehensive plan." (I.C., §67-6511)

Comprehensive Plan Amendment

The Bonner County Proposed Land Use Matrix of the Bonner County Comprehensive Plan (See attached Exhibit "A") contains the criteria used to establish land use designations. The Transition designation criteria includes density ranging from one unit per zero to 2.5 acres, urban services, hard surfaced roads (major/minor collector-frontage road, U.S. highway, principal arterial), slopes of zero to 10%, and uses that include commercial, industrial, and mixed.

Surrounding properties range from approximately one acre to 135 acres. The subject property is in the Sagle Valley Water and Sewer District. Water would be hauled in, and sewage disposal would be via on-site portable toilets for this use. Access to the site is provided by U.S Highway 95. The site contains Pit Road, an existing, privately maintained roadway with a ±22-foot wide hard surface. The subject property is generally flat. Surrounding uses include residential, mining, commercial, and a Southside Water and Sewer District sewage disposal facility. The subject property is located within the Sagle Fire District.

Zone Change

According to BCRC 12-326, use of the Industrial zone is appropriate in areas designated by the comprehensive plan as Transition which are served at the time of development by adequate sewage disposal services, water supply, roads, and other public facilities and services. Creation of new industrial districts may be considered only if the expansion will not negatively impact the safety and function of a state highway or other roadway.

The subject property is in the Sagle Valley Water and Sewer District. Water would be hauled in, and sewage disposal would be via on-site portable toilets for this use. Access to the site is provided by U.S Highway 95. The site contains Pit Road, an existing, privately maintained roadway with a ±22-foot wide hard surface. Idaho Transportation Department had no comment on proposed comprehensive plan amendment and zone change requests. The subject property is located within the Sagle Fire District.

According to BCRC 12-326(C), the planning commission and board of county commissioners may add specific conditions to require compatibility with surrounding uses and to assure compliance with the intent of the industrial district, this title, and the health and safety of the public. To assure conditions are met, the county shall require the execution of a written commitment concerning the use or development of the subject parcel. This commitment shall be recorded in the office of the county recorder and noted on the supplemental zoning map. The commitment shall take effect on the adoption of the amendment to the zoning map.

The commitment shall be binding on the owner of the parcel, each subsequent owner, and each person acquiring an interest in the parcel. A commitment may be modified following the procedures for modification provided within this title and the approval of the board. The commitment may be terminated and the zoning designation reversed on the failure of the landowner/operator to abide by the terms of the agreement, following notice to the landowner/operator by certified mail of the violations and after a reasonable time, as determined by the governing board, has been given to abate the violation. No such reversal of zoning may occur without appropriate notice and public hearing as set forth in Idaho Code and the Bonner County Revised Code for zoning district amendments and proof beyond a reasonable doubt that a violation remains after attempts to abate have been exhausted. If the board reverses the zoning designation after a hearing, the board decision shall be final and further recourse shall be to the courts as provided by law.

Staff has included recommended conditions of approval below. The applicant is requesting the following condition regarding hours of operation:

Hours of operation shall be limited to 5:00 a.m. to 7:00 p.m., Monday through Saturday. Operation for night time paving work is allowed when project contract requires paving after 7:00 p.m. The applicant and/or contractor will notify the county in writing seven (7) days in advance of operations that will occur between the overnight hours of 7:00 p.m. and 5:00 a.m. The plant shall not be operated on Christmas, New Years Day, Memorial Day, Independence Day, Labor Day or Thanksgiving holidays.

Staff and the Planning and Zoning Commission are recommending the following condition in order to mitigate impacts and promote compatibility with surrounding residential use:

Hours of operation shall be limited to 6:00 a.m. to 6:00 p.m., Monday through Friday. The plant shall not be operated on Christmas, New Years Day, Memorial Day, Independence Day, Labor Day or Thanksgiving holidays.

G. Land Capability Report Lisa M. Ailport, Planner, AICP, Ruen-Yeager and Associates, Inc., submitted a land capability report to the record in accordance with BCRC 12-215(C). The report analyzed the subject property for impacts associated with floods, sewage, drainage, erosion, sedimentation, and geological or surface slippage, and concluded that the site is suitable for the proposed use.

H. Agency Review

The application was routed to agencies for comment on November 3, 2014:

Panhandle Health District
Bonner County Public Works
Sagle Fire District
Avista Power Company
Department of Fish and Game
Department of Environmental Quality
Department of Transportation
Department of Lands (Sandpoint)

The following agencies commented:

Sagle Fire District, memorandum received November 5, 2014: Sagle Fire District had no comment initially on the comprehensive plan amendment and zone change requests. See February 3, 2015 comments below.

Panhandle Health District, memorandum received November 5, 2014: Panhandle Health District had no comment on the comprehensive plan amendment and zone change requests.

Idaho Department of Lands, memorandum received November 6, 2014: Idaho Department of Lands had no comment on the comprehensive plan amendment and zone change requests.

Idaho Department of Environmental Quality, email received November 12, 2014: Idaho Department of Environmental Quality commented that measures to ensure that dust abatement meets best management practices should be considered; that a State of Idaho Air Quality Permit is required prior to installation of asphalt batch plants; and that additional measures to control odorous emissions from the plant should be considered. Staff Note: The applicants previously submitted a plan for odor mitigation measures as a part of special use permit File #CS962-13. (See Condition A)

Idaho Department of Fish and Game, email received November 12, 2014: Idaho Department of Fish and Game commented that no additional impacts to fish or wildlife are anticipated from the comprehensive plan or zone change requests.

Bonner County Public Works, email received November 18, 2014: Bonner County Public Works had no comment on the comprehensive plan amendment and zone change requests, because Pit Road is a private road with access via Highway 95.

Idaho Transportation Department, email received January 2, 2015: Idaho Transportation Department had no comment on the comprehensive plan amendment and zone change requests.

Sagle Fire District, letter received February 3, 2015: The fire district provided general comments regarding fire apparatus access, fire suppression, and handling of hazardous chemicals. The letter states that these comments were made without knowing the specifics of the proposed site.

I. Public Notice & Comments

Several written comments have been received, and testimony was provided at the Planning & Zoning Commission public hearing. These comments raised concerns related to impacts to property values, setting a precedent for future zone changes, hours of operation, impacts to rural residential character, dust, noise, odors, increased truck traffic, lack of urban services, stormwater management, and impacts to the aquifer. All of the written comments are attached for the Board of Commissioners' review. Mitigation measures for these issues have been included in the recommended conditions of approval.

Comprehensive Plan Findings of Fact

1. Surrounding properties range from approximately one acre to 139 acres.
2. The subject property is in the Sagle Valley Water and Sewer District. Water would be hauled in, and sewage disposal would be via on-site portable toilets for this use.
3. Access to the site is provided by U.S Highway 95. The site contains Pit Road, an existing, privately maintained roadway with a ±22-foot wide hard surface.
4. The subject property is generally flat.
5. Surrounding uses include residential, mining, commercial, and a Southside Water and Sewer District sewage disposal facility.
6. The subject property is located within the Sagle Fire District.
7. Idaho Department of Fish and Game commented that no additional impacts to fish or wildlife are anticipated from the comprehensive plan or zone change requests.

Comprehensive Plan Amendment Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposed comprehensive plan map amendment **is not** in accord with the Bonner County Comprehensive Plan, specifically Public Services, Transportation and others listed in the report.