

CUP-AMD 06-010003

## Conditional Use Summary and Recommendation

Public Body: Tooele County Planning Commission

Meeting Date: September 15, 2021

Parcel ID: 05-038-0-0035

Current Zone: C-G (Commercial General)

Property Address: Approximately 6000 N SR 36, Tooele, UT 84074

Request: Amended conditional use for Concrete plant hours

Unincorporated: Stanbury Park

Planners: Trish DuClos

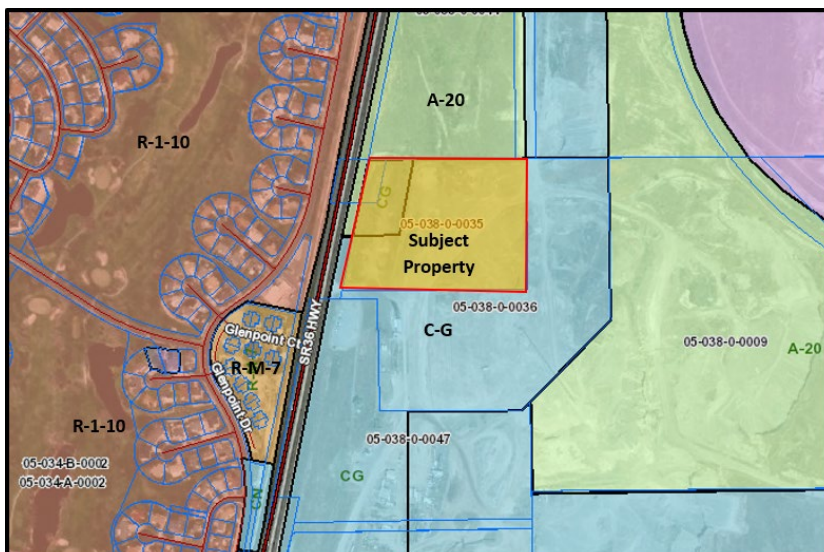
Planning Staff Recommendation: Approval with Conditions

Applicant Name: Stewart Lamb

### PROJECT DESCRIPTION

Stewart Lamb is requesting an amendment to the conditional use permit for hours of operation. The CUP was approved by the Tooele County Planning Commission on July 10, 1991. This CUP has had a few amendments through the years and encompasses 5 gravel pits in the area. The applicant is requesting the concrete plant operate 24 hours a day on the subject parcel. The applicant's request states the market demands those hours and concrete installation procedures require the plant to run 24 hours a day. Larger commercial and residential pours require concrete to be placed before the sun comes up to allow a proper seal, to meet drying time requirements, and to avoid concrete failures.

### SITE & VICINITY DESCRIPTION (see attached map)



The subject property is located just East of SR 36, across the street from the North Tooele Fire District house in Stanbury Park. The parcel is currently zoned C-G (Commercial General). Immediately South and East of the property is more C-G zones. Just North is located a A-20 (Agricultural, 20-acre minimum) zone which also has other gravel pits running through it. Across highway 36 to the West are located residential properties of an R-M-7 (Multiple residential, 7,000 square feet minimum) and R-1-10 (residential, 10,000 square feet minimum).

## LAND USE CONSIDERATIONS (C-G Commercial General)

Requirement	Standard	Proposed	Compliance Verified
Height	75 Feet		Yes
Front Yard Setback	50 Feet from a residential zone		Yes
Rear Yard Setback	50 Feet from a residential zone		Yes
Side Yard Setback	50 Feet from a residential zone		Yes
Lot Coverage	50%		Yes
Lot Area			Yes

Compatibility with existing buildings in terms of size, scale and height.	Yes
Compliance with the General Plan.	Yes

### ISSUES OF CONCERN/PROPOSED MITIGATION

Planning staff has received multiple complaints of noise on the property, along with the concrete plant starting work before 7:00 am. The noise complaints were forwarded to the Sheriff's department. A notice was sent to the company to inform them of their CUP violation of hours of operation.

### NEIGHBORHOOD RESPONSE

Other than the original complaints on the noise and hours Planning Staff has not received any further comments from the surrounding neighbors or the general public. Any comments that are received will be presented to the Planning Commission on September 15, 2021.

### PLANNING STAFF ANALYSIS

Because of HB 288 "Critical Infrastructure Materials" was passed this allows the operations to continue their uses in their current C-G and A-20 zones and not be required to rezone or move. They still must comply with nuisance codes.

Since planning staff had received complaints on the property a notice was sent for the CUP violations. The noise complaints were forwarded to the Sheriff's office. Planning staff and deputies have worked together to try and ensure compliance.

The current CUP states, "Hours of operation will be from 7:00 am-8:00 pm. Extended hours of operation may be granted by Tooele Planning Commission on a temporary case by case basis provided extended operations will comply with all conditions of this permit and not create a nuisance for the adjacent property owners or neighborhoods." Planning staff sent a notice to the applicant informing the company of the current CUP hours of operation and that the concrete plant is in violation of those hours. The applicant contacted staff and requested a CUP amendment for hours of operation.

In order to try and mitigate nuisances the applicant raised the berm height along SR 36 from 5 feet to approximately 20 feet tall. The applicant stated that a lot of the noise came from an air purge from the plant and

will no longer allow that to happen until after 7:00 am. They installed white noise back up alarms on trucks and loading equipment. They also adjusted the lighting to point straight down, and the berms help create a shield. The applicant also had noise analysis/testing done.

## **PLANNING STAFF RECOMMENDATION**

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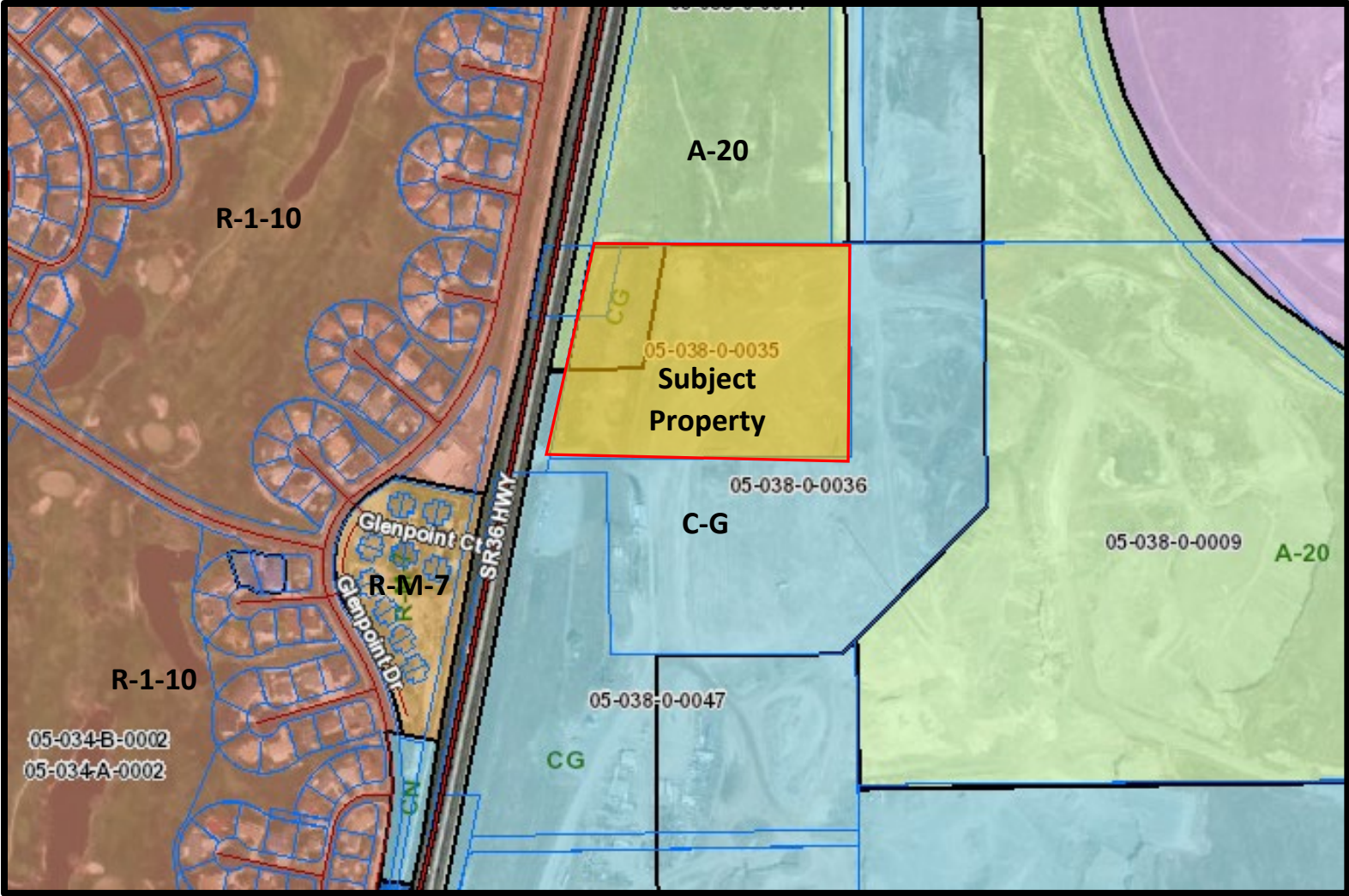
Staff recommends that the Tooele County Planning Commission review the current and past conditions imposed on the CUP and amendments and all possible nuisances before deciding on the new amendment for hours of operation on the concrete plant.

If approval is granted planning staff recommends the following conditions:

1. Site plan approval is necessary to allow plant and hours (currently in for review by staff).
2. That the most current amendment (03/17/2011) regulations be followed and if any nuisance is ever substantiated the plant will move to a less conspicuous location that planning staff may determine.

# CUP AMD 06-010003: Conditional Use Approval amendment for Concrete Plant

Approximately 6000 N Hwy 36, Tooele, UT 84074: (Parcel ID: 05-038-0-0035)



FINDING OF FACT IN THE MATTER OF:  
CUP 06-00100003, KILGORE ERDA PIT,  
LLC, SAND AND GRAVEL PIT  
OPERATIONS, LOCATED IN SECTION  
22, T2S, R4W, SLB&M, IN TH TOWNSHIP  
OF ERDA, TOOELE COUNTY, UTAH

Ent: 354436 - Pg 1 of 4  
Date: 03/17/2011 01:21 PM  
Fee: \$0.00  
Filed By: CP  
Jerry M. Houghton, Recorder  
Tooele County Corporation  
For: TOOELE COUNTY ENGINEERING

## AMENDED CONDITIONAL USE PERMIT 06-00100003

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**TOOELE COUNTY ZONING ADMINISTRATOR**  
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### *Facts*

1. Whereas, the applicant owns parcels 05-038-0-0035, 05-038-0-0036, and 05-038-0-0037 (see Exhibit A) located in Section 22, T2S, R4W, SLB&M, in the township of Erda located in the Tooele Valley planning district;
2. Whereas, the applicant has acquired property, parcels 05-038-0-0017 and 05-038-0-0025 (see Exhibit A), previously owned and operated by the State of Utah as a gravel pit;
3. Whereas, the County has determined that the State of Utah's gravel pit use runs with the land and can be transferred to private ownership.
4. Whereas, the parcels of ground are currently zoned C-G and A- 20;
5. Whereas, Pacific West, LLC or its successor in interest have been in operation on the site under **Conditional Use Permit #900-91 which was issued on July 10, 1991;**
6. Whereas, the application for original issuance of conditional use permit **CUP#0087-96** was received on June 5, 1996;
7. Whereas, on July 17, 1996 the application for conditional use permit **CUP#0087-96** was approved with conditions by Tooele County Planning Commission where the meeting minutes **reference hot mix plant and asphalt plant;**
8. Whereas, Pacific West, LLC or its successor in interest have been issued, or are otherwise conducting operations on the site pursuant to, all applicable permits provided through the Department of Environmental Quality;
9. Whereas, Pacific West, LLC or its successor in interest have agreed to follow the same stipulations and conditions that were issued under **CUP#900-91;**
10. Whereas, the site has been used in gravel and asphalt production and permitted historically in the past and has taken steps to mitigate any impacts to the residents of the Stansbury Park and other in the vicinity;
11. Whereas, Uniform Zoning Ordinance of Tooele County, Chapter 15-3(16) which was amended on January 23, 2001 by Ordinance #2001-05, listed Mining, rock crusher, batch plant, asphalt plant, quarry, gravel pits, and oil or steam wells are listed as a conditional use when the conditional use permit was issued;
12. Whereas, Uniform Zoning Ordinance of Tooele County, Chapter 27-2, which was amended on January 23, 2001 by Ordinance #2001-05, listed all mine, quarry, and gravel pit operations require conditional use permits; and

13. Whereas, Uniform Zoning Ordinance of Tooele County, chapter 27-5(a), which was amended on January 23, 2001 by Ordinance #2001-05, listed all commercial pits shall operate on a five year operation plan. Upon expiration of the previous plan, a new five year plan shall be submitted, otherwise closure and reclamation operations shall begin on the next working day; and
14. Whereas, on October 26, 2006 the Tooele County Zoning Administrator approved the update of the operation plan for the Conditional Use Permit CUP#0087-96 under file as 06-00100003 CONDITIONAL USE PERMIT TOOELE COUNTY; and
15. Whereas, a surety bond in the amount of 92,800.00 has been provided by Staker Paving and Construction Company and Fidelity and Deposit Company of Maryland to cover reclamation on site.
16. Whereas, On December 21, 2009 the Tooele County Zoning Administrator approved an amended Conditional Use Permit updating owner and parcel information.

### *Applicable Law*

1. 7-5 Determination.
  - (1) The planning commission, or upon authorization, the zoning administrator, shall approve a conditional use permit if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards in which a conditional use permit is required by the use regulations of that zoning district or elsewhere in these ordinances.
2. 5-12 The doctrine of diminishing assets.

Some nonconforming uses, such as mining or gravel extraction must be expanded in order for the use to continue at all. Such businesses shall be allowed to expand without limitation or restriction to the immediate area excavated at the time the ordinance was passed regardless of the current zoning onto the rest of the property acquired for such a use. This shall not allow for the purchase of additional property with which to expand, but does allow that all property held at the time the more restrictive ordinance was passed can be used for the intended purpose.
3. 7-12 Amendment of a conditional use permit.
  - (2) The zoning administrator may administratively consider, approve, or deny modifications or changes that are consistent with the purpose and intent of the Tooele County Land Use Ordinance. Such determinations may be made only where the additions, modifications, or changes are determined not to have significant impact beyond the site.

### *Decision and Recommendation*

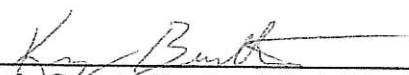
On March 17, 2011 the Tooele County Zoning Administrator approves this amended Conditional Use Permit 06-01100003 finding that the changes are consistent with the purpose and intent of the Tooele County Land Use Ordinance and original permits issued by the Planning Commission.

Due to the unique characteristics of the use of the property or the potential impact on the county, surrounding neighbors or adjacent land and in order to mitigate or eliminate the detrimental impacts and for protection of adjacent properties and the public welfare (see Section 7-1 and 7-5, Tooele County Land Use Ordinance), we hereby find it necessary to and do hereby impose the following conditions, which must be complied with to establish and continue the use:

1. A reclamation guarantee has been provided consistent with Section 27-5 of the Tooele County Land Use Ordinance and acceptable as to form by the County Attorney on parcels previously owned and operated by the State of Utah.

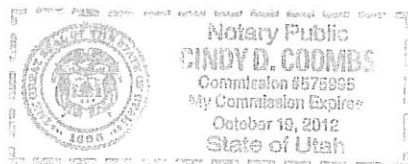
2. A buffer zone of at least 75 feet shall be left undisturbed from the centerline of the railroad right-of-way. The operation shall in no way be operated to create a nuisance for the railroad or have any detrimental effect on their right-of-way.
3. Once an area of the pit has been mined out, and is no longer being used in the day to day operations of the pit, it will be shaped, topsoil placed and seeded, and will be done in a timely manner.
4. Excavated areas will not be left with vertical faces. The maximum slope is to be 30° until reclaimed.
5. The active area of the pit will be cleaned, at least 30% each year. New areas will remain clean. This is to include the removal of all deteriorated equipment left on site by the previous operator.
6. The west berm will be repaired, top soil will be placed and grass seed planted.
7. The Palmer portion of the pit will be clean and shaped.
8. Pacific West, LLC or its successor in interest, or their representatives, will meet with the county once a year to review the pit operations.
9. Pacific West, LLC or its successor in interest will be using the Erda Pit to stockpile and recycle petroleum containing soils. Clay pads with berms will be built and maintained.
10. Hours of operation will be from 7:00 a.m. to 8:00 p.m. Extended hours of operation may be granted by Tooele County Planning Commission on a temporary case by case basis provided extended operations will comply with all conditions of this permit and not create a nuisance for adjacent property owners or neighborhoods.
11. During operation of heavy equipment and any crushing operations, water is to be used to control the dust. Any spills or mud tracked onto the highway are to be cleaned up immediately.
12. This gravel pit is to conform to Chapter 27, of the Uniform Zoning Ordinance of Tooele County.
13. Only maintenance work on equipment can be performed outside regular operating hours that do not disturb nearby residents.

Dated this the 17<sup>th</sup> day of March, 2011

  
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 Tooele County Zoning Administrator

State of Utah)  
 )s.s  
 County of Tooele)

Subscribed and sworn before me this 17<sup>th</sup> day of March 2011



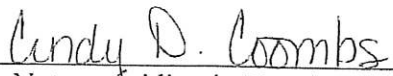
  
 \_\_\_\_\_  
 Notary residing in Tooele County

EXHIBIT A

Parcel 05-038-0-0035

BEG AT NE COR OF NW 1/4 SEC 22, T2S, R4W, S 646 FT, W 1063 FT, N 12°9' E 439.4 FT, E 233 FT, N 12°9' E 216.6 FT M/L, E 691 FT TO BEG. ---LESS 1.41 AC TO UDOT (STATE HWY 36) - 12.30 TOTAL ACRES.

Parcel 05-038-0-0036

A PARCEL OF LAND LYING IN N 1/2 OF SEC 22, T2S, R4W, SLB&M, DESC AS FOLL: BEG AT N 1/4 COR OF SEC 22 & TRAVERSING N 89°41'46" E 412.61 FT ALG N LI OF SD SEC 22, S 00°18'14" E 802.13 FT, TH S 45°00'00" W 630.14 FT, TH N 89°39'17" W 700.00 FT, N 01°01'54" W 550.00 FT, N 89°39'17" W 323.78 FT, TH TO A PT ON E LI OF HWY 36, TH N 11°07'16" E 50.90 FT ALG SD HWY, M/L TO S BNDRY OF TOOELE COUNTY PPTY, TH S 89°39'17" E ALG THE S LI OF SD TOOELE COUNTY PPTY 1064.22 FT, N 01°01'54" W 646.00 FT TO POB. ---LESS .17 AC TO UDOT (STATE HWY 36) - 21.86 TOTAL ACRES

Parcel 05-038-0-0037

A TRACT OF LAND, SITUATE IN THE NE 1/4 NW 1/4 OF SEC 22, T2S, R4W, SLB&M. THE BOUNDARIES OF SD TRACT OF LAND ARE DESCRIBED AS FOLLOWS: BEG AT THE NE COR OF SD TRACT OF LAND, AT A PT 691.00 FT W ALG THE SEC LI FR THE N 1/4 COR OF SD SEC 22; AND RUN TH S 12°09'00" W 219.40 FT; TH W 87.13 FT TO THE ELY HWY R/W LI OF HWY 36 (SR-36); TH N 11°56'54" E 219.24 FT ALG SD ELY HWY R/W LI TO THE NLY LI OF SD SEC 22; TH E 87.92 FT TO THE POB. - .43 AC

Parcel 05-038-0-0017

BEG AT SE COR NE 1/4 SEC 22, T2S, R4W, N 60 RD, W 160 RDS, S 60 RDS, E 160 RDS TO BEG, LESS .82 AC TO TERRACOR, BALANCE 59.18 AC, LESS .75 RD. - 58.43 AC

Parcel 05-038-0-0025

A PARCEL OF LAND FOR HAUL ROAD TO CONST. OF FREEWAY KNOWN AS PROJECT NO 80-2. BEG IN E LINE OF SD SE 1/4NW 1/4 AT A POINT APPROX 830 FT N FR CENTER SD SEC 22, W 1139 FT, M/L TO E'LY R/W LI OF EXISTING HWY. STATE ROUTE 36 AT A PT APPROX 830 FT. N & 1139 FT W FR SD CENTER OF SEC 22, ALSO A PERPETUAL EASEMENT UPON PART OF AN ENTIRE TRACT OF PPTY IN N 1/2SW 1/4 SEC 22, T2S, R4W, FOR PURPOSE OF CONSTRUCTING & MAINTAINING THEREON A HAUL ROAD TO CONST OF A FREEWAY KNOWN AS PROJECT 80-2. - 1.31 AC