

**GRANT COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND,
P 19-0361 and P 19-0362)	DECISION AND
Grant County Public Works)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on June 4, 2020, 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 and SEPA checklist to allow a surface mine, gravel crushing, sand screening and stockpiling operation to mine and crush approximately 1,875,000 cubic yards of material on approximately 61.19 acres.
2. The Applicant is Grant County Public Works, Attn: Sam Dart, 124 Enterprise St. SE, Ephrata, WA 98823.
3. The site address of the subject parcel is currently unassigned. The site is located approximately ½ mile northeast of the unincorporated community of Ruff. Access to the site is from County Road 6 NE approximately ½ mile east of its intersection with County Road W NE in the Southeast quarter of Section 36, Township 20 N, Range 30 E, W.M., Grant County, WA Parcel #18-1408-002.
4. The zoning for the property is Agricultural.
5. The zoning for neighboring parcels is Agricultural.
6. The Comprehensive Plan designation for the subject property is Agricultural Irrigated.
7. Environmental Review was completed by Grant County Development Services. A SEPA Mitigated Determination of Non-Significance was issued on February 10, 2020.
8. The portion of property subject to the Conditional Use Permit review was reviewed for Critical Areas and was found to be in a Priority Habitat and Species designated area. A Habitat Conservation Plan was provided by Ecosystems North West with mitigation recommendations suggested.
9. A Public Notice containing information on this project was published in the Columbia Basin Herald on January 21, 2020, 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.

<i>Agencies Notified</i>	<i>Response Received</i>	<i>Agencies Notified</i>	<i>Response Received</i>
Grant County Fire Marshal	1/16/2020	Grant County Noxious Weed Control Board	None
Grant County Building Official	2/6/2020	Grant County P.U.D.	None
Grant County Treasurer's Office	None	U.S. Bureau of Reclamation	None
Grant County Health District	1/16/2020	WA State Department of Ecology	None
Grant County Public Works Department	2/6/2020 1/19/2020	WA State Dept. of Fish & Wildlife	2/6/2020
Grant County Assessor's Office	1/17/2020 2/7/2020	WA State Dept. of Natural Resources	None
Grant County Sheriff's Office	None	Grant County Conservation District	None
Grant County Auditor's Office	None	East Columbia Basin Irrigation District	None
Grant County Emergency Management	None	Grant County Fire District #5	None

10. The following is a summary of comments received:

10.1 Grant County Assessor's Office:

- 10.1.1 Parcel 18-1408-002 is a 61.19 acre parcel of land only.
- 10.1.2 Owner is Grant County Public Works.
- 10.1.3 No issues.

10.2 Grant County Fire Marshal:

- 10.2.1 I have no adverse comments or concerns for this project.

10.3 Grant County Building Official:

- 10.3.1 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 the 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 permits.

10.4 Grant County Health District:

- 10.4.1 GCHD has no comments.

10.5 Grant County Public Works Department:

- 10.5.1 Grant County has no comment on this proposal.

- 10.6 East Columbia Basin Irrigation District:
10.6.1 ECBID has no comments.
- 10.7 Washington State Department of Fish and Wildlife:
10.7.1 WSDFW spoke with Dennis Beich (Ecosystems NW) about the Washington Ground Squirrel survey that he completed for the site. He stated it revealed no indication of WGS activity on-site, but the site does contain mature, good quality sagebrush. If areas surrounding the parcel contain the same type of habitat, then WGS colonies could exist. I have conferred with WDFW Wildlife Program Biologist and he indicates the dates in the MDNS would allow squirrels, if they are unknowingly on-site, to flee. Since it has been determined that WGS do not occur on-site, the work period restrictions on-site should be from February 1st through June 30th in order to avoid potential impacts to off-site squirrel activity.
10.7.2 Since the site contains mature sagebrush steppe habitat, a Washington State Priority Habitat, did Grant County produce a site assessment report and a habitat management plan for the project, according to the Grant County Critical Areas Ordinance.
11. The application was determined to be technically complete on January 16, 2020.
12. 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.
13. This proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of Grant County Unified Development Code. The project boundary as defined in the site plan was found to be in a Priority Habitat and Species designated area. A Habitat Conservation Plan was provided by Ecosystems North West with mitigation recommendations suggested.
14. The proposal is not located within any Urban Growth Area.
15. Pursuant to Grant County Code 23.04, Table 4, "Mining & Mineral Extraction" is allowed as a Conditional Use in the Agricultural Zoning District.
16. 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."
17. A Comprehensive Plan amendment was approved in 2019 to designate the property under the Mineral Resource Overlay zone to allow the property to be eligible for a Surface Mine.
18. A site visit was conducted on January 16, 2020 and February 7, 2020 by GC Development Services Staff.
19. A SEPA MDNS was issued for this project on February 10, 2020.

20. No public comments were received.
21. This Conditional Use Permit application is for surface mining, gravel crushing, sand screening and stockpiling operations in the Agricultural Zoning District.
22. The proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
 - 22.1 The proposed use is within the regulatory oversight of the Grant County Code and the Comprehensive Plan. Providing crushed aggregates for the maintenance of the area's county transportation system is a fundamental service required of Grant County government functions.
 - 22.2 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 Agricultural Zoning District as a Conditional Use. This project is located in the Agricultural Zoning District. The project will be required to comply with all relevant development and performance standards of the Grant County Unified Development Code.
23. 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.
 - 23.1 The proposed use of this site for aggregate production is substantially the same in design, character and appearance to an existing site in close proximity. Quarry development and operation is by its nature a long term investment which will result in the removal and depletion of surface mineral aggregates from this site. It is our belief that the proposed land use will be characteristic of other uses in the general area.
 - 23.2 The proposal is appropriate in design, character and appearance with the goals and policies for the applicable land use designation. Pursuant to Chapter 4.4.3.1 of the Comprehensive Plan, the primary land uses in the Agricultural land use designation includes resource-oriented activities such as farming and mineral extraction.
24. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
 - 24.1 The impacts created will be no different than those caused by an existing proximate pit sites whose usage began more than 40 years ago. This site has not created any adverse impact on humans or the natural environment in the general area and none are expected in the future.
 - 24.2 The proposed use will not cause significant adverse impacts on the human or natural environment.
25. 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.
 - 25.1 Although the proposed use is in keeping with the regular uses (as currently defined), it is not unreasonable to assume that each proposed use must be judged independently and in aggregate to arrive at the most effective mitigated condition of approval.
 - 25.2 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.

26. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
 - 26.1 The proposed pit site and usage will be serviced in the following manner:
 - 26.1.1 The proposal is accessed off of Road 6 NE by 1 approach and private access road. Fire protection is provided by Grant County Fire Protection District 5. Water for dust abatement will be provided by the crushing contractor. Sewage service will be contracted during crushing operations. The Ruff area is in a very arid climate with less than 10 inches of annual precipitation. If stormwater control is required it will be accomplished onsite.
 - 26.2 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. 5).
27. 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.
 - 27.1 The neighboring properties include, on the north and west boundaries, native lands owned by Washington State Natural Resources Department. On the northwest corner, native lands owned by David J. Fowler. On the east and south boundaries are native land and dry land wheat/CRP owned by Alan R. and Diane L. Voice and Road 6-NE. Interior quarry walls will be sloped at a 2 to 1 pitch which is similar in nature to those evident along the length of Weber Coulee in the immediate area. Fencing will be erected as necessary to deter trespass from humans and animals and to improve safety conditions. No use of this site will unreasonably interfere with allowable development or use of neighboring properties.
 - 29.2 This project will not unreasonably interfere with development or use of neighboring properties. This proposal does not include any buildings or structures. The project will minimize impacts of neighboring property owners by utilizing water trucks as needed to minimize fugitive dust. Fencing will be used to deter human and animal trespass into the site in areas where steep slopes and heavy machinery are being use. Work at this site will happen intermittently in association with county road projects in the area. This site will not be continuously operated throughout the year. Any structures erected on site and all fencing will comply with Grant County Code.
28. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
 - 28.1 The pedestrian and vehicular traffic will be similar in nature to historical usage dating back many years. The traffic associated with proposed and current use is for short duration jobs, during routine road maintenance and crushing activities.
 - 28.2 Pedestrian and vehicular traffic resulting from this project will not be hazardous to the existing traffic in the area. This proposal area was re-designated as a mineral resource overlay zone in the 2018 Comprehensive Plan update. This site is within

one-half mile of a previously operated surface mining operation. This site will be operated intermittently only and will have limited use.

29. Land uses, activities, and structures that are allowable as conditional uses must also comply with any required performance standards in GCC § 23.08.
 - 29.1 This proposal complies with GCC 23.08.230.
 - 29.2 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.

30. 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).
 - 30.1 The proposal is not adjacent to an airport or airfield.
 - 30.2 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 of airfield.

31. The proposal conforms to the standards specified in GCC § 23.12
 - 31.1 The proposal will comply with the standards.
 - 31.2 The project, as conditioned, complies with all applicable development standards found in GCC § 23.12.

32. An open record public hearing after due legal notice was held on June 4, 2020.

33. At this hearing, the entire planning staff file was admitted into the record.

34. Appearing and testifying at this hearing was Sam Dart, Grant County Public Works. Mr. Dart testified that he was an agent authorized to appear and speak on behalf of the applicant.

35. Mr. Dart testified that he had reviewed the proposed conditions of approval and had no objection to any of them.

36. No member of the public testified at this hearing.

37. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein 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. The proposal does conform to the standards specified in Grant County Code Section 23.12.

4. The use will comply with all required performance standards as specified in Grant County Code 23.08.

5. 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 Applications P 19-0361 and P 19-0362 are 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:

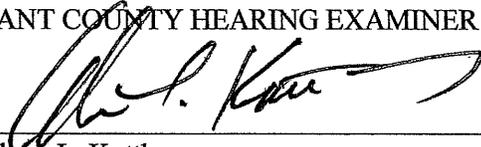
1. The proposed development shall not inflict upon adjacent land(s) smoke, dust, glare, dirt, steam, vibration, noise, electrical interference, excessive hazards, or pollution which exceeds applicable local, state, or federal standards.
2. Existing vegetation will be removed from the site during mining operations. The site shall subsequently be replanted according to the approved Washington State Department of Natural Resources Reclamation Plan.
3. If any Native American Grave site(s) or archaeological/cultural resources (Indian Artifacts) are found all construction activity shall stop and the owner/developer shall immediately notify the Grant County Planning Department, the Colville Confederated Tribes and the Washington State Office of Archaeology and Historic Preservation.
4. Water shall be used during aggregate manufacture to reduce fugitive dust.
5. Access road drainage ditches and culverts will be completed to direct runoff on site. Retention berms will be established at down slope edge of aggregate storage area to retain runoff from access road and aggregate storage area. Spill kits will be on-site during mining.
6. At quarry site, pit floor will be sloped inward to contain any potential runoff. Containment embankments will be constructed down-slope where necessary.
7. To avoid impacts to ground squirrels, Grant County Public Works will restrict site development and construction to the periods of February 1st to June 30th.
8. Grant County Public Works shall avoid or minimize disturbance in either the 'reclamation' setback or the 'permanent' setback to protect the existing native shrub steppe and provide a buffer from the quarry operation as written and shown in the Washington Ground Squirrel Survey provided by Ecosystems North West.
9. Applicant shall have water truck on-site at all times during crushing/grading operations for dust suppression.
10. Berms of topsoil and overburden shall be placed around the project in order to reduce noise levels on adjacent properties.
11. Grant County Fire District #5 and the Grant County Fire Marshal shall be notified of any planned blasting that will take place on site at least 72 hours in advance of the activity. Additionally, details on the storage, amount of explosives to be on site, length of time any

explosives will be on site, the credentials of the company and/or individual(s) oversee the blasting shall be provided to the Grant County Fire Marshal.

12. Applicant shall comply with any/all applicable requirements found in Grant County Code Chapter 23.08, Performance and Use Standards.
13. Applicant shall comply with any/all applicable requirements found in Grant County Code Chapter 23.12, Development Standards.
14. Applicant shall comply with all requirements listed in Mitigated Determination of Non-Significance issued by Grant County on February 10, 2020.
15. Grant County Public Works shall comply with the recommendations as set forth in the Shrub Steppe habitat assessment plan submitted by Dennis Beich of Ecosystems North West including, but not limited to the following:
 - 15.1. There will be 49 acres of shrub steppe lost in the development of the quarry site. Prior to grading of the first phase of the site, Grant County will place the mapped 5.4 acres in the Northwest corner of the site into a permanent Native Growth Protection easement.
 - 15.2. Additionally, prior to grading of the first phase of the site, Grant County will place the fifty foot (50') permanent setback (shown in Figure 3 of the submitted report) and measuring seven (7) acres into a Native Growth Protection easement and signing that area with signs every 200 feet. The signs will state "the area behind this sign is protected habitat Do Not Disturb".
 - 15.3. Prior to opening up phase two of the site, and within eight (8) months of approval of the Conditional Use Permit, Grant County will complete a compensatory mitigation plan for the balance of the site. The plan will be acceptable to both Grant County Development Services and the Washington State Department of Fish and Wildlife and will consist of one or more of the following options:
 - 15.3.1 Identifying property with similar shrub steppe habitat in a similar position in the landscape with similar soil and aspect characteristics. Once identified this property or properties will be either purchased fee title (if the County does not already own) or a conservation easement placed on the title of the property that would protect the native habitat in perpetuity; and/or,
 - 15.3.2 Provide for adequate and appropriate mitigation that is acceptable to both Washington State Department of Fish and Wildlife and Grant County Development Services.

Dated this 5th day of June, 2020.

GRANT COUNTY HEARING EXAMINER



Andrew L. Kottkamp

EXCEPT AS PROVIDED BY GRANT COUNTY UNIFORM DEVELOPMENT CODE, SECTION 25.32.150, THE DECISION OF THE HEARING EXAMINER IS FINAL AND CONCLUSIVE UNLESS APPEALED TO THE GRANT COUNTY SUPERIOR COURT WITHIN TWENTY-ONE (21) DAYS AFTER THE ISSUANCE OF THIS DECISION AS PROVIDED BY RCW 36.70C.040 AND GRANT COUNTY UNIFORM DEVELOPMENT CODE, SECTIONS 25.32.160 AND 25.04.430.