


# GALLATIN COUNTY

## Staff Report

**TO:** Gallatin County Commission

**FROM:** Greg Sullivan, Gallatin County Planning Director 

**C:** Marty Lambert, County Attorney  
Earl Mathers, County Administrator

**DATE:** May 5, 2008

**SUBJECT:** Resolution of Adoption of the Belgrade Donut/Four Corners Area Interim Zoning District, Regulation and Map Regulating Operations that Mine Sand and Gravel and Operations that Mix Concrete or Batch Asphalt

Attached to this staff report are the final necessary documents for a hearing to be conducted on Wednesday, May 5, 2008 at 1:30 PM in the Community Room of the Gallatin County Courthouse. The hearing will be a final decision on a Resolution Adopting an Interim Zoning District, Regulation and Map regulating operations that mine sand and gravel and operations that mix concrete or batch asphalt. The documents attached to this staff report include:

1. A Resolution Adopting the Belgrade Donut/Four Corners Area Interim Zoning District, Regulation and Map;
2. An Interim Zoning Regulation;
3. An Interim Zoning Map;
4. Findings of Fact;
5. Conditional Use Permit Application (including required submittal information); and
6. Requirements for Traffic Impact Studies.
7. A letter from the Belgrade-City County Planning Board President Henry Parsons regarding your question whether to include the ability to prohibit gravel pits and related operations.

On March 26, 2008, you heard a request from citizens living along East Cameron Bridge Road to impose interim zoning for gravel pits and related operations. Testimony was given at the March 26, 2008 hearing by residents, concerned citizens, landowners and operators of gravel pits. At the conclusion of the hearing you directed staff to draft several options for an interim zoning map. On April 9, 2008, you made a decision to instruct staff to prepare a final resolution adopting interim zoning for the county portion of the Belgrade City-County jurisdiction as well as the area covered by the Four Corners Neighborhood Plan. In addition, you requested staff conduct a workshop with a targeted group of neighbors and operators. That facilitated discussion was held on April 16, 2008.

The Resolution Adopting an Interim Zoning District, Regulation and Map and the additional documents attached to this staff report resulted from the general and specific direction you have given staff and the comments received by the public.

**PLEASE READ ALL THE ATTACHED DOCUMENTS CAREFULLY.**

**Staff suggests the Commission take the following actions:**

1. Move on the Resolution Adopting an Interim Zoning District, Regulation and Map for Operations that Mine Sand and Gravel and Operations that Mix Concrete or Batch Asphalt;
2. Make findings (NOTE: the Resolution by its terms incorporates into the record for the May 7, 2008 decision testimony given at hearings held by you over the course of the past several months including 11/8/2007, 3/26/08, 4/9/08, and 4/16/08). In addition, attached to the Resolution of Adoption are Findings of Fact drafted by the County Attorney's Office. You may incorporate this document in its entirety into your findings, incorporate specific provisions, or modify as you see fit.
3. Discuss and specifically address public comment made at the hearing on May 7, 2008; and
4. If the Interim Zoning District, Regulation and Map are adopted, direct staff to advertise for volunteers to reside upon on a Board of Adjustment for Belgrade Donut/Four Corners Area Interim Zoning District and schedule a date for appointments.

Notice of this hearing and decision on boundaries was published on your regular agenda, published in *the Bozeman Daily Chronicle* on Sunday May 4, 2008 and published in the Belgrade News on Friday, May 2, 2008.

**RESOLUTION NO. 2008 -**

**RESOLUTION ADOPTING THE BELGRADE DONUT/FOUR CORNERS AREA  
INTERIM ZONING DISTRICT, REGULATION & MAP REGULATING  
OPERATIONS THAT MINE SAND AND GRAVEL AND OPERATIONS THAT  
MIX CONCRETE OR BATCH ASPHALT**

WHEREAS, this Resolution was introduced by the Gallatin County Planning Director Greg Sullivan, moved by Commissioner \_\_\_\_\_, and seconded by Commissioner \_\_\_\_\_. The Resolution was adopted \_\_\_\_\_ and is effective immediately.

WHEREAS, the mining of sand and gravel and the processing of sand and gravel materials into concrete or asphalt contributes significantly to the economic prosperity of the people of Gallatin County and is a critical resource in the physical development of the communities of Gallatin County; and

WHEREAS, the mining of sand and gravel and the processing of sand and gravel materials into concrete or asphalt has impacts on the health, safety, and general welfare of the people of Gallatin County; and

WHEREAS, reasonable regulation of operations that mine sand and gravel and operations that mix concrete or batch asphalt can mitigate these impacts to the health, safety and general welfare of the people of Gallatin County; and

WHEREAS, November 8, 2007, the Gallatin County Commission received a petition and upon notice heard testimony from citizens in the Gallatin Gateway neighborhood and the Highline Road neighborhood requesting interim zoning for operations that mine sand and gravel and operations that mix concrete or batch asphalt as well as testimony from representatives of entities that are involved in the mining, processing, and distribution of sand and gravel resources; and

WHEREAS, the testimony entered into the record during the November 8, 2007 hearing on interim zoning for Gallatin Gateway and Highline Road areas of Gallatin County centered on the following: impacts of these operations on state and local transportation facilities; the need to ensure operations do not negatively impact surface and ground water quantity and quality; the need to ensure these operations do not negatively impact property values and property rights of adjacent and neighboring landowners; and the significant economic contribution of sand and gravel pit operations to the prosperity of the people of Gallatin County; and

RESOLUTION ADOPTING THE BELGRADE DONUT/FOUR CORNERS AREA INTERIM ZONING DISTRICT,  
REGULATION & MAP REGULATING OPERATIONS THAT MINE SAND AND GRAVEL  
AND OPERATIONS THAT MIX CONCRETE OR BATCH ASPHALT

WHEREAS, all testimony, written and oral, presented during the November 8, 2007 hearing is entered into the record as part of the consideration and adoption of this Resolution; and

WHEREAS, at the conclusion of the November 8, 2007, hearing the Gallatin County Commission determined they had not heard sufficient testimony to make findings that exigent circumstances exist regarding these operations in the Gallatin Gateway and Highline Road areas and did not move forward with pursuit of an interim zoning regulation yet the Commission did instruct Gallatin County staff to draft "Good Neighbor Provisions" that could be used by landowners and operators who mine sand and gravel and conduct related operations to reduce conflicts between land uses; and

WHEREAS, the Gallatin County Planning Department drafted said "Good Neighbor Provisions" and made them available to the public via the Department's website on February 15, 2008; and

WHEREAS, on February 25, 2008, upon receipt of a petition and after notice, hearing and consideration of testimony from citizens living along East Cameron Bridge Road, the Belgrade City-County Planning Board voted 4 - 2 to recommend the Gallatin County Commission adopt interim zoning for the county portion of the Belgrade jurisdictional planning area (i.e. Belgrade planning "donut") and place a moratorium on new operations that mine sand and gravel and related facilities for a period of one year; and

WHEREAS, on March 26, 2008, the Gallatin County Commission, after notice, hearing and consideration of testimony from citizens, requested the Gallatin County Attorney and Gallatin County Planning Department assist the Belgrade City-County Planning Department to draft findings regarding exigent circumstances related to public health, safety and the general welfare and to draft regulations and boundaries for an interim zoning regulation that would regulate operations that mine sand and gravel and operations that mix concrete or batch asphalt for a period of one year using a conditional use permit process; and

WHEREAS, the testimony and all submitted documents presented by citizens during the March 26, 2008 hearing are entered into the record as part of the consideration and adoption of this Resolution; and

WHEREAS, on April 9, 2008, the Gallatin County Commission, after notice, hearing and consideration of testimony from citizens, voted 2 - 1 to direct staff to draft boundaries of the proposed district that include the planning jurisdiction for the Belgrade City-County Planning Board and the area covered by the adopted Four Corners Neighborhood Plan; and

WHEREAS, the testimony and all submitted documents presented by citizens during the April 9, 2008 hearing are entered into the record as part of the consideration and adoption of this Resolution; and

RESOLUTION ADOPTING THE BELGRADE DONUT/FOUR CORNERS AREA INTERIM ZONING DISTRICT,  
REGULATION & MAP REGULATING OPERATIONS THAT MINE SAND AND GRAVEL  
AND OPERATIONS THAT MIX CONCRETE OR BATCH ASPHALT

WHEREAS, on April 16, 2008, Gallatin County conducted a facilitated discussion on a DRAFT of the Interim Zoning Regulations and the comments and discussion that occurred at that facilitated discussion are entered into the record as part of the consideration and adoption of this Resolution; and

WHEREAS, the Gallatin County Commission, upon notice, held a hearing on May 7, 2008, and after hearing and considering public testimony, found exigent circumstances exist for the adoption of an interim zoning regulation and those Findings of Fact are attached here as Attachment A are specifically included herein as part of this Resolution.

NOW, THEREFORE BE IT ORDERED AS FOLLOWS:

1. The Gallatin County Commission adopts the Belgrade Donut/Four Corners Interim Zoning District and Regulation, attached as Attachment B for the following described property located in Gallatin County, Montana, as shown on the Interim Regulation Map attached as Attachment C:

All the area included within the Belgrade Planning Jurisdiction Area – see Gallatin County Board of County Commissioners Resolution Dated October 31, 1975 (Attached as Attachment D).

All the area included within the Four Corners Neighborhood Planning Area Adopted April 11, 2006 (Not including the area that overlaps with Belgrade Planning Jurisdiction Area).

**T1S R4E**

The portion of Section 34 that is East of River Road; all of Section 35; and all of Section 36.

**T1S R5E**

All of Section 31 and the West Half (W ½) of Section 32.

**T2S R4E**

All of Section 1; all of Section 2; the portion of Section 3 that is East of River Road; the portion of Section 10 that is East of River Road as well as the portions of Tract C of COS 2513 that are West of River Road; all of Section 11; all of Section 12; all of Section 13; the portion of Section 14 that is East of River Road; the portion of Section 15 that is East of River Road, all of Tracts C, D and E of COS 2620, and all of Parcel B of COS 2525; the portion of Section 22 that is East of River Road; the portion of Section 23 that is East of River Road; all of Section 24; the portion of Section 25 that is North and West of Blackwood Road; the North Half of the North Half (N ½ N ½) of Section 26.

RESOLUTION ADOPTING THE BELGRADE DONUT/FOUR CORNERS AREA INTERIM ZONING DISTRICT,  
REGULATION & MAP REGULATING OPERATIONS THAT MINE SAND AND GRAVEL  
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**T2S R5E**

The West Half (W ½) of Section 5; all of Section 6; all of Section 7; the West Half (W ½) of Section 8; the portion of Section 18 that is West of Lynx Road and North of Elk Lane, and also the portion of Section 18 that is West of Beatty Road; the portion of Section 19 that is West of Beatty Road.

2. The Interim Regulations are in effect until May \_\_, 2009, unless such Interim Regulations are extended for additional time through resolution adopted by this Commission.
3. An applicant for a permit under the Interim Regulations attached hereto shall be required to submit to the appropriate planning department, in addition to all costs related to mailing and publication of legal notice, a review fee of \$4000.00.

Dated this \_\_\_\_ day of May, 2008.

**GALLATIN COUNTY COMMISSION**

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William A. Murdock, Chairman

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Joe P. Skinner, Member

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R. Stephen White

Attested:

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Charlotte Mills  
Clerk and Recorder  
Gallatin County

RESOLUTION ADOPTING THE BELGRADE DONUT/FOUR CORNERS AREA INTERIM ZONING DISTRICT,  
REGULATION & MAP REGULATING OPERATIONS THAT MINE SAND AND GRAVEL  
AND OPERATIONS THAT MIX CONCRETE OR BATCH ASPHALT

Attachment

A

**BEFORE THE  
GALLATIN COUNTY COMMISSION  
GALLATIN COUNTY, MONTANA**

**IN THE MATTER OF WHETHER TO  
ADOPT THE BELGRADE DONUT/FOUR  
CORNERS AREA INTERIM ZONING  
DISTRICT, REGULATION, AND MAP IN  
ORDER TO REGULATE GRAVEL PIT AND  
ASPHALT OPERATIONS.**

**FINDINGS OF FACT**

On Wednesday, March 26, 2008, after proper notice was provided the public, the Gallatin County Commission (Commission) held a hearing on the following agenda item:

2. Public Hearing and Consideration on Citizen Request to Establish an Interim Zoning District and Regulation Pursuant to Section 76-2-206, MCA, for the Regulation of Operations that Mine Sand and Gravel or Operations that Mix Concrete or Batch Asphalt in All or Portions of the Belgrade City-County Planning Jurisdiction of Gallatin County (Heidi Jensen, Belgrade City-County Planner).

THEREFORE, with completion of the review, consideration of all written and public testimony, County staffs' input and recommendations, the Commission being fully advised of all matters presented to it regarding this application, the Commission makes the following Findings of Fact:

## **FINDINGS OF FACT**

### **I.**

Montana Department of Environmental Quality (MDEQ) is the state agency responsible for oversight of gravel pit operations. MDEQ grants permits for gravel mining operations and regulates gravel mining operations under §§82-4-401 through 446, MCA. §82-4-431(6), MCA provides that:

Sand and gravel opencut operations must meet applicable local zoning regulations adopted under Title 76, chapter 2.

### **II.**

On April 25, 2007 the Commission sent a letter to MDEQ. This letter is attached to these findings as Exhibit A. In the letter the Commission asked whether MDEQ might impose certain conditions upon gravel pit operations. On June 15, 2007 Mr. Neil Harrington, Chief of MDEQ's Industrial and Energy Minerals Bureau, replied by way of a letter attached to these findings as Exhibit B. Most of the Commission's suggested conditions could not be imposed by MDEQ, either because MDEQ did not have the authority to impose such conditions or, where authority did exist to impose a condition, because MDEQ traditionally did not impose such conditions or did not impose conditions at the level the Commission deemed adequate to protect the public welfare.

### **III.**

According to the November 6, 2007 staff report of Planning Director Greg Sullivan, a report pertaining to proposed gravel pits in the Highline Road and Gallatin Gateway areas



of Gallatin County, there are currently 34 privately owned gravel pits in operation in Gallatin County. Exhibit E attached to Sullivan's report showed at least seven proposed gravel pit operations in Gallatin County.

#### IV.

In population terms Gallatin County is the fastest growing County in Montana. Areas to the North of the Gallatin Canyon and along the West Gallatin River have seen considerable residential development in recent years. This area also contains considerable gravel deposits that may be subject to commercial gravel operations and/or asphalt operations.

#### V.

On November 8, 2007 the Commission conducted an extensive hearing on whether to impose interim zoning to regulate gravel pits in the Highline Road and Gallatin Gateway areas. The Commission voted on November 20, 2007 not to impose interim zoning in this area of the County. The Commission nevertheless heard the concerns of residents in the area of the current and proposed new gravel operations. Those concerns included increased truck traffic; dust; noise; light; loss of residential property values; water quality; and water quantity.

#### VI.

During the November 8, 2007 hearing the Commission heard the testimony of Alan English, Manager of the Gallatin Local Water Quality District. English also entered his

written testimony into the record. English stated that the Water Quality District did not take a position on whether interim zoning should be imposed the Highline Road/Gallatin Gateway area. English did offer, however, the following comments:

Once gravel-mining operations move into the ground water system, the potential risks to water quality are significantly increased, and there will be changes in ground water flow patterns, changes in ground water levels, and a new consumptive loss of ground water through evaporation.

In my opinion, these potential impacts to water quality and water quantity are not being sufficiently and accurately addressed under current Montana Department of Environmental Quality Opencut Mining Program. The DEQ Program does not appear to effectively involve the public, and public comments that are received do not appear to be taken seriously in some cases.

## VII.

The Commission was presented a legal memo dated November 6, 2007 from Attorney Michael Kakuk to Cary Hegreberg, Executive Director of the Montana Contractors' Association. In the memo Mr. Kakuk offered the following:

### **1. Can there be any advantages to the gravel industry through zoning?**

In my opinion a reasonably constructed zoning ordinance can most definitely be in the industry's best interests. A fair, effective and efficient regulatory process can lead to:

- Increased certainty for the resource owner, the resource provider, neighboring landowners, and the community as a whole. Good regulations should start with identifying those areas where it is appropriate to mine and process the resource. Additionally, the regulations should then set out the conditions under which a gravel operation can take place.
- Permitting efficiencies due to a quicker permitting process. If the areas appropriate for gravel mining and processing have already been identified,

and the reasonable regulations have been adopted through the public zoning process, which requires a public hearing, there should be no need for an additional public hearing if an operator can meet the established regulations. However, if an operator can not meeting the conditions already in place through the zoning process, then that operator would be sent through the variance process which could include another public hearing on the variance application.

- Improved relationships between landowners, operators, and neighbors resulting from the increased certainty and an opportunity to be involved in the permitting process. (emphasis in original)

Kakuk, memo, pg. 5.

### VIII.

After the Commission conducted the November 8, 2008 hearing on gravel pits in the Gallatin Gateway/Highline Road area, residents in the area south and east of Belgrade learned of three applications for new gravel pit operations. The proposed operations are described in Exhibit F.

### IX.

The proposed operations are all located within the planning jurisdiction of the Belgrade City-County Planning Area. In October, 2006 the Belgrade City-County Planning Board adopted a Growth Policy for its planning area. The Growth Policy, consisting of 37 pages and attachments, is hereby incorporated in these findings. The Growth Policy included a general map outlining future land use within the City County Planning Board's jurisdictional area. A copy of the Land Use map is attached to these findings as Exhibit C.

## X.

According to Exhibit C, the land where the proposed gravel pits are located is designated for High Density or Medium Density residential development. According to pg. 37 of the Growth Policy “High Density” development “should be reviewed as if it will someday be located within the City of Belgrade.” Growth Policy, page 37, in its description of “Medium Density,” specifically named Valley Grove and Wiley Creek Estates, subdivisions located in close proximity to the new proposed gravel pits:

Most of the sections designated as Medium Density by the Growth Policy have already had a significant amount of subdivision activity. Some of the most successful rural residential subdivisions in Gallatin County are located in this category including, Mountain View, Valley Grove, Wiley Creek Estates, Landmark, and Cobblestone. Given the popularity of these subdivisions and others, the Plan recognizes that future subdivision activity will be strong in these areas.

## XI.

On February 8, 2008 Kathy Brekke and Jody Gryder, Gallatin County residents residing near the proposed gravel pit operations described in ¶8 above, filed a written request for emergency zoning with the Belgrade City-County Planning Board. On February 25, 2008 a hearing was conducted before six members of the Belgrade City-County Planning Board. The Board considered testimony and evidence regarding whether to recommend that Commission impose interim zoning to deal with the impact of gravel pit operations. The Board recommended, by a 4-2 vote, that this Commission impose interim zoning.

## **XII.**

On March 26, 2008 the Commission held a public hearing to consider the request of the Belgrade City County Planning Board to impose Interim Zoning and heard testimony concerning this request.

## **XIII.**

During the March 26, 2008 hearing Kathy Brekke spoke in support of imposition of interim zoning. Ms. Brekke's testimony is summarized as follows. Particulate matter such as fine dust is related to increases in several diseases and premature death. Dust is produced from a variety of gravel pit operations including crushing, screening, stacking and truck and loader transport on and off site. Dust is also produced from overburden removal, construction of berms and from wind blowing over gravel stockpiles. Hot mix asphalt facilities can also emit significant particulates which can cause acidic changes in lakes and streams, nutrient change in river basins, depletion of soil nutrients and damage to farm crops. Hannah Parsons PA-C, and J. Sofianek, MD wrote that their patients who reside in the area of the proposed gravel pits may suffer adverse effects from the increased dust from gravel mining operations. Noise produced by gravel pit operations may have a deleterious effect on health. Increased truck traffic from gravel operations may pose a threat to public safety, and may damage the surface of county roads. Persons residing near gravel pit operations may suffer from a diminution of their property values.

## **XIV.**

The testimony of Keith Mainwaring, Shane Skinner, and Robert Urich provides evidence that the roads in the area of the proposed gravel pits are not adequate to handle the

volume of heavy trucks that will be generated from gravel pits. It is clear that trucks coming from any of the three proposed gravel pits must use a combination of Alaska Road South, Love Lane, Valley Center Road, and/or Cameron Bridge Road East to transport gravel to areas away from the City of Belgrade. Gravel pit operators should be required to improve and/or maintain county roads that will be damaged due to increased truck traffic. Gravel pit operations should be approved only where the operators respect the residential character of the neighborhoods through which gravel trucks will travel. MDEQ's permitting process is inadequate to mitigate the effects of large truck traffic.

## XV.

The Commission heard and received evidence of the harmful effect that gravel pit operations may have upon residential property values. Joyce Thompson, a broker with Keller Williams Montana Realty, wrote that

[a]s a licensed Broker in Montana, it is my obligation to act in good faith and disclose all adverse material facts known to me about the properties I list. . . It is my professional opinion, the impending gravel pit is a significant adverse material fact and it would certainly be of enough significance to affect a buyer's decision to enter into a contract to buy.

Another real estate agent with 20 years experience, Tom Rapp, wrote:

A buyer would look at the unreasonable heavy truck traffic, uncontrolled speeds, front yard accidents, heavy dust, loud truck noise, and of coarse [sic] the potential of an accident from having to back-up out onto Cameron Bridge . . . and ask themselves... Why would I want to invest in a home that has to cope with all of these adverse material facts.

To illustrate Ms. Thompson's and Mr. Rapp's point, in December, 2007, Karen Semerau and her fiancé closed on a home located next to one of the proposed gravel pits.

The fact that a gravel operation was proposed next to her home was not revealed to Ms. Semerau or her fiancé during the real estate transaction. Ms. Semerau testified that she was greatly concerned over a potential loss of the value of her home.

## **XVI.**

Economics Professor Orville Bach testified regarding the economic impact of proposed gravel pits upon residential values. Mr. Bach described the economic situation of the resident located near a gravel pit as a “Market Failure,” or a situation where a producer of a good such as gravel harms a third party and the third party has no means to be compensated for the harm. According to Mr. Bach the “Market Failure” situation is one in which government intervention is warranted. Mr. Bach estimated that properties near gravel pits would decrease from 5% to 40% in value. The dollar value of such diminution could result in a \$24 to \$30 million decrease in property values in a 2 mile range of the proposed pit. Some homeowners may lose between \$30,000 to \$50,000 in the value of their homes. Cecilia Lasich, Curtis Crow, Drew Jenkins and Kathy Brekke also testified about their concerns over loss of property values.

## **XVII.**

Several persons testified regarding concerns about how the proposed gravel pits may affect water quantity, water quality, air quality, and MDEQ resources to adequately monitor operations. Larry Lasich was concerned about how the Montana Department of Natural Resources and Conservation (DNRC) views the surface water near gravel operations. According to Mr. Lasich, DNRC classifies the water as wastewater, and requires no

showing from the operator that no adverse impact is created through gravel pit operations. Jody Gryder testified that MDEQ was more interested in the reclamation of old gravel sites than it was in protecting air or water quality during the times the site was in operation. Rep. John Sinrud testified that MDEQ did not have the resources needed to adequately monitor operations. Gryder's and Sinrud's testimony confirms a report from the Bozeman Daily Chronicle, summarized in Kathy Brekke's written testimony. In a Chronicle article regarding interim zoning Mr. Cronin, an MDEQ employee, was quoted as saying that there were currently 2,000 active gravel pits in Montana, with more than 100 gravel pit applications pending MDEQ review, with MDEQ having only 5 employees to approve and regulate the gravel pit operations.

#### **XVIII.**

Several persons testified regarding the impact that gravel pit operations would have on their quality of life. Kathy Brekke, Shane Skinner, Lois Kahler, Jody Gryder, Wally Taylor, and Curtis Crow all testified that gravel pits in the area would be significantly detrimental to quality of life, businesses and general welfare.

#### **XIX.**

Several persons spoke against interim zoning. Reasons offered in support of a denial of interim zoning were that there were old pits in Gallatin County that had been properly reclaimed; that there were other large gravel pits in the vicinity; that current operations in the area were safe and did not pollute water; and that construction costs would greatly increase if interim zoning was imposed. The Commission finds it significant that



Doug Chandler, an engineer, and Cary Hegreberg, executive director of the Montana Contractor's Association, testified that they were willing to work with the county and with the neighbors to arrive at reasonable conditions governing gravel pit operations. Mr. Hegreberg summarized his Association's belief in what conditions might be reasonable through a set of proposed "Good Neighbor Provisions," attached to these findings as Exhibit D.

## XX.

The Commission has held hearings considering adoption of zoning throughout Gallatin County. In addition, several neighborhood groups are actively working to adopt neighborhood plans and potentially zoning in Gallatin County. These meetings are ongoing and open to the public.

Importantly, the Belgrade City-County Planning Board has held hearings several meetings regarding the adoption of permanent zoning for the Belgrade planning jurisdiction.

## XXI.

Montana law permits the imposition of emergency or interim zoning. §76-2-206, MCA, provides in pertinent part:

- (1) The board of county commissioners may adopt an interim zoning map or regulation as an emergency measure in order to promote the public health, safety, morals, and general welfare if:
  - (a) The purpose of the interim zoning map or regulation is to classify and regulate those uses and related matters that constitute the emergency; and
  - (b) The county:

- ...
- (ii) has held or is holding a hearing for the purpose of considering any of the following:
    - (A) A growth policy;
    - (B) Zoning regulations; or
    - (C) A revision to a growth policy . . . or to zoning regulations pursuant to this part.

In deciding whether an emergency exists that would warrant imposition of interim zoning, the Montana Attorney General has opined that “[t]he question of what constitutes an “exigency” is necessarily fact-bound, and under the law it is left largely to the discretion of the local governing body.” 49 Op. Att’y. Gen. No. 23, pg. 9.

## **XXII.**

Based on the foregoing, the Commission finds that residents living in the area of gravel pits have numerous valid concerns regarding the impact that gravel pit and/or asphalt operations may have on their properties, homes, and quality of life. Those concerns included traffic; wear and tear on county roads; noise; dust; hours of operation; water quality; water quantity; and diminution of property values. These concerns, if not addressed through an interim zoning regulation, would have a serious adverse impact on the health, safety and welfare of residents living in the area of gravel pit operations.

## **XXIII.**

As part of its permitting process it is possible the MDEQ might be able to adequately address the concerns set forth in these Findings of Fact. Whether MDEQ does not have adequate legal authority, and/or whether it does not have adequate resources,

MDEQ's permitting and regulatory processes are not sufficient to protect residents living in the vicinity of gravel pit and/or asphalt batch plant operations.

#### **XXIV.**

Based on the aforementioned, an emergency therefore exists warranting the imposition of interim zoning for a period of at least one year. Gallatin County meets the requirements of §76-2-206, MCA.

DATED this 7th day of May, 2008.

**GALLATIN COUNTY COMMISSION**

\_\_\_\_\_  
**WILLIAM A. MURDOCK, CHAIRMAN**

**DATE** \_\_\_\_\_

\_\_\_\_\_  
**JOE P. SKINNER, MEMBER**

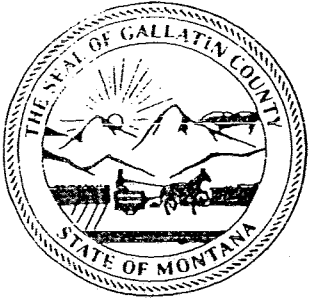
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**R. STEPHEN WHITE, MEMBER**

**DATE** \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**CHARLOTTE MILLS,  
CLERK & RECORDER**



Gravel pits  
County Commission

# GALLATIN COUNTY

311 West Main, Rm. 306 • Bozeman, MT 59715

William A. Murdock  
Joe P. Skinner  
Steve White

Phone (406) 582-3000  
FAX (406) 582-3003

April 25, 2007

Department of Environmental Quality  
Attn: Reclamation Specialist Department  
1371 Rimtop Drive  
Billings, MT 59105



To Whom It May Concern:

We have received concern from neighbors regarding various Sand & Gravel Pit Operation applications that are in review at DEQ. The Commission does not hear the requests, nor grant or deny approval of gravel operations, unless the operation is to be performed inside a county-enforced zoning district.

We have responded to these concerned citizens to inform them of this, but would also like to request of you that hearings regarding property in Gallatin County be held in Gallatin County. We have requested this previously for certain applications, but would now like to ask that all applications for land in Gallatin County be held here. We are willing to do what it takes to accommodate a hearing at the Courthouse, or another location.

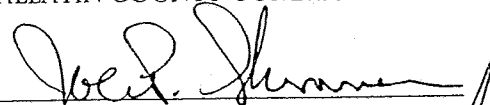
The Commission would also like to submit the following recommendations to mitigate traffic, dust and noise issues:

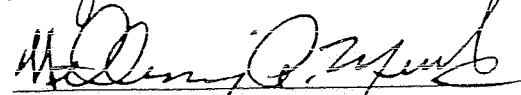
- Hours of operation shall be between 7:00 a.m. and 8:00 p.m., Monday through Saturday. No operations shall be conducted on Sundays. All equipment shall be shut down and all activities shall be ended by 8:00 p.m., Monday through Saturday;
- Access to the gravel pit shall be limited to the existing access road;
- If access road is a gravel road, all means necessary must be taken to minimize dust production;
- Semi-trucks and gravel trucks shall limit their speed to 35 mph when access road(s) is dry;
- No over night residential use, camping, or evidence thereof, shall take place on the site;
- The Applicant must repair any damage incurred to County Roads.

Thank you for your consideration in this matter. Please contact our office if you have any questions or comments, at 406-582-3000.

Sincerely,

GALLATIN COUNTY COMMISSION

  
\_\_\_\_\_  
Joe P. Skinner, Chairman

  
\_\_\_\_\_  
William A. Murdock, Member

  
\_\_\_\_\_  
R. Stephen White, Member



Montana Department of  
**ENVIRONMENTAL QUALITY**

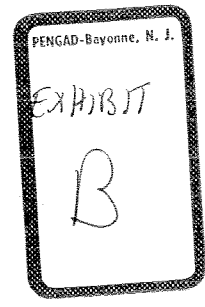
Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

f: gravel pits  
RECEIVED JUN 18 2007

June 15, 2007

Mr. Joe P. Skinner  
Mr. William A. Murdock  
Mr. R. Stephen White  
Gallatin County Commissioners  
311 West Main, Room 306  
Bozeman, MT 59715



Dear Commissioners Skinner, Murdock, and White:

This letter is in response to your April 25, 2007 letter, addressed to the Billings office of the Department of Environmental Quality (DEQ), in which you expressed some concerns and recommendations regarding gravel mining operations in Gallatin County.

First, you asked that all public hearings regarding property (i.e., proposed gravel mining) in Gallatin County be held in Gallatin County. Please note that in the last five years DEQ has held three formal public hearings for proposed gravel mining operations in Gallatin County and all three were held in that county. Each of the hearings was for the purpose of receiving public comments on draft DEQ environmental assessments (EA's) prepared in connection with open-cut mining permit applications. One of these hearings was held at the Belgrade Middle School in September of 2002 relative to the proposed Cook-Lehrkind project east of the airport. The other two hearings were held in the County Courthouse in Bozeman in October of 2003 regarding: 1) the proposed Simpson operation south of Four Corners and 2) the proposed amendment to the TMC Storey Pit west of Four Corners.

DEQ does not hold public hearings on draft EA's for all proposed gravel mining operations. We only do so when there appears to be sufficient public interest, which, in the case of Gallatin County, only included the three referenced above in the last five years. DEQ has, of course, processed other gravel mining permit applications (including preparing associated EA's) in Gallatin County in the same time period, but none of these included public hearings. Any future public hearings for receiving public comment on EA's for proposed gravel mining operations in Gallatin County would, almost certainly, be held in Gallatin County.

As a footnote to the above discussion, please be aware that all applications for new gravel mining permits or amendments that propose to expand or change the postmining land use on existing operations must include zoning compliance forms from the appropriate local government zoning/planning office. In addition, all applications for

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new permits must include weed compliance forms from the appropriate local government weed control office. Further, DEQ has recommended to permit applicants in Gallatin County that they contact the County Road Department about their proposals so that the Road Department has information about anticipated county road use by these mine operations. Therefore, through these procedures, three Gallatin County Departments are being informed of permit applications that require or involve county jurisdiction.

You proposed several measures to mitigate traffic, dust, and noise impacts associated with gravel mining operations. The implication was that DEQ should require these measures in opencut mining permits it issues for operations in Gallatin County. DEQ's authority is granted by the Opencut Mining Act and pursuant rules. It would be helpful for you to have a general understanding of the directions and limitations that the Act and rules provide to DEQ.

In the Opencut Mining Act, 82-4-434(2)(o), MCA states: "*The department may not approve a reclamation plan or a plan of operations unless the plans provide...that noise and visual impacts on residential areas will be minimized to the degree practicable through berms, vegetation screens, and reasonable limits on hours of operation...*" Also, in the pursuant Administrative Rules, 17.24.218(1)(d) states in part: "*The department may reasonably limit hours [of operation] to reduce adverse impacts on residential areas.*" We interpret these provisions to mean that DEQ is directed to consider the location of a proposed mine site and the impact on local residents to determine "reasonable limits on hours of operation". We believe that a one-size-fits-all approach would not be consistent with this interpretation and direction. Nevertheless, please note that most of our long-term permitted gravel mining operations in Gallatin County do in fact comply with your suggested hours of operation of 7:00 am to 8:00 pm, Monday through Saturday.

Regarding your recommendation that DEQ should limit access to mine sites to existing access roads, the Opencut Mining Act does not provide DEQ with that kind of authority. The Opencut Mining Act at 82-4-434(2)(g), MCA states: "*The department may not approve a reclamation plan or a plan of operations unless the plans provide...that all access, haul, and other support roads will be located, constructed, and maintained in such a manner as to control and minimize channeling and other erosion...*". This requires DEQ to ensure that access roads are located "to minimize channeling and other erosion". Some proposed mine sites do not have existing access roads, in which case construction of a road for access is required.

Regarding your recommendations about dust control, please note the following. The Opencut Mining Act and rules do not have any specific requirements for dust control. However, the general provision in the Act cited in the previous paragraph may be interpreted to include the need for dust control measures on mine roads. Plans of operation in opencut mine permit applications normally include such measures to be used on roads and facility areas, consisting primarily of watering and sometimes the use of

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chemical dust suppressants. As for your request that the Department impose a uniform 35 mph speed limit on all mine access roads when conditions are dry, please note that DEQ has historically not required such a measure, although there is one operation in another county that voluntarily committed to a speed limit within its permit area. The Department is not convinced that a uniform speed limit on all access roads, whether operations would exist in crowded residential areas or in rural areas with few or no nearby residents who would be affected, would be appropriate. In addition, the Department believes it would be difficult to define what constitutes "dry conditions" sufficiently to make such a speed limit enforceable.

Regarding your request that DEQ prohibit overnight residential use or camping on mine sites, DEQ has no authority to impose such restrictions.

Regarding damage to county roads caused by gravel truck and other mining-related traffic, DEQ has no authority to require mitigation of such impacts.

If you wish to discuss any of these matters or have any questions, please contact me.

Sincerely,



Neil Harrington, Chief  
Industrial and Energy Minerals Bureau  
Phone: (406) 444-4973  
Fax: (406) 444-1923  
Email: neharrington@mt.gov

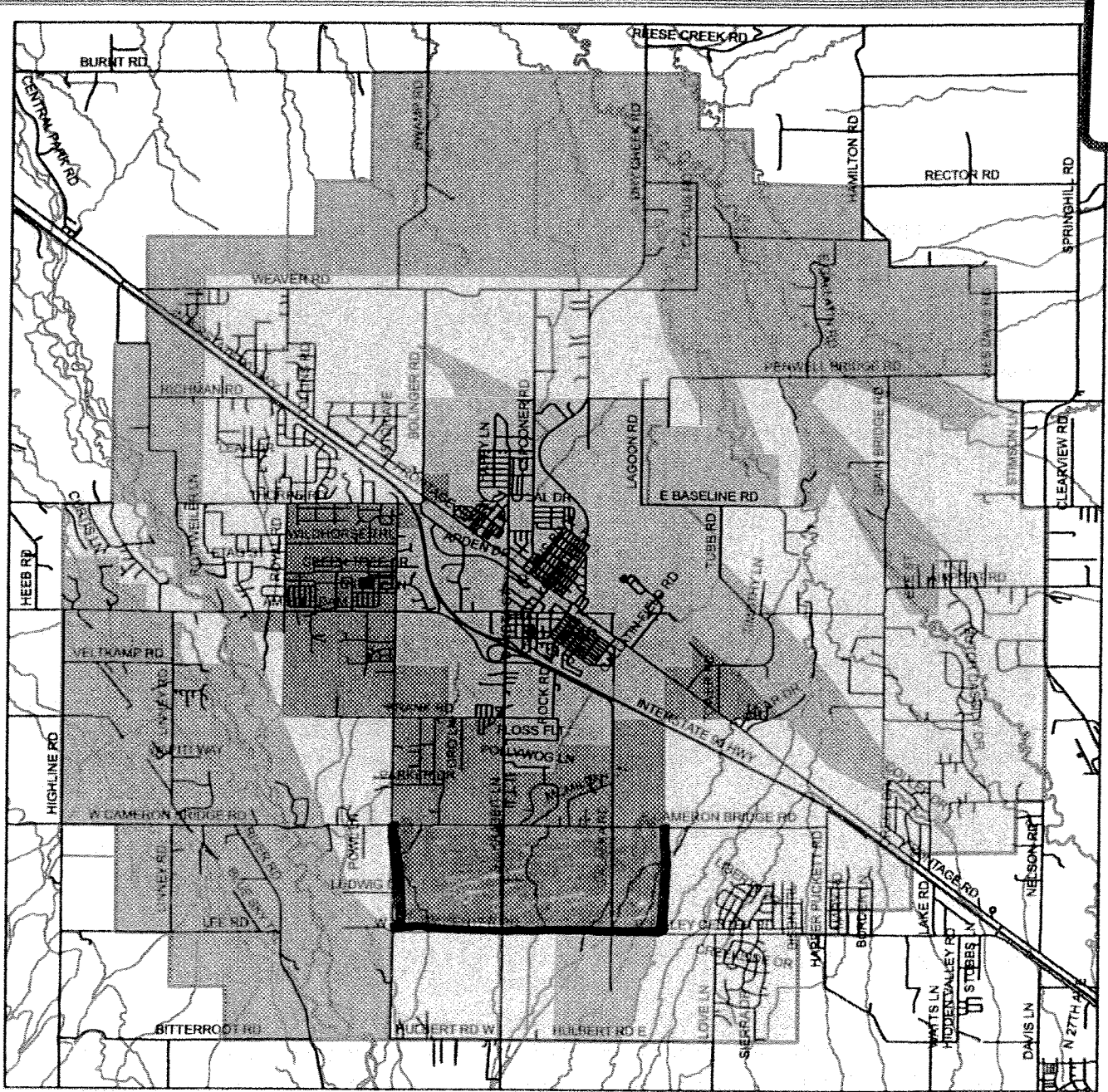
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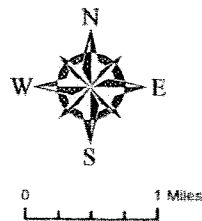
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C



# Belgrade Future Land Use

## Legend



-  Belgrade Planning Jurisdiction
-  Belgrade Zoning
-  High Density
-  Low Density
-  Medium Density
-  Roads
-  Rivers
-  Streams

06/02/2006

## FUTURE LAND USE MAP

A key component of the Plan is the attached future land use map. The map provides visual guidance to where development of certain densities should occur.

The map shows the entire planning jurisdiction divided into four different categories: The City of Belgrade Zoning Jurisdiction, High Density, Medium Density, and Low Density. As stated by the Plan's primary goal, the intention is to encourage growth and development within and adjacent to Belgrade on soils which would be considered marginal for agricultural production. As the distance increases from the City, lower densities and agriculture are encouraged.

The following is a brief description of the land use map's four categories and the Plan's recommendations for development in those areas:

### **PROJECTS CONTIGUOUS WITH OTHER AREA BOUNDARIES:**

The Future Land Use Map is a tool in helping the Planning Board and Governing Body generally determine whether or not a project (including zoning proposals) is appropriate in relation to its orientation in the planning jurisdiction. A project all or partially in one color may be more appropriate in a contiguous category (color on map), given site specific factors to the property (i.e. groundwater situation, flood prone areas, orientation to major roads, contiguous uses, other environmental concerns, etc.) These site-specific factors need to be analyzed by the planning staff and Planning Board on a case-by-case basis during project review. If a project is contiguous with a more appropriate land use category (color on the map) on the Future Land Use Map, the Planning Board, giving due weight to the expressed preference of the applicant, may deem that a project be considered as within the contiguous category (color on the map).

### **THE CITY OF BELGRADE ZONING JURISDICTION (blue):**

The City of Belgrade Zoning Ordinance establishes zoning districts for the City of Belgrade and areas located roughly one mile around the City limits. Each zoning district has a specific list of permitted uses and permitted conditional uses that can be conducted within that district. Uses not specifically listed are prohibited.

To accomplish the Belgrade Area Plan and the Growth Policy's primary goal of directing growth to areas adjacent or near Belgrade, the zoning of much of the City's one-mile jurisdiction has and will continue to be modified.

The Growth Policy strongly recommends that owners of large tracts of land in and around Belgrade submit detailed master plans for their properties for review and approval showing proposed road layouts, lot sizes, residential and commercial areas, water and sewer lines, etc., before development is approved.

### **HIGH DENSITY (red)**

The next category on the future land use map is areas labeled "High Density". These areas are located adjacent to Belgrade's zoning jurisdiction and are likely to be zoned and/or annexed by the City in the future. Property north of Belgrade adjacent to the airport noise contour, and areas along Jackrabbit Lane south of Belgrade should be expected to develop commercially. Commercial areas should be developed with adequate buffers from residential development. Whether commercial or residential, new development should be in character with adjacent existing development.

Most of this area should support higher density residential development than is normally seen in subdivisions located outside City zoning jurisdictions in Gallatin County. Residential subdivisions with lots smaller than one acre with central water and sewer systems are strongly encouraged. Water and sewer systems should be designed to easily connect to City or County mains when available. Subdivisions should include trails, sidewalks, curb and gutter and developed parks. Development in the High Density areas should be reviewed as if it will someday be located within the City of Belgrade.

### **MEDIUM DENSITY (yellow)**

These areas are located farther outside the City, but are generally oriented to major roads and within a reasonable distance to schools and businesses. Most of the sections designated as Medium Density by the Growth Policy have already had a significant amount of subdivision activity. Some of the most successful rural residential subdivisions in Gallatin County are located in this category including, Mountain View, Valley Grove, Wiley Creek Estates, Landmark, and Cobblestone. Given the popularity of these subdivisions and others, the Plan recognizes that future subdivision activity will be strong in these areas.

Future subdivisions should be oriented to existing development, with consideration given to the existing characteristics of the area the new subdivision is being located. Central water and sewer systems are generally required, especially in areas that have already seen heavy development, for example the Valley Grove/Wiley Creek area along Valley Center Road. Subdivisions should be large enough to support their own maintenance of paved roads, fire protection water supply, and be able to develop parks, yet still maintain a rural look and feel.

Commercial development proposed in the Medium Density areas should be done with strict land use covenants attached. All outside storage should be screened, and manufacturing operations should be conducted entirely indoors. Commercial areas should have adequate buffers from adjacent residential and agricultural uses.

Existing agriculture activities in the medium density area should be encouraged to continue, and potential negative effects on agriculture from proposed development should be mitigated before the development is approved.

### **LOW DENSITY (green)**

These sections generally contain the best soils for agricultural production in the planning jurisdiction. Most of these areas have not seen extensive development activity. Low density subdivision should only occur on property not able to be used for agriculture production and subdivisions should have covenants restricting subsequent subdivision of lots.

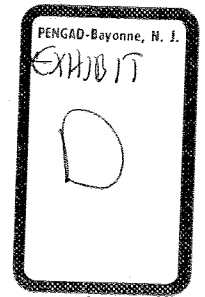
Most of the West Gallatin and East Gallatin Rivers in Belgrade's planning jurisdiction are located in the Low Density area. Development near the rivers and especially in the flood plain should be discouraged.

The Low Density category also includes the Gallatin Field Airport Noise Contour. According to the Gallatin Field Airport Noise-Land Use Study, areas within the noise contour that are not zoned by the County as non-development zones permit commercial development and very low density residential development (1 residence per 10 acres).

A large portion of the planning jurisdiction is located within the Airport Influence Area and is governed by the Airport Influence Area Resolution (County Commission Resolution No. 381), and its accompanying map. Development that occurs in the Airport Influence Area must comply with that resolution.



(3/26 at head)



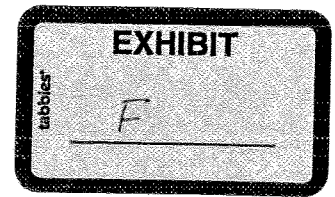
**ATTACHMENT A:  
Proposed "Good Neighbor" provisions for gravel pits**

*The following proposed conditions are based on the "Good Neighbor Policy" for gravel operations prepared by the Gallatin County Planning Department. It is understood that not all of these conditions will be applicable at every operation and that certain conditions will be developed based on site-specific situations.*

1. Prior to operating the sand and gravel mining operation, an approved Weed Management Plan for the site shall be obtained from the Gallatin County Weed Control District. Notwithstanding the above, stockpiled topsoil and overburden berms shall be revegetated in accordance with the plan approved by the County Weed District.
2. Prior to commencing operation, a Traffic Impact Analysis may be required pursuant to Gallatin County requirements to determine the nature and extent of impacts of the operation on all federal, state or local transportation facilities. If warranted, operators may be required prior to commencement of operations to improve roads and other transportation infrastructure to mitigate impacts caused by the operation. Therefore, after issuance of a permit under the Openpit Mining Act and prior to commencing operations and issuance of any required encroachment permit onto any federal, state or county road, the Operators must enter into an agreement with Gallatin County and/or the Montana Department of Transportation that details the nature and extent of road and transportation improvements the operator will complete and the timing of those improvements. Operators must complete all required improvements within six (6) months of commencing operations.
3. Where applicable, the operator shall restrict the hours of operation to 7:00 a.m. – 7:00 p.m. Monday thru Friday.. When exceptions to these hours are necessary to provide materials for extraordinary circumstances such as large or time-sensitive projects, the operator may notify and request the consent of both the Montana Department of Environmental Quality and the County Commission.
4. Trucks should avoid traveling through any school zones during the hours of 7:45 a.m. to 9:00 a.m., and 3:00 p.m. to 4:00 p.m., unless other routes are not available.
5. The use of jake brakes on hauling trucks is discouraged and should be avoided. If jake brakes are necessary in certain circumstances for public safety, they must be properly muffled in accordance with industry standards.
6. Any light used for the operation shall be directed in such a way as to be contained within the boundaries of the property and shall be hooded, screened or directed in a manner that minimizes impacts to the adjoining property owners or the neighborhood. Lights shall be extinguished at the close of business each day, with the exception of limited security lighting.
7. Gravel storage piles shall generally not exceed 30 feet in height, as visible above adjacent ground level.
8. No overnight residential use, camping, or evidence thereof, shall take place on the site.

9. The operator shall enforce safety measures, including preventing overfilled trucks, covering loads when required by law, education of truck drivers, and monitoring driver performance.
10. Dust abatement shall be performed consistently and conscientiously to limit any impacts to the surrounding properties and general air quality. Dust control will be monitored by onsite personnel during all hours of operation, and will be accomplished by the use of a combination of tarps, water, and spray bards. Fugitive dust from stockpiles and the site itself will be controlled through the use of sprinklers, water trucks and/or a combination of water and tactifier as needed.
11. The operator shall ensure a visual barrier made of natural materials reasonably screens adjacent property owners from activities in the gravel pit.
12. Fuel containment measures shall be utilized as required by the application to MDEQ.
13. Drainage plans for the gravel pit operations shall be submitted to MDEQ for approval prior to conducting operations.
14. Any federal, state or locally adopted Best Management Practices relating to roads and construction sites shall be strictly adhered to.
15. Where appropriate, when mining will occur in the water table, operators will complete a thorough hydrolog study of the site and immediate surrounding area. Upon completion of the study the operator, in conjunction with the DEQ Opencut Division, shall place monitor wells as required around the perimeter of the site. The wells will be monitored and depths measured periodically and recorded on a data base that will be shared with DEQ. Wells will also be sampled before mining begins, and every six months, or as required by DEQ. When possible, these wells and the data base will be in place at least six months prior to any mining activity. All data collected within the jurisdiction of the Gallatin County Local Water Quality District shall also be provided to the District.
16. The applicant shall obtain a letter from the local fire district or fire service area having jurisdiction stating a access, parking, fire suppression, and emergency evacuation plans are acceptable.
17. Blasting operations may only occur upon 24 hour written notice to all landowners within 2500 feet of the site.
18. Sound-dampening measures shall be implemented on appropriate equipment on site to minimize noise impacts.
19. Signage, approved by the Gallatin County Road and Bridge Department and/or the Montana Department of Transportation, shall be erected to alert vehicular and pedestrian traffic to the presence of heavy truck travel along all main travel routes within    X miles of the site (*list the main travel routes here*).
20. All parking areas for employee vehicles and company vehicles shall be provided onsite.
21. The applicant shall store hazardous materials such as motor vehicle fuels in a manner mandated by MSHA and the DEQ.
22. If a hearing on an application is required pursuant to Montana law, MDEQ shall conduct the hearing in Gallatin County.
23. Gallatin County shall agree to impose and enforce these "Good Neighbor" policies on any County-owned/operated open cut mines within the proposed zoning areas.





05/02/2008

Bill Ware

7. After the Commission conducted the hearing on gravel pits in the Gallatin Gateway/Highline Road area, residents in the area south and east of Belgrade learned of three applications for new gravel pit operations. The proposed operations located within the Belgrade City-County Planning Jurisdiction are:

1. Cameron Springs Pit

Applicant: Cameron Springs, LLC

Legal description: NW ¼ of Section 19 in T1S R5E

2. Highline Road Pit (aka Nistler Pit)

Applicant: Matt Nistler

Legal description: S ½ NW ¼ of Section 17 in T1S R4E and the NW ¼ NW ¼ of Section 17 in T1S R4E

3. Spanish Peaks Pit

Applicant: Spanish Peaks Sand and Gravel, LLC

Legal description: S ½ S ½ SW ¼ of Section 18 in T1S R5E and the SW ¼ of the SE ¼ of Section 18 in T1S R5E



**Belgrade/Four Corners Area Interim Zoning Regulation for  
Operations that Mine Sand and Gravel  
Or Operations that Mix Concrete or Batch Asphalt**

Adopted: May \_\_, 2008  
Gallatin County Resolution No. \_\_\_\_\_

- Section 1. Title and Creation
- Section 2. Interpretation
- Section 3. Purposes and Intent
- Section 4. Definitions
- Section 5. Boundaries
  - Ex. A: Legal Description
  - Ex. B: Map of Gallatin County Interim Zoning District for Operations that Mine Sand and Gravel or Operations that Mix Concrete or Batch Asphalt
- Section 6. Conditional Use Permits
- Section 7. Complaints, Enforcement
- Section 8. Appeals
- Section 9. Invalidation and Severability
- Section 10. Adoption

## **Section 1. Title, Creation and Adoption**

This Regulation shall be known as the “Belgrade Donut/Four Corners Area Interim Zoning Regulation for Operations that Mine Sand and Gravel Or Operations that Mix Concrete or Batch Asphalt” (hereinafter referred to as the “Interim Regulation”).

- 1.1 This Interim Regulation is adopted to regulate sand and gravel mining operations and concrete or batch asphalt mixing operations for one year from the date of adoption in the area shown on the Interim Zoning District Map, while the County conducts additional studies.
- 1.2 This Interim Regulation is adopted pursuant to § 76-2-206, MCA, which permits the adoption of an interim zoning map or regulation.
- 1.3 A copy of this Interim Regulation, Interim Zoning Map and Description shall be kept on file for public inspection at the office of the Gallatin County Clerk and Recorder.

## **Section 2. Interpretation**

Wherever the requirements of this Interim Regulation are at variance with the requirements of any lawfully adopted rules or regulations, or wherever there is an internal conflict within this Interim Regulation, the most restrictive requirement, or that which imposes the higher standard, shall govern.

## **Section 3. Purposes and Intent**

- 3.1 The general purposes and intent of this Interim Regulation are to:
  - a. promote the public health, safety, morals, and general welfare pursuant to § 76-2-206, MCA;
  - b. implement the goals and policies set forth in the Belgrade Area Growth Policy, as adopted by the Commission on February 6, 2007, the Gallatin County Growth Policy, as adopted by the Commission on April 15, 2003 and the Four Corners Neighborhood Plan, adopted by the Commission on April 11, 2006;
  - c. promote responsible recovery and processing of sand and gravel or other resources into concrete or asphalt by imposing reasonable conditions on sand and gravel operations and concrete or batch asphalt mixing operations within the boundaries of the Interim District including new mines or the expansion of existing mines; and

- d. require sand and gravel operations and concrete or batch asphalt mixing operations to provide adequate mitigation for significant adverse impacts to environmental and community resources caused by such operations.

3.2 Specific purposes of this Interim Regulation are to:

- a. regulate sand and gravel mining operations and concrete or batch asphalt mixing operations and activities resulting from such operations, including the offsite hauling of raw or processed materials;
- b. protect and perpetuate the taxable property value of the regulated property and adjacent and neighboring properties;
- c. provide for compatible uses on adjacent or neighboring properties;
- d. mitigate significant adverse impacts to state and county transportation facilities and systems resulting from activities regulated under this Interim Regulation in order to provide for the continued safe operation of those facilities and systems for the citizens of Gallatin County;
- e. minimize health and safety risks to adjacent or neighboring properties and all citizens of Gallatin County resulting from activities regulated under this Interim Regulation;
- f. protect surface and groundwater quality;
- g. prevent the degradation of soil, water, air and plant life from potential point and non-point pollution sources;
- h. prevent erosion resulting from activities regulated under this Interim Regulation;
- i. prevent the unreasonable depletion and degradation of natural resources including air quality, water quality, wildlife habitat, among others; and
- j. protect the public from bearing the burden of impacts to public services and facilities by requiring activities regulated under this Interim Regulation to contribute their appropriate share of the costs of impacts resulting from those activities.

#### **Section 4. Definitions**

- 4.1. **Commission:** The Gallatin County Board of County Commissioners.
- 4.2. **Conditional Use:** A use which may be commenced only upon approval of a Conditional Use Permit and compliance with all applicable requirements and conditions.
- 4.3. **Operations:** A facility, business, function or area and related activities where 1) sand, gravel, and rock fragment are mined or excavated and/or processed using any available technology in an amount greater than 400 cubic yards in the aggregate for off-site distribution, sale or use; or 2) raw materials are processed into concrete products using any available technology for off-site distribution, sale, or use; or raw materials are processed into asphalt products using any available technology for off-site distribution, sale or use. Operations include a new Operation or expansion of existing Operations as regulated by the Montana Opencut Mining Act.
- 4.4. **MDEQ:** Montana Department of Environmental Quality.
- 4.5. **Planning Department.** The agent of the Gallatin County Commission that administers this Interim Regulation, either the Belgrade City-County Planning Department or the Gallatin County Planning Department depending on the location of the proposed sand and gravel mining operations and concrete or batch asphalt mixing operations.
- 4.6. **Zoning Enforcement Agent (ZEA):** Agents appointed by the Gallatin County Board of County Commissioners to supervise and enforce the provisions of this Regulation, including the Gallatin County Planning Director, Belgrade City-County Planning Department Director, Code Compliance Specialist, and/or delegated staff.

#### **Section 5. Boundaries**

The Interim District includes private and public property located in Gallatin County, Montana, as described in the Description and as shown on the Interim Zoning District Map, which are attached hereto and made a part hereof, respectively, as **Attachments A and B.**

#### **Section 6. Conditional Use Permits**

- 6.1. Conditional Use. A Conditional Use Permit (CUP) shall be obtained prior to commencing work onsite for all new Operations or the expansion of existing

Operations following the CUP procedure described below. Granting of a CUP is contingent upon fulfillment of conditions imposed by the Commission pursuant to Section 6.3 and the requirements of Section 6.4.

CUPs shall be issued by the Commission only upon finding:

- a. The Operations conform to the objectives of the applicable growth policy having jurisdiction over the proposed Operations site (Gallatin County Growth Policy or the Belgrade Growth Policy, and the Four Corners Community Plan) and the purposes and intent of this Interim Regulation;
- b. The Operations will not have significant adverse impacts on nearby properties, property values, nearby land uses, or nearby residents;
- c. The Operations will not have significant adverse impacts on groundwater, streams, or wetlands or, if significant adverse impacts are identified, the Applicant shall enter into a written agreement with Gallatin County providing for mitigation, including the provision of financial security, for the identified impacts;
- d. The Operations will not have significant adverse impacts on public services and facilities or, if significant adverse impacts are identified, the Applicant shall enter into a written agreement with Gallatin County providing for mitigation, including the provision of financial security, for the identified impacts;
- e. The Operations meet all other applicable federal, state or local regulations, including the Requirements of section 6.4 below; and
- f. A public hearing, after notice has been given, has been held.

6.2 Permits, Terms of Issuance. A CUP may be issued for a revocable, temporary, permanent or term period. All CUPs issued for a definite term shall expire at the end of the term. Extensions can be obtained by following all procedures and payment of fees required for the original permitting.

6.3 Permits, Conditions. The Commission may make the granting of a CUP subject to reasonable limitations or conditions as it may deem necessary to protect the public health, safety, morals, and general welfare, to reduce significant adverse impacts on nearby property or residences, to preserve the character of the area, to mitigate significant adverse impacts, and to give effect to the purposes and intent of this Interim Regulation. The conditions may include but are not limited to the following:

- a. Vehicular ingress and egress.
- b. Right-of-way.
- c. Lighting.
- d. Term of the Operation.
- e. Signs.
- f. Noise.
- g. Dust and other air quality parameters.
- h. Vibrations.
- i. Erosion.
- j. Protection of water quality and quantity.
- k. Regulation of the time of activities, which may include a provision for operating beyond the required hours of operation under special circumstances.
- l. Landscaping and maintenance thereof.
- m. Placement of uses on the property.
- n. Method of water disposal.
- o. Nature and extent of use.
- p. Noxious weeds.
- q. Public safety measures, including fire protection.
- r. Submission of periodic monitoring reports.

6.4 Permits, Requirements. The following requirements apply to all new Operations or the expansion of existing Operations:

- a. Prior to commencing work under the CUP onsite, the applicant must:
  - i. comply with all pre-operating conditions of approval as stated in the Findings of Fact and Order for the CUP, including, if required, entering into a written agreement with Gallatin County to provide financial guarantees in a form and amount acceptable to Gallatin County;
  - ii. obtain a Land Use Permit (LUP). The LUP will only be issued by the Planning Department upon a determination by the Planning Department that the applicant has complied with all pre-operating conditions of approval in the CUP;
  - iii. obtain all necessary state and federal permits for the Operations including but not limited to all permits listed in Section 5.E.40 of the Gallatin County Subdivision Regulations; permits required pursuant to federal and state water and air protection acts and, if required, a beneficial water use permit from the Montana Department of Natural Resources and Conservation;
- b. For the term of approval, conditions imposed pursuant to this Interim Regulation shall constitute restrictions running with the land, shall apply and be adhered to by the owner of the land, its agents, successors or assigns, shall

be binding upon the owner of the land, its agents, successors or assigns, shall be consented to in writing, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval, LUP, or commencement of the conditional use.

- c. If Gallatin County adopts a permanent zoning regulation and district that governs Operations prior to expiration or revocation of this Interim Regulation conditions of approval placed upon the Operations pursuant to this Interim Regulation shall continue to run with the land until the expiration of the CUP as if adopted pursuant to the permanent zoning regulation.
- d. Operations shall have a Plan of Operations and Reclamation Plan approved by MDEQ, and shall comply with those plans during the term of Operations.
- e. All CUP applications shall be accompanied by the applicable fees, established by the Commission pursuant to the Resolution adopting these Interim Regulations. No CUP shall be issued nor shall any action be taken on proceedings before the Commission until such fees have been paid.

#### 6.5 Conditional Use Permit Procedure.

- a. Applicants shall complete and submit 24 printed copies of the Interim Regulation CUP application form and required information, an electronic copy on compact disc, and all applicable fees to the Planning Department.
- b. Prior to submitting an application, applicants shall participate in a pre-application meeting with the Planning Department to discuss the application and to identify any information not identified by the CUP application. The pre-application meeting shall occur no sooner than 60 working days prior to submittal of the application.
- c. The Planning Department shall then review the application and conduct such investigation as necessary to ensure sufficient information is submitted to allow a decision on the application consistent with the intent and purpose of these Interim Regulations.
- d. Notice of the public hearing for CUPs shall be published in a newspaper of general circulation within the County via a legal advertisement and a display advertisement of minimum size of 3 inches by 5 inches no less than twice between 7 and 15 days prior to the hearing. Adjacent property owners and owners of property within 1000 feet shall be notified by certified mail

with all costs paid by the applicant. Applicant shall also provide postage for courtesy first-class mail to property owners between 1000 feet and one mile. Applicant shall post notice of the hearing in a conspicuous manner at two prominent locations on site within close proximity to a public road.

- e. Upon completion of the investigation, the Commission shall hold a public hearing to accept public comment on the CUP application. The Commission may continue the hearing, if need be, to gather additional information. Thereafter, the Commission shall render a decision based on Section 6.1, above.
- f. If possible, the Planning Department will schedule the hearing to occur simultaneously with any hearing MDEQ will have on the proposal.
- g. If an applicant obtains a CUP under this Interim Regulation prior to obtaining MDEQ approval and this approval conflicts in any way with the MDEQ's Opencut Mining Program permit approval, the applicant may be required to amend the CUP application in order to comply with the MDEQ Opencut Mining Permit. Notwithstanding the above, if the conditions of approval under this Interim Regulation conflict in any way with the MDEQ's Opencut Mining Program permit approval, the more stringent condition shall apply.
- h. If an applicant obtains approval under this Interim Regulation prior to obtaining approval from MDEQ, a condition of approval shall be that Gallatin County reserves the right to require additional conditions of approval addressing mitigation for impacts identified by MDEQ in the Final Environmental Assessment.

6.7 Authorized Use. For purposes of this Interim Regulation, a conditional use permittee for Operations shall not engage in the conditionally permitted use on the site until all conditions of approval have been satisfied.

6.8 Revocation or Modification of Conditional Use Permits. A CUP may be revoked or modified by the County Commission under the following circumstances. Modification or revocation may occur only after publishing notice and providing the public and the applicant an opportunity to be heard.

- a. If conditions related to the original approval of the CUP have changed substantially from those at the time the permit was granted;
- b. The County Commission determines the information provided by the Applicant and upon which approval of the CUP was granted was either inaccurate or incomplete;
- c. Revocation or modification is necessary to protect the health, safety, and



welfare of the area in which the subject property is situated or the residents of the County;

- d. A conditional use permittee has not materially changed his position by detrimentally relying on the CUP; or
  - e. If the person holding the permit has not complied with the conditions upon which it was issued.
- 6.9. Recording. Evidence of approval of a Conditional Use Permit showing all conditions shall be recorded, at the permittee's expense, in the Office of the Gallatin County Clerk and Recorder at the time of issuance of a Land Use Permit.

## **Section 7. Complaints, Enforcement and Appeals**

- 7.1 **Complaints**. Any person may file a signed, written complaint with the ZEA regarding an alleged violation of this Interim Regulation. The complaint shall fully describe the facts supporting the alleged violation. Upon receipt of a signed written complaint, or upon its own initiative, the ZEA shall investigate the complaint, and if the ZEA determines that there is reasonable basis that a violation exists, then the ZEA shall take action to resolve the violation.
- 7.2 **Investigation**. When investigating an alleged violation, the ZEA shall review this Interim Regulation, CUP and other applicable documents, permits, information, regulations, rules or laws regarding the complaint. The ZEA may on reasonable notice and with consent of the CUP holder enter the subject premises and investigate the complaint documenting the inspection with an inspection report, field notes, interview(s) and/or photographs as appropriate. If access is denied, the ZEA may conduct an investigation by observations from adjacent lands entered upon with permission, if required, and interviews of any persons, including the CUP holder, by telephone, email, correspondence or other lawful means.
- 7.3 **Administrative Remedies**. If the ZEA determines that any of the provisions of these Interim Regulations are being violated, including operating conditions approved under the CUP process, the ZEA may pursue enforcement remedies provided by law. The ZEA shall notify an alleged violator in writing of the corrective action necessary to remedy the violation.
- 7.3.1 The ZEA may: (1) revoke any CUP or land use permit; (2) issue orders to obtain after-the-fact permits; (3) issue cease and desist orders requiring cessation of any building, moving, alteration, use, or activity which is in violation the Interim Regulation; (4) require mitigation and/or corrective action, which may include orders to dismantle or remove noncompliant structures to remedy the violation;

and/or (5) take any other action authorized by law to insure compliance with, or prevent violation of its provisions.

7.3.2 Persons liable for violations and compliance with any CUP, order, determination, decision, fine, penalty, proceeding, and remedial action shall include without limitation, any and all owners, tenants, leaseholders, builders, contractors, subcontractors, architects, agents, employees or other persons or entities that commits, maintains, participates, assists, causes or contributes to such violation; herein "Persons."

7.3.3 Gallatin County, and/or the ZEA shall have the right to proceed or take action jointly or severally against any or all Person(s), and the failure to proceed or take action against any Person or Persons shall not constitute a waiver of any rights or remedies whatsoever against any Person or Persons.

7.4 **Civil Fine.** The ZEA may assess violators an administrative fine of up to \$500.00 per violation. Each day of violation may be considered a separate offense. When determining the amount and duration of the fine, the ZEA shall consider the nature, circumstances, extent and gravity of the violation, any prior history of such violations, the degree of culpability, and such other matters as justice may require. If the fine is not paid, it shall become a lien upon the property.

7.5 **Administrative Inspection.** The conditional uses herein involve pervasively regulated business or industries that present significant risks to public safety and the environment, therefore the Planning Department and ZEA shall have the right to conduct reasonable administrative inspections of the subject premises to determine if the premises, operations, facilities, conditional use or uses are in compliance with the CUP. Such administrative inspections shall be on reasonable notice, during ordinary and usual business hours, limited in scope, duration and frequency so as not to interfere with the business, and solely for the purpose of determining compliance.

7.6 **Injunction.** The County Attorney may bring an action in the name of Gallatin County in the District Court to enforce these Interim Regulations, which may include without limitation injunctive relief.

7.7 **Remedies, Cumulative.** The remedies provided for herein shall be cumulative and not exclusive. No waiver shall result in the failure to enforce any provision(s).

7.8 **Board of Adjustment.** The Gallatin County Interim Zoning Board of Adjustment shall act as the Interim Regulation Board of Adjustment (BOA) that shall hear and decide appeals where it is alleged there is an error in any

order, requirement, decision or determination by the ZEA. All appeals from any order, decision, or determination of the ZEA must be made to the BOA within 30-days that the order, decision or determination is filed and served. The appeal must be submitted to the BOA and the ZEA via certified mail with the appeal fee as established by the Planning Department, and state the basis for the appeal. Upon receipt of the appeal, the BOA shall schedule a public hearing with sufficient time to allow the appellant to publish or cause to be published a notice of public hearing in a newspaper of record and serve via certified mail all adjacent property owners with a notice of the appeal and date of public hearing. The appellant shall produce at or before the public hearing an affidavit of publication and certificate of service showing compliance with these notice requirements as a precondition of any appeal. The BOA shall have the authority to reverse or affirm, wholly or in part, or modify the order, decision, or determination of the ZEA.

**7.9 Appeals from the Board of Adjustment.** Pursuant to §§ 76-2-227-228, MCA, a decision from the BOA may be appealed to the Eighteenth Judicial District Court within 30-days from the date the decision is filed in the office of the BOA.

## **Section 8. Invalidation and Severability**

If any section, subsection, subdivision, sentence, clause, paragraph, or phrase of this Interim Regulation or any attachments hereto is for any reason held to be unconstitutional or void, such decision shall not effect the validity of the remaining portions of this Interim Regulation to render the same operative and reasonably effective for carrying out the purposes of this Interim Regulation.

**Section 9. Adoption.**

This Interim Regulation was adopted by Resolution 2008 - \_\_\_\_.

**Gallatin County Commission**

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William A. Murdock, Chair

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Joe P. Skinner, Member

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Stephen R. White, Member

Attested:

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Charlotte Mills  
Gallatin County Clerk and Recorder

## **Exhibit A (Description of Boundaries):**

All the area included within the Belgrade Planning Jurisdiction Area – see Gallatin County Board of County Commissioners Resolution Dated October 31, 1975 (Attached as Exhibit D).

All the area included within the Four Corners Neighborhood Planning Area Adopted April 11, 2006 (Not including the area that overlaps with Belgrade Planning Jurisdiction Area).

### **T1S R4E**

The portion of Section 34 that is East of River Road; all of Section 35; and all of Section 36.

### **T1S R5E**

All of Section 31 and the West Half (W ½) of Section 32.

### **T2S R4E**

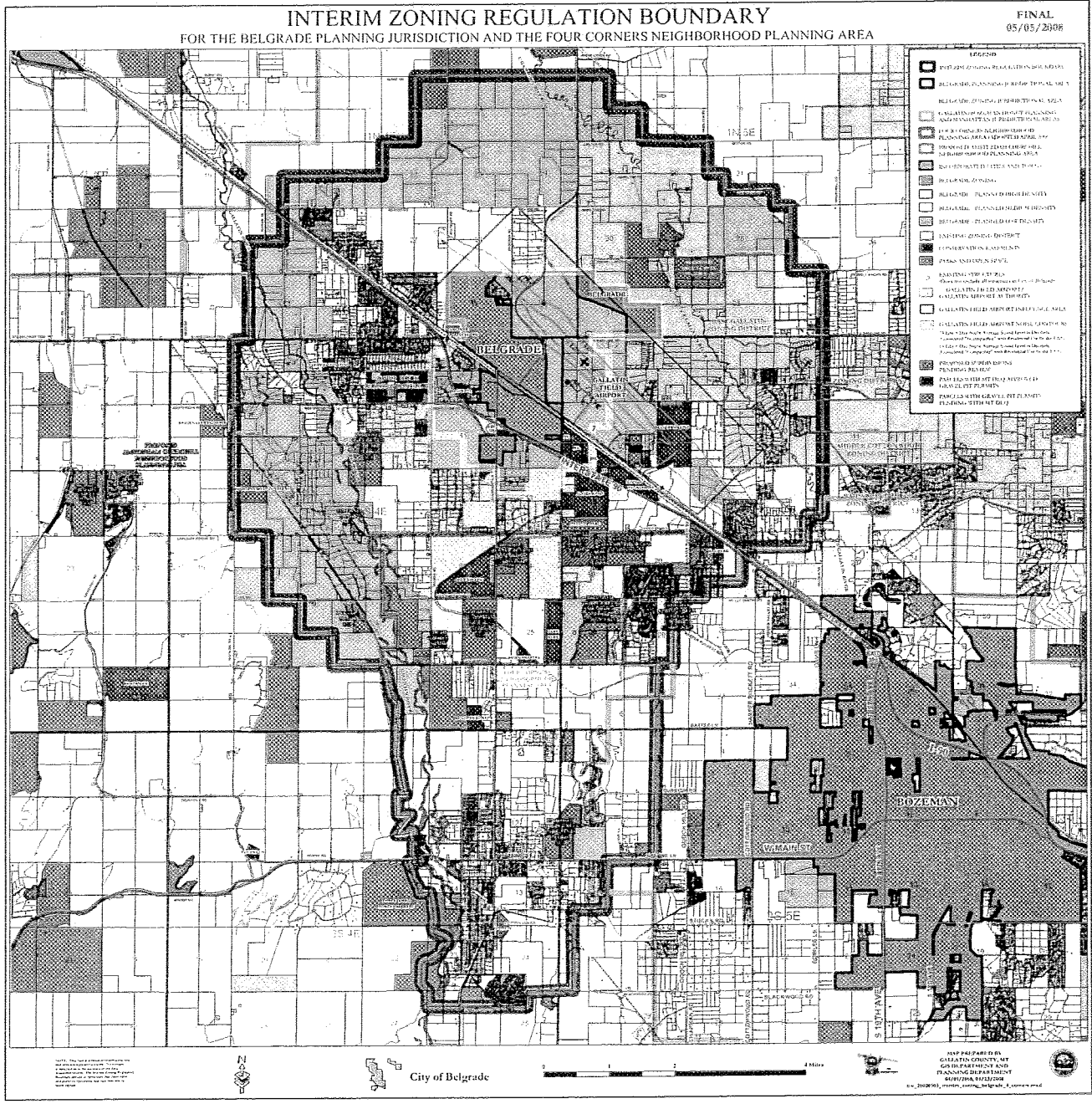
All of Section 1; all of Section 2; the portion of Section 3 that is East of River Road; the portion of Section 10 that is East of River Road as well as the portions of Tract C of COS 2513 that are West of River Road; all of Section 11; all of Section 12; all of Section 13; the portion of Section 14 that is East of River Road; the portion of Section 15 that is East of River Road, all of Tracts C, D and E of COS 2620, and all of Parcel B of COS 2525; the portion of Section 22 that is East of River Road; the portion of Section 23 that is East of River Road; all of Section 24; the portion of Section 25 that is North and West of Blackwood Road; the North Half of the North Half (N ½ N ½ ) of Section 26.

### **T2S R5E**

The West Half (W ½) of Section 5; all of Section 6; all of Section 7; the West Half (W ½) of Section 8; the portion of Section 18 that is West of Lynx Road and North of Elk Lane, and also the portion of Section 18 that is West of Beatty Road; the portion of Section 19 that is West of Beatty Road.

## **Exhibit B (Interim Zoning District Map) (See attached)**

Attachment  
C



R E S O L U T I O N

BE IT RESOLVED by the County Commission of Gallatin County, State of Montana, as follows:

WHEREAS, the Town Council of the Town of Belgrade, County of Gallatin, State of Montana, gave notice to this Board of its intention to create a Planning Board, and

WHEREAS, this Board notified the Town of Belgrade of its intention to form a joint City-County Planning Board under the laws of the State of Montana, and

WHEREAS, it is the desire of the County of Gallatin, State of Montana, to participate in the joint City-County Planning Board as is allowed under the laws of the State of Montana.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gallatin County, Montana, that a joint City-County Planning Board be, and the same is hereby established under the laws of the State of Montana, namely, Section 11-3801 to 11-3858 inclusive, of the Revised Codes of Montana, 1947, and amendments thereto, being enacted as Chapter 246 of the laws of Montana 1957.

BE IT FURTHER RESOLVED that the Sections hereinabove referred to are adopted by this Board in their entirety, and by this reference made a part of this Resolution as if set out at this point in full.

BE IT FURTHER RESOLVED that the jurisdictional limits of said joint City-County Planning Board be as follows:

All of Section Thirteen (13), Fourteen (14), East Half (E½) of Section Fifteen (15), Southeast one-quarter (SE¼) of Section Twenty (20), South Half (S½) of Section Twenty-one (21), all of Section Twenty-two (22), Twenty-Three (23), Twenty-Four (24), Twenty-five (25), Twenty-six (26), Twenty-seven (27), Twenty-eight (28), the East Half (E½) and Southwest Quarter (SW¼) of Section Twenty-nine (29), all of Section Thirty-two (32), Thirty-three (33), Thirty-Four (34), Thirty-five (35), Thirty-six (36), Township One North (T1N), Range Four East (R4E), West Half (W½) and Southeast Quarter (SE¼) of Section Eighteen (18), all of Section Nineteen (19), Twenty (20), South Half of the South Half (S½, S½), Northwest Quarter of Southwest Quarter (NW¼, SW¼) of Section Twenty-One (21), West Half of the West Half (W½, W½) of Section Twenty-seven (27), all of Section Twenty-eight (28), Twenty-nine (29), Thirty (30), Thirty-one (31), Thirty

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OCTOBER 31 1975  
GALLATIN COUNTY CLERK-RECORDER  
BOZEMAN MONTANA

two (32), Thirty-three (33), West Half ( $W\frac{1}{2}$ ) and West Half of the East Half ( $W\frac{1}{2}$ ,  $E\frac{1}{2}$ ) of Section Thirty-four (34), Township One North (T1N), Range Five East (R5E), all of Section Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), North Half ( $N\frac{1}{2}$ ), Southwest Quarter ( $SW\frac{1}{4}$ ), West Half of the Southeast quarter ( $W\frac{1}{2}SE\frac{1}{4}$ ) and Northeast Quarter of the Southeast Quarter ( $NE\frac{1}{4}SE\frac{1}{4}$ ) of Section Fifteen (15), all of Section Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), Northwest Quarter ( $NW\frac{1}{4}$ ), West Half of the Northeast Quarter ( $W\frac{1}{2}NE\frac{1}{4}$ ), the Northeast Quarter of the Northeast Quarter ( $NE\frac{1}{4}NE\frac{1}{4}$ ) the Northeast Quarter of the Southwest Quarter ( $NE\frac{1}{4}SW\frac{1}{4}$ ) and the West Half of the Southwest Quarter ( $W\frac{1}{2}SW\frac{1}{4}$ ), the Northwest Quarter of the Southeast Quarter ( $NW\frac{1}{4}SE\frac{1}{4}$ ) of Section Twenty-one (21), North Half of the Northwest Quarter ( $N\frac{1}{2}NW\frac{1}{4}$ ) and Northwest Quarter of the Northeast Quarter ( $NW\frac{1}{4}NE\frac{1}{4}$ ) of Section Twenty-two (22), the West Half of the East Half ( $W\frac{1}{2}E\frac{1}{2}$ ) and the West Half ( $W\frac{1}{2}$ ) of Section Twenty-nine (29), all of Section (30), Township One South (T1S), Range Five East (R5E), all of Section One (1) Two (2), Three (3), Four (4), Five (5), Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), the East Half ( $E\frac{1}{2}$ ) of Section Twenty (20), all of Section Twenty-one (21), Twenty-Two (22), Twenty-three (23), Twenty-four (24), Twenty-five (25), Twenty-six (26), Twenty-seven (27). the East Half ( $E\frac{1}{2}$ ) and Northwest Quarter ( $NW\frac{1}{4}$ ) of Section Twenty-eight (28), Township One South (T1S), Range Four East (R4E).

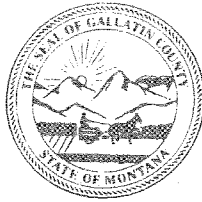
Dated at Bozeman, Montana, this 31st day of October, 1975.

BOARD OF COUNTY COMMISSIONERS OF GALLATIN COUNTY, MONTANA

By Walter R. Sales  
Walter R. Sales, Chairman

ATTEST:  
CLERK AND RECORDER, GALLATIN COUNTY, MONTANA  
Lucille A. Bridges  
Lucille A. Bridges, Chief Deputy






# GALLATIN COUNTY

## MEMORANDUM

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**TO:** All Interested Parties

**FROM:** Greg Sullivan, Gallatin County Planning Director 

**DATE:** May 5, 2008

**SUBJECT:** Traffic Impact Study Requirements

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Unless otherwise specifically required or waived, the following are requirements of the Gallatin County Planning Department for Traffic Impacts Studies (TIS).

### TRAFFIC IMPACT STUDY (TIS) REQUIRMENTS

1. **Purpose.** The primary purpose of a TIS is to determine the need for improvements to adjacent and nearby transportation systems in order to maintain an adequate level of service, safety, and access. For the purposes of this Regulation, the transportation system includes public roads, intersections, sidewalks, bike facilities, trails, and transit systems.
2. **Scope of Work.** The scope of work for a TIS shall first receive approval from the Gallatin County Planning Department (Planning Department). The scope of work at a minimum shall include the following elements:
  - a. **Study Area.** The geographic area included in the TIS shall be determined by the Planning Department and shall include at a minimum:
    - The access points to the site or use; and
    - All intersections in the vicinity of the proposed use that would experience significant increase of additional peak hour trips or be significantly impacted by the proposed use.

- b. Analysis Period. The TIS shall have an operations analysis performed for the weekday a.m. and p.m. peak hour at the study area intersections. However, the Planning Department may require certain uses to study other times.
- c. Study Time Frames. At a minimum the TIS shall include the following time frames:
  - Start date of use or start date of each phase of a phased use development.
  - Five year forecasts from the starting date of use.

3. **Minimum TIS Requirements.** The study requirements for a TIS are:

- A vicinity map showing the location of the project in relation to the transportation system of the area;
- Description of the proposed use and surrounding land uses;
- Trip generation forecast using data from the most recent edition of the Institute of Transportation Engineers (ITE) *Trip Generation Manual* unless more appropriate data is available and approved for use by the Planning Department;
- Existing conditions (including development that has been approved but not yet built, as identified by the Planning Department). Information characterizing the existing conditions shall be no more than one year old from the date of application submittal.
- Trip distribution assumptions based on historical data, existing and future travel characteristics, and capacity constraints;
- Existing traffic volumes;
- Existing and future levels of service, average vehicle delay and volume/capacity ratios (V/C) for all intersections and road sections within the study area with and without the proposed project;
- Forecast traffic volumes with and without the use;
- Safety analysis of all intersections impacted by the proposed use including the site access. The safety analysis shall include sight distance and operation characteristics, at a minimum;
- Analysis of right and left turn lane warrants (MDT standards);
- Analysis of parking needs of the proposed use;
- For mining and/or related processing operations: haul routes; trips per day; and the weight of loaded trucks, at a minimum;
- Analysis of access roads conditions. A road condition analysis shall at a minimum evaluate the road surface and road sub-grade conditions. Sub-grade evaluations shall be done by bore samples of cross-sections of roads at locations as determined by the Gallatin County Road and Bridge Department and/or Montana Department of Transportation.
- When required by Gallatin County Planning Department, a warrant analysis for traffic control devices;

- Findings and conclusions including a recommendation of suggested potential mitigation for site access impacts and off-site impacts and an evaluation of the effectiveness of those solutions; and
  - Additional information as required by the Planning Department.
4. **Peer Review.** All TISs shall be peer reviewed by a trained traffic engineers or transportation planners approved upon by the Planning Department.
    - a. All fees for the peer review process shall paid by the applicant.
    - b. All proposed developments on the Montana Highway System shall be reviewed for sufficiency and approved by the Montana Department of Transportation.
  5. **Waiver of Study Requirements.** Upon request from the applicant the requirement for a TIS, or the study elements listed in Minimum TIS Requirements, may be waived or modified by the Planning Director following consultation with a representative of the Gallatin County Road and Bridge Department and/or Montana Department of Transportation. The applicant shall document the reasons for the waiver or modification. Factors to be considered include, but are not limited to:
    - a. roadway improvements are scheduled that are expected to mitigate any impacts associated with the proposed project; and
    - b. a similar TIS was previously prepared for the site and is still considered applicable.

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## GALLATIN COUNTY

### **CONDITIONAL USE APPLICATION FORM AND REQUIRED INFORMATION Belgrade Donut/Four Corners Area Interim Zoning District Regulation for Operations that Mine Sand and Gravel or Operations that Mix Concrete or Batch Asphalt**

This Belgrade Donut/Four Corners Area Interim Zoning Regulation for Operations that Mine Sand and Gravel or Operations that Mix Concrete or Batch Asphalt (“Interim Regulation”) requires a conditional use permit (CUP) prior to commencing any work onsite that is governed by the Montana Opencut Mining Act.

The following information must be submitted along with the CUP application form:

1. Cover letter describing project and submittal material.
2. Copy of any leases for minerals or for the location subject to the application.
3. For applications for new Operations that require compliance with the Montana Opencut Mining Act, copy of a completed Opencut Mining application pursuant to the requirements of MDEQ.
4. For applications for expansion of existing Operations that require compliance with the Montana Opencut Mining Act, copy of previously approved Opencut Mine Permit and accompanying Environmental Assessment from the MDEQ Opencut Mining Program and, for expansions where the MDEQ Opencut Mining Program does not require completion of a new or updated Environmental Assessment, completion of an updated Environmental Assessment that substantially complies with the requirements of the Montana Environmental Policy Act.
5. For applications for expansion of existing Operations that require compliance with the Montana Opencut Mining Act, evidence from the MDEQ documenting whether the existing operation and operator has had any violation of the MDEQ Opencut Mining Program terms and conditions of approval and if so, the history of the violations and any remedies or fines imposed due to the violations.
6. Name and address of property owners adjacent to the site and within 1000 feet of the proposed Operations and postage for certified mail to each address.
7. Name and address of owners of property owners outside 1000 feet but within one-half mile of the proposed Operations and postage for first-class mail to each address.
8. Location and name of property owners of all water wells within a one-half mile radius of proposed site.
9. Detailed site inventory map and site development plan that meets the requirements of 17.24.217 through 17.24.219 and 17.24.222(3), ARM. In addition, at the pre-application meeting, the Planning Department may require the applicant to submit additional information for the items listed in 17.24.222(1), ARM, pursuant to the requirements of 17.24.222(2), ARM.



## GALLATIN COUNTY

10. Traffic Impact Study (TIS) pursuant to Gallatin County Planning Department requirements that analyzes the impacts of the proposed Operation on any local, state or federal road over which the applicant's Operations are conducted.
11. Noxious Weed Control and Revegetation Plan approved by the Gallatin County Weed Control District.
12. Analysis of impacts of the proposed Operations on the monetary values of adjacent and neighboring properties.
13. Description of impacts of the Operations on identified environmental and community resources and a mitigation plan for all identified impacts.

The following information may be submitted:

1. Statement of the ability of the applicant to physically accomplish any identified mitigation techniques;
2. Analysis of the financial costs of accomplishing the proposed mitigation; and
3. Discussion of a "no action alternative" that the applicant believes may be pertinent to the site and/or to the operation.

The applicant must file the attached application form and required information above with the Gallatin County Planning Department along with the required application fee made payable to the County of Gallatin and required mailing fees and labels.

If you have any questions regarding the application or need any assistance filling out any part of the application form, please contact the Gallatin County Planning Department at 582-3130 in the Gallatin County Courthouse.



# GALLATIN COUNTY

FILE NO. \_\_\_\_\_

DATE \_\_\_\_\_

## APPLICATION FORM

The Undersigned hereby makes application for a CUP pursuant to the requirements as outlined in the Interim Zoning Regulation.

1. NAME OF APPLICANT: \_\_\_\_\_
2. ADDRESS OF APPLICANT: \_\_\_\_\_  
\_\_\_\_\_
3. PHONE NUMBER OF APPLICANT: \_\_\_\_\_
4. LEGAL DESCRIPTION OF SUBJECT PROPERTY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. DOR#: 06 \_\_\_\_\_
6. GENERAL LOCATION: \_\_\_\_\_  
\_\_\_\_\_
7. ZONING DISTRICT: \_\_\_\_\_ CURRENT ZONING: \_\_\_\_\_
8. CONDITIONAL USE TO CONSIST OF THE FOLLOWING: \_\_\_\_\_  
\_\_\_\_\_
9. ARE ANY VARIANCES BEING REQUESTED? IF YES, PLEASE EXPLAIN:  
\_\_\_\_\_  
\_\_\_\_\_
10. ARE THERE ANY COVENANTS OR DEED RESTRICTIONS ON THE PROPERTY? IF YES, PLEASE INCLUDE COPY. YES \_\_\_\_\_ NO \_\_\_\_\_

I understand that the filing fee accompanying this application is not refundable. I hereby certify that the above-listed information is true and correct.

\_\_\_\_\_  
APPLICANT'S SIGNATURE

DATE: \_\_\_\_\_

### FOR OFFICE USE ONLY

DATE FILED: \_\_\_\_\_ FILING FEE: \_\_\_\_\_

ZONING COMMISSION HEARING DATE: \_\_\_\_\_

ACTION TAKEN: \_\_\_\_\_

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May 5, 2008

Gallatin County Commission  
311 W. Main Street Room 306  
Bozeman, MT 59715

**RE: Belgrade City-County Planning Board Discussion for Denial of CUP's in Interim Regulations**

Dear Commissioners:

On April 28, 2008 the Belgrade City-County Planning Board heard a request by the Gallatin County Commission to discuss whether the Gravel Pit Emergency Interim Zoning Regulation should include a provision for denial of Conditional Use Permits (CUP).

The Board conversed with the Planning Staff about the events that have been leading up to the Interim Zoning adoption, the decisions that were recently made by the District Court in Helena regarding permitting from the Montana Department of Environmental Quality (MDEQ), and the Draft regulations from April 18, 2008, which each member was provided a copy in advance.

In Board discussion, each member was asked to contribute their thoughts regarding the discussion. The members discussed written testimony from Board member Sandy Lee who was not present, but not in favor of including the ability for denial. She felt the intent of the regulation was never to allow denial of the pits but to allow for adequate conditioning of them to mitigate potential impacts. The Board further discussed what denial would mean to the gravel industry, the time frame for draft zoning regulations of the planning jurisdiction, and if denial was an option in subdivision review.

The Board voted (4:2) to send a recommendation to the County Commission, that the zoning policy provide the Commission with the authority to deny gravel pits if the impacts from the pits could not reasonably be mitigated. The also request that the Belgrade City-County Planning Board be included in future CUP hearings. The dissenting votes were from Mike Marx and John Youngberg.

If you need more information regarding this issue prior to scheduling a hearing, please contact the Belgrade City-County Planning Office.

Sincerely,

Henry Parsons  
Chairman

