

**GRANT COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND,
P 18-0031)	DECISION AND
Tommer)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on September 12, 2018, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is an application for a Conditional Use Permit to allow a surface mine and gravel crushing operation to mine and crush approximately 3,000,000 to 5,000,000 cubic yards of material on approximately eighty (80) acres.
2. The Applicant is Tommer Construction Attn: Chris Tommer, PO Box 1150, Ephrata, WA, 98823.
3. The site address of the subject parcel is currently unassigned. The site is located in the eastern half of SE 1/4 of Section 24, Township 21N, Range 24E, W.M., Grant County, WA. Parcel # 15-1218-001.
4. The zoning for the property is Rural Remote.
5. The zoning for neighboring parcels is: To the north, Rural Remote; to the south, Rural Resource; to the east, Rural Resource; to the west, Rural Resource.
6. The Comprehensive Plan designation for the subject property is Rural Remote.
7. Environmental Review was completed by Grant County Development Services. A SEPA Mitigated Determination of Non-Significance was issued on July 27, 2018. This was not appealed.
8. The subject parcel was reviewed for Critical Areas and not found to be located within 300 feet of any Critical Area as defined by Grant County Code.
9. A Public Notice containing information on this project was published in the Columbia Basin Herald on June 25, 2018, was mailed to property owners within 300 feet of the subject property, and was posted on the subject property. Information on this project was also mailed to applicable agencies of jurisdiction for their review and comment.
10. The following agencies and County departments provided comments:
 - 10.1 Grant County Fire Marshal responded on June 25, 2018.
 - 10.2 Grant County Building Official responded on August 2, 2018.
 - 10.3 Grant County Public Works Department responded on June 26, 2018 & July 24, 2018.
 - 10.4 Grant County Assessor's Office responded on June 28, 2018.
 - 10.5 WA State Department of Ecology responded on July 9, 2018.

11. The following agencies were notified but did not respond:

- 11.1 Grant County Treasurer's Office
- 11.2 Grant County Health District
- 11.3 Grant County Sheriff's Office
- 11.4 Grant County Auditor's Office
- 11.5 Grant County Emergency Management
- 11.6 Grant County Noxious Weed Control Board
- 11.7 Grant County PUD
- 11.8 U.S. Bureau of Reclamation
- 11.9 WA State Department of Natural Resources
- 11.10 Grant County Conservation District
- 11.11 Quincy Columbia Basin Irrigation District
- 11.12 Grant County Fire District #3

12. **Agency Comments:** The following is a summary of comments received:

12.1 **Grant County Assessor's Office:**

- 12.1.1. Parcel 15-1218-001 is an 80.00 acre parcel of land only.
- 12.1.2. Owner is Tommer Construction, Co.
- 12.1.3. No issues.

12.2 **Grant County Public Works:**

12.2.1. Revised 07/24/18:

- 12.2.1.1 With the provided projected vehicle trip numbers we do not see the need for mitigation at this time. However, if the vehicle trips increase over the projected 333 per year then additional mitigation may be required at that time.

12.2.2. Original 06/26/18:

- 12.2.2.1. Approach permit shall be obtained for County road access.
- 12.2.2.2. Provide more detailed information on vehicle trips to and from the proposed site, an unknown number does not provide enough data for current review. Additional mitigation may be required once additional information has been provided for review/comment.

12.3 **Grant County Fire Marshal:**

- 12.3.1. No adverse comments or concerns.

12.4 **WA State Department of Ecology:**

- 12.4.1. Please see Attachment B for this comment in its entirety.

12.5 **Grant County Building Official:**

- 12.5.1. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or to erect, install, enlarge, alter, repair, remove, convert or replace any gas, mechanical or plumbing system, the installation of which is regulated by International Building Code, International Residential Code, International Mechanical Code, or Uniform Plumbing Code, or to cause any

such work to be performed shall first make application to the Grant County Development Services, Building Division and obtain the required permit.

13. No public comments were received.
14. The application was determined to be Technically Complete on June 18, 2018.
15. This proposal was processed as a Type III Quasi-Judicial Decision, in accordance with Chapter 25.04 "Permit Application and Review Procedures" and Chapter 25.08 "Conditional Uses and Variances" of the Grant County Unified Development Code.
16. This proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of Grant County Unified Development Code. The project site was not found to be located within 300 feet of any Critical Areas.
17. The proposal is not located within any Urban Growth Areas.
18. The project site is located in the Rural Remote Zoning District.
19. Pursuant to Grant County Code 23.04, Table 43, "Mining & Mineral Extraction" is allowed as a Conditional Use in the Rural Remote Zoning District.
20. Grant County Code 25.02 defines Mineral Extraction as "the removal of naturally occurring materials from the earth for economic use. Extraction materials include nonmetallic minerals such as sand, gravel, clay, coal, and various types of stone."
21. A site visit was conducted on June 29, 2018 by GC Development Services Staff.
22. Grant County Public Works submitted a comment on June 26, 2018 requesting more detailed information on vehicle trips to and from the proposed site. The applicant provided the proposed number of vehicle trips per year. Grant County Public Works revised their comment and Planning received it on July 24, 2018. The revised comment has been made a condition of approval.
23. Information about this application was sent to all applicable agencies of jurisdiction for their review and comments. Agency comments and/or requirements specific/applicable to this proposal have been included as Conditions of Approval. No adverse comments were expressed by any agency that would prohibit development.
24. Grant County Development Services Staff reviewed and considered the application materials and the comments received for the proposal. Based on the proposed Conditions of Approval, and the current design of the project, staff recommended approval of the subject Conditional Use Permit.
25. The proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
 - 25.1. Since 1984, Tommer's, have operated a Sand & Gravel operation at Naylor Junction and have operated a portable crushing plant there since 2000. We are familiar with the guidelines set forth and is our intent and purpose to follow all regulations of Grant County Code or the Comprehensive Plan.
 - 25.2. The proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan. Mining and Mineral Extraction activities are allowed in the Rural Remote Zoning District as a Conditional Use. This project is located in the Rural Remote Zoning District. The project will be required to

- comply with all relevant development and performance standards of the Grant County Unified Development Code.
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.
 - 26.1 This proposal is appropriate in design, character and appearance and has the same goals and policies for the land use designation in which the proposed use is located.
 - 26.2 The proposal is appropriate in design, character and appearance with the goals and policies for the applicable land use designation. Pursuant to Chapter 4.4.3.7 of the Comprehensive Plan, the primary land uses in the Rural Remote land use designation includes resource-oriented activities such as farming and mineral extraction.
 27. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
 - 27.1 It is out intent to continue to operate with no impact on the adjacent lot owners.
 - 27.2 The proposed use will not cause significant adverse impacts on the human or natural environment. Conditions of Approval have been suggested below that will ensure that the project, if approved, will not negatively impact the environment. The applicant stated that they will utilize water trucks on site to minimize dust and construct gravel berms to aid in noise reduction.
 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.
 - 28.1 The proposal will not produce significant adverse effects to the environment that cannot be controlled by following the conditions of approval.
 - 28.2 The cumulative impact of additional requests for like actions will not produce significant adverse effects to the environment provided those similar requests are adequately conditioned, or have appropriate mitigation measures applied to them at the time of approval. This project will be adequately conditioned and includes a reclamation plan after the operation has completed which minimizes the long term impacts on the environment.
 29. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
 - 29.1 The proposal will provide more than adequate facilities including access, fire protection, stormwater control however water and sewage disposal facilities are not required with this project.
 - 29.2 This proposal will be served by adequate facilities. The crushing operation itself requires no infrastructure. All storm water will be required to be retained on-site (in compliance with the Eastern Washington Storm Water manual) and the property is served by the local Fire District (No. 3).
 30. The location, size, and height of buildings, structures, walls and fences and screening vegetation for the proposed use shall not unreasonably interfere with allowable development or use of neighboring properties.
 - 30.1 There is no need for buildings, structures, walls or fences necessary for this proposal therefore the neighboring properties will not have any interference.

- 30.2 This project will not unreasonably interfere with development or use of neighboring properties. This proposal does not include any buildings, structures, or fences. The project will minimize impacts of neighboring property owners by utilizing water trucks to be brought on site to keep dust down and using stockpiles of materials as mitigation for noise.
31. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
 - 31.1 The proposal does not affect nor is it hazardous to existing or anticipated vehicular or pedestrian traffic whatsoever.
 - 31.2 Pedestrian and vehicular traffic resulting from this project will not be hazardous to the existing traffic in the area. Application materials were sent to Grant County Public Works and their comment stated mitigation is not required at the proposed 333 trips per year. Beyond 333 trips, this proposal may require mitigation. This shall be a condition of approval.
32. Land uses, activities, and structures that are allowable as conditional uses must also comply with any required performance standards in GCC § 23.08.
 - 32.1 Tommer's will comply with all standards specified in GCC 23.08 in regards to land uses and activities.
 - 32.2 The application will be conditioned so as to comply with the applicable performance standards. Appropriate conditions of approval have been suggested that will ensure compliance.
33. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield (RCW 36.70).
 - 33.1 The proposal does not include parcels adjacent to an airport or airfield (RCW 36.70).
 - 33.2 This proposal is not adjacent to an airport/airfield. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield.
34. The proposal conforms to the standards specified in GCC § 23.12.
 - 34.1 The proposal conforms to the standards specified in GCC 23.12.
 - 34.2 The project, as conditioned, complies with all applicable development standards found in GCC § 23.12.
35. The Grant County Planning Department recommended approval of the requested permit, subject to the recommended conditions of approval.
36. An open record public hearing after due legal notice was held on September 12, 2018.
37. The entire Planning Staff file was admitted into the record at the public hearing.
38. Appearing and testifying on behalf of the applicant was Sarah Jenkins. Ms. Jenkins testified that was an agent authorized to appear and speak on behalf of the Applicant and property owner. Ms. Jenkins testified that the Applicant agrees with all representations contained within the staff report and had no objection to any of the recommended Conditions of Approval.
39. No member of the public appeared at the hearing.

40. 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 been granted authority to render this decision.
2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
4. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. 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, Conditional Use Permit Application P 18-0031 is hereby APPROVED subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

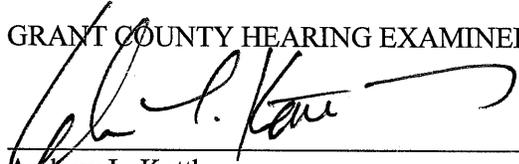
All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The applicant shall comply with all requirements as deemed necessary by the Grant County Public Works, including but not limited to:
 - 1.1. Approach permit shall be obtained for county road access.
 - 1.2. If the vehicle trips increase over the projected 333 per year then additional mitigation may be required at that time.
2. A minimum 100-foot setback shall be required between on-site crushing, processing, or recycling activities and adjacent properties.
3. Applicant shall comply with the Reclamation and Revegetation Plan on Page C-1.4 of the plan set drawings submitted on June 13, 2018.
4. Dust and emissions to the air associate with the project shall be controlled by utilizing Best Management Practices and dust control during crushing and grading operations.
5. Applicant shall comply with any/all applicable requirements found in Grant County Code Chapter 23.08, Performance and Use Standards.

6. Applicant shall comply with any/all applicable requirements found in Grant County Code Chapter 23.12, Development Standards.
7. Applicant shall comply with all requirements listed in Mitigated Determination of Non-Significance issued by Grant County on July 27, 2018.

Dated this 12th day of September, 2018.

GRANT 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 Grant 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.