

**STAFF REPORT  
TOMMER  
SHORT TERM MINERAL EXTRACTION**

TO: Douglas County Hearing Examiner  
FROM: Douglas County Land Services Staff  
RE: Tommer, CUP-2017-05  
DATE: August 16, 2018

**I. GENERAL INFORMATION**

Requested Action: A conditional use permit application submitted by Tommer Construction for short term mineral extraction of up to 6 years for industrial site preparation. The project includes six parcels with impact to approximately 29 acres. Total acreage for the six parcels is 109.24 acres. The parcels are accessed from Urban Industrial Way in East Wenatchee. The project will include rock/gravel crushing, stockpiling of crushed materials, temporary crushing equipment and a small, portable office. Blasting operations are not proposed.

Location: The six subject properties are located on the west side of the northern extension of Urban Industrial Way in the Pangborn Industrial Area. The properties are located in the General Industrial (I-G) zoning district under Douglas County Code and are further described as being located within the NW Quarter of Section 9, Township 22N, Range 21E, W.M. The Assessor's Parcel Numbers are: 22210920003, 22210920002, 22210930008, 22210920004, 22210920005 and 22210920008.

**II. SITE INFORMATION**

Site Characteristics: The properties are devoid of vegetation with some areas of site grading and fill. There is a large knob on the main parcel with 20-50% slopes (APN: 22210920003) Slopes become more gentle throughout the rest of the project area. (see Attachment A).

Access: The subject properties access via Urban Industrial Way.

Zoning: The zoning of the properties is General Industrial (I-G) under Douglas County Code. (see Attachment B)

**III. COMPREHENSIVE PLAN - REGULATIONS:**

The Douglas County Comprehensive Plan designates this property as General Industrial (I-G). The following goals and policies set forth in the comprehensive plan are relevant to this development:

LAND USE - INDUSTRIAL

GOAL: Promote industrial development which contributes to economic diversification, growth and stability of the community without degrading its natural systems or residential living environment.

## CRITICAL AREAS – GEOLOGICALLY HAZARDOUS AREAS

POLICY CA-42: Potential impacts and alternative mitigation measures to eliminate or minimize the impacts in identified geologic hazard areas shall be documented during the review of development applications.

POLICY CA-43: Development proposals should be evaluated to determine 1) whether the proposal is located in a geologic hazard area, 2) the project's potential impact on geologic hazard areas, and 3) the potential impact of geologic hazards on the proposed project.

### Applicable provisions of D.C.C., Chapter 18.60 General Industrial 18.60.040 Conditional Uses.

M. Short term mineral extraction located north of Grant Road, not to exceed a period of 6 years for the purpose of industrial site preparation. The application shall be reviewed for conformance with the standards of 18.80.180C-O Mineral extraction DCC.

### Applicable provisions of D.C.C., Chapter 18.80.030 "Evaluation Criteria"

- A. The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
- B. The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the area.
- C. The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
- D. The proposed use will be served adequately by facilities and services such as highways, roads, law enforcement, fire protection, drainage, refuse disposal, domestic water and sanitary sewers, and schools; or that persons or agencies responsible for the establishment of the proposed use will provide adequate services.
- E. The proposed use will not create excessive additional requirements at public cost for public facilities and services.
- F. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
- G. Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to DCC Title 20 and to the satisfaction of the county engineer.
- H. Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place in order to mitigate, and project adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects.
- I. Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
- J. The hearing examiner is the review authority and may approve, conditionally approve or deny a request for changing the minimum lot size of a conditional use. Any waiver of minimum lot size shall not be construed as an exemption from the requirements of DCC Title 17 and RCW Chapter 58.17.

Applicable provision of DCC 18.80.180 "Mineral Extraction"

- C. The applicant shall submit documentation prepared by an engineer, and/or geologist as appropriate, that the operation(s) will not create hazardous conditions, adversely impact lands and transportation systems in the vicinity, impair the slope stability or cause lateral movements such as slump, creep or landslide, or cause soil erosion or sedimentation;
- D. A water supply and management plan shall be submitted for approval in conjunction with the application that discloses the source and volume of water necessary and available for dust control and associated mineral extraction, and how waste water from operations and stormwater retention will be accomplished. The plans shall be implemented through all phases of the operation(s);
- E. A dust abatement plan shall be submitted for approval that specifies dust control measures to be employed throughout the life of the operation to assure that fugitive dust from all sources does not escape on-site containment. The dust abatement plan shall identify the names and telephone numbers of persons responsible for dust control on a twenty-four-hour basis;
- F. Adequate buffering measures shall be taken to screen the project from public view. Such devices may include landscaping, or topographic characteristics or a combination thereof as approved by the review authority;
- G. Site illumination shall be designed and located so that lighting sources are not directly visible from residential uses or public roads. Lighting shall not cast glare on adjacent properties;
- H. Hours of operation and duration of the project shall be established by the review authority;
- I. Drainage and stormwater runoff control shall be designed and implemented as approved by the county engineer in accordance with DCC Chapter 20.34;
- J. Haul route agreements for internal access and external ingress and egress to, and travel on, public roads shall be required between the operator and the department prior to commencing any operations;.
- K. The review authority may establish minimum setbacks and other requirements for the excavation area, structures, buildings or non-mobile machinery associated with extraction, washing, sorting or crushing that will be adequate to minimize potential adverse impacts to adjoining properties or public road rights-of-way;
- L. The maximum height of stock piles shall be determined by the review authority and at no time shall exceed a height of thirty feet. Appropriate measures identified in the dust abatement and water management plans shall be implemented;
- M. All top soil shall be retained on-site for the reclamation of the mineral extraction operation and shall not be sold or otherwise disposed of unless it can be demonstrated that there is sufficient top soil to cover the area disturbed by the mineral operation to a minimum depth of three feet and as approved by the review authority at the time of application review;
- N. A reclamation plan shall be submitted that provides for:
  - 1. Top soil retained and set aside from the operation for subsequent use during reclamation. The stock piles shall be revegetated during the time period it is reserved to prevent erosion,
  - 2. Reclamation in two to ten acre increments, as appropriately responsive to the size and intensity of the particular excavation activities. Revegetation of the reclaimed areas excavated shall be accomplished annually by September 30th,
  - 3. Reclaimed side slopes that at no time shall be greater than one and one-half feet horizontal to one foot vertical,

4. The final topography of the site to be consistent with the surrounding area and graded to a maximum of a four-foot horizontal to one-foot vertical slope, and
- O. The review authority may require financial assurance in accordance with DCC Chapter 14.90 to guarantee/warranty compliance with permit conditions, completion of the reclamation, protection of public facilities and conformance with other applicable requirements of the DCC.

#### **IV. ENVIRONMENTAL REVIEW**

Douglas County Ordinance TLS-12-07-08D established an Environmental Planned Action in accordance with RCW 43.21.031 for future development actions within the Pangborn Industrial Area.

This project qualifies as a development action under the Pangborn Planned Action adopted by Douglas County under Ordinance TLS-12-07-08D and WAC 197-11-172. This project is not subject to further procedural review under SEPA.

#### **V. AGENCY AND PUBLIC COMMENTS:**

Applicable agencies have been given the opportunity to review this proposal. Agency comments have been included as Attachment C. No public comments were submitted on this proposal at the time of staff review.

#### **VI. PROJECT ANALYSIS**

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff's analysis and consistency review for the subject application.

##### Comprehensive plan consistency:

As conditioned, the proposal is consistent with the goals and policies of the Douglas County Countywide Comprehensive Plan. The proposal is designed to minimize impacts to surrounding land uses. The project will result in land available for industrial use.

##### Consistency with Chapter 18.80.030 "Conditional Uses – Evaluation Criteria"

The project is located in the Pangborn Industrial Area. Industrial zoning authorizes mineral extraction for up to 6 years for site preparation. The required operational conditions will sufficiently mitigate associated impacts for the short term duration of permit approval. The project will not create excessive demands on public services. Noise impacts must fall within the parameters of Douglas County Code, Chapter 8.04, "Noise", as well as State standards.

As conditioned the proposal appears consistent with the requirements of this section.

##### Consistency with Chapter 18.80.180, "Conditional Uses – Mineral Extraction" D.C.C.:

The applicant has submitted an analysis of the consistency of the project with this section.

The application materials include geotechnical analysis which provides Conclusions and Recommendations for safe excavation and mineral extraction operations for the site.

The applicant indicates a dust abatement plan will be included in the SWPPP. Water for onsite dust control will be from the existing East Wenatchee Water District (EWWD) system currently installed along Urban Industrial Way. Douglas County does not administer air quality regulations. Air quality regulations are administered by the WA State Department of Ecology (Ecology). The applicant is required to receive any necessary permits from Ecology to address air quality. In order to assist the County in providing notification to the site operator regarding dust inquiries, the applicant will need to provide to the County the names and phone numbers of the persons responsible for dust control on the 24 hour basis. This requirement has been included in the suggested conditions of approval below.

Site illumination for night operations shall be designed and located so that light sources are not directly visible from public roads or adjoining lots and that glare is not cast on adjoining property.

The hours of operation for mineral extraction should be limited to the hours of 6 AM to 6PM Monday through Saturday.

The applicant states: "crushing will only occur one time each year for less than 8 weeks. The schedule for crushing varies each year and is dependent on sales and equipment availability, but is seasonal between spring and fall. For gravel crushing, lengthy hours of operation are desired, from 6am to 12am. It is anticipated that mineral extraction will occur for 6 years, as allowed by code."

During the crushing periods, the applicant proposes that hours be extended to 12am. The County's concern over crushing hours being extended to 12am is the potentially negative impacts to surrounding property owners and any light/glare disturbances to Pangborn Airport operations. Should complaints arise from surrounding property owners or the airport regarding the hours of operation, Douglas County Transportation and Land Services reserves the right to refer the issue back to the Hearing Examiner to review the hours of operation. The applicant has not proposed blasting, therefore, those operations/impacts have not been analyzed during this review.

Access to and from the extraction site is limited to the proposed private access to Urban Industrial Way. The private access must conform to DCC 12.52.020 B.9 (Chapter 5 / Appendix D of the International Fire Code) and must be coordinated with the Douglas County Fire Marshal. All storm and waste water will be retained on site per the stormwater drainage memo submitted by John Torrence, PE, of Torrence Engineering, LLC dated December 27, 2017. A formal haul route agreement is required by Douglas County Transportation and must comply with DCC 12.28.150 prior to commencing operations..

As conditioned, the proposal appears consistent with the provisions of this chapter.

Agency comments:

Agency comments from Douglas County Transportation, Pangborn Memorial Airport, Federal Aviation Administration (FAA), Greater Wenatchee Irrigation District (GWID), WA State Department of Archaeology and Historic Preservation (DAHP), Washington State Department of Ecology, Douglas County Fire Marshal, East Wenatchee Water District (EWWD) and Douglas County GIS, have identified mitigation or project design

required for the project. These comments have been included as conditions of approval to address these agency concerns and are included as Attachment C.

The Federal Aviation Administration (FAA) Aeronautical Study issued June 12, 2018 states that the applicant's submittal proposes to construct and/or operate construction equipment to a height of 20 feet above ground level. The FAA concludes that the proposed structure would not be considered a hazard to air navigation provided all of the conditions specified in the determination are strictly met and that their determination is for a 20-foot above ground level construction equipment. The FAA's determination expires on 12/12/2019 unless extended, revised or terminated by the issuing office.

The project proposes stockpiles on site which do not appear to be included in the FAA's Aeronautical Study issued June 12, 2018.

In addition, the FAA requires the applicant to notify the Pangborn Memorial Airport manager at least 3 business days prior to the temporary structure being erected and again when the structure is removed from the site. This requirement is included in the suggested conditions of approval.

## **VII. RECOMMENDATION**

As conditioned below, this application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 18, 19 and 20 of the Douglas County Code and the Douglas County Countywide Comprehensive Plan. Staff recommends approval of CUP-2017-05, subject to the following findings of fact and conditions:

### **Suggested Findings of Fact**

1. The applicant is Tommer Construction, P.O. Box 1150, Ephrata, WA 98823
2. General Description: a conditional use permit for short term mineral extraction of up to 6 years for site preparation. The project proposes approximately 29 acres of disturbance and work area.
3. The subject property is located on the north end of Urban Industrial Way in the Pangborn Industrial Area. The six subject properties total 109.24 acres and are located on the west side of the northern extension of Urban Industrial Way in the Pangborn Industrial Area and are further described as being located within the NW Quarter of Section 9, Township 22N, Range 21E, W.M.
4. The Assessor's Parcel Numbers are: 22210920003, 22210920002, 22210930008, 22210920004, 22210920005 and 22210920008.
5. The Comprehensive Plan Designation is General Industrial.
6. The zoning district is General Industrial (I-G).
7. Comments from reviewing agencies have been considered and addressed where appropriate.
8. Douglas County Ordinance TLS-12-07-08D established an Environmental Planned Action in accordance with RCW 43.21.031 for future development actions within the Pangborn Industrial Area.
9. This project qualifies as a development action under the Pangborn Planned Action adopted by Douglas County under Ordinance TLS-12-07-08D and WAC 197-11-172. This project is not subject to further procedural review under SEPA.

10. The applicant prepared a SEPA Checklist, received with the application materials December 28, 2017, and a revised SEPA Checklist was received February 13, 2018.
11. A cultural resource survey report, conducted by Columbia Historical Consulting, dated February 4, 2018 was received February 22, 2018 and a revised report was received April 9, 2018.
12. A geotechnical investigation report, conducted by Western Pacific Engineering and Survey, dated May 2018 was received June 12, 2018.
13. The FAA has issued a determination granting the applicant approval to use a temporary construction equipment not to exceed 20 feet in height. The determination does not appear to cover stockpiles. The FAA's determination expires 12/12/2019 unless extended, revised or terminated by the issuing office.
14. The East Wenatchee Water District has determined that water does not currently serve these parcels and that water is available for construction and mineral extraction from Urban Industrial Way on a temporary basis consistent with District policies.
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. DCC 18.60.040 authorizes short term mineral extraction for up to 6 years for the purpose of industrial site preparation.
18. Section 18.80.180 of the Douglas County Code establishes minimum conditions for mineral extraction operations.
19. The applicant's agent, John Torrence, PE, of Torrence Engineering, LLC submitted a storm drainage report, dated December 27, 2017.
20. John Torrence prepared a Grading & Site Plan, received December 28, 2017, with revised plans received March 7, 2018.
21. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.

#### Suggested Conclusions:

1. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Greater East Wenatchee Area Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interests will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.

#### Suggested Conditions of Approval

1. The project shall proceed in substantial conformance with the plans and application materials of file dated December 28, 2017, February 13, 2018, February 22, 2018, March 7, 2018, April 9, 2018 and June 12, 2018 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations.

3. No excavation, extraction or batching activities shall begin until all necessary permits, including but not limited to Ecology Air Quality, Ecology Sand and Gravel General Permit, Sand and Gravel Permit Portable Facilities Coverage, DNR revised Reclamation Permit, shall be obtained prior to commencing operations. Documentation of said permits shall be provided to Douglas County.
4. The hours of operation for mineral extraction shall be limited to the hours of 6 AM to 6 PM M - S. The application proposes that crushing will only occur during a 6-8 week period each year. During that crushing period, the application proposes that hours be extended to 12AM. Should complaints arise from surrounding property owners regarding the hours of operation, Douglas County Transportation and Land Services reserves the right to refer the issue back to the Hearing Examiner to review the hours of operation.
5. Blasting is not authorized.
6. The maximum height of temporary equipment and stockpiles shall not exceed 20 feet, as required by the FAA. The FAA's determination expires 12/12/2019 unless extended, revised or terminated by the issuing office.
7. The applicant must notify the Pangborn Memorial Airport manager at least 3 business days prior to the temporary structure being erected and again when the structure is removed from the site.
8. 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".
9. All mineral extraction operations shall be screened from public view by topography or berms. The berms will be of sufficient height to achieve the required visual screening. As the project progresses through its phases of operation, the screening berms shall be relocated and/or resized as necessary to maintain their function. The berms will be seeded with native or drought tolerant grasses.
10. 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.
11. The applicant must meet the East Wenatchee Water District requirements for water usage and must contact the district prior to commencing the project. EWWD water is available for construction and mineral extraction from Urban Industrial Way on a temporary basis consistent with EWWD policies.
12. The applicant must contact the Greater Wenatchee Irrigation District (GWID) prior to commencing the project to guarantee/assure no damage to GWID infrastructure.
13. The Engineer of Record shall provide periodic updates, annually at a minimum, with regard to operations associated with the Conditional Use Permit stormwater facilities being maintained as the engineer has directed and that the stormwater facilities are functioning as designed.
14. Private access to conform to Douglas County Code (DCC) Section 12.52.020 B.9 (Chapter 5 / Appendix D of the International Fire Code). Coordinate design, review / acceptance with the County Fire Marshal.
15. All applications associated with this permit shall conform to Douglas County Code 15.36 – Grading and Excavation Standards, including conformance with Douglas County Code 20.34 and 20.36. Conformance with these standards are the responsibility of the applicant.



16. The applicant shall execute a Haul Route Agreement per Douglas County Code 12.28.150 prior to commencing operations.
17. Appropriate measures to prevent sediment from leaving the site shall be maintained until such time as all on-site soils are stabilized. Prior to any on-site grading taking place, a temporary erosion / sedimentation control plan (SWPPP – Stormwater Pollution Prevention Plan), showing the location and control measures intended to minimize the effects of erosion and siltation due to construction operations shall be submitted and accepted by the County. This plan shall be maintained on-site at all times and modified as necessary to address erosion issues as they arise. Additional erosion control measures shall be implemented as necessary to prevent sediment from leaving the site.
18. Individual / common plan of development for this proposal exceeds 1 acre of disturbed ground. This would meet the threshold by the Washington State Department of Ecology (DOE) in administering their General Permit to Discharge Stormwater associated with construction activity. The applicant is responsible for acquisition of all applicable permits including, but not limited to a DOE Construction Stormwater General Permit, Sand and Gravel Stormwater General Permit, and/or Industrial Stormwater General Permit prior to beginning ground breaking activities. Acquisition and compliance with DOE regulations is the responsibility of the applicant.
19. During operations and at final closure, grades shall be sloped toward a depression at the center of the site to ensure that all stormwater runoff is retained on site and does not flood or damage other properties. Stormwater collected on the site will be allowed to infiltrate into the ground.
20. Upon the end of the expiration of the Conditional Use Permit or end of operations, an updated grading plan shall be submitted by the professional engineer for Douglas County records. The engineer shall certify that the grading plan and completed grading are in conformance with Douglas County Code 15.36.
21. Measures taken to control stormwater erosion shall include temporary seeding of the reclamation stockpile. Vegetation shall be maintained on the stockpile until material is needed for final reclamation of the pit. Takifier, mulch or geotextiles shall be applied as needed to reduce erosion potential while vegetation is established. Silt fence or other Best Management Practices (refer to the Stormwater Management Manual for Eastern Washington, or the Eastern Washington Erosion Prevention and Sediment Control Field Guide) shall be utilized as necessary.
22. If ground disturbing activities reveal any cultural materials (e.g. structural remains, Euro-American artifacts, or Native American artifacts), all activity will cease within 200 feet of the find and the Washington State Historic Preservation Officer shall be notified immediately. The project proponent shall then work with the WA State Historic Preservation Officer to develop a management plan for the site prior to recommencing work. If human remains, suspected human remains, or any items suspected to be related to a human burial are encountered during any aspect of the project, operations shall cease immediately within 200 ft of the find. The area around the discovery shall be secured and the Douglas County Sheriff and the State Historic Preservation Officer shall be contacted at once.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Suzanne Austin', written in a cursive style.

Suzanne Austin  
Associate Planner – Land Services

Attachments