

RESOLUTION

RE: APPROVE AN AMENDMENT TO A SITE SPECIFIC DEVELOPMENT PLAN AND USE BY SPECIAL REVIEW PERMIT, USR15-0027 (FORMERLY KNOWN AS USR-1584) FOR ANY USE PERMITTED AS A USE BY RIGHT, ACCESSORY USE, OR USE BY SPECIAL REVIEW IN THE COMMERCIAL OR INDUSTRIAL ZONE DISTRICTS (CONSTRUCTION BUSINESS WITH TWO SHOP BUILDINGS, OFFICE BUILDINGS, AND OUTDOOR STORAGE) PROVIDED THAT THE PROPERTY IS NOT A LOT IN AN APPROVED OR RECORDED SUBDIVISION PLAT OR PART OF A MAP OR PLAN FILED PRIOR TO ADOPTION OF ANY REGULATIONS CONTROLLING SUBDIVISIONS TO INCLUDE A MINERAL RESOURCE DEVELOPMENT FACILITY, INCLUDING ASPHALT AND CONCRETE BATCH PLANTS (MATERIALS PROCESSING) AND TRANSLOADING IN THE A (AGRICULTURAL) ZONE DISTRICT – WELD LV, LLC, AND GERRARD INVESTMENTS, LLC, C/O MARTIN MARIETTA

WHEREAS, the Board of County Commissioners of Weld County, Colorado, pursuant to Colorado statute and the Weld County Home Rule Charter, is vested with the authority of administering the affairs of Weld County, Colorado, and

WHEREAS, the Board of County Commissioners held a public hearing on the 12th day of August, 2015, at the hour of 9:00 a.m., in the Chambers of the Board, for the purpose of hearing the application of Weld LV, LLC, 3821 Derby Trail, Round Rock, TX 78681, and Gerrard Investments, LLC, 27486 CR 13, Loveland, CO 80534, c/o Martin Marietta, 10170 Church Ranch Way, Suite 201, Westminster, CO 80021, for an Amendment to a Site Specific Development Plan and Use by Special Review Permit, USR15-0027 (formerly known as USR-1584) for any Use permitted as a Use by Right, Accessory Use, or Use by Special Review in the Commercial or Industrial Zone Districts (construction business with two shop buildings, office buildings, and outdoor storage) provided that the property is not a lot in an approved or recorded subdivision plat or part of a map or plan filed prior to adoption of any regulations controlling subdivisions to include a Mineral Resource Development Facility, including asphalt and concrete batch plants (materials processing) and transloading in the A (Agricultural) Zone District, on the following described real estate, being more particularly described as follows:

Lot B of Recorded Exemption, RE-2803; being part of the SW1/4 and SE1/4, and a tract being part of the SW1/4, all in Section 18, Township 5 North, Range 67 West of the 6th P.M., Weld County, Colorado

WHEREAS, at said hearing, the applicant was present, and represented by Carolynne White, Attorney, and Pam Hora, Tetra Tech, 1900 S. Sunset St., Suite 1E, Longmont, CO 80501, and,

WHEREAS, Section 23-2-230 of the Weld County Code provides standards for review of said Use by Special Review Permit, and

WHEREAS, the Board of County Commissioners heard all of the testimony and statements of those present, studied the request of the applicant and the unfavorable recommendation of the Weld County Planning Commission and all of the exhibits and evidence presented in this matter and, having been fully informed, finds that this request shall be approved for the following reasons:

1. The submitted materials are in compliance with the application requirements of Section 23-2-260 of the Weld County Code.
2. It is the opinion of the Board of County Commissioners that the applicant has shown compliance with Section 23-2-230.B of the Weld County Code as follows:
 - A. Section 23-2-230.B.1 -- The proposed use is consistent with Chapter 22 and any other applicable Code provisions or ordinances in effect.
 - B. Section 23-2-230.B.2 -- The proposed use is consistent with the intent of the A (Agricultural) Zone District.
 - C. Section 23-2-230.B.3 -- The uses which will be permitted will be compatible with the existing surrounding land uses.
 - D. Section 23-2-230.B.4 -- The uses which will be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by Chapter 22 of the Weld County Code, and any other applicable code provisions or ordinances in effect, or the adopted Master Plans of affected municipalities.
 - E. Section 23-2-230.B.6 -- The applicant has demonstrated a diligent effort to conserve prime agricultural land in the locational decision for the proposed use.
 - F. Section 23-2-230.B.7 -- The Design Standards (Section 23-2-240, Weld County Code), Operation Standards (Section 23-2-250, Weld County Code), Conditions of Approval, and Development Standards ensure that there are adequate provisions for the protection of the health, safety, and welfare of the inhabitants of the neighborhood and County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Weld County, Colorado, that the application of Weld LV, LLC, and Gerrard Investments, LLC, c/o Martin Marietta, for an Amendment to a Site Specific Development Plan and Use by Special Review Permit, USR15-0027 (formerly known as USR-1584) for any Use permitted as a Use by Right, Accessory Use, or Use by Special Review in the Commercial or Industrial Zone Districts (construction business with two shop buildings, office buildings, and outdoor storage) provided that the property is not a lot in an approved or recorded subdivision plat or part of a map or plan filed prior to adoption of any regulations controlling subdivisions to include a Mineral Resource Development Facility, including asphalt and concrete batch plants (materials processing) and transloading in the A (Agricultural) Zone District, on the parcel of land described above be, and hereby is, granted subject to the following conditions:

1. Prior to recording the map:
 - A. An Improvements and Road Maintenance Agreement is required for off-site improvements at this location. Road maintenance, including dust control, damage repair, specified haul routes and future traffic triggers for improvements will be included. The Improvements and Road Maintenance Agreement shall include requirements related to the appearance of buildings on the site, based on consultation by the applicant with the Community Work Group, established by the applicant.
 - 1) The haul route shall be north to U.S. Highway 34 and south to CR 54.
 - 2) The applicant will be responsible for the installation of auxiliary lanes at the intersection of CR 54 and CR 13 when triggers are met. A southbound right turn lane will be required when 25 vehicles per hour (vph) turn right onto CR 54 during a peak hour. A westbound right deceleration lane will be installed on CR 54 when 25 vph turn right onto CR 13 during a peak hour.
 - B. A Final Drainage Report and Certification of Compliance, stamped and signed by a Professional Engineer registered in the State of Colorado, is required.
 - C. Union Pacific shall apply for a railroad diagnostic for the crossings of CR 13, CR 15, CR 52, and CR 17. The railroad diagnostic will determine if there is a safety issue with the increase of train traffic at these locations that would require the installation of crossing arms or signals. If any improvements are required at any of these locations as a direct result of the additional trains visiting the Highway 34 Development, Martin Marietta will be responsible for the local portion (Weld County) of the project cost.
 - D. The applicant shall attempt to address the requirements of CDOT, as stated in the referral response dated July 6, 2015. Evidence of such shall be submitted, in writing, to the Weld County Department of Planning Services.
 - E. The applicant shall attempt to address the requirements of the Weld County Department of Public Works, as stated in the referral response dated July 6, 2015. Evidence of such shall be submitted, in writing, to the Weld County Department of Planning Services. The applicant is required to construct the following roadway improvements:
 - 1) Installation of a southbound left deceleration lane at the facility entrance.
 - 2) Installation of a northbound right acceleration lane at the facility entrance.

- 3) Installation of a northbound right deceleration lane at the facility entrance.
 - 4) Installation of a traffic signal at the intersection of CR 13 and U.S. Highway 34.
 - 5) Upgrade of the existing auxiliary turn lanes on U.S. Highway 34. The turn lanes will be brought up to standard for length, taper, and storage, unless waived by CDOT.
- F. The applicant shall address the requirements (concerns) of the Weld County Department of Building Inspection, as stated in the referral response dated June 4, 2015. Evidence of such shall be submitted, in writing, to the Weld County Department of Planning Services.
- G. The applicant shall attempt to address the concerns of the Northern Colorado Water Conservancy District, as stated in the referral response dated May 1, 2015. Evidence of such shall be submitted, in writing, to the Weld County Department of Planning Services.
- H. The map shall be amended to delineate the following:
- 1) All sheets of the map shall be labeled USR15-0027.
 - 2) The attached Development Standards.
 - 3) The map shall be prepared per Section 23-2-260.D of the Weld County Code.
 - 4) The applicant shall delineate the trash collection areas. Section 23-3-350.H of the Weld County Code addresses the issue of trash collection areas.
 - 5) Delineate the approved landscaping/screening. Landscaping/screening shall include, at a minimum, decorative fencing in key areas based upon the applicant's consultation with the Community Work Group.
 - 6) Delineate the lighting for the site. All light poles are limited to a maximum of 25 feet in height.
 - 7) The parking areas shall adhere to Appendices 23-A and 23-B of the Weld County Code.
 - 8) Show and label the approved access(es), turning radii, and access permit number(s).

- 9) Show and label the entrance gate setback a minimum of 100 feet from the edge of shoulder.
 - 10) Show and label all off-site auxiliary lane improvements at the access location.
 - 11) All structures should be painted an earth tone color.
2. Upon completion of Condition of Approval #1 above, the applicant shall submit one (1) paper copy or one (1) electronic copy (.pdf) of the map for preliminary approval to the Weld County Department of Planning Services. Upon approval of the map the applicant shall submit a Mylar map along with all other documentation required as Conditions of Approval. The Mylar map shall be recorded in the office of the Weld County Clerk and Recorder by the Department of Planning Services. The map shall be prepared in accordance with the requirements of Section 23-2-260.D of the Weld County Code. The Mylar map and additional requirements shall be submitted within one hundred twenty (120) days from the date of the Board of County Commissioners Resolution. The applicant shall be responsible for paying the recording fee.
 3. In accordance with Weld County Code Ordinance #2012-3, approved April 30, 2012, should the map not be recorded within the required one hundred twenty (120) days from the date of the Board of County Commissioners Resolution, a \$50.00 recording continuance charge shall added for each additional three (3) month period.
 4. The Department of Planning Services respectfully requests a digital copy of this Use by Special Review, as appropriate. Acceptable CAD formats are .dwg, .dxf, and .dgn (Microstation); acceptable GIS formats are ArcView shapefiles or ArcGIS Personal GeoDataBase (MDB). The preferred format for Images is .tif (Group 4). (Group 6 is not acceptable). This digital file may be sent to maps@co.weld.co.us.
 5. Prior to Construction:
 - A. If more than one (1) acre is to be disturbed, a Weld County Grading Permit will be required.
 6. Prior to Operation:
 - A. Accepted construction drawings and construction of the off-site roadway improvements are required.
 - B. The applicant shall develop an Emergency Action and Safety Plan with the Office of Emergency Management and the Fire District. The plan shall be reviewed on an annual basis by the Facility operator, the Fire District and the Weld County Office of Emergency Management. The applicant shall submit evidence of acceptance to the Department of Planning Services.

- C. The applicant shall submit a Decommissioning Plan to the Department of Planning Services for review and approval. The Decommissioning Plan shall include a detailed plan with time frames or milestones after termination of operations for restoring the property to its condition which existed prior to commencement of operations.

- 7. The Use by Special Review activity shall not occur, nor shall any building or electrical permits be issued on the property, until the Use by Special Review map is ready to be recorded in the office of the Weld County Clerk and Recorder or the applicant has been approved for an early release agreement.

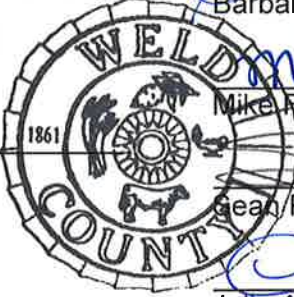
The above and foregoing Resolution was, on motion duly made and seconded, adopted by the following vote on the 12th day of August, A.D., 2015.

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

ATTEST: *Cather G. Mesick*
Weld County Clerk to the Board

Barbara Kirkmeyer
Barbara Kirkmeyer, Chair

BY *Steph Redman*
Deputy Clerk to the Board



Mike Freeman
Mike Freeman, Pro-Tem

Sean P. Conway
Sean P. Conway

APPROVED AS TO FORM:
[Signature]
County Attorney

Julie A. Cozad
Julie A. Cozad

Steve Moreno
Steve Moreno

Date of signature: 9/15/15

**SITE SPECIFIC DEVELOPMENT PLAN
USE BY SPECIAL REVIEW PERMIT
DEVELOPMENT STANDARDS
WELD LV, LLC, AND GERRARD INVESTMENTS, LLC,
C/O MARTIN MARIETTA
USR15-0027**

1. An Amendment to a Site Specific Development Plan and Use by Special Review Permit, USR15-0027 (formerly known as USR-1584), is for any Use permitted as a Use by Right, Accessory Use, or Use by Special Review, in the Commercial or Industrial Zone Districts (construction business with two shop buildings, office buildings, and outdoor storage) provided that the property is not a lot in an approved or recorded subdivision plat or part of a map or plan filed prior to adoption of any regulations controlling subdivisions to include a Mineral Resource Development Facility, including asphalt and concrete batch plants (materials processing) and transloading in the A (Agricultural) Zone District, subject to the Development Standards stated hereon.
2. Approval of this plan may create a vested property right pursuant to Section 23-8-10 of the Weld County Code.
3. The number of on-site employees for Gerrard Construction shall be 36, as stated by the applicant.
4. The number of on-site employees for Martin Marietta shall be 75 full-time employees, 50 truck drivers, and 30 field construction workers, as stated by the applicant.
5. The hours of operation for Gerrard Construction shall be 6:00 a.m. to 6:30 p.m., Monday through Friday, and 7:00 a.m. to 12:00 p.m., Saturday, as stated by the applicant.
6. The hours of operation for Martin Marietta shall be the following:
 - A. Hours of Operation for Asphalt:
 - 1) The plant will typically only operate Monday through Saturday.
 - 2) The standard hours of plant operation will be limited to one hour before sunrise to one hour after sunset.
 - 3) Load-out from storage silos will be limited to one hour before sunrise to one hour after sunset.
 - 4) When the plant is operating at night, it will only occur when material is requested by cities, counties, or CDOT, for night paving projects. Operations will be considered "night operations," when they take place between the hours of one hour after sundown to one hour before sunrise. Depending on the request of the jurisdiction purchasing the asphalt, night operations could occur seven days per week. When Martin Marietta becomes aware of projects that require night operations, they will email the Weld County Planning Director to let him/her know about the plans to operate outside of daylight hours, who the project is for, how long it will be occurring, and where the materials are being delivered.

B. Hours of Operation for Ready Mix Concrete:

- 1) The Ready Mix Concrete Plant will only operate Monday through Saturday.
- 2) The standard hours of plant operation will be limited to one hour before sunrise to one hour after sunset.
- 3) Up to three (3) times per month, between the months of March and October, the applicant may begin operations before the standard hours but not before 3:00 a.m. The applicant must notify the Planning Department each time this occurs.
- 4) The plant will not operate more than 16 hours per day.
- 5) Ready Mix trucks will generally operate during plant operations, but may return to the plant after plant shutdown to be cleaned and parked.

C. Hours of Operation for Aggregate and Recycling:

- 1) Aggregate sales and recycling operations will only occur Monday through Saturday.
 - 2) Aggregate washing and recycling operations will only occur during daylight hours (dawn to dusk or 6:30 a.m. to 6:00 p.m. during the winter), actual operating hours will vary dependent on weather and business levels.
 - 3) Train unloading operations during the summer will only take place between the hours of 6:00 a.m. and 8:00 p.m., actual hours will be dependent on the time the train arrives at the site.
 - 4) Train unloading operations during the winter will only take place during daylight hours, actual hours will be dependent on the time the train arrives at the site.
7. The parking area on the site shall be maintained.
 8. All signs shall adhere to Chapter 23, Article IV, Division 2 and Appendices 23-C, 23-D and 23-E of the Weld County Code.
 9. The landscaping/screening on the site shall be maintained.
 10. Should noxious weeds exist on the property or become established as a result of the proposed development, the applicant/landowner shall be responsible for controlling the noxious weeds, pursuant to Chapter 15, Articles I and II, of the Weld County Code.
 11. There shall be no tracking of dirt or debris from the site onto publically maintained roads. The applicant is responsible for mitigation of any off-site tracking and maintaining on-site tracking control devices.

12. There shall be no parking or staging of vehicles on public roads. On-site parking shall be utilized.
13. The historical flow patterns and runoff amounts will be maintained on the site.
14. Weld County is not responsible for the maintenance of on-site drainage related features.
15. All liquid and solid wastes (as defined in the Solid Wastes Disposal Sites and Facilities Act, Section 30-20-100.5, C.R.S.) shall be stored and removed for final disposal in a manner that protects against surface and groundwater contamination.
16. No permanent disposal of wastes shall be permitted at this site. This is not meant to include those wastes specifically excluded from the definition of a solid waste in the Solid Wastes Disposal Sites and Facilities Act, Section 30-20-100.5, C.R.S.
17. Waste materials shall be handled, stored, and disposed of in a manner that controls fugitive dust, blowing debris, and other potential nuisance conditions. The applicant shall operate in accordance with the accepted Waste Handling Plan, at all times. The facility shall operate in accordance with Chapter 14, Article 1 of the Weld County Code.
18. Fugitive dust and fugitive particulate emissions should be controlled on this site. The facility shall be operated in accordance with the accepted Dust Abatement Plan, at all times. Uses on the property should comply with the Colorado Air Quality Commission's air quality regulations.
19. Adequate drinking, handwashing and toilet facilities shall be provided for employees and patrons of the facility, at all times. For employees or contractors on-site for less than two (2) consecutive hours a day, portable toilets and bottled water are acceptable. Records of maintenance and proper disposal for portable toilets shall be retained on a quarterly basis and available for review by the Weld County Department of Public Health and Environment. Portable toilets shall be serviced by a cleaner licensed in Weld County and shall contain hand sanitizers.
20. If applicable, the applicant shall obtain a Stormwater Discharge Permit from the Colorado Department of Public Health and Environment, Water Quality Control Division.
21. Any septic system located on the property must comply with all provisions of the Weld County Code, pertaining to On-site Wastewater Treatment Systems. A permanent, adequate water supply shall be provided for drinking and sanitary purposes, as needed. The facility shall utilize the public water supply.
22. All potentially hazardous chemicals must be handled in a safe manner in accordance with product labeling and in a manner that minimizes the release of Hazardous Air Pollutants (HAPs) and Volatile Organic Compounds (VOCs). All chemicals must be stored securely, on an impervious surface, and in accordance with manufacturer's recommendations.

23. A Spill Prevention, Control and Countermeasure Plan, prepared in accordance with the applicable provisions of 40 CFR, Part 112, shall be available on-site.
24. This facility shall adhere to the maximum permissible noise levels allowed in the Residential Zone as delineated in Section 14-9-30 of the Weld County Code as measured at the property line of the adjacent residential lots. In all other locations the facility shall adhere to the maximum permissible noise levels allowed in the Industrial Zone as delineated in Section 14-9-30 of the Weld County Code. The applicant shall submit a Noise Mitigation Plan to the Department of Public Health and Environment which shall include Noise Monitoring at the borders of the property to ensure compliance with the standards set forth.
25. The facility shall comply with all provisions of the Colorado Department of Labor and Employment, Division of Oil and Public Safety, Underground and Above Ground Tank Regulations, as applicable.
26. Any washing areas shall capture all effluent and prevent discharges in accordance with the rules and regulations of the Water Quality Control Commission, and the Environmental Protection Agency.
27. Process wastewater (such as floor drain and laboratory wastes) shall be captured in a watertight vault/container and hauled off for proper disposal. Records of installation, maintenance, and proper disposal shall be retained.
28. The facility shall comply with the Air Pollution Emission Notice (A.P.E.N.) permit requirements as stipulated by the Air Pollution Control Division of the Colorado Department of Public Health and Environment.
29. Material being recycled shall be separated by material type or use. Incoming loads shall have all non-concrete, non-asphalt and non-rebar material removed from concrete and asphalt materials within thirty (30) calendar days. Non-concrete, non-asphalt and non-rebar material shall not exceed 10% of the total material onsite by weight or volume.
30. Odors detected off-site shall not exceed the level of seven-to-one dilution threshold, as measured pursuant to Regulation 2 of the Colorado Air Pollution Control Regulations.
31. The operation shall comply with all applicable rules and regulations of state and federal agencies and the Weld County Code.
32. Sources of light shall be shielded so that light rays will not shine directly onto adjacent properties where such would cause a nuisance or interfere with the use on the adjacent properties in accordance with the plan. Neither the direct, nor reflected, light from any light source may create a traffic hazard to operators of motor vehicles on public or private streets. No colored lights may be used which may be confused with, or construed as, traffic control devices.

33. A building permit may be required per Section 29-3-10 of the Weld County Code. Currently the following have been adopted by Weld County: 2012 International Codes, 2006 International Energy Code, and the 2014 National Electrical Code. A building permit application must be completed and two (2) complete sets of engineered plans bearing the wet stamp of a Colorado registered architect or engineer must be submitted for review. A geotechnical engineering report performed by a registered State of Colorado engineer shall be required or an open hole inspection.
34. Martin Marietta will establish and operate a Community Work Group that meets at least quarterly and will be comprised of a representative group of surrounding neighbors and Martin Marietta officials. A list of the participating members shall be submitted to the Department of Planning Services.
35. Martin Marietta will set up a \$100,000.00 landscaping fund in escrow to be managed by Martin Marietta and the Community Work Group to fund landscaping for installation on the lots of adjacent landowners with views of the facility. Under no circumstances is Weld County obligated to manage or fund the landscaping fund.
36. Martin Marietta's asphalt plant will operate with vertical liquid AC storage tanks, carbon filters, and an emission capturing system. Martin Marietta must have a certified nasal ranger at the site while the asphalt plant is operating.
37. The property owner or operator shall be responsible for complying with the Design and Operation Standards of Chapter 23 of the Weld County Code.
38. Necessary personnel from the Weld County Departments of Planning Services, Public Works, and Public Health and Environment shall be granted access onto the property at any reasonable time in order to ensure the activities carried out on the property comply with the Conditions of Approval and Development Standards stated herein and all applicable Weld County regulations.
39. The Use by Special Review area shall be limited to the plans shown hereon and governed by the foregoing standards and all applicable Weld County regulations. Substantial changes from the plans or Development Standards, as shown or stated, shall require the approval of an amendment of the Permit by the Weld County Board of County Commissioners before such changes from the plans or Development Standards are permitted. Any other changes shall be filed in the office of the Department of Planning Services.
40. The property owner or operator shall be responsible for complying with all of the foregoing Development Standards. Noncompliance with any of the foregoing Development Standards may be reason for revocation of the Permit by the Board of County Commissioners.
41. The Weld County Right to Farm Statement, as it appears in Section 22-2-20.J.2 of the Weld County Code, shall be placed on the map and recognized at all times.

42. RIGHT TO EXTRACT MINERAL RESOURCES STATEMENT: Weld County has some of the most abundant mineral resources, including, but not limited to, sand and gravel, oil, natural gas, and coal. Under title 34 of the Colorado Revised Statutes, minerals are vital resources because (a) the state's commercial mineral deposits are essential to the state's economy; (b) the populous counties of the state face a critical shortage of such deposits; and (c) such deposits should be extracted according to a rational plan, calculated to avoid waste of such deposits and cause the least practicable disruption of the ecology and quality of life of the citizens of the populous counties of the state. Mineral resource locations are widespread throughout the County and persons moving into these areas must recognize the various impacts associated with this development. Often times, mineral resource sites are fixed to their geographical and geophysical locations. Moreover, these resources are protected property rights and mineral owners should be afforded the opportunity to extract the mineral resource.
