

STAFF REPORT
October 25, 2012

No. 12UR019 - Conditional Use Permit to Allow Temporary Quarry and Mining of Construction Aggregate and Rock to be Processed and Used in Construction as a Conditional Use within the General Agriculture District

ITEM 12

GENERAL INFORMATION:

APPLICANT	Panco LLC
AGENT	Andy Scull - Scull Construction Company, Inc.
PROPERTY OWNER	Duane Pankratz
REQUEST	No. 12UR019 - Conditional Use Permit to Allow Temporary Quarry and Mining of Construction Aggregate and Rock to be Processed and Used in Construction as a Conditional Use within the General Agriculture District
EXISTING LEGAL DESCRIPTION	The SE1/4SE1/4 less Lot H1, less Lot H2 and less Right-of-Way, the N1/2SE1/4 less Lot H1, less Lot H2 and Less Right-of-Way and the SW1/4SE1/4 all located in Section 33, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 154.05 acres
LOCATION	Northwest of the intersection of East Anamosa Street and Elk Vale Road
EXISTING ZONING	General Agricultural District
FUTURE LAND USE DESIGNATION	Residential
SURROUNDING ZONING	
North:	General Agricultural District
South:	Light Industrial District - General Agricultural District
East:	General Commercial District (Planned Commercial Development)
West:	General Agricultural District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	September 7, 2012
REVIEWED BY	Robert Laroco / Nicole Lecy

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RECOMMENDATION:

Staff recommends that the Conditional Use Permit to Allow Temporary Quarry and Mining of Construction Aggregate and Rock to be Processed and Used in Construction as a Conditional Use within the General Agriculture District be approved with the following stipulations:

1. This Conditional Use Permit is hereby issued to J. Scull Construction Company. Any change in ownership of the property or operation of the company shall require a Major Amendment to the Conditional Use Permit;
2. Prior to issuance of a grading permit, surety shall be posted for the reclamation of the site. A copy of the approved surety shall be submitted to the Department of Community Planning and Development Services;
3. Prior to issuance of a grading permit, a geotechnical report shall be submitted for review and approval;
4. Prior to issuance of an erosion and sediment control permit, the erosion and sediment control plan shall be revised to provide vehicle tracking control at the property entrance. A copy of the revised erosion and sediment control plan signed by the property owner and engineer shall be submitted for review and approval;
5. The air quality permit issued for operations on the site shall be renewed annually;
6. A building permit shall be obtained prior to any construction;
7. The quarrying use on the property shall operate in compliance with the approved operational plan and the requirements of the Rapid City Municipal Code;
8. The Conditional Use Permit shall be valid for a period of 36 months. Quarrying or mining operations continuing on the property for more than 36 months shall require a Major Amendment to the Conditional Use Permit. In no event shall operation of the quarry continue at the site for a period greater than 60 months, and;
9. This Conditional Use Permit shall allow for a temporary quarry and mining of construction aggregate and rock on property zoned General Agriculture District. All uses permitted in the General Agriculture District shall be permitted as a Minimal Amendment to the Conditional Use Permit. All conditional uses in the General Agriculture District shall require a Major Amendment to the Conditional Use Permit.

GENERAL COMMENTS: (Update October 25, 2012. All additional and/or revised text has been included in bold.) This item was continued from the October 4, 2012 Planning Commission meeting to allow City staff to advertise the application request. Notification to the Mayor and City Council has been made within the required time frame.

The applicant has submitted a request to allow a temporary quarry in a General Agriculture District for the mining of construction aggregate and rock to be processed and used in construction. Ordinance No. 5850, recently approved by City Council, permits quarries and mining as a conditional use in the General Agriculture District. The applicant has brought forth a Conditional Use Permit request to allow a temporary quarry to be located immediately west of Elk Vale Road, between Eglin Street and East Anamosa Street. The property is currently undeveloped.

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One of the conditions of approval for a temporary quarry in the General Agriculture District states that Community Planning and Development Services staff shall notify the Mayor and Common Council of the application at least 10 days before the Planning Commission meeting at which the application will be considered. The required notification to the Mayor and Council was not completed by City staff before the required 10 day time limit. As such, staff recommended the item be continued to the October 25, 2012 Planning Commission meeting to allow the required notification to be sent to the Mayor and City Council.

The required notification to the Mayor and City Council was completed on October 8, 2012. All notification requirements have been met.

STAFF REVIEW: **Staff** has reviewed the request to allow a temporary quarry in the General Agriculture District for the purpose of mining construction aggregate and have noted the following considerations:

Criteria for Review: A temporary quarry in the General Agriculture District is subject to the following criteria:

1. *The property and/or lot(s) is at least 40 acres:*

The property is comprised of approximately 49.8 acres of property located west of Elk Vale Road between Eglin Street and East Anamosa Street in the northeastern section of the City. Approximately 18.74 acres of the property will be disturbed by mining practices.

2. *Any application for a conditional use permit must include the following additional items:*
 - a. *Documentation that all necessary state and/or federal permits and licenses have been obtained, as applicable:*

The applicant has submitted a copy of the required mining license issued by the South Dakota Department of Environment and Natural Resources as a part of the application. In addition, an Air Quality Permit was issued for the site on September 18, 2012. No federal permits are required for the use at the proposed site. It appears all necessary state and/or federal permits and licenses have been obtained.

- b. *Site plan showing the area to be mined/quarried and including the location of temporary structures, parking, access, and utilities;*

The submitted site plan shows that approximately 18.74 acres of property will be disturbed in phases over a period of 3 to 5 years. The applicant should be aware that the maximum period of time for a conditional use permit issued for a temporary quarry or mine is 36 months. At that time, a Major Amendment to the Conditional Use Permit must be approved prior to any operations extending beyond the 36 month maximum time limit for operations.

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- c. *Written operation plan which identifies the type of material to be mined/quarried, the estimated quantity of material to be displaced, and the anticipated volume of truck traffic;*

The submitted operations plan states that the proposed quarry will be for the mining of “engineered fill”, used primarily for site stabilization in construction. Approximately 70,000 tons per year are expected to be quarried from the site, totaling between 210,000 tons over 3 years. The applicant has indicated that this equates to approximately 11 truckloads of fill hauled from the site per day. Staff recommends the quarrying use on the property operate in compliance with the approved operational plan and the Rapid City Municipal Code.

- d. *Master plan;*

The submitted Master plan states that the deposits at the quarry site will be mined for a period of three to five years and in three or four phases. An equipment shed and temporary scale are proposed as the only structures on the site. The site will be accessed from East Anamosa Street on the southern edge of the site, with a direct connection to Elk Vale Road. The location of the proposed quarry will allow aggregate to be quarried and distributed, primarily in eastern Rapid City, more efficiently than from other locations. The site will be fenced and primary operation will be buffered from Elk Vale Road to the east and to development to the west by the natural topography of the site.

- e. *Phasing Plan;*

The submitted phasing plan shows three phases proposed with a potential fourth phase in the future. The site is currently being used as a “borrow site” with approximately 30,000 tons of material stockpiled onsite from previous grading operations. This represents Phase 1 of operations. Phase 2 will commence after approval of this Conditional Use Permit request and will include the removal and stockpile of topsoil on the western portions of the site, and mining operations occurring from late 2012 throughout 2013. The Phase 2 site will be used for stockpiling materials during Phase 3 and will be reclaimed in the spring of 2015. Phase 3 is proposed to begin in 2013 and last throughout 2014. Reclamation of Phase 3 will occur in the spring of 2015, unless a future Phase 4 is added to the project. If a Phase 4 is approved for the project, Phase 3 will be utilized for stockpiling of material quarried in Phase 4. Based on the submitted phasing plan, a future Phase 4 will require a Major Amendment to the Conditional Use Permit in order to renew the permitted timeframe for use of the property at a quarry. The applicant should be aware that in no instance is a property permitted to be used as a mine for a period longer than 5 years.

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f. Haul road route plan;

The submitted haul route plan shows that the property is accessed from the southern portion of the property via East Anamosa Street. East Anamosa Street directly connects to Elk Vale Road/ S.D. Highway 79. Elk Vale Road is a principal arterial on the City Major Street Plan, with direct access to U.S. Interstate 90 to the north, S.D. Highway 44 to the south. In addition, Elk Vale Road provides access to S.D. Highway 79 to the south of the City, as well as U.S. Highway 16, Catron Boulevard, and Fifth Street. It appears that the property's proximity to the regional transportation network make it a suitable location for the higher intensity of traffic associated with the quarry use.

g. Reclamation plan, including a cost estimate, and a surety for reclamation of the site;

The submitted reclamation plan for the site shows that reclamation of each phase will occur as operations are completed on the ensuing phase. The site consists of approximately 49.8 acres of property, with approximately 18.74 acres of property to be disturbed through mining properties. A cost estimate for the reclamation of the site has been submitted to the Public Works Department for review. Public Works staff notes that the applicant has submitted a letter of intent from Liberty Mutual Insurance company indicating they will provide surety to Panco, LLC for the future reclamation, however, the surety has not been submitted at this time. Prior to issuance of a grading permit, surety must be posted for the reclamation of the site.

h. Stormwater management plan;

The submitted stormwater management plan has received review and approval by the South Dakota Department of Environment and Natural Resources. The applicant has noted that the full stormwater management plan submitted to the Department of Environment and Natural Resources will be submitted upon application of a grading permit. Public Works staff has reviewed the submitted materials and has noted that prior to commencing operations, a grading permit and an erosion and sediment control permit must be obtained. A geotechnical report must be submitted for review and approval prior to issuance of a grading permit. In addition, the erosion and sediment control plan must be revised to provide vehicle tracking control in order to prevent sediment transfer at the property entrance on Turbine Drive. The erosion and sediment control plan is currently unsigned. Prior to issuance of an erosion and sediment control permit, the property owner and engineer must sign the erosion and sediment control plan. A copy of the signed erosion and sediment control plan must be submitted for review and approval.

i. Air quality compliance plan;

The submitted application includes the application for an air quality permit. Staff has noted that an air quality permit was issued by the City of Rapid City on September

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18, 2012 for the location of the proposed quarry. The applicant should note that the air quality permit will require renewal on an annual basis. In addition, dust control measures for all disturbed land on the site are required until disturbed land is fully reclaimed. Air Quality staff also notes that if crushing material on-site is proposed as a future use on the site, notification to the South Dakota Department of Natural Resources is required at that time.

- 3. Upon receipt of an application for a conditional use permit under this section, Community Planning and Development Staff will notify the Mayor and Common Council of the application at least 10 business days before the Planning Commission meeting at which the application will be considered;*

The required notification to the Mayor and Council was sent on October 8, 2012. All notification requirements for this Conditional Use Permit request have been met.

- 4. Prior to initiation of the conditional use, the temporary quarry or mine must obtain all required city and county permits, licenses, and agreements, as well as any state and federal permits or licenses. Failure to obtain and possess a necessary permit or license may result in revocation of the conditional use permit.*

The applicant has submitted a copy of the mining license issued by the South Dakota Department of Environment and Natural Resources for the project. No federal permits are required. City permits, including a grading permit, erosion and sediment control permit, building permit for all structures, and a permit to work in the right-of-way must be obtained prior to initiation of any quarrying or mining activities on the site.

- 5. The temporary quarry or mining complies with all laws, ordinances and regulations related to permits, operation, and reclamation, including but not limited to SDCL Chapter 45-6, SDCL45-6B, and SDCL Chapter 45-6C.*

Based on the submitted application, it appears all requirements of South Dakota Codified Law are currently being met.

- 6. The maximum period of time for any conditional use permit issued to a temporary quarry or mining is 36 months. The permit holder may apply for a major amendment to the conditional use permit to extend the time the conditional use permitted, but under no circumstances may the conditional use permitted for more than five years, including the time spent on reclamation of the site;*

Submitted plans show that the first three phases for mining of the site will be completed by the end of 2014. As such, the first three phases of operations should be completed within the maximum 36 month timeframe. If a future phase 4 is proposed, a Major Amendment to the Conditional Use Permit will be required. Preliminary plans for a Phase 4 submitted with the application state that a final phase will be based upon resources available on the site and will be completed within the 5 year maximum timeframe for the temporary use.

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Summary: All state and federal licensing and permitting has been completed. Local licensing and permitting must be completed prior to commencing operations on the site. Plans submitted with this application include the reclamation of the site when the use on the property has been completed. **As of this writing, the notification requirement has been met. As such, staff recommends that the Conditional Use Permit to allow a temporary quarry to be located on property zoned General Agriculture District be approved with the stipulations outlined above.**

Notification Requirements: The required sign has been posted on the property. The green cards and white receipts which serve as proof of the required certified mailing **have been** returned to Community Planning and Development Services. As of this writing, there have been no inquiries into the proposed Conditional Use Permit.