

Douglas County Hearing Examiner

Andrew L. Kottkamp, Hearing Examiner

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP-07-03)	DECISION AND
Granite Northwest, Inc.)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on April 17, 2008, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. The applicant is Granite Northwest, Inc. P.O. Box 1628, Wenatchee, WA 98807.
2. General Description: Granite Northwest, Inc. has submitted a conditional use permit application to permanently relocate its existing asphalt batch plant and associated activities (asphalt mixer, control house, fuel & oil tanks, feeder bins, 3 stockpile areas & asphalt recycle crusher) from it's current location of 5497 Enterprise drive to 5665 Nelpar Drive.
3. Location: The subject property is located at 5665 Nelpar Drive and is further described as being located in the Southwest ¼ of the Southeast ¼ of Section 2, Township 23 North, Range 20 East, W.M., Douglas County, Washington. The Douglas County Assessor parcel numbers for the subject property are 23200240008 and 23200240009.
4. Site Information:

Total Project Size:	7.88 acres
No. of lots	2
Domestic Water:	East Wenatchee Water District
Sewage Disposal:	Douglas County Sewer District
Power/Electricity:	Douglas County PUD
Fire Protection:	Douglas County Fire District #2

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5. Site Characteristics: The subject property is characterized as relatively flat (0-3% slope) to sloping toward the east (35-40% slope). The proposed batch plant and activities would be located on the relatively flat portion of the site. There are currently stockpiles located onsite. No structures exist onsite.
6. Surrounding Property: To the north, Vacant Lot (BSP-04-01, lot 7); to the south, Basin Asphalt Corporate Office; to the east, Vacant/Steep Hillside; to the west, Western Holdings wholesale yard (BSP-04-01, lots 1 & 2)
7. The subject property is located within the Greater East Wenatchee Planning Area.
8. The subject property is located within the East Wenatchee Urban Growth Area.
9. The Comprehensive Plan Designation is Industrial.
10. The subject property is located in the General Industrial zoning district which allows for asphalt/concrete batch plants as a conditional use if the development standards of DCC 18.60 and evaluation criteria of DCC 18.80 are met.
11. Access would be off of Nelpar Dr., a public street.
12. Comments from reviewing agencies have been considered and addressed where appropriate.
13. Douglas County issued a Determination of Non-significance on March 19, 2008 in accordance with WAC 197-11-355 (Optional DNS).
14. Washington Department of Natural Resources has identified that the proposed use is compatible with the surface mine reclamation permit for the site.
15. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
16. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
17. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
18. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.

19. Conditional Use Permit applications are processed through a Type III Quasi-Judicial procedure. This application was processed in accordance with the Unified Development Code, Chapter 25.04 "Permit Application Review Procedures."
20. This Application was found to be Technically Complete as required by law.
21. The entire Planning Staff file was admitted into the record at the public hearing.
22. Public hearing after due legal notice was scheduled for March 31, 2008. At said hearing, and at the applicant's request, the hearing was continued. The hearing was continued to April 17, 2008, at 1:30 p.m. This was done on the record. No additional public notice was required.
23. Appearing at the April 17, 2008, hearing on behalf of the applicant was Bill Hordan. Mr. Hordan testified that he was the authorized agent of the applicant. He further testified that the applicant had no objection to the proposed conditions of approval and that the applicant agreed that the staff report was correct in all respects. Mr. Hordan asked for clarification of proposed Condition of Approval No. 4 indicating that it was the applicant's intent to enter into a developer agreement prior to issuance of final occupancy to allow landscaping on the northern edge of the property to occur upon development of adjacent property to the north of the subject property. Staff indicated that this would be acceptable, with bonding. Mr. Hordan indicated that the applicant was agreeable to enter into a developer agreement with bonding.
24. The Douglas County Land Services staff recommended approval of the requested permit, subject to the proposed conditions of approval.
25. No member of the public was present or testified at the hearing on April 17, 2008.
26. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
27. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
28. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
29. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.

30. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use will not unreasonably interfere with allowable development or use of neighboring properties.
31. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
32. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified in Douglas County Code.
33. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this decision.
2. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
3. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Greater East Wenatchee Area Comprehensive Plan.
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Public use and interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 "Zoning" of the Douglas County Code.
7. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
8. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
9. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.

10. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Douglas County Code or the Comprehensive Plan.
11. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
12. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Application CUP-07-03, Granite Northwest, Inc., is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The Applicant shall obtain all permits required by all federal, state and local agencies with jurisdiction.
3. The Applicant shall comply with all federal, state and local laws and regulations.
4. Construction shall proceed substantially as shown on the application materials on file with Douglas County, except as modified by conditions below.
5. The project shall proceed in substantial conformance with the plans and application materials submitted October 11, 2007, amended on January 23, 2008, and March 18, 2008 and on file except as amended by the conditions herein.
6. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
7. All improvements associated with this development must be in place or a performance surety agreement executed (specifying timeframes and improvements) and financial assurances posted in conformance with DCC 14.90.

8. All landscape shall be installed per the approved plan or a developer agreement executed prior to issuance of final occupancy. This includes extension of landscaping along Nelpar Drive, with replacement of failed plantings, ground cover, and landscaping along the northern property line. Within thirty days of complete installation, the landscape plan designer shall submit a signed affidavit, provided by the county, that the landscaping has been installed per the approved plan.
9. The maximum height of stockpiles shall not exceed 30 feet.
10. All operations will be conducted in a manner that complies with the applicable requirements of WAC 173-60, including the maximum permissible environmental noise levels specified in WAC 173-60-040 and the provisions of Douglas County Code, Chapter 8.04 "Noise".
11. Site illumination shall be designed and located so that lighting sources are not directly visible from the highway or residential uses. Lighting shall not cast glare on adjacent properties.
12. Lineal access (north to south) to the transmission corridor maintained by Douglas County PUD shall remain open for maintenance and operation of the transmission corridor.
13. A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and batching office.
14. An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per chapter 173-303 The Dangerous Waste Regulations. Technical assistance is available from Ecology's Hazardous Waste and Toxics Reduction program by contacting Holly Cushman, 509-575-2724.
15. Ecology's Air Quality Program shall be contacted prior to moving the Batch plant, to acquire a new Notice of Construction Air Quality Permit for the new location. Lynette Haller 509-457-7126 or David Ogulei 509-454-7899.
16. An application for a Sand & Gravel Permit for the new site shall be submitted to the Department of Ecology at least 60 days before beginning any activity that may result in a discharge of any pollutant. In addition, the proponent shall submit a Change Request Form, requesting cancellation of permit WAG 50-5107, after all equipment has been removed from the site. These documents shall be mailed to: Cindy Huwe, Water Quality Permit Coordinator, Washington Department of Ecology, 15 West Yakima Avenue #200, Yakima, WA 98902. Questions regarding Water Quality shall be directed to Pam Perun at 509-454-7869.

17. Prior to building permit issuance Douglas County Fire District #2 shall verify that storage of combustible and flammable liquids shall comply with the Int'l Fire Code Section 34; N.F.P.A. 30 (Flamable / Combustible Liquid Storage Standard); N.F.P.A. 58 (LPG Storage Code).
18. The asphalt batch plant and associated fuel storage shall comply with DCC 15.28 (fire hydrant & fire flow code). Fire flow minimum is 1,500 gallons per minute for a two-hour duration.
19. All roadway improvements shall be designed by a professional engineer licensed in the State of Washington. The roadway improvements shall conform to the requirements of Douglas County Code Chapters 12, 17 and 18, to AASHTO Policy on Geometric Design of Highways and Streets and in accordance with current Douglas County Road Standards as updated at the time of final project approval, and other applicable existing code requirements. Complete plans and supporting documentation shall be submitted and accepted by the County prior to starting construction in accordance with the Comprehensive Road Standards.
20. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
21. During construction, all work associated with the proposed project shall occur between the hours of 6:00 a.m. to 7:00 p.m., Monday through Friday and 7:00 a.m. to 7:00 p.m., Saturday. Construction activities on Sunday shall not commence before 8:00 a.m. and shall conclude by 7:00 p.m.
22. Final "as built" drawings shall be delivered to Douglas County upon completion.
23. Private improvements shall be clearly shown and labeled as such on each sheet of the construction plans. The note below shall appear on the cover sheet of the construction plans for private improvements:
 - *Douglas County shall not be responsible for the maintenance of roadway and appurtenant improvements, including storm drainage structures and pipes for all roadways in the development. Specifically, driveways and private accesses.*
24. The applicant shall be responsible for preventing mud, dirt and debris from the site, including stormwater runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties. One access point for construction (via Nelpar Drive) shall be approved. A stabilized construction access for the site shall be maintained as shown on a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall be submitted prior to any on-site grading taking place.

25. Utility installation/replacement/upgrade within the Douglas County right-of-way, including but not limited to Nelpar Drive shall be approved by Douglas County. Damage to existing roads, both public and private, (including but not limited to Nelpar Drive) resulting from construction activities (including utility extensions required to provide necessary services to the proposed development) shall be repaired to the satisfaction of Douglas County, by the applicant. The extent of repair and/or replacement will be determined during construction plan review and during field inspection of the proposed work within the right-of-way. Repairs shall be completed prior to final plat approval. Repair of existing road surfaces may include overlays of the existing road surface, full or half width, depending upon the extent of impact to the existing road surface due to the construction activities. Existing moratoriums on public roads may limit utility work to boring or pushing. DCC 12.20.060, Specific requirements - Underground utilities
26. Written verification from the engineer of record that the final construction plans for the utility plans, site grading plans, and stormwater facilities are in conformance with Douglas County requirements and geotechnical assessments.
27. All new or revised driveways and accesses onto a County Road (including temporary or construction accesses) require an approved access permit as per the procedures in DCC Title 12.24, "Approaches to County Roads".
28. The internal circulation plan shall be approved by the Douglas County Fire Marshal as part of the construction plan review/acceptance process.
29. All improvements shall be in place prior to building occupation or a surety agreement must be entered into between the applicant and the County. The surety agreement shall specify surety, time frames, etc. If the developer elects to enter into a surety improvement agreement, an appropriate financial security such as a surety bond or irrevocable standby letter of credit shall accompany said agreement in conformance with D.C.C. 14.90. Bonding of improvements in lieu of construction shall be at the discretion of Douglas County.
30. Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with county code and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the Comprehensive Road Standards (DCC) with final reports submitted to Douglas County.
31. A final storm water drainage report and plan prepared by a professional engineer licensed in the State of Washington shall be submitted to and approved by Douglas

County prior to construction. The on-site storm water facilities shall be designed to retain all runoff from a 2-inch storm event in a 90-minute period utilizing a Type II SCS rainfall distribution in accordance with Douglas County Code Chapter 20.34 and the Comprehensive Road Standards. The plan shall take site grading into consideration and its effect on the existing drainage for adjacent properties and shall accommodate off-site storm water runoff. Measures to address stormwater infiltration during frozen soil conditions shall be incorporated in to the plan. The storm water plan shall have supporting calculations and, in the event that a computer program is used as an aid in the analysis, all input data and variables used shall be clearly identified. This includes but is not necessarily limited to:

- a) design storm unit hydrograph data points;
- b) basin data & time of concentration calculation;
- c) runoff hydrograph;
- d) reach data;
- e) storage / infiltration data; and
- f) a summary of the hydraulic design parameters for each storm water conveyance and detention / infiltration element proposed on the plans. Final "as built" drawings and material test reports shall be delivered to Douglas County upon completion.

32. The stormwater facilities shall be owned and maintained by the property owner. Prior to building occupancy, a maintenance and operation agreement shall be established for the stormwater drainage system. The agreement shall specify the property owner as having the responsibility for the long-term maintenance of the stormwater drainage system within the development. Douglas County shall have the right to periodically inspect these facilities to verify design capacity and operation. A perpetual access easement shall be granted to the County and/or other governmental agencies having jurisdiction regarding storm water facilities. The agreement shall also state that the property owner shall be responsible for the long-term operation, maintenance, repair and replacement of the storm water facility, and that Douglas County will not be responsible for the maintenance of the stormwater facility. Restrictions on future use and grading allowed within these areas must be clearly noted within the operation and maintenance agreement for stormwater facilities. All landscaping within stormwater facilities shall be installed and maintained consistent with the standards contained in Chapter 6 of the "Stormwater Management Manual for Eastern Washington", Washington State Department of Ecology publication number 04-10-076 as amended.

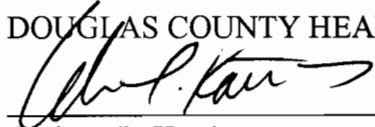
33. The drainage report and design shall address the Core Elements contained in the Stormwater Management Manual for Eastern Washington. Core elements are listed below:

- Core Element #1 Preparation of a Stormwater Site Plan
- Core Element #2 Construction of Stormwater Pollution Prevention
- Core Element #3 Source Control of Pollution

- Core Element #4 Preservation of Natural Drainage Systems
 - Core Element #5 Runoff Treatment
 - Core Element #7 Operation and Maintenance
34. Individual/common plan of development for this proposal may exceed 1 acre of disturbed ground. This would meet the threshold used by the Washington State Department of Ecology in administering their General Permit to Discharge Storm Water Associated with Construction Activity. If required, the applicant is responsible for acquisition of all applicable permits including a stormwater construction permit (DOE) and the preparation of a stormwater pollution prevention plan if required, prior to beginning ground-breaking activities. The Department of Ecology contacts for this area are Bryan Neet, (509) 575-2808, bneet461@ecy.wa.gov, and Cory Hixon, (509) 454-4103, chix461@ecy.wa.gov.
35. A dust abatement plan shall be filed with and approved by Douglas County prior to any clearing, grading, and/or construction. At a minimum, water shall be made available during clearing, grading and construction and applied in a manner to control fugitive dust.
36. The old site must be closed out per Surface Mining Reclamation Permit Number 70-013035 and site reclaimed and closed out by December 2009.

Dated this 17th day of April, 2008.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Douglas County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.