



Legislation Text

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**PLANNING AND HOUSING COMMISSION  
STAFF REPORT**

DATE: 10/8/2018

TO: Honorable Chair and Commissioners

FROM: Community Development Department

**APPLICATION REQUEST:**

**DA2018-0002:** Development Agreement between the City of Corona and All American Asphalt establishing the vested right to conduct surface mining operations on approximately 263 acres on a site totaling 321 acres (located at 1776 All American Way, generally south of Magnolia and east of Interstate 15) in the M-3/M-R (Heavy Manufacturing/Mineral Resources Overlay) zone, and to establish an extraction royalty payment All American Asphalt will pay to the City for the duration of the development agreement (Applicant: All American Asphalt).

**RECOMMENDED ACTION:**

That the Planning and Housing Commission recommend **APPROVAL OF DA2018-0002** to the City Council, based on the findings contained in the staff report.

**PROJECT SITE SUMMARY**

Area of Property: 263.2 acres within Surface Mine Permit boundary

Existing Zoning: M-3/MR overlay (Heavy Manufacturing with Mineral Resources overlay)

Existing General Plan: GI (General Industrial)

Existing Land Use: Quarry and Asphalt Batch Plant

Proposed Land Use: Same as existing land use

Surrounding Land Use:

N: M-3 zone (existing knoll as a natural buffer) with residential beyond in Home Gardens (unincorporated county area)

E: M-3/MR zone (undeveloped)

S: M-3/MR zone (existing Vulcan Quarry)

W: M-3 zone (Temescal Wash)

**BACKGROUND**

Mining on the property originated sometime in the 1930s; however, the permit history on the property started in 1979. The property and mining operation originated in the unincorporated area of

Riverside County and in 1991 the property was annexed to the City of Corona. The city inherited the mining operation upon annexation and issued a city mining permit to replace the mining permit that was previously issued by Riverside County. The table below summarized the permit history for All American Asphalt.

Table 1: Permit History

Permit	Approval Date	Expiration	Acres	Excavation Acres	Reserve (million tons)	Annual Production (million tons)	Environmental Review	Jurisdiction
SMP 115	1979	N/A	93	93	Unknown	No limit	Negative Declaration	County
SMP 151	1984	2028	87	87	Unknown	No limit	Negative Declaration	County
SMP 158	1987	2028	180	180	Unknown	No limit	Negative Declaration	County
SMP 90-1	1991	2021	233	233	65	No limit	Mitigated Negative Declaration	City of Corona
SMP 95-1	1995	2021	298	233	Unknown	No limit	Negative Declaration	City of Corona
SMP 95-1M	2002	2021	298	233	112	No limit	Exempt/ Modification to permit	City of Corona

All American Asphalt (AAA) currently operates in the city under Surface Mine Permit 95-1 (SMP95-1) as modified in 2002. AAA is processing an amendment to the existing surface mine permit being reviewed by SMP2017-0101 in conjunction with the consideration of this development agreement (DA2018-0002). The permit amendment would: 1) extend the permit for a period of 100 years; 2) excavate to a depth of 400 feet above mean sea level (amsl) from 500 feet above mean sea level under the existing permit; 3) reconfigure the mining phases of the operation from three to five phases within the current footprint allowed by the existing surface mine permit; and 4) increase total reserves to 177 million tons from 112 million tons.

Development Agreement 2018-0002 would ensure AAA's vested right to conduct surface mining operations on approximately 263 acres until the sooner of exhaustion of permitted reserves or 100 years. In exchange for the long-term permit, AAA agrees to pay the city an annual extraction royalty based on the amount of Portland cement concrete (PCC) and Non-PCC material extracted from the site. The Agreement would guarantee the city receives an extraction royalty from the mineral resources extracted from the site either sold as a finished product and transported off the site or transported off the site for further processing and sale off-site.

The Development Agreement also would be in addition to the existing Operating Covenant Agreement between AAA and the city. The Operating Covenant Agreement allows California sales tax to be shared between AAA and the city as a means of providing an incentive to ensure that AAA maintains and expands its existing asphalt and concrete sales facilities in the City of Corona. The Operating Covenant Agreement requires the city to make covenant payments equal to the sum of 25% of sales tax revenue attributable to AAA's taxable sales that exceed \$500,000 and covenant payments equal to 50% of AAA's taxable sales if sales tax revenue exceeds \$1,000,000. If AAA's taxable sales are less than \$500,000 in a year, the city is not obligated to make covenant payments and the city is not obligated to make covenant payments on the first \$250,000 of taxable sales each year. Although the sales tax revenue is essentially shared between the city and AAA after a certain threshold, the city does benefit from the sales revenue from material sold outside Corona.

AAA is a privately-owned family operated business. The below tables are from the City's adopted budget for Fiscal Year 2018-19, which shows AAA as one of the top 10 employers in the city by providing 842 jobs and one of the top 25 sales tax producers. The source of the information was provided by Hinderliter, deLlamas & Associates, commonly known as HDL.

TOP 10 LARGEST EMPLOYERS, 2017		
Employer	Sector	# Jobs
Corona Norco Unified School District	Education	5,098
Corona Regional Medical Center	Health Services	1,113
Kaiser Permanente	Health Services	995
<b>All American Asphalt</b>	<b>Construction</b>	<b>842</b>
City of Corona	Government	749
Fender USA	Manufacturing	600
TWR Framing Enterprises	Construction	600
Monster Energy	Distribution	544
CoreMark International	Manufacturing	421
Dart Container	Manufacturing	420

TOP 25 SALES TAX PRODUCERS, 2017	
Alphabetical Order, FY2016-17	
Agile Sourcing Partners	Home Depot
<b>All American Asphalt</b>	Honda Cars of Corona
American Electric Supply	Kohl's
Anixter	Larry H. Miller Toyota
Best Buy	Pro Parts
Cardinale Way Volkswagon, Hyundai and Mazda	Robertsons Ready Mix
Chevron	Ross
Costco	Sam's Club
Culver Newlin	Stater Brothers
Downs Commercial Fueling	Target
Ganahl Lumber	Vulcan Materials
Guest Supply	Walmart
Hansen Beverage	

## PROPOSED DEVELOPMENT AGREEMENT

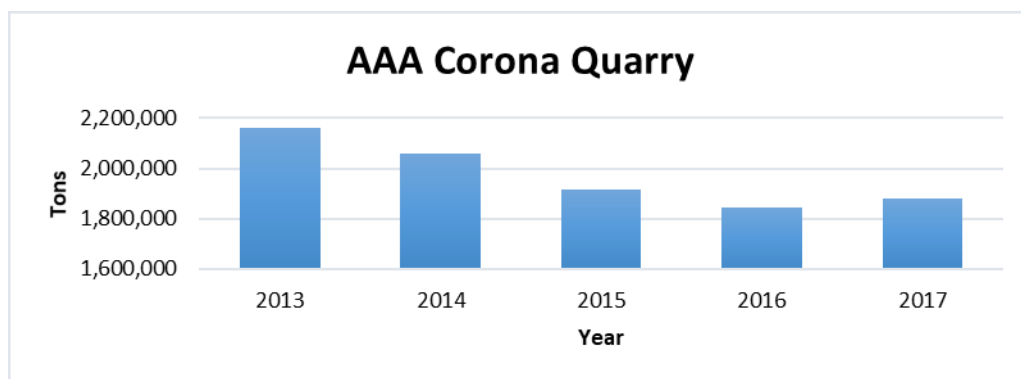
### Extraction Royalty

The Development Agreement confers certain private benefits on All American Asphalt (AAA), such as a permit extension for 100 years, that should be balanced by commensurate public benefits. Article 4 of the Development Agreement requires AAA to pay an annual extraction royalty to the city. The extraction royalty will be paid on a quarterly basis within a calendar year and will be deposited into the city's General Fund budget. The extraction royalty can be used to fund on-going operating costs for the city, costs associated with the maintenance of public infrastructure, public facilities or city programs. The following table describes the extraction royalty to be paid to the city.

Material		Extraction Royalty
Portland Cement Concrete (PCC)	Aggregate material used for construction. Aggregate consists of sand, gravel and crushed stone and is the bulk and strength to PCC, Asphaltic Concrete, plaster and stucco.	\$0.05 per ton
Non-PCC	Material not suitable for PCC use and usually consists of overburden, other waste rock or topsoil.	\$0.03 per ton

The extraction royalty is applicable to material extracted from the site and either 1) sold as a finished product and transported off the site or 2) transported off the site for further processing and sale off-site. Non-royalty material is topsoil, overburden, rock, sand, gravel or other material that is extracted and retained on-site, or that is imported to the site for reclamation or other operational use on site. The extraction royalty would go into effect on the effective date of the Development Agreement.

For historical purposes, the following table shows the tonnages extracted from the quarry since 2013. The total tonnages include both PCC and Non-PCC material from the site within a calendar year.



AAA's surface mine permit (SMP2017-0101) allows up to 4 million tons per year to be extracted from the site with the total reserves not exceeding 177 million tons for the term of the permit.

Article 4, subsection 4.6 of the Agreement would require AAA to pay an annual minimum extraction royalty of \$50,000 per year (if the total extraction royalty on PCC and Non-PCC material is less than \$50,000 per year) if the current Operating Covenant Agreement (last amended December 2015)

between the city and AAA terminates. Pursuant to the Operating Covenant Agreement, AAA has covenanted to consummate all taxable sales transactions for its products and services at its sales office within the city. This means the city receives the sales tax revenue from taxable sales outside the city in exchange for certain economic incentives. The proposed DA does not change the terms of the existing Operating Covenant Agreement, but it does provide an additional financial incentive by requiring an extraction royalty payment to the city. Therefore, if the Operating Covenant Agreement were to terminate, the annual minimum payment would go into effect.

### Vested Right

AAA is a leader in the industry for using recycled aggregates from construction sites. This has decreased the extraction of organic material from the site which has resulted in AAA needing to extend their permit for an extended period of time to exhaust all available resources at the site. The DA would give AAA a vested right to conduct surface mining operations and other ancillary processing operations, such as a hot-mix asphalt plant and ready mix concrete batch plant. The term of the DA would give AAA the vested right to conduct surface mining operations until the sooner of exhaustion of permitted reserves or 100 years from the date the DA goes into effect.

### Periodic Review

The city will be required to perform a periodic review every 12 months for compliance with this Agreement. The city already does an annual inspection of the site in accordance with the conditions of approval for the surface mining permit and Corona Municipal Code Sections 19.16.010 and 19.16.020. AAA prepares an annual surface mining report for both the city and the Department of Conservation. With this practice already in place, the city will review compliance with this Agreement at the same time it performs its annual inspection of the site.

## **STAFF ANALYSIS**

All American Asphalt is located in an area of the city that is predominately used for surface mining. Vulcan Materials is located south of AAA's quarry and operates a surface mine with ancillary uses similar to AAA. Vulcan is entitled to mine on 260 acres and was granted a permit extension for 100 years in May 2014. The land to the south beyond Vulcan's property is 3M's surface mine. 3M is 1,320 acres located in the unincorporated area of Riverside County and abuts the city's incorporated boundary. The city inherited the surface mines operated by All American Asphalt and Vulcan Materials at the time of annexation in 1991 and are the only two surface mining operations located in the city.

AAA will be the second mining operator to pay an extraction royalty to the city. Vulcan Materials currently pays an extraction royalty payment to the city at the same per ton rate being established by this Agreement. The city is not aware of any other mines in the general vicinity, such as those located in the unincorporated county area of Temescal Valley, of paying an extraction royalty. As such, AAA and Vulcan are the only known operators in the area to pay an extraction royalty.

The extraction royalty being established by this Agreement will be independent from the sales tax revenue allocated to the city by AAA. Both revenues provide a positive contribution to the city's General Fund budget.

## **ENVIRONMENTAL DETERMINATION:**

A mitigated negative declaration was approved by the Corona City Council in March 1991 when SMP90-1 was approved. A subsequent mitigated negative declaration was approved by the City Council in 1995 for a modification to the existing surface mining permit (SMP95-01) allowing an inert debris engineered landfill in conjunction with the mining operation and mining to a depth of 614 feet amsl. The permit was modified later in 2002 allowing mining to a depth of 500 feet amsl. The 2002 modification was exempt from CEQA review because the modification did not result in additional environmental impacts from the evaluation in the subsequent mitigated negative declaration that was approved

The City of Corona has determined that a subsequent Mitigated Negative Declaration should be prepared for the proposed project. CEQA Guidelines § 15162 (a)(2) states that when a negative declaration has been adopted for a project, no subsequent negative declaration shall be prepared for that project unless the lead agency determined, on the basis of substantial evidence in the light of the whole record, substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The project proponent proposed some variations to the previously approved project which required additional mitigation measures for groundwater resources. The City of Corona has determined that this subsequent mitigated negative declaration is appropriate and in compliance with CEQA.

The subsequent MND (SCH# 2018081065) was submitted to the State Clearinghouse on August 23, 2018. The 30-day review and comment period for state and regional agencies closed on September 25, 2018. Since the close of the public comment period and as of the preparation of this staff report, the city received one comment letter from South Coast AQMD. The comment had to do with the future relocation of the processing plant and analysis according to Rule 1401. The subsequent mitigated negative declaration was revised to include discussion on the application of Rule 1401 in the final document.

## **FISCAL IMPACT**

The Development Agreement will establish an annual extraction royalty that will be paid by All American Asphalt to the city. The extraction royalty will remain in effect for as long as active surface mining is being done on the property. The city will be paid a royalty of \$0.05 per ton of Portland cement concrete - grade aggregate material (PCC Material) extracted from the site, and a royalty of \$0.03 per ton of material not suitable for Portland cement concrete use (Non-PCC Material). The extraction royalty would provide a positive revenue source to the General Fund.

The Development Agreement would also extend the term of AAA's surface mining operations which benefits the existing Operating Covenant Agreement between AAA and the City of Corona. The Operating Covenant Agreement allows California sales tax to be shared between AAA and the city as a means of providing an incentive to ensure that AAA maintains and expands its existing asphalt and concrete sales facilities in the City of Corona. The operating covenant agreement requires the city to make covenant payments equal to the sum of 25% of sales tax revenue attributable to AAA's taxable sales that exceed \$500,000 and covenant payments equal to 50% of AAA's taxable sales if sales tax

revenue exceeds \$1,000,000. If AAA's taxable sales are less than \$500,000 in a year, the city is not obligated to make covenant payments and the city is not obligated to make covenant payments on the first \$250,000 of taxable sales each year. Although the sales tax revenue is essentially shared between the city and AAA after a certain threshold, the city does benefit from the sales revenue from material sold outside Corona.

## **PUBLIC NOTICE AND COMMENTS**

The notice of public hearing was published on September 19, 2018, in the Sentinel Weekly News newspaper, posted on the city's website, and mailers were distributed to properties within a 500-foot radius of the project site. As of the preparation of this staff report, one resident in the nearby neighborhood of Home Gardens inquired about the scope of work and if the boundary of the mining operation was going to be closer to the houses. Staff explained there are no changes to the mining boundary and as the mining operation moves east the buffer expands and moves farther away from the residents.

## **FINDINGS FOR APPROVAL OF DA2018-0002**

1. Pursuant to CEQA Guidelines § 15162 (a)(2), the City prepared a subsequent Mitigated Negative Declaration from the 1991 and 1995 Mitigated Negative Declarations approved for All American Asphalt's surface mine permit and permit amendment. SMP2017-0101 proposed variations to the previously approved project that required additional mitigation measures not originally discussed in the previous environmental analysis. The City has determined the subsequent mitigated negative declaration is appropriate for the permit amendment and in compliance with CEQA.
2. Development Agreement 2018-0002 is consistent with the City's General Plan for the following reasons:
  - a. *The proposal promotes General Plan Goal 10.13 to ensure that the process and manner of locating and extracting mineral resources in the City and Planning Area occurs in a non-impactive manner.*
  - b. *The proposal implements General Plan Policy 10.13.2, as the project is required to maintain compliance with SMARA (Surface Mining and Reclamation Act).*
  - c. *The proposal implements General Plan Goal 10.15 as it honors surface mining permits and reclamation plans that were issued by the Riverside County for sites that are annexed into the City of Corona.*
  - d. *The proposal promotes General Plan Goal 10.16 to recognize and protect valuable mineral resources in a manner that does not create land use conflicts.*
  - e. *The General Industrial designation accommodates a wide range of manufacturing, construction, transportation, wholesale trade, and related service activities. Mineral resource mining activities are also included in this category.*
3. Development Agreement 2018-0002 is compatible with the uses authorized in and the density and regulations prescribed for the land use district in which the real property is located for the following reason:
  - a. *The subject site is zoned M-3/MR (Heavy Manufacturing w/Mineral Resources overlay). The MR overlay designates properties in the city that contain mineral resources suitable for extraction based on the California Geological Survey published by the Department of Conservation. The AAA quarry is located in the Temescal Valley Production Area for Portland Cement Concrete-Grade Aggregate region and is classified MRZ-2 by the State Geologist, which means significant mineral deposits are present or there is*

*a high likelihood for their presence exists.*

4. Development Agreement 2018-002 is in conformity with the public convenience, general welfare and good land use practice for the following reason:

*a. The extraction royalty being considered as part of the Agreement is intended to provide some form of public benefit to the city in exchange for extending an existing surface mining permit. The AAA Quarry is located within an area of the city designated for mineral resources and is adjacent to land predominately used for surface mining.*

5. Development Agreement 2018-0002 will not be detrimental to health, safety and general welfare for the following reason:

*a. The AAA Quarry is required to comply with applicable state laws for surface mining, the city's Zoning Ordinance and conditions of approval for Surface Mining Permit 2017-0101.*

6. Development Agreement 2018-002 will not adversely affect the orderly development of property or the preservation of property values for the following reason:

*a. The AAA Quarry is located in an area of the city designated for mineral resources by the city's zoning map and by the California Geological Survey published by the Department of Conservation. The AAA quarry is located in the Temescal Valley Production Area for Portland Cement Concrete-Grade Aggregate region and is classified MRZ-2 by the State Geologist, which means significant mineral deposits are present or there is a high likelihood for their presence exists.*

**PREPARED & SUBMITTED BY: JOANNE COLETTA, COMMUNITY DEVELOPMENT DIRECTOR**

## **EXHIBITS**

1. Locational and Zoning Map
2. Exhibit A - Draft Development Agreement.
3. Exhibit B - Environmental document.