



## KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

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### STAFF REPORT

**TO:** Kittitas County Board of Adjustment  
**FROM:** Scott Turnbull, Staff Planner  
**DATE:** June 2, 2008 for June 11, 2008 Public Hearing  
**SUBJECT:** McIntosh CUP-06-11,12,13

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#### I. BACKGROUND INFORMATION

**Proposal:**

Conditional Use Permit Application from Scott and Gayle McIntosh, landowners, to excavate approximately 180,000 cubic yards of earthen material in the AG-20 zone. The material will be washed and screened on site and then transported where needed.

**Location:**

The site is located northwest of the City of Ellensburg and east of SR 97 Ellensburg, WA 98926 which is located in a portion of Section 08, T18N, R18E, WM in Kittitas County. Assessor's map number(s) 18-18-08020-0001, 18-18-08020-0002 & 18-18-08020-0003.

#### II. POLICY AND REGULATORY REQUIREMENTS

- A. The Comprehensive Plan Land Use designates this parcel as Rural.
- B. The agricultural (AG-20) zone is an area wherein farming, ranching and rural life styles are dominant characteristics. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses; and protect the rights and traditions of those engaged in agriculture.
- C. KCC 17.29.030: Sand and gravel extraction, subject to the conditions set forth in Chapter KCC 17.60 Conditional Uses.
- D. KCC 17.60.010 Review Criteria: The Board of Adjustment, upon receiving a properly filed application or petition, may permit and authorize a conditional use permit when the following requirements have been met:
  1. The Board of Adjustment shall determine that the proposed use is essential or desirable to the public convenience and not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood.
  2. The Board of Adjustment finds that the proposed use at the proposed

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DARRYL PIERCY, DIRECTOR

ALLISON KIMBALL, ASSISTANT DIRECTOR

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location will not be unreasonably detrimental to the economic welfare of the county and that it will not create excessive public cost for facilities and services by finding that (1) it will be adequately serviced by existing facilities or (2) that the applicant shall provide such facilities and (3) has demonstrated that the proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.

#### KCC 17.60.020 Conditions.

In permitting such uses the Board of Adjustment may impose in addition to the regulations specified herein, such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood or the county as a whole.

1. Uses subject to conditions which exist in an R or S zone on the effective date of the ordinance codified herein shall not be changed, expanded nor structures used in connection therewith altered without first applying to the board of adjustment for review and under provisions of this chapter.

2. Any change, enlargement or alteration in such use shall require a review by the board of adjustment and new conditions may be imposed where finding requires.

E. An administrative critical area site analysis was completed by staff in compliance with Title 17A: Critical Areas. PEMC wetlands were identified on the subject property. The Department of Ecology requested a site visit that was completed in August, 2006 and as a result of this site visit a wetlands analysis was completed. Please see the report included in the record.

### III. ADMINISTRATIVE REVIEW

#### **Notice of application:**

The submitted application was deemed complete by Community Development Services on June 13, 2006. A Notice of Application was issued on June 15, 2006 with the fifteen day comment period ending on June 30, 2006. The notices were mailed to government agencies, adjacent property owners and the applicant.

#### **Written Testimony:**

Written comments were solicited as part of the Notice of Application, and were received from the following: WA State Department of Natural Resources, Kittitas County Public Works, WA State Department of Ecology, Yakama Nation, WA State Department of Transportation, Bev Allenbaugh and Laurence Fletcher. The comments are included in the record.

#### **State Environmental Policy Act:**

Based on the review of the submitted application materials including an environmental checklist, correspondence received during this comment period and other information on file with Community Development Services a Mitigated Determination of Non-Significance (MDNS) on May 22, 2008. The appeal period ended June 10, 2008. No appeals were filed. The following were listed as mitigating factors:

#### **I. Transportation**

- A. Access to the site is via SR 97. An approved access permit shall be obtained from WSDOT.
- B. The applicant shall be responsible for maintenance of the haul route, ensuring that SR 97 remains clear of any debris or materials associated with delivery of these materials. Any spilled materials shall be promptly cleaned up at the applicant's expense.

- C. If any lighting is proposed, it shall be directed down towards the site, and away from SR 97 and any adjoining properties.
- D. Prior to performing any work, the applicant shall obtain all required permits, including but not limited to; Washington Department of Transportation.

## **II. Water**

- A. The applicant is required to obtain an NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan.
- B. Storm water and surface runoff generated by this project must be retained and treated on site in accordance with regulating agencies' standards.
- C. Any ground water withdrawals in excess of 5,000 gallons per day will require a permit from the Department of Ecology.
- D. Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in this area becomes limited your use could be curtailed by those with senior water rights.
- E. The applicant shall be required to obtain a Department of Ecology Sand & Gravel permit and said permit shall be submitted to Community Development Services prior to beginning any excavation.

## **III. Project**

- A. The hours of operation shall be limited to 7:00am and 5:00 pm, Monday thru Friday. It shall be the applicant's responsibility to insure that the project does not pose any threat to public safety and shall take measures to reduce conflict with scheduled school bus stops, mail delivery, train traffic, etc.
- B. The project is related to two other Conditional Use Permit applications all of which have been issued an MDNS identical to this MDNS and the three projects consist of three separate excavations which are being implemented in three phases. Prior to the applicant beginning on phase two and three the county will conduct a site visit to ascertain whether any issues related to this SEPA MDNS or the site require further review by the Board of Adjustment. If the county determines from its site visit that there should be further review by the board of adjustment then the applicant will appear before the Board of Adjustment for the purposes of discussing and possibly mitigating any impacts associated with phase one or two.
- C. The applicant shall consult with Washington State Department of Fish and Wildlife on the implementation and restoration plan for the site prior to excavation and submit the approved plan to Community Development Services.

## **IV. SUGGESTED FINDINGS OF FACT**

This matter having come before the Kittitas County Board of Adjustment upon the above referenced Conditional Use Application from Scott and Gayle McIntosh, landowners, the Board of Adjustment makes the following Findings of Facts, Conclusions at Law and Decision related to the above referenced matter:

1. The Board of Adjustment finds that a Conditional Use Application was submitted from Scott and Gayle McIntosh, landowners, to excavate approximately 180,000 cubic yards of earthen material in the AG-20 zone. The material will be washed and screened on site and then transported where needed. The submitted application was deemed complete by Community Development Services on June 13, 2006.
2. The Board of Adjustment finds that a Notice of Application was issued on June 15, 2006 with the fifteen day comment period ending on June 30, 2006. The notice was mailed to government agencies, adjacent property owners, and the applicant as required by law.
3. The Board of Adjustment finds that based on the review of the submitted application materials including an environmental checklist, correspondence received during this comment period and other information on file with Community Development Services a Mitigated Determination of Non-Significance (MDNS) on May 22, 2008. The appeal period ended June 10, 2008. No appeals were filed. The following are listed as mitigating factors:

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- C. The applicant shall consult with Washington State Department of Fish and Wildlife on the implementation and restoration plan for the site prior to excavation and submit the approved plan to Community Development Services.

1. The Board of Adjustment finds that the site is located northwest of the City of Ellensburg and east of SR 97 Ellensburg, WA 98926 which is a portion of Section 08, T18N, R18E, WM in Kittitas County. Assessor's map number(s) 18-18-08020-0001, 18-18-08020-0002 & 18-18-08020-0003.
2. The Board of Adjustment finds that an open record hearing was held on June 11, 2008, and that testimony was taken from those persons present who wished to be heard. The Board of Adjustment also finds that due notice of this public hearing has been given as required by law, and the necessary inquiry has been made into the public interest to be served by this proposed Conditional Use application.
3. The Board of Adjustment finds that an administrative critical area site analysis was completed by staff in compliance with Title 17A: Critical Areas. PEMC wetlands were identified on this property. The Board of Adjustment further finds that a Wetlands Analysis has been completed and is part of the record.
4. The Board of Adjustment finds that the proposed development **has/has not** met the requirements of KCC 17.60.010 as listed below:
  - i. The proposed use is essential or desirable to the public convenience and not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood.
  - ii. The proposed use at the proposed location will not be unreasonably detrimental to the economic welfare of the county and that it will not create excessive public cost for facilities and services by finding that (1) it will be adequately serviced by existing facilities or (2) that the applicant shall provide such facilities and (3) has demonstrated that the proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.
5. The Board of Adjustment finds that additional conditions **are/are not** necessary to protect the public's interest.