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## MEMORANDUM

TO: Archuleta County Planning Commission

FROM: Flora Goheen; Planning Technician & Brad Callender; Development Director

DATE: September 25, 2019; Revised October 7, 2019

RE: Lob Lolly Pit Renewal Major Sand & Gravel Permit on pt. S16 & S21 T33N R5W, at 12577 State Highway 151, Arboles (PLN19-413)

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### EXECUTIVE SUMMARY

Steve & Joyce Wright, Arboles Sand & Stone LLC, represented by Nathan Barton, PE, Wasteline, Inc., have applied for the **Lob Lolly Pit Renewal Major Sand & Gravel Permit**, to renew an existing permit approved in 2009, for two tracts: approx. 94 acres in S½NW¼ & pt. S½NE¼ Sec 21 T33N R5W west of HWY 151, and approx. 87 acres in SE¼SW¼ & pt. S½SE¼ S16 T33N R5W NMPM west of the Piedra River (PLN19-413). The property at 12577 & 12577C State Highway 151, Arboles, CO, is zoned Industrial (I) and Agricultural/Ranching (AR).

### REVIEW PROCEDURE

*Archuleta County Land Use Regulations* Section 9.1 Sand, Soil and Gravel Mining, provides that any resource extraction, processes and sales use is submit to review. Major Sand & Gravel Permits are required for any use not exempt or subject to a Minor Sand & Gravel Permit, as provided in Section 9.1.5, as a Conditional Use.

Public notice was published in the *Pagosa Springs Sun*, posted on site, and mailed to neighboring property owners as required by Section 2.2.3.

### DISCUSSION

In 2009, the Board of County Commissioners conditionally approved the Lob Lolly Gravel Pit major gravel operation, with 10 conditions. Among these was a set terms of 10-years (2019); renewal after 10 years may be granted after submitting an application for an amendment to the existing permit. The gravel pit includes two parcels: the southern tract fronts HWY 151 with approx. 94-acres on both sides of the Piedra River, and the northern tract with approx. 87 acres west of the river, with an approx. 98-acre tract owned by James Kane between the two.

The *Archuleta County Community Plan* of 2001, Future Land Use Map, designates this area for Very Low Density Residential development and Critical Wildlife Habitat. The southern tract is zoned Industrial (I), while all other private tracts in the vicinity are zoned Agricultural/Ranching (AR). Petrox's Tierra Piedra Ranch is located to the north, with oil & gas operations and a small private gravel pit. The Southern Ute Indian Tribe owns land to the west of the gravel pit, zoned Agricultural/Forestry (AF). This area in the county is within the Los Pinos Fire District.

This property is located in the Approximate Zone A floodplain for the Piedra River and a Floodplain Development Permit should have been required in 2009. Consultants for the Colorado Water Conservation Board (CWCB) have drafted updated base flood elevations based on a State project utilizing LiDAR elevations for the San Juan and La Plata river basins—this is not a regulatory map yet, but is the best available information for future floodplain development permits.

This application was referred to local utilities and referral agencies for review, as provided in Section 2.2.5. Those received prior to preparation of this staff report include:

- County Engineering had no objections.
- LPEA has an existing Overhead Primary Powerline crossing the northern tract. LPEA requests no excavation take place near the power line or power poles. If LPEA's existing power line is found to conflict with planned excavation or infrastructure changes LPEA should be contacted for a plan and pricing for re-location.
- CDOT provided a copy of Applicants' 2008 Access Permit, and has no concerns as long as no increasing in level of operations above that permit.

### **Sand & Gravel and Conditional Use Permit Review Standards**

A Conditional Use is a use allowed in a zoning district only when the Applicant can demonstrate how they will mitigate any potential impacts on the community. Performance Standards for all Sand & Gravel operations are outlined in Section 9.1.6, including (to paraphrase):

1. Compatibility of sand, soil, or gravel mining operations with surrounding uses.
2. Air Quality.
3. Visual Amenities and Scenic Quality.
4. Crushing, Processing, Batching and Hot Mix operations to meet additional criteria.

The Board of County Commissioners may approve a mining operation for a specific period of time, not to exceed 20 years, with a 5-year review. The compatibility and size of the project should be considered (Sec 9.1.6.4(7)).

The Planning Commission's review criteria for a Conditional Use in Section 3.2.3.4 include:

- (1)** The relationship and impact of the use on the development objectives of Archuleta County.
- (2)** The effect of the use on light and air, distribution of population, transportation facilities, utilities, schools, parks and recreation facilities, and other public facilities.

- (3) The effect of the use upon traffic, with particular reference to congestion, vehicular and pedestrian circulation, safety and convenience, traffic flow and control, access, maneuverability, and removal of snow from the roads, sidewalks and parking areas.
- (4) The effect of the use upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses.
- (5) The adequacy of the design features of the site to accommodate the proposed use, including but not limited to accessibility, service areas, parking, loading, landscaping and buffering, lighting, etc.
- (6) The effect of the use upon the natural resources and wildlife habitat areas.
- (7) Such other factors and criteria as the Planning Commission and the Board of County Commissioners deems applicable to the proposed use.

Finally, before acting on the application, the Planning Commission must make necessary findings under Section 3.2.3.5:

- (1) That the proposed location of the use, the proposed access to the site, and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- (2) That, if required by the proposed use, there are adequate and available utilities and public services to service the proposed use, without reduction in the adequacy of services to other existing uses. These utilities and public services may include, but are not necessarily limited to, sewage and waste disposal, water, electricity, law enforcement, and fire protection.
- (3) That the proposed use will be compatible with adjacent uses, including but not limited to site design and operating factors, such as the control of any adverse impacts including noise, dust, odor, vibration, exterior lighting, traffic generation, hours of operation, public safety, etc.

Applicant’s narrative address details of current operations and proposed future operations, and how they meet the above criteria.

#### RECOMMENDATION AND FINDINGS

Based on evidence provided, if the Applicants have met the goals and objectives of the Land Use Regulations, then **the Planning Commission would find that:**

- A. The application **DOES meet** Performance Standards for Sand & Gravel operations in Section 9.1.6 of the *Archuleta County Land Use Regulations*, and
- B. The application **DOES meet** the review criteria for a Conditional Use Permit in Section 3.2.3.4 of the *Archuleta County Land Use Regulations*, and
- C. The application **DOES meet** the required findings for a Conditional Use Permit in Section 3.2.3.5 of the *Archuleta County Land Use Regulations*, and

**That the Planning Commission recommend approval of the** Wright request for the Lob Lolly Pit Renewal Major Sand & Gravel Permit on pt. S16 & S21 T33N R5W, at 12577 State Highway 151, Arboles (PLN19-413), **with the following conditions:**

1. Applicant shall complete a Floodplain Development Permit.
2. Applicant shall update site maps to show existing LPEA Overhead power lines.
3. This permit shall sunset 10 years from the date of approval by the Board of County Commissioners, with the opportunity at that time to apply for renewal for an additional 10 years by amendment of this permit.
4. No heavy equipment or rock crushing operations shall be allowed from 7 PM to 7 AM, Monday through Saturday. No operations shall be allowed on Sunday.
5. Applicant shall notify adjoining property owners when CDOT contracts are awarded to the subject property and involve gravel pit operations. The applicant shall provide sufficient notice no less than 2 weeks in advance of any operations to the adjoining property owners.

#### PROPOSED MOTION

**I move to recommend approval of the** Lob Lolly Pit Renewal Major Sand & Gravel Permit, **with the Findings A, B and C, and conditions #1-5 of the Staff Report.**

#### ATTACHMENTS.

- Attachment 1: Area Maps
- Attachment 2: Review Comments
- Attachment 3: Applicant Narrative for Renewal
- Attachment 4: Current CO DRMS Reclamation Permit
- Attachment 5: Sand & Gravel Permit 2008-02SG