

**CITY OF PALMER ACTION MEMORANDUM No. 10-046**

**SUBJECT:** Extend the Deadline for the Planning & Zoning Commission to Submit Recommendations on Conditional Use Permit Standards for Natural Resource Extractions to the August 10, 2010 City Council Meeting

**AGENDA OF: June 8, 2010**

<b>2010 Council action:</b>  <div style="border: 1px solid red; padding: 2px; display: inline-block; color: red;">Extended</div>
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**Approved for presentation by B.B. Allen, City Manager** Bob Casey

Route To:	Department/Individual:	Initials/Date:	Remarks:
X	Originator – Director of Community Development	<i>SW</i>	
X	City Clerk	<i>MB</i> 6/2/2010	
X	City Attorney	<i>[Signature]</i> 6/2/2010	
	Director of Administration		
	Director of Community Services		
	Director of Public Safety		
	Director of Public Works		

**Attachment(s):** Working Draft of Amendment to PMC 17.36.030 Standards for Natural Resource Extraction Conditional Use Permit

**Certification of Funds:**

X	No fiscal impact.	
	Funds are budgeted from this account number:	
	Funds are not budgeted. Budget modification is required. Affected account number:	

Director of Administration Signature: *SW*

**Summary statement:** On March 9, 2010, the City Council requested that the Planning & Zoning Commission draft a set of standards for the review of Conditional Use Permit applications covering natural resource extraction operations. The Commission reviewed its first draft of the proposed standards on May 20, 2010 and estimates that an additional two meetings will be required to produce a final recommendation for the City Council.

**Background:** On August 3, 2009 the Matanuska-Susitna Borough Assembly referred to the Borough Planning Commission for their review and recommendations a draft Ordinance Serial Number 09-110 adding section 28.30 Material Extraction to the Borough Code. Ordinance 09-

110 included a provision in section 28.30.020.B that extends the requirements of this Borough ordinance into the incorporated cities of Houston, Palmer and Wasilla. In December 2009, the Borough Planning Commission forwarded its recommended changes to Ordinance 09-110 to the Assembly. Although the Planning Commission had heard testimony from the three cities requesting that they not be included under Borough Ordinance 09-110, Planning Commission Resolution 09-44 did not include a recommendation to remove the cities from the jurisdiction of 09-110. In the event that the Borough Assembly does listen to the requests of the three incorporated cities to be excluded from their earth material extraction ordinance, the City of Palmer should be prepared to adopt specific requirements for the review of natural resource extraction operations within the city limits. This will be even more important as the City looks to future annexations.

Currently, Title 17 does not specifically allow natural resource extraction as a permitted use in any district in the city limits. Under 17.36.030 in the I-Industrial district list of conditional uses, subparagraph 9 allows the Planning and Zoning Commission to consider the issuance of a Conditional Use Permit for "Uses and structures which are determined by the commission to be potentially noxious or injurious to other properties by reason of production or emission of excessive dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or conditions." A natural resource operation appears to fall under this list of attributes.

The Commission is working to create specific requirements for reviewing applications for Conditional Use Permits for natural resource extraction operations and anticipates completing their draft of an amendment to PMC 17.36.030 during their July meeting. The Commission therefore is requesting a two month extension to the original June 8 deadline for completing their assigned task.

**Administration recommendation:** Approve action memorandum 10-046.

DRAFT PALMER Conditional Use Standards for NATURAL RESOURCE EXTRACTION in the I-Industrial District

17.36.030 Conditional uses.

A. The following uses may be permitted by obtaining a conditional use permit:

1. Concrete and concrete products manufacture;
2. Coal yard;
3. Contractor's equipment yard;
4. House moving business;
5. Sewage treatment plants;
6. Industrial planned unit development;
7. Airport and heliports;
8. Slaughterhouses;
9. Uses and structures which are determined by the commission to be potentially noxious or injurious to other properties by reason of production or emission of excessive dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or conditions;
10. Quarters for caretaker, guard or other persons whose permanent residency on the premises is required for operational safety, or protective purposes or as quarters or accommodations for persons engaged in certain industrial operations whose residency in the vicinity satisfies conditions or requirements of the work.

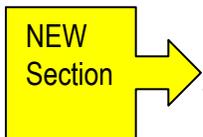
B. The following uses may be permitted by obtaining a conditional use permit, and must be enclosed on all sides by a site obscuring fence not less than six feet in height if the use is located on a lot which abuts an arterial or higher classification road as recognized by the city of Palmer, or the lot abuts or is immediately across a recognized public right-of-way or easement from any lot not zoned industrial:

1. Salvage, wrecking or junk yard.

C. All applications for natural resource extraction shall include:

**1. General requirements**

- a. A mineral and natural resource extraction operation shall only be considered and approved in those zones where such use is permitted by conditional use permit.



- b. A conditional use permit shall not be required for any of the following:
- 1) Excavation for a foundation, cellar or basement of a structure or for residential landscaping.
  - 2) Excavation conducted directly by state, borough or city authorities in connection with construction or maintenance of roads, highways, or utilities.
  - 3) Excavation or removal of less than four hundred (400) cubic yards or material per year for use on the owner's property.
  - 4) Excavation and grading for agricultural purposes.
- c. A conditional use permit application for approval of a mineral and natural resource extraction operation shall not be accepted for review and processing unless it includes copies of the complete documentation required by the Alaska Department of Natural Resources as part of its permitting process, and copies of supplemental reports and plans specified in this section.
- d. In addition to compliance with conditional use standards, requirements and conditions required within or imposed pursuant PMC 17.72.050, mineral and natural resource extraction operation shall also comply with the following standards.

## **2. Standards**

The applicant for a proposed conditional use permit for a mineral and natural resource extraction operation shall demonstrate the following to the satisfaction of the Palmer Planning and Zoning Commission:

- a. The use will not have an adverse long-term visual impact either from adjacent and adjoining properties or from major transportation corridors;
- b. The site can be reclaimed to a use and character compatible with surrounding uses and zoning;

- c. The operation will result in an efficient use of the mineral deposit;
- d. The use will not substantially disturb uniquely sensitive environmental features including wetlands, riparian habitats, other critical wildlife habitats and rare or unusual natural features;
- e. The use will not substantially disturb identified historic or archaeological sites;
- f. The site and associated conditional use operations will be adequately buffered from surrounding properties and uses;
- g. Adequate water supplies will be available for drinking, dust control, landscaping, general operations and effective reclamation;
- h. Adverse impacts to adjacent properties from vibration, noise, glare, blowing or flowing materials, or odors will be minimal;
- i. A mineral deposit of a commercial nature exists;
- j. If proposed mineral and natural resource extraction operation is adjacent to non-industrial land uses, extraction activities shall operate only between the hours of 6:00 a.m. and 10:00 p.m.
  - 1) A mineral extraction facility may be opened one hour before hours of operation to allow for staging;
  - 2) Operators are allowed extensions to the hours of operation if an emergency disaster declaration has been issued by the City for the duration of the emergency;
- k. Unauthorized Storage of vehicles, equipment or materials not associated with the mineral extraction facility or not in operable condition will not be kept or stored at the facility;
- l. Reclamation of adverse visual and other environmental impacts will take place within a reasonable and specified time frame.

### **3. Reports**

- a. Visual Impact Analysis including, but not limited to:
- 1) Graphic depiction of all off-site properties which will be visually impacted during each of the proposed phases and upon completion of the operation,
  - 2) Identification of major transportation corridors from which any part of the proposed operation will be visible,
  - 3) Night lighting and glare, and
  - 6) Description of measures proposed to mitigate visual impacts.
- b. Mining Operation Plan shall contain:
- 1) Complete legal description of the permit area and pertinent mineral rights supplemented by geographic descriptions of the location of separate phasing areas, haul roads, utilities, buffer areas, improvements, equipment fueling and maintenance areas, and major equipment within the permit area;
  - 2) Description of the overall operation to include all relevant aspects including, but not limited to, site preparation, excavation methods, nature of crushing or screening activities, stockpiling, hauling plan and dust suppression activities, and grading plan for completed mining activity;
  - 3) Description of the overall period of operation (may be for the life of the mine or may include a closure date);
  - 4) Description of seasons, days and times of operation supplemented with additional limitations for specified activities such as blasting, hauling, crushing, or screening;
  - 5) Estimate of anticipated maximum number of employees and/or contractors and independent haulers who will be on site during various phases of operations;
  - 6) Description of available water and sanitation facilities;

- 7) Plans for site security and safety;
- 8) List of major equipment and equipment location to be used on site;
- 9) Description of environmental monitoring which will be conducted on or off the site;
- 10) Description of procedures to log and address complaints related to the operation;
- 11) Drainage, erosion and sedimentation control plan, and
- 12) Copy of any required air or water quality permits.

Description  
or  
Engineering  
report  
depending  
on size of  
operation??



Traffic Impact Analysis including, but not limited to:

- 1) Description and depiction of classification, capacity, condition and maintenance responsibility of all roadways connecting the proposed operation to the local or regional roadway network;
- 2) Traffic generation described and depicted by average and maximum daily and monthly vehicle mix by specific vehicle type;
- 3) Proposed distribution of traffic generated as a result of the operation, with an evaluation of alternatives, if appropriate;
- 4) Specific consideration of traffic, noise or dust related impacts; and
- 5) Description of plans to mitigate vehicular and pedestrian traffic impacts.

d. Analysis of Impacts to Sensitive or Significant Features

- 1) Identification of historic or archaeological resources which might be impacted by the proposed activity;

2) Identification of sensitive or hazardous environmental features which might impact or be impacted by the proposed activity. These features may include wetlands, floodplains, geologic hazards, mining within four feet or below seasonal high water table, wildlife habitat and vegetation; and

3) Means proposed to mitigate these impacts.

e. Analysis of Other Potential Impacts

1) Description of off-site impacts generated as a result of the operation, including light or glare, noise, vibration, blowing material from the site, trucks or haul roads, dust and other air and water quality impacts; and

2) Means proposed to mitigate these impacts.

f. Geologic Report

1) Description of the overall geology of the site, including identification of soil types, deposits and rock units which will be exposed during the life of the activity; and

2) Identification of natural or man-made geological hazards before, during and after mining.

g. Ultimate Land Use Analysis

1) A description of the ultimate land use for the property following the completion of the mining operation, which will reflect and be consistent with the reclamation plan.

#### **4. Termination**

The mineral extraction permit shall be terminated on the occurrence of any of the following events:

a. The date or event of termination specified in the Conditional Use Permit; or

b. Upon a violation of a condition under which the permit was issued, but only after the City has first provided written notice to the Operator and land owner (if different from the Operator) describing the specific violation and steps necessary to be in compliance with the permit and after having been given a reasonable opportunity to remedy the violation, but in no case longer than thirty (30) working days. The second violation of any condition will result in written notice and public hearing before the Planning & Zoning Commission on proposed termination.

#### 4. Pre-existing Mineral and Natural Resource Extraction Operations

Those mineral and natural resource extraction operations in the City that:

- 1.) exist as of the effective date of this Ordinance; or
- 2.) are annexed into the city boundaries after the effective date of this ordinance;

shall have the right to continue as legal non-conforming uses, without first obtaining a conditional use permit **or interim use permit** as long as they are in compliance with the conditions and the performance standards under which the operation was initially approved by the city, Borough or state. This right shall run with the applicable property.

a. No Expansion Without Obtaining a Conditional Use Permit **or Interim Use Permit**. The mining area may not be expanded beyond the legally recorded property boundaries in effect at the time this ordinance was approved or the date of the annexation of the mineral and natural resource extraction operation into the city of Palmer unless the operator obtains a Conditional Use Permit **or Interim Use Permit** for the entire mineral extraction operation including those portions previously mined and the proposed expanded mining area.

How should we treat Temp. Gravel pits

**Abbreviated process ???? **Interim Use Permit** review by P&Z similar to P&Z review of uses in P-Public District??**

a. *Purpose:* The purpose of this section is to set out a limited review process that allows for the timely and efficient review of specified sand, gravel and uses, aggregate

mining operations, while preventing erosion, sedimentation, and fugitive dust; ensuring adequate revegetation of disturbed ground; and controlling the adverse impacts of off-site haulage of mineral products. The overall goal is to ensure compatibility of earth-moving activity with the environment and surrounding land

b. *Application:* This abbreviated process shall be available only for the following types of mining operations:

1) Any sand, gravel, or quarry aggregate operation which is to be operated for the sole purpose of obtaining materials for development of a specific residential, commercial or subdivision, or a highway, road, utility, or similar public construction project under a federal, state, or city contract where the contract calls for the work to be commenced within ninety (90) days of contract approval and which will affect ten (10) acres or less. The Interim Use Permit if granted shall last only so long as the contract or any supplement thereto is in effect but no longer than twenty-four (24) months.

Or as an  
Alternative  
to 1)



1) Any sand, gravel, or quarry aggregate operation the primary purpose of which is to level, excavate, or otherwise prepare land for subdivision, road, or building construction and which:

(a) Involves the removal from the site of less than fifty thousand (50,000) cubic yards of product, whether or not said product is sold;

(b) Can be completed within four (4) months of initial earthmoving activity;

(c) Does not involve crushing or processing of the mineral product on site;

(d) Is not located in or immediately adjacent to a floodplain or floodway, unless all required floodplain development permits and/or Section 404 permits have been obtained; and

(e) Is located more than 500 feet from nearest residential property line.

c. *Procedures:* The applicant shall submit a completed application and site plan for the proposed operation and shall comply with the submittal requirements of 17.72.020.

3) The application, site plan and necessary reports shall comply with the standards, requirements and conditions of 17.72.030, 17.72.050 and include

(a) A grading plan for the proposed site upon completion of the mining activity;

(b) An erosion and sedimentation control plan; and

(c) A copy of any required air or water quality permits.

d. *Approval:* The Planning and Zoning Commission may impose any condition or requirement deemed necessary to protect the health, safety, and welfare of the public; to prevent a nuisance or hazard to property; and to ensure proper completion of the project, including but not limited to:

1) Mitigation of adverse environmental and visual impacts;

2) Fencing or other protection needed to avoid hazardous situations; and

3) Dust, erosion, sediment, and noise control, water quality protection, blasting, hours of operation, access roads and haul routes, and times of hauling.

Add

To  
17.08

17.08 Definitions

"Mineral" means sand, gravel, rock, clay and similar higher density non-metallic natural materials.

“Mineral Extraction” means the removal of sand, gravel, rock, clay and similar higher density non-metallic natural minerals from the ground.

“Mineral and Natural Resource Extraction Operation” means any area that is being used for removal, stockpiling, storage, and processing of minerals.

“Mineral Extraction Permit” means the interim use permit required for mineral extraction activities that will specify a time period for operation.

“Natural Resource” means a material source of wealth such as timber or mineral deposit that occurs in natural state and has economic value

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