

Meeting Date: 08/15/2018

Mission Statement

To provide our growing dynamic community excellent municipal services to make Fernley a great place to live, work, and play.
Together, we enhance the desirability, safety, friendliness, aesthetics and quality of life in our city.

CITY OF FERNLEY CITY COUNCIL MEETING STAFF REPORT

REPORT TO: Mayor & City Council

REPORT THRU: Daphne Hooper, City Manager

REPORT BY: Tim Thompson, Planning Director
Melinda Bauer, Assistant Planner

REVIEWED BY: David Rigdon, Contract Attorney

REVIEWED BY: Denise Lewis, City Treasurer

AGENDA ITEM: **Public Hearing, SUP 2017-002** – Consideration and possible action on A Special Use Permit request from Tim Bertagnolli with T.E. Bertagnolli & Associates, for open & subsurface mining use in the M-1 (General Industrial) zoning district, consisting of 4 parcels totaling ± 151.32 acres, generally located south of Desert Shadows Lane east of Highland Drive and west of Sage Brush Road, Fernley, NV. (APN(s): 021-307-09, 021-501-09, 10 and 12).

ACTION REQUESTED: ___ Consent ___ Ordinance ___ Resolution X Motion ___ Receive/File

RECOMMENDATION:

“I move to approve the Special Use Permit request associated with SUP 2017-002, to allow for open & subsurface mining use adopting Findings (A) through (G) and the facts supporting these Findings as set forth in the staff report and subject to the Conditions of Approval 1 through 20.”

Key Points:

1. The property is currently zoned M-1 (General Industrial) with a land use designation of Residential Rural. Open and Subsurface mining use is an allowed use with an approved Special Use Permit in the M-1 (General Industrial) zoning district.
2. The mining operation will use “Best Management Practices” to manage the operation in a safe and clean condition. The Mine Safety and Health Administration (MSHA) requires safe and clean operations under federal law.

POLICY REFERENCE:

Nevada Statutes: NRS 278.315

Fernley Municipal Code: FMC TITLE 32

Policies & Procedure Manual: N/A

Community Assessment: N/A

Fernley Development Code: Chapter 21 & 28.070.030 Open and subsurface mining

Other:

ANALYSIS:

The project proposal is to allow for open & subsurface mining use in the M-1 (General Industrial) zoning district, consisting of 4 parcels totaling ± 151.32 acres, generally located south of Desert Shadows Lane east of Highland Drive and west of Sage Brush Road, Fernley, NV. (APN(s): 021-307-09, 021-501-09, 10 and 12).

The mine will produce construction and rock quarry products and will disturb approximately 80 acres. The gravel operation will be mined at slopes of 2 horizontal to 1 vertical. These slopes are stable and will become the final reclamation of the land after the project closes.

The conditions of approval will help to mitigate identified impacts.

Public notice was given and a public hearing was scheduled per the requirements of the Fernley Development Code and Nevada Revised Statutes, no comment have been received.

Based on the Findings listed below, staff recommends forwarding a recommendation for approval to the City Council.

PROJECT SUMMARY:

Project Name	Quarry Products Inc.
Site Location	Farm District Rd. & HWY 50 A, south of the TCID Canal
APNs	021-307-09 & 021-501-09, 10, 12
Applicant	T. E. Bertagnolli & Associates
Owner	T. E. Bertagnolli & Associates
Proposed Actions	Special Use Permit, SUP 2017-002
Planning Area	Fernley Highlands
Land Use Classification	Residential Rural
Current Zoning	M-1
Flood Zone Designation	Per FIRM map # 32019C0150E, dated January 16, 2009, it appears that this property is located in Zone X.
Gross Site Area	± 151.32

Surrounding Properties and Uses:	Current Zoning District	Comprehensive Plan Land Use Classification
West Developed & Undeveloped Residential	RR-3 & 4	Residential Rural
North Undeveloped Residential	RR-3	Residential Rural
East Undeveloped Industrial	M-1	Residential Rural
South Developed Residential	RR-5	Residential Rural

FINDINGS

Special Use Permit

The City Development Code Chapter 21.060 establishes the findings the Planning Commission shall make to recommend approval or denial to the City Council for this Special Use Permit. All findings shall be made to recommend approval to the City Council. The findings and staff’s evaluation are outlined below:

Findings		Staff Analysis
A.	The proposed use at the specified location is consistent with the applicable zoning district.	The property is zoned M-1 (General Industrial) Open and Subsurface Mining is an allowed use in the M-1 zoning district.
B.	The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and includes improvements or modifications either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods. These improvements or modifications may include, but shall not be limited to the placement or orientation of buildings and entryways, parking areas, buffer yards, and the addition of landscaping, walls, or both, to mitigate such impacts.	The site had an approved Special Use Permit for Open and Subsurface Mining by Lyon County prior to the City becoming incorporated, the mining site existed but the use had discontinued for a few years, the new applicant purchased the site in 2004 and applied for an SUP to re-establish the use. This SUP will be conditioned to mitigate adverse impacts, such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods. Restricting Public Access to Pits and mine process facilities: Fencing and barriers will be used to control property access.
C.	The proposed use incorporates roadway improvements, traffic control devices, or mechanisms, or access restrictions to control traffic flow or divert traffic as needed to reduce or eliminate development impacts on surrounding neighborhood streets.	The proposed use will be conditioned to make any necessary improvements to the existing access to reduce or eliminate development impacts on surrounding neighborhood streets.

D.	The proposed use incorporates features to minimize adverse effects, including visual impacts and noise, of the proposed special use on adjacent properties.	This Special Use Permit will be conditioned to incorporate features to minimize adverse effects, including visual impacts and noise, of the proposed special use on adjacent properties.
E.	The project is not located within an identified archeological or cultural study area, as recognized by the City. If the project is located in a study area, an archeological resource reconnaissance has been performed on the site by a qualified archeologist and any identified resources have been avoided or mitigated to the extent possible per the findings in the report.	Per the Deputy Historic Preservation Officer for the State of Nevada, there are no recorded identified cultural or archeological sites located within this property.
F.	The proposed special use complies with all applicable development and public facility standards as required by this development code or other City ordinances.	The proposed project as conditioned will comply with the design standards and regulations as set forth in the city's development code, unless in conflict with the local, state or federal regulations, in which case the more stringent regulation will take precedence.
G.	The proposed special use will not be materially detrimental to the public health, safety, convenience and welfare, and will not result in material damage or prejudice to other property in the vicinity.	The mining operation will use "Best Management Practices" to manage the operation in a safe and clean condition. The Mine Safety and Health Administration (MSHA) requires safe and clean operations under federal law.

FINANCIAL INFORMATION:

FISCAL IMPACT:

1. Is There A Fiscal Impact? NO
2. Is it Currently Budgeted? NA
3. If Budgeted, Which Line Item/Account?

FISCAL SYNOPSIS:

Processing of this application is covered by the \$3,500.00 application fee at the time of submittal.

BACKGROUND INFORMATION:

The site had an approved Special Use Permit for Open and Subsurface Mining by Lyon County prior to the City becoming incorporated, the mining site existed but the use had discontinued for a few years, the new applicant purchased the site in 2004 and applied for an SUP to re-establish the use.

PRIOR COUNCIL ACTION/REVIEW:

N/A

ATTACHED INFORMATION:

1. Conditions of Approval
2. Vicinity Map

Conditions of Approval for SUP 2017-002
Special Use Permit

1. APPROVAL:

THE PROJECT IS APPROVED AS SUBMITTED AND CONDITIONED. ANY SUBSTANTIVE CHANGE SHALL REQUIRE REVIEW AND APPROVAL BY THE PLANNING COMMISSION AND CITY COUNCIL AS AN AMENDMENT TO THIS SPECIAL USE PERMIT.

THE SUBSTANTIAL FAILURE TO COMPLY WITH ANY CONDITIONS IMPOSED ON THE ISSUANCE OF THE SPECIAL USE PERMIT OR THE OPERATION OF A SPECIAL USE PERMIT IN A MANNER THAT ENDANGERS THE HEALTH, SAFETY OR WELFARE OF THE CITY OF FERNLEY, LYON COUNTY OR ITS RESIDENTS OR THE VIOLATION OF ORDINANCES, REGULATIONS OR LAWS IN THE SPECIAL USE OR THE NON-USE OF THE PERMIT FOR A YEAR MAY RESULT IN THE COMMENCEMENT OF REVOCATION PROCEEDINGS.

2. EXPIRATION DATE:

THE SPECIAL USE PERMIT SHALL EXPIRE WITHIN ONE (1) YEAR OF THE DATE OF PLANNING COMMISSION APPROVAL, UNLESS THE PERMITTED USE HAS BEEN ESTABLISHED OR CONSTRUCTION TO ACCOMMODATE THAT USE HAS BEGUN AND IS BEING DILIGENTLY PURSUED. A ONE-YEAR EXTENSION MAY BE GRANTED BY THE PLANNING COMMISSION IF REQUESTED PRIOR TO THE EXPIRATION DATE OF THE SPECIAL USE PERMIT.

3. PROJECT DESCRIPTION:

THE EXTRACTION OPERATION SHALL PROGRESS IN ACCORDANCE WITH THE CONCEPTUAL SITE PLAN SUBMITTED AND REVIEWED AS A PART OF THIS APPLICATION. ANY FURTHER ADDITIONAL EXPANSION OF THE SAND EXTRACTION OPERATION WILL REQUIRE MODIFICATION OF THIS SPECIAL USE PERMIT OR AN ADDITIONAL SPECIAL USE PERMIT, AND/OR OTHER APPROVALS. NO CHANGE IN THE TERMS AND CONDITIONS OF THE SPECIAL USE PERMIT, AS APPROVED SHALL BE UNDERTAKEN WITHOUT FIRST SUBMITTING THE CHANGES TO THE CITY OF FERNLEY AND HAVING THEM MODIFIED IN CONFORMANCE WITH THE FERNLEY MUNICIPAL CODE.

NO OTHER BUSINESS EXCEPT THAT COVERED UNDER THIS SPECIAL USE PERMIT WILL BE ALLOWED ON THE PROPERTY WITHOUT PRIOR CONSULTATION WITH THE CITY OF FERNLEY ADMINISTRATOR.

4. WATER RIGHTS:

THE DEVELOPER SHALL COMPLY WITH ALL CITY OF FERNLEY MUNICIPAL CODES REGARDING THE DEDICATION OF WATER RIGHTS, INCLUDING ASSOCIATED FEES, FOR THE CONNECTION TO THE CITY'S MUNICIPAL WATER SYSTEM IN THE AMOUNT THAT IS REQUIRED PRIOR TO THE ISSUANCE OF A BUSINESS LICENSE FOR THE PROJECT.

5. DESIGN STANDARDS:

THE APPLICANT SHALL COMPLY WITH ALL LOCAL, STATE, FEDERAL REGULATIONS AND ANY SPECIAL DISTRICT RULES AND REGULATIONS NECESSARY FOR THE OPERATION OF THE AGGREGATE PIT AND ITS ACCESSORY USES AS WELL AS OBTAIN ALL OF THE NECESSARY PUBLIC INSPECTIONS.

6. LANDSCAPING/BUFFERING:

THE DEVELOPER SHALL SUBMIT A LANDSCAPING & IRRIGATION PLAN FOR THE PROJECT IN CONFORMANCE WITH FERNLEY MUNICIPAL CODE CHAPTER 40 FOR REVIEW AND APPROVAL BY THE ADMINISTRATOR PRIOR TO ISSUANCE OF A BUSINESS LICENSE FOR THE PROJECT.

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ALL LANDSCAPING AND IRRIGATION SHALL BE INSTALLED PER THE APPROVED PLANS TO THE APPROVAL OF THE ADMINISTRATOR PRIOR TO THE ESTABLISHMENT OF THE USE.

7. PROJECT CONTACT:

THE DEVELOPER SHALL DESIGNATE TO THE ADMINISTRATOR A PROJECT CONTACT PERSON RESPONSIBLE/AUTHORIZED TO CORRECT PROBLEMS REGARDING THE PROJECT ON A 24-HOUR/7-DAYS A WEEK BASIS. THE DEVELOPER SHALL DESIGNATE THE PROJECT CONTACT PERSON TO THE ADMINISTRATOR PRIOR TO ISSUANCE OF A BUSINESS LICENSE FOR THE PROJECT.

8. TRAFFIC AND ACCESS:

THE APPLICANT SHALL MEET ALL TRAFFIC CONTROL REQUIREMENTS PLACED ON THE BUSINESS ENTERPRISE BY THE NEVADA DEPARTMENT OF TRANSPORTATION, THE CITY ENGINEER OR PUBLIC WORKS DIRECTOR, SPECIAL PURPOSE DISTRICTS AND/OR ANY OTHER JURISDICTIONS WITH APPROVAL AUTHORITY.

THIS SPECIAL USE PERMIT SHALL BECOME NULL AND VOID SHOULD APPLICANT'S ABILITY TO UTILIZE THE TEDFORD BRIDGE CEASE AT ANY TIME UNLESS ANOTHER ALTERNATIVE ACCESS ROUTE IS PRESENTED TO AND APPROVED BY THE PLANNING COMMISSION AND CITY COUNCIL. APPLICANT ACKNOWLEDGES THAT TEDFORD BRIDGE IS PRIVATELY OWNED AND THAT THE CITY OF FERNLEY IS NOT RESPONSIBLE FOR THE DESIGN, CONSTRUCTION, OR MAINTENANCE OF SAID BRIDGE. PRIOR TO ISSUANCE OF THE SPECIAL USE PERMIT, THE APPLICANT SHALL EXECUTE, IN A FORM AND WITH LANGUAGE APPROVED BY THE CITY ATTORNEY, AN ASSUMPTION OF LIABILITY AND AGREEMENT TO INDEMNIFY AND HOLD HARMLESS THE CITY OF FERNLEY FOR ANY CLAIMS OR ISSUES RELATED TO OR ARISING FROM THE APPLICANT'S USE OF THE TEDFORD BRIDGE AS THE PRIMARY ACCESS FOR THE PROJECT.

9. BUSINESS LICENSE:

THE APPLICANT SHALL SECURE AND MAINTAIN A CITY OF FERNLEY BUSINESS LICENSE FOR THE USE WHILE OCCUPYING THE SITE.

10. HOURS OF OPERATION:

THE HOURS OF OPERATION SHALL BE LIMITED TO 7:00 A.M. TO DUSK. IF EXTRA HOURS OF OPERATION ARE NECESSARY FOR A SPECIFIC CONSTRUCTION JOB OR TO DEAL WITH A NATURAL OR MAN-MADE DISASTER, THEN THE OPERATOR SUBMIT A REQUEST FOR EXTENDED HOURS OF OPERATION (INCLUDING THE REASON WHY THE EXTENDED HOURS ARE NECESSARY AS WELL AS THE ANTICIPATED DURATION OF THE EXTENDED HOURS OF OPERATION) TO THE CITY OF FERNLEY ADMINISTRATOR TO APPROVE. THE OPERATOR SHALL NOTIFY THE SURROUNDING PROPERTY OWNERS WITHIN A ONE-HALF (½) MILE DISTANCE OF THE PROPERTY'S BOUNDARY OF ALL EXTENDED HOURS OF OPERATION REQUESTS. THESE EXTENDED HOUR OF OPERATION NOTIFICATIONS SHALL INCLUDE THE POTENTIAL IMPACTS (NOISE, SITE LIGHTING, DUST, ETC.) DUE TO THE REQUESTED EXTENDED HOURS OF OPERATION AS WELL AS INCLUDING THE REASON FOR THE EXTENDED HOURS AND THE ANTICIPATED DURATION OF THE EXTENDED HOURS.

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11. DRAINAGE AND GRADING:

THE DEVELOPER SHALL COMPLY WITH ALL REQUIREMENTS OF CHAPTER 32.42 (DRAINAGE AND GRADING) OF THE DEVELOPMENT CODE AND CHAPTER 10 OF THE CITY OF FERNLEY PUBLIC WORKS DESIGN MANUAL TO THE APPROVAL OF ADMINISTRATOR, CITY ENGINEER, AND PUBLIC WORKS DIRECTOR PRIOR TO THE ISSUANCE OF A BUSINESS LICENSE FOR THE PROJECT.

12. GEOTECHNICAL REPORT:

THE DEVELOPER SHALL SUBMIT A GEOTECHNICAL REPORT COMPLETED BY AN ENGINEER LICENSED IN THE STATE OF NEVADA THAT INCLUDES THE RESULTS OF A FIELD EXPLORATION OF THE PROPERTY, PAVEMENT DESIGN RECOMMENDATIONS, FOUNDATION DESIGN AND CONSTRUCTION RECOMMENDATIONS, STRUCTURAL FILL REQUIREMENTS, SLOPE DESIGN AND CONSTRUCTION RECOMMENDATIONS AND ANY OTHER ITEMS TYPICALLY INCLUDED IN A GEOTECHNICAL DESIGN REPORT. THE REPORT SHALL BE TO THE SATISFACTION OF THE ADMINISTRATOR, PUBLIC WORKS DIRECTOR, CITY ENGINEER AND SHALL BE APPROVED PRIOR TO THE ISSUANCE OF A BUSINESS LICENSE FOR THE PROJECT.

13. NORTH LYON COUNTY FIRE PROTECTION DISTRICT:

THE DEVELOPER SHALL COMPLY WITH ALL REQUIREMENTS OF THE NORTH LYON COUNTY FIRE PROTECTION DISTRICT INCLUDING BUT NOT LIMITED TO DEVELOPING A PLAN TO PROVIDE ADEQUATE EMERGENCY ACCESS THROUGHOUT THE SITE, DEVELOPING A MASTER FIRE HYDRANT AND FIRE FLOW PLAN, DEVELOPING A MASTER FIRE DEPARTMENT CONNECTION (FDC) PLAN, AND INSTALLING FIRE SUPPRESSION AND/OR ALARM SYSTEMS TO THE APPROVAL OF THE FIRE CHIEF.

14. BUILDING DEPARTMENT:

THE APPLICANT SHALL COMPLY WITH ALL REQUIREMENTS OF THE BUILDING DIVISION TO THE APPROVAL OF THE BUILDING OFFICIAL PRIOR TO THE ISSUANCE OF A BUILDING PERMIT OR BUSINESS LICENSE FOR THE PROJECT.

15. ENGINEERING/PUBLIC WORKS:

THE DEVELOPER SHALL COMPLY WITH ALL THE REQUIREMENTS OF THE CITY OF FERNLEY MUNICIPAL CODE AND PUBLIC WORKS DESIGN MANUAL FOR THE CONSTRUCTION OF ANY PUBLIC OR PRIVATE INFRASTRUCTURE TO THE APPROVAL OF THE CITY ENGINEER AND PUBLIC WORKS DIRECTOR PRIOR TO THE ISSUANCE OF ANY GRADING/BUILDING PERMIT FOR THE PROJECT.

16. LIGHTING:

THE DEVELOPER SHALL SUBMIT A LIGHTING PLAN FOR REVIEW AND APPROVAL BY THE ADMINISTRATOR PRIOR TO THE ISSUANCE OF A BUILDING PERMIT. THE DEVELOPER IS REQUIRED TO COMPLY WITH THE LIGHTING STANDARDS AND REQUIREMENTS IN THE CITY OF FERNLEY DEVELOPMENT CODE. TO REDUCE THE IMPACT OF GLARE AND MINIMIZE THE EFFECT OF FIELD AND PARKING LIGHTING, LIGHTING FIXTURES WITH EXTERNAL "HOODS" AND INTERNAL GLARE REDUCTION LOUVERS SHALL BE USED.

17. HISTORIC PRESERVATION:

SHOULD ANY PREHISTORIC OR HISTORIC REMAINS/ARTIFACTS BE DISCOVERED DURING SITE DEVELOPMENT, WORK SHALL TEMPORARILY BE HALTED AT THE SPECIFIC SITE AND THE STATE HISTORIC PRESERVATION OFFICE OF THE DEPARTMENT OF MUSEUMS, LIBRARY AND ARTS, SHALL BE

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NOTIFIED TO RECORD AND PHOTOGRAPH THE SITE. THE PERIOD OF TEMPORARY DELAY SHALL BE LIMITED TO A MAXIMUM OF TWO (2) WORKING DAYS FROM THE DATE OF NOTIFICATION.

18. DUST CONTROL:

DURING THE PERIOD OF OPERATION, THE OWNER AND/OR OPERATOR SHALL PROVIDE ADEQUATE ON-SITE DUST CONTROL IN THE PIT AREA, ON HAUL ROADS AND FOR ANY MATERIAL PROCESSING TO THE SATISFACTION OF THE ADMINISTRATOR AND STATE OF NEVADA DIVISION OF ENVIRONMENTAL PROTECTION. DEVELOPER SHALL PROVIDE DOCUMENTATION FROM THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION DEMONSTRATING COMPLIANCE WITH AIR QUALITY REGULATIONS.

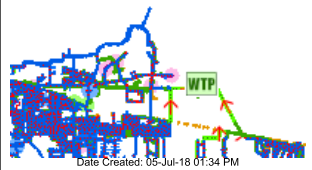
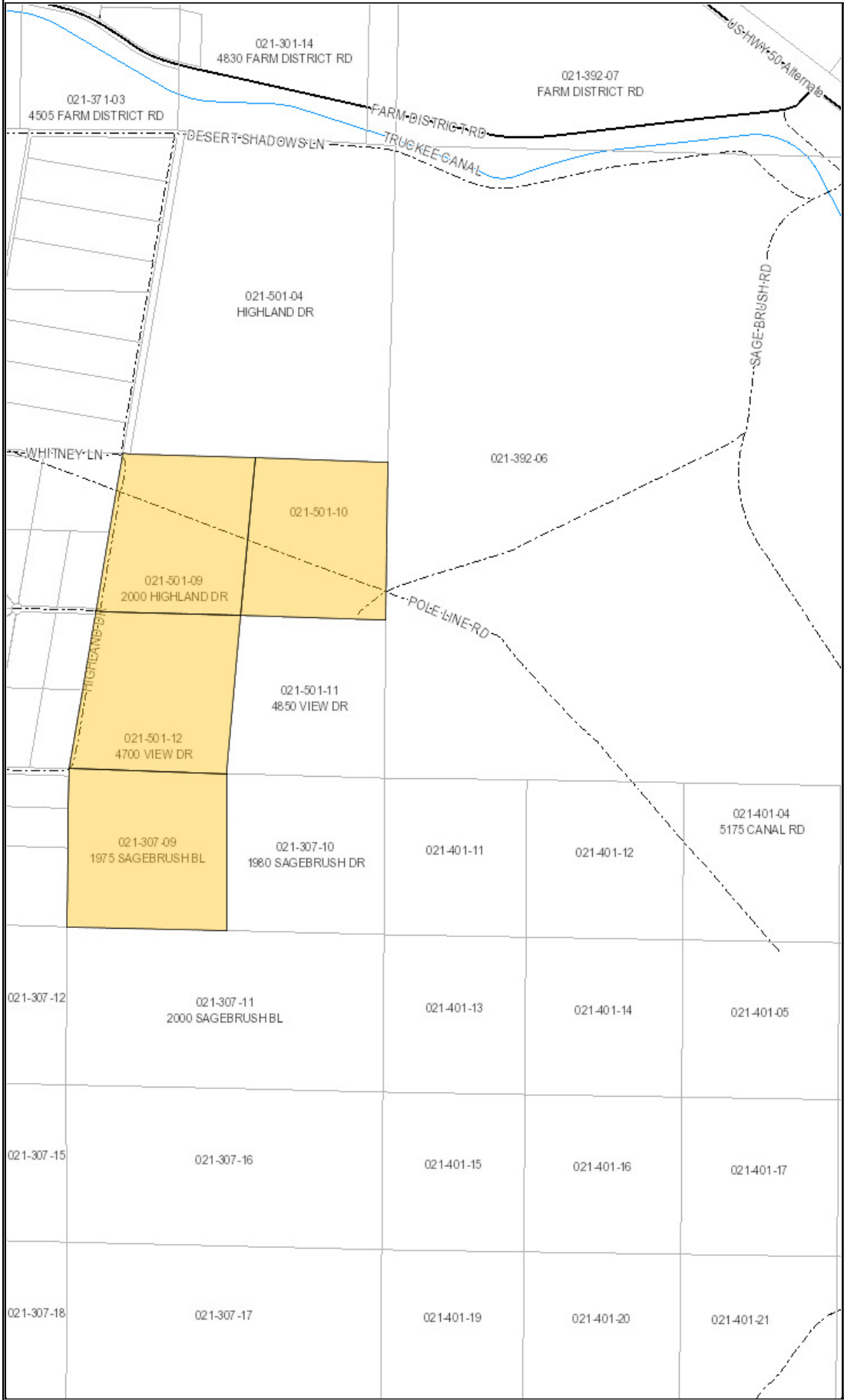
19. RECLAMATION PLAN:

THE DEVELOPER SHALL SUBMIT A RECLAMATION PLAN FOR THE OPERATION TO THE APPROVAL OF THE ADMINISTRATOR, CITY ENGINEER, AND PUBLIC WORKS DIRECTOR PRIOR TO ESTABLISHING THE USE. ALL DISTURBED AREAS SHALL BE RECLAIMED IN ACCORDANCE WITH THE APPROVED MINING AND RECLAMATION PLAN.

20. TRUCKEE CARSON IRRIGATION DISTRICT (TCID)/BUREAU OF RECLAMATION:

THE DEVELOPER SHALL COMPLY WITH THE REQUIREMENTS OF THE TRUCKEE CARSON IRRIGATION DISTRICT AND/OR THE BUREAU OF RECLAMATION RELATED TO ANY NEW OR EXISTING FACILITY OR EASEMENT WITHIN OR ADJACENT TO THE PROJECT BOUNDARY TO THE APPROVAL OF THE ADMINISTRATOR.

VICINITY MAP



Scale 1:11,095 - 1 in = 925 ft

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