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WHITMAN COUNTY ADMINISTRATIVE
USE PERMIT

IN THE MATTER OF:

AUP 20-02

Western Construction of Lewiston quarry project.

FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION, AND CONDITIONS OF APPROVAL.

FINDINGS OF FACT

1. The property is located approximately 5.5 miles NE of Albion on the south side of Palouse/Albion Road in Section 34, Township 16N, Range 45E., W.M., Whitman County, Washington. (See **Exhibit 1**, vicinity map)
2. On June 23, 2020, Western Construction of Lewiston applied for an administrative use permit to open a new quarry located on an 89-acre parcel owned by Bill Swan. The initial stage of quarrying will be less than 3 acres. Full build-out of the quarry over time would expand to approximately 39 acres. Rock crushing would occur 1-3 times per year. The retail/wholesale of rock products would normally be Monday through Friday from 6 a.m. to 6 p.m. Materials produced will be stockpiled at this site. The estimated amount of rock production is five million cubic yards. (See **Exhibit 2**, Conditional Use application and **Exhibit 3**, site plan)
3. The site is located in the Agricultural District. Whitman County code allows for an administrative conditional use permit to be issued for mining and quarrying activities in the Agricultural District if there are no residences within 1,000 feet of the quarry and the quarry is more than a mile away from an incorporated community or designated unincorporated rural community or a waiver is obtained by any residences within 1,000 feet of the quarry. There are no residences within 1,000 feet of the quarry site. See Chapter 19.10, Agricultural District, Section 19.10.090(B)(1&2). [See **Exhibit 4**, Chapter 19.10.090(B)(1&2)]
4. The site is bordered on all sides by agricultural land. There are several houses nearby. For the initial quarrying, which will be less than three acres, the closest house would be just over 2,000 feet away. At full build-out of the quarry, the nearest houses would be approximately 1,100 feet away. Full build-out of the quarry will take many decades.

5. All landowners within 1,000 feet were notified by certified mail and by July 23, 2020, the deadline for comments, one comment had been received. This comment came from a landowner whose residence is approximately 1,700 feet from the full build-out of the project boundary. (See **Exhibit 5**, letter from Bryan and Debbie Praest, and **Exhibit 5A**, Adjacent landowner notice))
6. A public notice of the intent to issue an administrative use permit and the SEPA decision was published in the Whitman County Gazette on July 9, 2020. (See **Exhibit 6**, Notice to the Gazette)
7. A public notice was posted at the entrance to the site on July 9, 2020. (See **Exhibit 7**, Affidavit of Posting Notices)
8. Whitman County Planning is lead agency for the State Environmental Policy Act (SEPA) and issued a Mitigated Determination of Nonsignificance (M-DNS) for the proposed project on July 9, 2020. The comment period ended July 23, 2020, and two comments were received. (See **Exhibit 8a**, letter from DOE, and **Exhibit 8b**, letter from Witherspoon – Kelley, Attorneys & Counselors)
9. On August 21, 2020, a SEPA Addendum was sent to the SEPA Register. This was to make some clarifications to the checklist. (See **Exhibit 9**, Addendum to existing environmental document)
10. On August 24, 2020, the SEPA Responsible Official, the County Planner, responded to the SEPA comments from Witherspoon – Kelley upholding the original M-DNS decision. (See **Exhibit 10**, SEPA memo)
9. The location of the proposed quarry is farmland and has not been mined before. (See **Exhibit 3**, site plan)
10. Four Mile Creek is west of the quarrying area running parallel to the west side of the Palouse-Albion Road. Four Mile Creek is a Shoreline of the State. This drainage potentially contains wetlands. The County's Critical Areas Ordinance requires a wetland report if there is to be any development within 200 feet of a critical area and the Shoreline Master Program requires a Conditional Use permit for quarrying if less than 200 feet to a Shoreline of the State. The applicant has agreed to not disturb any land within 200 feet of this drainage.
11. A wetland report was done by Resource Planning, Inc., which stated that no wetlands were determined to be supported within the boundaries of the project area. And, there will be no direct impact to wetlands (Four Mile Creek) or associated buffer from the project. (See **Exhibit 11**, wetland report)
12. A geotechnical opinion was commissioned and given by GeoProfessional Innovation (GPI) on the likelihood of blasting activities disrupting nearby wells and Four Mile Creek.

The GPI report stated that in their opinion the planned rock pit operations “will not impose any more substantial disturbance or degradation to the environment, commerce, or nearby residents than several other similar aggregate sources located throughout Whitman County, Latah County, and surrounding areas”. (See **Exhibit 12**, geotechnical opinion)

13. A spill prevention plan was generated by Syntier Engineering. (See **Exhibit 13**, spill prevention plan)

14. Access to the quarry will be off the Palouse-Albion Road by an existing farm field entrance which has been reviewed and approved by the County Roads Department for access to a quarry.

15. The Palouse-Albion Road is a seasonally and intermittently weight restricted road which will be closed to heavy vehicles typically between November and March.

16. The applicant will enter into a road haul agreement with the County to cover any damages made to the Palouse-Albion Road due to truck traffic associated with the quarry. (See **Exhibit 14**, Road haul agreement)

17. A reclamation plan is required for this project. A stormwater and erosion control plan is also required. These plans were done by Syntier Engineering and are on file with the County. The quarry will be reclaimed in phases. (See **Exhibit 15**, stormwater and erosion control plan and reclamation plan)

CONCLUSIONS OF LAW

1. The County Planner has been granted authority to render this decision.
2. As conditioned, the proposed use is consistent with the intent, purposes, and regulations of the Whitman County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Whitman County Code.
4. As conditioned, the use will comply with all required performance standards as specified in Whitman County Code.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Whitman County Code or the Comprehensive Plan.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

DECISION

Based on the above Findings of Fact and Conclusions of Law, Administrative Use Permit Application AUP 20-02 Western Construction of Lewiston is hereby APPROVED subject to the following Conditions of Approval.

CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the operator of the quarry and the landowner. This AUP runs with the land and the ownership of that land.

1. The applicant shall obtain necessary permits from Whitman County and other permitting agencies. This administrative use permit is not to be construed as approval for these other agencies. The applicant must obtain these necessary permits or approvals. Failure to obtain these permits is basis for revoking this administrative use permit.
2. This administrative use permit will be continuous with the ownership of the property. Should ownership change, the Whitman County Planning Department must be notified. The conditions apply to the land regardless of transfer of owners.
3. As per Whitman County zoning Chapter 19.59 – Surface Mining and Rock Crushing, Section 19.59.020(D), prior to commencing excavation or processing, the applicant must submit to the County Planning Office the reclamation permit and reclamation plan approved by the Washington State Department of Natural resources or the state governmental agency having authority over the mining operation.
4. This administrative use permit is subject to the requirements in the Whitman County zoning Chapter 19.60 – Blasting or Explosive Demolition.
5. When blasting occurs, written notification must be posted on the premises in a conspicuous manner or given directly to the resident(s) within 1,000 feet of the blasting area, or notification requirements and regulations set by the state and federal agencies (whichever is greater). In addition, blasting within 1,000 feet of any county or state road right-of-way shall require verbal notification to the Director of Public Works. The notification shall include the date and approximate time of the proposed blasting with a minimum of one hour notification prior to such activity.
6. A pre-blast survey will be conducted and include setting up seismographs at strategic points such as any wells within 1,000 feet and at Four Mile Creek to measure vibrations from the blasting. This only applies to the initial blasting.
7. All vehicles used for this mining operation will comply with applicable federal and state air quality regulations for exhaust emissions and be properly maintained to minimize exhaust emissions.

8. The applicant shall have drawn up a spill prevention plan done by a professional engineer licensed in the State of Washington.
9. Water as needed shall be on hand to control dust inside the project area.
10. During operations, the project shall comply with applicable state noise standards.
11. Hours of operation will be 7.00 a.m. to 7.00 p.m. Monday through Friday. Occasionally there will be work on the weekends with operating hours 7.00 a.m. to 7 p.m.
12. The applicant shall have prepared a stormwater runoff plan for the quarry drawn up and available before the issuance of the administrative use permit. Plans and implementation shall be completed by a professional engineer licensed in the State of Washington.
13. A potential wetland exists on the east side of the County Road. A formal report has been generated by a wetland specialist showing that the project will not affect the wetland. All project ground disturbance, stockpiles, and equipment shall be more than 200 feet from the Four Mile Creek drainage.
14. There is a FEMA-mapped floodplain on the east side of the County Road. The floodplain does not extend into the quarry parcel on the west side of the County Road. The applicant will develop the project per the site plan submitted as part of the administrative use permit application thus avoiding any impacts to the nearby floodplain.
15. A silt fence shall be placed alongside the Palouse-Albion Road to prevent any erosion materials from impacting the road or the drainage on the west side of the road.
16. The project will obtain a Sand and Gravel Permit from the Washington State Department of Ecology.
17. Access to the quarry site shall be controlled by a locked gate to prevent unauthorized access.
18. The applicant will obtain an access permit from Whitman County Road Department for the approved access point.
19. The applicant will complete a road haul agreement with Whitman County Public Works to protect the County road from damage.
20. A reclamation plan has been generated by a professional engineer and the applicant will follow the reclamation plan as drawn up in the engineering report.

21. No excavation, processing, stockpiles, or ground disturbance shall be permitted within 200 feet of the drainage on the west side of the Palouse-Albion Road. The applicant will comply with applicable setback requirements in WCC 19.10.040 and WCC 19.59.020.
22. This administrative use permit shall be valid for no more than a 10-year period and can be extended by further administrative action for additional 10 year increments.
23. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.



Alan L. Thomson
County Planner
file: AUP 20-02

September 4, 2020