



COUNTY OF YELLOWSTONE ZONING COMMISSION

AGENDA-Monday, January 14, 2019

4:00 PM

**LOCATION: Community Room, Billings Public Library
510 North Broadway, Billings, Montana**

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

Call the meeting to order.

Introduction of the Yellowstone County Zoning Commission Members and Planning Department Staff.

Public Comment

Motion. Approval of Minutes: December 10, 2018

Disclosure of any Conflict of Interest-Members of the Commission and Staff

**Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff
a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.**

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. **ITEM 1: County Special Review 330 – 3760 Wise Lane-** A special review request to operate a gravel extraction open cut mine in an Agriculture Open-Space (A-1) zone on a fraction in the NE ¼ and on a fraction of Lots 1 & 2 in Section 34, Township 1 South, Range 25 East, generally located at 3760 Wise Lane, a 59.21 acre parcel of land. Additional area will be included in the open cut mine area but is not within the Zoning Jurisdiction of Yellowstone County. Presented by Nicole Cromwell, Zoning Coordinator

Other Business/Announcements

- a. Motion. Election of 2019 YC Zoning Commission Officers. County Zoning Commission.

Adjournment

Following the public hearing, the County Zoning Commission will make a recommendation to the Yellowstone County Commissioners.

The **Board of County Commissioners** public hearing for **the request** will be held **on Tuesday, January 29, 2019, at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioner’s Hearing Room.** The Board of County Commissioners will hear all persons wishing to speak relative to the proposed **special review**. Information on the preceding item may be obtained at the Yellowstone County Planning Department, 2825 3rd Avenue North, 4th Floor or phone 657-8246. Anyone wishing to be heard on this matter may appear at this hearing. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Tammy Deines, Planning Clerk, at 247-8610 or e-mail at deinest@ci.billings.mt.us

County Zoning Commission

Meeting Date: 01/14/2019

Information

Subject

Motion. Approval of Minutes: December 10, 2018

Attachments

YZC_2018_12_10_DRAFT



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, December 10, 2018

The County Zoning Commission met on Monday, December 10, 2018 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, MT at 4:00 p.m. Following the public hearing, the County Zoning Commission will make a recommendation to the Yellowstone County Commissioners.

The Board of County Commissioners public hearing for Zone Change #691, will be held on **Wednesday, January 2, 2019, at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioner’s Hearing Room.** The Board of County Commissioners will hear all persons wishing to speak relative to the proposed zone change.

The Board of County Commissioners public hearing for Special Review #330 will be held on **Wednesday, December 26, 2019, at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioner’s Hearing Room.** The Board of County Commissioners will hear all persons wishing to speak relative to the proposed special review.

Chairman Wittman opened the meeting and introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; Tammy Deines, Planning Clerk

Commissioners and Staff		01/08/2018	02/12/2018	03/12/2018	04/09/2018	05/14/2018	06/11/2018	07/09/2018	08/13/2018	09/10/2018	10/08/2018	11/12/2018	12/10/2018
Jerry T. Ray	Commissioner	-	-	1	1	-	-	-	1	-	-	-	1
Troy Boucher	Commissioner Vice Chairman	-	-	1	1	-	-	-	1	-	-	-	1
Ryan Wittman	Commissioner Chairman		-	1	E	-	-	-	1	-	-	-	1
Tyler Bush	Commissioner	-	-	1	1	-	-	-	1	-	-	-	1
Todd Hewett	Commissioner					-	-	-	1	-	-	-	1

Attending: See attached attendance sheets.

Public Comment

Chairman Wittman asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated any member of the public can be heard on any subject is not on the agenda; the Yellowstone County Zoning Commission will not take any action on these items at this time, but could choose to add an item to the next meeting agenda for discussion. There was none.

Disclosure of Conflict of Interest: YC Zone Change #691: There was none.



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, December 10, 2018

Disclosure of ExParte Communication: YC Special Review #330: There was none. The Commissioners reported no ExParte Communications.

Communications: County Special Review #330 12/02/18 Letter, Rindo Sironi, MD. President, Billings OBGYN Associates; Email, 11/30/2018 E-mail Marilyn Owen; 11/28/2018 E-mail, Julie Prociv; 12/07/2018 E-mail, MGC Consultants-Mark Carlstrom

Motion. Approval of Minutes: August 13, 2018

Commissioner Boucher made a motion and it was seconded by Commissioner Bush to approve the August 13, 2018 meeting minutes as submitted. The motion carried with a unanimous voice vote.

Item #1: REQUEST The legal notice for County Zone Change #691 into the record.

County Zone Change 691 – 3333 N Frontage Road - A zone change from Agriculture Open-Space (A-1) to Controlled Industrial (CI) on the easterly 9.16 acres of C/S 1734, Parcel 1, generally located at 3333 N Frontage Road. A pre-application neighborhood meeting was held on October 22, 2018, at the applicant's office at 316 N 33rd St in Billings, MT. Tax ID: D06413

RECOMMENDATION

Planning staff is recommending the Zoning Commission recommend approval of Zone Change #689 and adoption of the 11 criteria for this zone change.

Discussion

Chairman Wittman called for questions from the Board. Per Commissioner Ray's request, the applicant clarified and said this parcel is part of the Lockwood TEDD district.

Public Hearing Chairman Wittman opened the public hearing and asked for those in opposition or in favor of this application.

Terry Sieffert, PO Box 31181, Billings, Montana

Mr. Sieffert stated this parcel consists of 40.1 acres. He said they wish to have the zoning for this parcel be the same as the rest of the tract. The parcel has electric and gas services but no water is available. Mr. Sieffert stated this parcel will be sold in the future. Caterpillar Clothing and Apex Steel are interested parties.

Mr. Chairman Wittman asked if there is anyone else wishing to speak in favor or against YC Zone Change #691. There were none. Chairman Wittman closed the public hearing at 4:29 p.m. and called for a motion.



**Yellowstone County Zoning Commission
Minutes for the Meeting of
Monday, December 10, 2018**

Motion

Commissioner Boucher made a motion and it was seconded by Commissioner Bush to forward a recommendation of approval of Zone Change #691 and adoption of the 11 criteria for this zone change.

Name	Favor	Against	Abstain	Absent
Chairman Wittman	X			
Commissioner Boucher	X			
Commissioner Ray	X			
Commissioner Bush	X			
Commissioner Hewett	X			

The motion passes 5-0.

Item #2: REQUEST The legal notice for County Zone Change #690 into the record. **County Special Review 330 – 3760 Wise Lane - County Special Review 330 – 3760 Wise Lane** - A special review request to operate a gravel extraction open cut mine in an Agriculture Open-Space (A-1) zone on a fraction in the NE ¼ and on a fraction of Lots 1 & 2 in Section 34, Township 1 South, Range 25 East, generally located at 3760 Wise Lane, a 59.21-acre parcel of land. Additional area will be included in the open cut mine area but is not within the Zoning Jurisdiction of Yellowstone County. Tax ID: D01161. Following the public hearing, the County Zoning Commission will make a recommendation to the Yellowstone County Commissioners.

RECOMMENDATION

Planning staff is recommending the Zoning Commission accept the applicant's request for a 30-day delay.

Zoning Coordinator Nicole Cromwell announced receipt of an e-mail from Ed Walker, First Mark Construction requesting the County Zoning Commission postpone today's hearing to allow the applicant to work towards resolving the neighbors' concerns. If this request is approved, this hearing will be legally advertised and held on January 14, 2019, 4:00 PM. A neighborhood meeting is scheduled for December 13, 2018, 7 PM at Oscar's Park. The public hearing requires the Board to remain as a Board and all communications must come through Planning Staff. Those citizens who are unable to attend are encouraged to submit comments in writing to the Planning Division.

Motion

Commissioner Bush made a motion and it was seconded by Commissioner Hewett to accept the request for a 30-day delay for the hearing for Yellowstone County Special Review #330-3760 Wise Lane until the next legally advertised YC Zoning Commission meeting on



**Yellowstone County Zoning Commission
Minutes for the Meeting of
Monday, December 10, 2018**

January 14, 2019. (A neighborhood meeting will be held on Thursday, 6:00 PM at the Oscar's Dreamland wedding facility).

Name	Favor	Against	Abstain	Absent
Chairman Wittman	X			
Commissioner Boucher	X			
Commissioner Ray	X			
Commissioner Bush	X			
Commissioner Hewett	X			

The Motion carries, 5-0. The 30-day delay for County Special Review #330 is granted.

Adjournment: The meeting adjourned at 4:25 PM.

Draft. To be approved by a motion at the next scheduled meeting.



**City-County Planning Division
Monday, December 10, 2018
Yellowstone County Zoning Commission**

<i>Printed Name</i>	<i>Address/email</i>
DAVE WISZ	2601 Wise Lane
Teresa Bidleman	3030 Wise Lane
Veronika Evenson	8333 Story Road
Levi Klamert	2810 S. 72nd St. W.
Vicki Davis	3614 Mallard Dr 59101 - redriord9@gmail.com
Wes STANZ	8628 LAUCON LN 59101
CARLOS ARCE	9314 RUDIO ROAD 59101
BEV LEE	9305 RUDIO Rd 59101
TROY TAYLOR	11 1/2 N 19th 59101
Sissel Goldberg	8907 Susanna Dr., Billings, MT 59101
Scott Gierke	6655 Shepherd Rd. E. Shepherd 59070
Diane Slind	9239 Rudio Rd 59101
Brian Nickel	4014 Hester Road Billings MT 59106
Scott Prociw + Julie Prociw	2936 Wise Lane, 59101
Rindo + Amy Sironi	2930 Wise Ln. 59101
Steve + Marilyn Owen	2924 Wise Ln. 59101

Planning and Community Services Department

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City-County Planning Division
Monday, December 10, 2018
Yellowstone County Zoning Commission

Printed Name	Address/email
Robert A. Wise	2650 Dawson Ln. Billings 59101
DAN Hickey	3224 WISE LANE Billings 59101
JIM COLLINS	60250 IRONWOOD 59101
KEVIN KATZENBERGER	8622 OXFORD RD E
HAL OLSON	8710 DORFORD AVE.
ROBERT GOLUBSKI	3540 DUCK CREEK RD 59101
Frank Dolubski	2510 Duck Creek rd 59101
Elzabeta Bellman	8641 Story Rd 59101
Kayla Jones	8639 1/2 Story Rd 59101
Colleen Cantrell	3534 Duck ^{Creek} Rd 59101
Jim Rahr	2105 Broadbrook Ct. Billings 59102
Ray Halsey	1365 Blue Grass Dr. Bls MT
Heather J David	8603 Bighorn Rd 59101
Dawn Carlswood	4313 Duck Ck. R. 59101



**City-County Planning Division
 Monday, December 10, 2018
 Yellowstone County Zoning Commission**

<i>Printed Name</i>	<i>Address</i>
Betty Glantz	2209 Elm St, Billings, MT 59101
Bew McNurlin	8935 Susanna 59101
Barb Smith	9246 Rudio 59101
Rodrick Himmelspach	8943 KATZMAN RD 59101
Brock Lohman	43 Shown Owl Trail brock@bridgserve.com
Gary P. Smith	6725 Cutthroat Dr. Billings 59106



City-County Planning Division
Monday, December 10, 2018
Yellowstone County Zoning Commission

Printed Name	Address
TERRY JOFFERT	PO BOX 31181 BILLINGS MT 59103
G. Scollars	3306 DUCK CREEK RD. Billings
KATHY SCOLLARD	3306 DUCK CREEK RD. Billings
Ken Frazier	3185 Wise Lane, Billings
JOSEPH STEFEL	3849 MALLARD DR BILGS
EVA STEFER	3849 MALLARD DR. Billings
Kevin Koerber	3239 Brenda Street Billings, 59101
JOHN MALL	9233 RUDIO ROAD BILLINGS 59101
Shirley Wagner	2544 Danford Ave
Kirsten Ears	8610 Danford Ave 59101
Virginia ONELL	2921 Rantzman Rd 59101
Ron & Nadine Steel	4365 Duck Creek Rd 59101
Betty Christensen	3215 Wise Lane
Scott Prociw	2936 WISE LANE

Planning and Community Services Department



County Zoning Commission

Meeting Date: 01/14/2019

SUBJECT: Special Review 330 - 3760 Wise Lane - Gravel Mine

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

ITEM 1: County Special Review 330 – 3760 Wise Lane - A special review request to operate a gravel extraction open cut mine in an Agriculture Open-Space (A-1) zone on a fraction in the NE ¼ and on a fraction of Lots 1 & 2 in Section 34, Township 1 South, Range 25 East, generally located at 3760 Wise Lane, a 59.21 acre parcel of land. Additional area will be included in the open cut mine area but is not within the Zoning Jurisdiction of Yellowstone County. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

Planning staff recommends conditional approval and adoption of the findings of the 3 review criteria for Special Review 330.

APPLICATION DATA

OWNER: Limm Family, LLC

AGENT: MGL Consultants, Mark Carlstrom & First Mark Construction (fka CMG Construction)

LEGAL DESCRIPTION: on a fraction in the NE ¼ and on a fraction of Lots 1 & 2 in Section 34, Township 1 South, Range 25 East

ADDRESS: 3760 Wise Lane

CURRENT ZONING: A-1 and un-zoned

EXISTING LAND USE: Warehouse, Irrigated agricultural land, and grazing land

PROPOSED USE: Gravel mine - warehouse will remain

SIZE OF PARCEL: 59.21 acres - total mined area of 116.8 acres

CONCURRENT APPLICATIONS

Application to Montana Department of Environmental Quality (DEQ) for an Open Cut Mine.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Limm Family Wise Lane & Story Road	SR 253	July 9, 1999	Commercial Recreation	Yes	conditions
SURROUNDING PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
7980 S Frontage	SR 236	Jan 16, 1997	Manufacture Log Homes	yes	
5200 Neibauer Rd	SR 249	July 28, 1998	Gravel Mine	yes	conditions
7200 Jellison Rd	SR 171 SR 176	Nov 13, 1987 Aug 12, 1988	Skeet Shooting and Archery Range	Denied Denied	
3530 Coulson Rd	SR 325	Aug 12, 2012	Gravel Mine	Yes	conditions

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: A-1 Land Use: Agricultural Land
SOUTH:	Zoning: A-1 and un-zoned Land Use: Agricultural land
EAST:	Zoning: A-1 Land Use: Agricultural land
WEST:	Zoning: Un-zoned Land Use: Commercial Recreation (dirt race track)

BACKGROUND

This is a special review request to open and operate a gravel mine generally located at 3760 Wise Lane, at the intersection of Wise Lane and Story Road. The gravel mine will consist of 4 areas to be mined but will not include the active agricultural operations or the flood plain riparian areas along the Yellowstone River. Only Area A as shown on the submitted site plan is within Yellowstone County's jurisdictional zoning area. All of the surrounding zoned areas are designated for agricultural uses (A-1). The County zoning regulations allow gravel extraction in all agricultural and residential zone districts by special review approval.

Special Review applications are reviewed using County zoning code criteria referenced in this report. Special Reviews do not require a resolution for approval, are not zone changes on property; rather, are tied to specific uses that are allowed in a given zoning district but are subject to a review by the County prior to the use being allowed. Special Reviews, unlike zone changes, may be conditioned to mitigate possible impacts from the use on the subject property or surrounding properties.

This area of West Billings was identified in the 2001 West Billings Plan as an area with rich gravel resources. There have been few gravel mines south of the interstate and west of Billings. Many have been located north of the interstate. In each case, it is the intent of a special review application to consider and place conditions on these applications to minimize any adverse impacts to surrounding property and county assets. This location is over 1 mile from an arterial street - South Frontage Road. Wise Lane and Story Road are designated as principal arterial streets, but neither is built to even a minimum arterial street standard. Both are two-lane older county paved sections with no shoulders and open drainage ditches. The lane width on Wise Lane and Story Road is approximately 9 to 10 feet resulting in an 18 to 20 foot wide road section. It is likely any gravel hauling trucks will need to take more than 1-lane to travel to and from the gravel operation. The gravel operation will not include an asphalt plant or concrete batching plant. The proposed gravel operation includes visual and sound attenuation barriers along the east, north and west property lines of the entire 116.8 acre site. The mine site will not encroach on the riparian area along the Yellowstone River to the south.

Traffic counts on Wise Lane measure between 800 and 1,000 vehicle trips per day. No traffic counts have been collected from Story Road. The intersection of Wise Lane and South Frontage Road does have a higher than normal crash rate due to the lack of lighting, the geometry of the intersection and the higher speeds of traffic on South Frontage Road. South Frontage Road is posted at 55 mph.

The Planning staff reviewed the application and is recommending conditional approval based on the proposed findings of the 3 review criteria. Potential impacts to Story Road and Wise Lane as well as residents in the area are proposed to be mitigated by conditions of approval. Many of the proposed conditions apply to other gravel mine operations in Yellowstone County for the same reasons.

Special review uses must meet three primary criteria; 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria in so far that it is within a zoning district where gravel mining can be allowed by special review approval. The application also conforms to the second and third criteria. The zoning regulations adopted by the Board of County Commissioners have designated all zoning districts as locations where gravel mines may be allowed by special review approval. The 2008 Growth Policy encourages new development

that is compatible and similar in form and use. The existing gravel mine is compatible with most uses in the area and other surrounding uses if conditions are imposed to mitigate impacts. Conditions of approval can ensure the mitigation of any potential negative effects on surrounding property.

PROPOSED CONDITIONS

1. The approval shall be limited to a fraction in the NE $\frac{1}{4}$ and on a fraction of Lots 1 & 2 in Section 34, Township 1 South, Range 25 East, generally located at 3760 Wise Lane, a 59.21 acre parcel of land. Property included in the mine area but outside the zoning jurisdiction is not subject to these conditions of approval.
2. This special review approval is for establishment and operation of a gravel mine on the subject property. No other special review use is intended or implied by this approval.
3. The development of the gravel mine shall be in substantial conformance with the submitted site plan. Minor adjustments to the location of haul roads or phasing of active gravel mining within the 59.21 acre site are allowed.
4. Dust suppression shall be employed on all exposed rock, gravel, sand or topsoil.
5. A traffic impact analysis shall be submitted to and approved by County Public Works. The applicant will consult with County Public Works on the scope of the analysis. Any mitigation recommended by such analysis shall be implemented as required by County Public Works.
6. Internal haul roads shall be graveled with dust suppression or paved.
7. The site shall be reclaimed according to the plan submitted to MT DEQ.
8. A weed control plan shall be submitted and approved by Yellowstone County Weed Control.
9. Any mining activity within 500 feet of a residence shall be limited to the hours of 7:00 am and 8:00 pm.
10. The operator of the mine shall appoint an individual to act as a contact person and complaints about failure to comply with these conditions shall be directed to that person in writing as a first step in resolving the problem. The name, address and phone number of the contact person will be provided to Yellowstone County Code Enforcement, County Public Works and the County Commissioners. Failure to respond to a complaint or to reasonably comply with the conditions of approval will allow the matter to be brought to the attention of County Code Enforcement. Failure to comply with a notice from County Code Enforcement may be resolved by filing a complaint with the County Attorney by the Code Enforcement Officer.
11. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
12. Failure to comply with these conditions of approval of the special review use shall be deemed a violation of the zoning regulations. Enforcement of the regulations and conditions shall be as set forth in Section 27-1601 et seq. of the Unified Zoning Regulations.

****NOTE**** Approval of this Special Review does not constitute approval of a building permit, zoning compliance permit, sign permit, or fence permit. Compliance with all applicable local codes will be reviewed at the zoning compliance permit level.

The County Zoning Commission **shall** make a recommendation to the Board of County Commissioners to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before recommending approval for a special review use, the Zoning Commission **shall find that the contemplated use:**

1. Complies with all requirements of the County zoning regulations;
2. Is consistent with the objectives and purposes of the County Zoning Regulations and the Growth Policy;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission **shall consider and may recommend imposing modifications or conditions** concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting;
8. Noise, vibration, air pollution and similar environmental influences.

The proposed use fits with the previous uses of the property and surrounding agricultural activities in the area. Residential uses may be impacted and conditions of approval are recommended to mitigate those impacts. The proposed land use complies with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy:

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns.

Approval of this special review is consistent with neighboring properties. Limitations on mining close to residences and the requirement for dust suppression will ensure the compatibility of the use. A Traffic Impact Analysis is recommended to accurately gauge the impact of the gravel operation on Story Road and Wise Lane, designated arterial streets. Compliance with the conditions of approval will ensure compatibility with the neighborhood.

- Goal: New developments that are sensitive to and compatible with the character of existing neighborhoods.

The existing gravel mine and its expansion is consistent with the surrounding developments and consistent with the zoning.

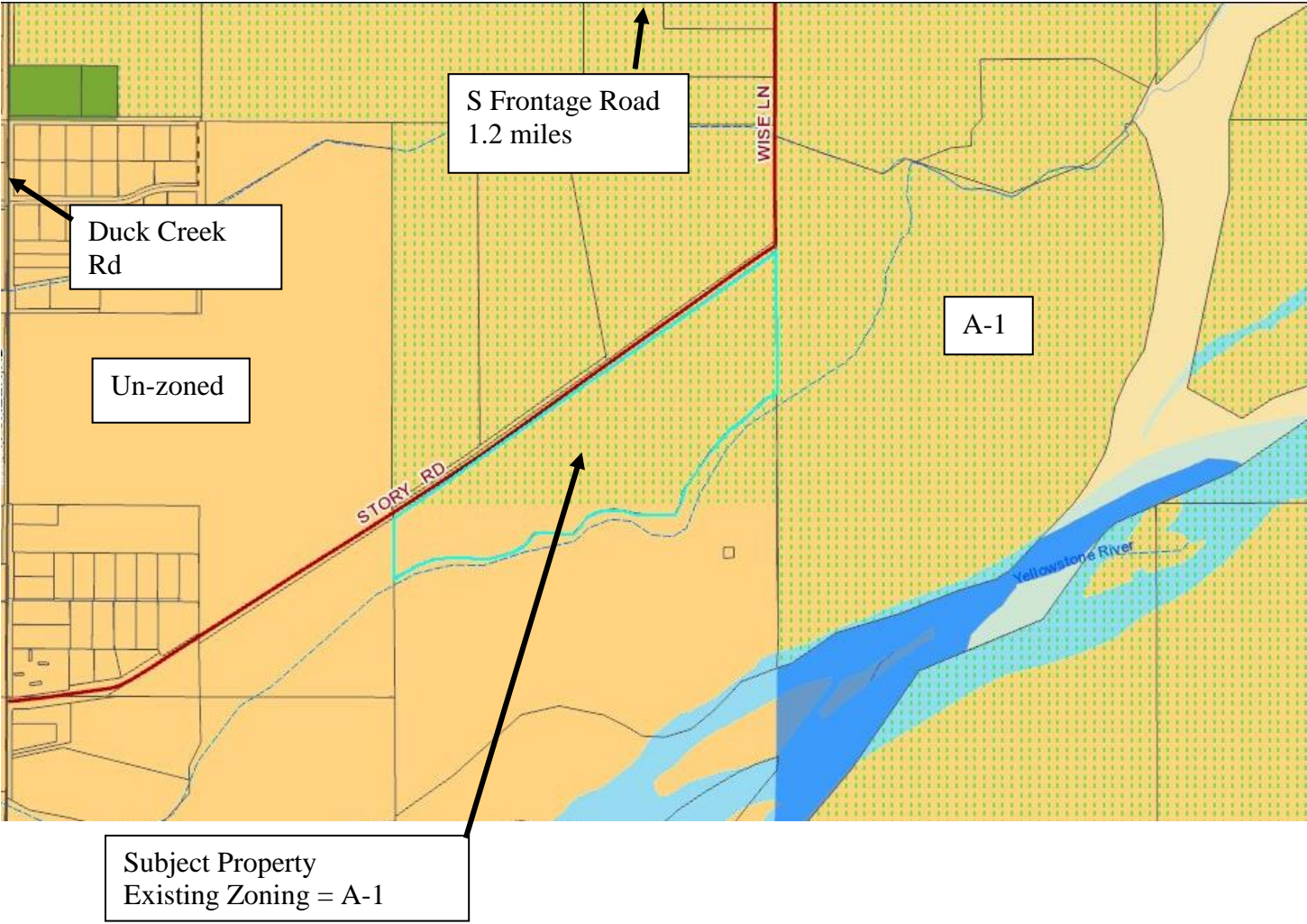
RECOMMENDATION

Staff recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 330.

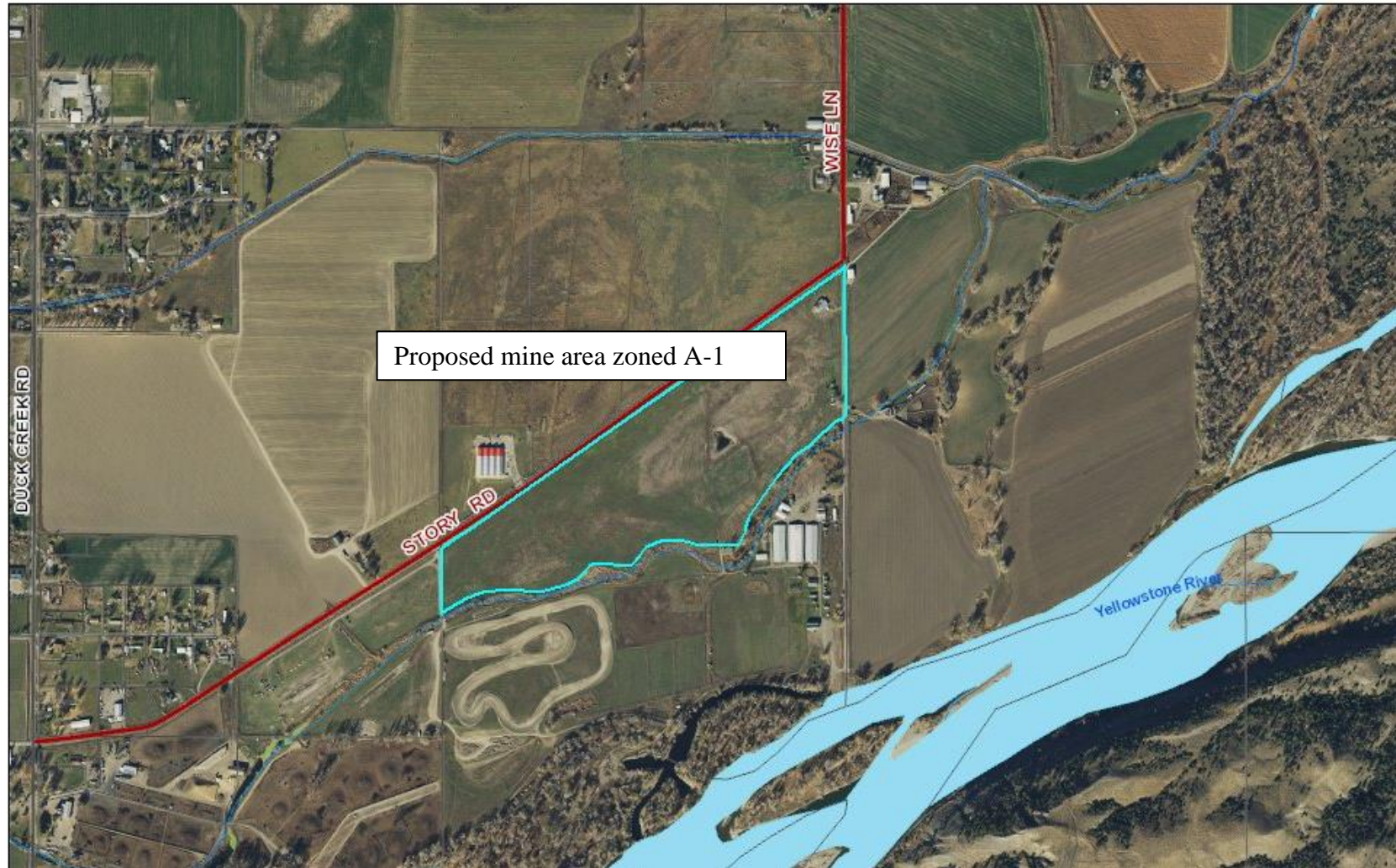
Attachments

Zoning Map and Site Photos
Application and Site Plan

Zoning Map and Site Photos – Special Review 330



Special Review 330 - Gravel Mine



Subject property from S 48th Street West – Greenhouse & Office building



View south west from Wise Lane & Story Rd intersection



View south along Wise Lane



View south east across Wise Lane



View north east across Wise Lane



Warehouse to remain (not part of gravel operation)



View north along Wise Lane from south of intersection with Story Road



APPLICATION FORM

COUNTY Special Review # 330 - Project # PZ-18-00169

The undersigned as owner(s) of the following described property hereby request a Special Review as outlined in the Yellowstone County Unified Zoning Regulations.

Present Zoning: Cultural Open

Special Review Requested: For gravel mine site.

TAX ID# D01161 COUNTY COMMISSIONER DISTRICT # 1

Legal Description of Property: ^① 534, T01S, R25E, C0S 1299 Parcel 1; ^② 534, T01S, R25E, Frac Hs 1 & 2 & Frac SE4 NE4 (less COS 3036 01); ^③ 534, T01S, R25E, Frac NE4 & Frac H 1

Address or General Location (If unknown, contact County Public Works): 2504 Rd.
on Story Road

1. Unknown, 2. 3750 Wise Lane, 3. 3760 Wise Lane.

Size of Parcel (Area & Dimensions): 1. 24.63, 2. 126.879, 3. 58.21 + 1.0 + 1.0

Present Land-Use: The proposed open cut mine permit area is about 116.8 acres. It does not include some property on west side Wise Ln.

Covenants or Deed Restrictions on Property: Yes No or the lower riparian areas by rivers.
If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Limpp Family LLC
(Recorded Owner)
2902 Arvin Rd Billings MT 59102-0564
(Address)
406-670-7399 oscarspark1901@yahoo.com
(Phone Number) (email)

Agent(s): MGL Consultants Ltd (doing mine permit application work)
(Name)
3139 Poly Drive Billings MT 59102
(Address)
406-794-2037 mglbiz10@hotmail.com
(Phone Number) (Email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Special Review. Also, I attest that all the information presented herein is factual and correct.

Signature: Marcella C Limpp Date: 10/8/18
(Recorded Owner)

Colors correspond

SPECIAL REVIEW APPLICATION

CMG JL LLC, Oscar's Site, Special Review 2018

CMG JL LLC (CMG) is proposing an approximate 116.8-acre gravel mine on Limpp Family LLC property in Section 34, T1S, R25E, along the south side of Story Road. CMG is required to submit a mine permit application to the Montana Department of Environmental Quality, Opencut Mining Section, that complies with the requirements of the Opencut Mining Act (Act) and Rules adopted thereunder. Several items comprise an opencut permit application, including evidence of compliance with Special Review and Joint Application For Floodplains requirements.

82-4-402, MCA, states, "Because the extraction and use of opencut materials is important to the economy of this state, it is the policy of this state to provide for reclamation and conservation of land subjected to opencut operations. Therefore, it is the purpose of the part:

- to preserve natural resources;
- to aid in the protection of wildlife and aquatic resources;
- to safeguard and reclaim through effective means and methods all agricultural, recreational, home, and industrial sites subjected to or that may be affected by opencut operations;
- to protect and perpetuate the taxable value of property through reclamation;
- to protect scenic, scientific, historic, or other unique areas; and
- to promote the health, safety, and general welfare of the people of Montana."

1A. In what ways is our proposal consistent with the goals and policies of the adopted Growth Policy?

The requirements of the Act, the Rules adopted thereunder, and operation and reclamation oversight by DEQ ensure that many of the goals and policies of the 2008 Growth Policy are met.

Land Use Element

Sand/gravel literally are the foundation of Billings, Laurel, and surrounding areas. These materials are used to make many products people use on a daily basis (see Economic Development below). However, existing mine sites are being depleted, and, as the population of Yellowstone County increases, more land overlying sand/gravel deposits is converted to residential, commercial, industrial, and other uses. Yet it is important to have sand/gravel sources within and near populated areas to keep the products made from them readily available and affordable for private and governmental projects.

The proposed site area is currently used as hayland, cropland, community garden, and for mud racing. CMG proposes to change the uses of the property to gravel mine and processing area, eventually reclaiming it to pond and dry ground created with excess soil and overburden. All areas will be seeded with appropriate mixes. The bonded 116.8-acre area will not be released by the Department of Environmental Quality until the site is reclaimed according to the plan approved by the Opencut Mining Section.

The accompanying Off-Site Impacts Considerations sheet lists methods to be used to minimize off-site impacts. CMG's management objectives and compliance with governmental regulations will result in clean

and acceptable industry along Story Road. The proposed operation, with its sight and sound barriers, dust control, hours of operation, and environmentally sound mining and reclamation plan will be compatible with the surrounding human and natural communities.

Economic Development

Sand/gravel are essential for economic development and living in Billings, Laurel, and the surrounding area. Materials and products made from them are used for:

Airports	Foundations
Backfill	Golf courses
Base material	Irrigation structures
Bedding	Landscaping
Block	Parking lots
Bridges	Patios and pools
Buildings	Pipe
Culverts	Roads and streets
Curb and gutter	Sanding material
Drainage and filter courses	Sidewalks and steps
Driveways and aprons	Walls and barriers
Floors	Other

Readily available sources of sand/gravel are decreasing due to being mined out or built upon. Sand/gravel are high volume, low value commodities that cannot be economically transported over long distances. To keep product costs lower for private citizens, businesses, governmental agencies, and other users, sand/gravel sources must be located near consumers. The proposed CMG site is located 8 miles from downtown Billings and 7.5 miles from downtown Laurel, with good access to the south side of the Yellowstone River, South Frontage Road, and Interstate 90.

The site will not only be a source of low-cost materials essential for area improvements, construction, and manufacturing, CMG will provide good-paying jobs and purchase products and services from area vendors.

Aesthetic Element

Residential, commercial, and industrial sites are normal components of vigorous communities. CMG's management objectives, environmental protections, and compliance with other governmental regulation will ensure that mining and processing at the Oscar's Site are compatible with the human and natural environments.

Because of the riparian tree and shrub forest along the Yellowstone River, and the distance of the permit area from the river, there will be no aesthetic impact on river users.

Natural Resources Element

CMG and regulatory agencies are committed to the protection of the human and natural environments. Aspects of this are discussed in other sections. The CMG site will be operated in a manner that protects air,

surface water, and groundwater resources. No riparian area will be disturbed. The site is not in designated sage grouse habitat.

CMG will submit a Joint Application For Proposed Work In Montana's Streams, Wetlands, Floodplains, And Other Water Bodies to the County Floodplain Office and US Army Corps of Engineers. Noxious weeds will be controlled as required by law. CMG will obtain any other permits required by law.

A detailed Plan of Operation and bond posted with DEQ guarantees that the site will be reclaimed to a natural, aesthetically pleasing, and productive condition.

Other

The operation will not restrict access to public land. CMG will comply with county regulations for road use. CMG hired a professional archaeological consultant to perform a Class III inventory of the proposed permit area. Two cultural resources were found: Oscar's Landing Strip, and Oscar's Ditch. Neither is eligible for the National Register of Historic Places. The Montana State Historic Preservation Office concurred with this determination. CMG hired HydroSolutions to do a hydrologic study of the area and information acquired will be incorporated into the mining and reclamation plan submitted to the DEQ Opencut Mining Section.

1B. Why is there a need for the intended use of property at this location?

Construction, repairs, and upgrading are constant activities in Billings, Laurel, and surrounding areas. Economical sources of sand/gravel are in high demand, as are products made from them, such as concrete and asphalt. When sand/gravel are readily available, it keeps the costs of products lower for all consumers.

Sand/gravel deposits are located on the Yellowstone River Valley floor and adjacent terraces. Some of this material is being mined, but much of it has been, is being, or will be made inaccessible due to resource depletion and residential, commercial, and industrial development. The Oscar's Site consists of 116.8 open acres with an approximate 12-foot thick sand/gravel deposit that can be easily mined and the products economically distributed to Billings, Laurel, and surrounding areas.

1C. How will the public interest be served if the application is approved?

As discussed 1B, sand/gravel is needed as product, and to make other products, essential for the use, maintenance, and growth of a vibrant community such as Billings, Laurel, and the surrounding area. See the list of uses for sand/gravel under 1A. Sand/gravel is essential to the function of modern communities. The CMG operation will provide good-paying jobs and tax revenue.

1D. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of property, and why a special review is being sought.

A special review is being sought because about 34.8 acres of the 116.8-acre proposed mine site is zoned Agricultural Open (Tax ID: D01161; GeoCode 03-0926-34-1-01-01-000). CMG would like to use the 34.8-acre area for sand/gravel processing, then mining. The remaining acreage within the propose mine permit area is not zoned.

The first step of an opencut operation is to strip the soil and overburden. At the Oscar's Site, this material is about 5 feet thick. The first 2 feet will be stripped as soil. Initial stripped soil will be used to build the 6-foot-high sight and sound berm. Soil not needed for the berm will be used for topdressing reclaimed areas. Excess soil, along with overburden, will be used as fill to create dry ground and pond slopes.

After soil and overburden removal from an area, CMG will excavate the sand/gravel, using conveyors to transport the material to the processing area, and process the sand/gravel via a grizzly and crusher. Some material may be sent through a wash plant to create clean materials for off-site uses including concrete production. The average sand/gravel thickness is about 12 feet, making the total amount of sand/gravel within the proposed permit area about 2,260,000 cubic yards.

As able during the life of the proposed 25-year permit, and when mining and processing draw to a close, CMG will reclaim the site per the plan approved by the DEQ Opencut Mining Section. The proposed plan includes a postmining land use of recreation and wildlife pond, vegetated +/- 4:1 shore slopes, and flat dryland created with excess soil and overburden fill. The resulting pond will be over 80 acres in size and 11-12 feet deep. All soil in the sight and sound berms will be used for reclamation. It is likely that fish will eventually inhabit the pond.

2 and 3. Site Plan.

See accompanying Special Review Site Map.

4. Photographs.

The air photo base for the Site Map gives a clear aerial view of the site and area.

5 and 6. Property Owners.

We followed steps 5 and 6 and obtained the accompanying Oscar's Site Certified Landowners list. Mailing labels are provided.

7. Filing Fee and Sign Deposit.

A check to cover the \$1,103 commercial fee and \$45.00 sign deposit made out to the City of Billings is provided.



AREAS

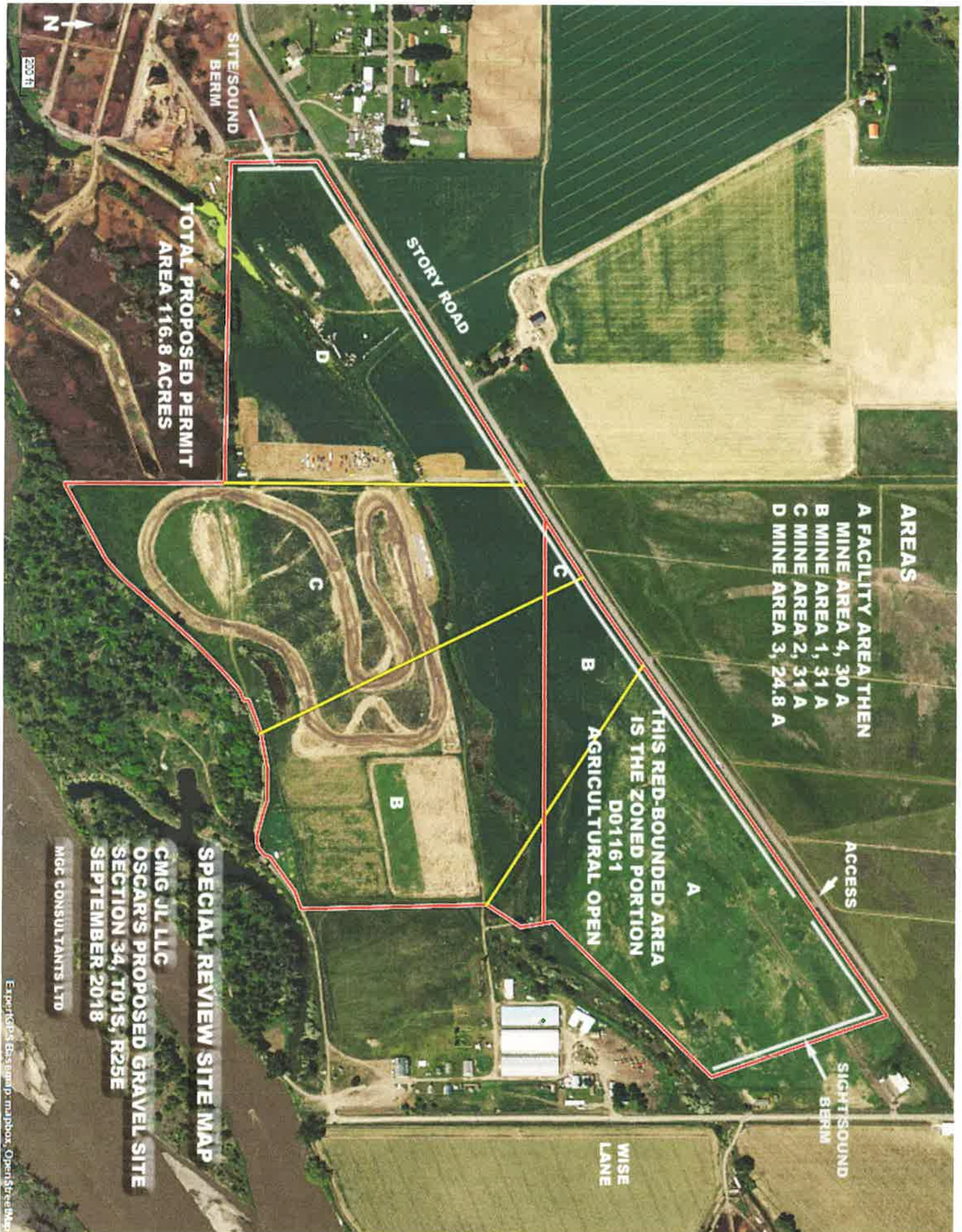
- A FACILITY AREA THEN MINE AREA 4, 30 A
- B MINE AREA 1, 31 A
- C MINE AREA 2, 31 A
- D MINE AREA 3, 24.8 A

THIS RED-BOUNDED AREA IS THE ZONED PORTION D01161 AGRICULTURAL OPEN

TOTAL PROPOSED PERMIT AREA 116.8 ACRES

SPECIAL REVIEW SITE MAP
CMG JL LLC
OSCAR'S PROPOSED GRAVEL SITE
SECTION 34, T01S, R25E
SEPTEMBER 2018

MGC CONSULTANTS LTD



AREAS

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