COMMISSIONERS' MINUTES
KITTITAS COUNTY, WASHINGTON
APPEAL HEARING

TUESDAY 10:00 A.M. APRIL 20, 2004

Board members present: Chairman Perry D. Huston, Vice-Chairman Bruce Coe and Commissioner Max A. Golladay.

Others: Julie Kjorsvik, Clerk of the Board; James Boyle, Appellant; Steve Lathrop, Attorney for Proponent; James Hurson, Chief Civil Deputy Prosecutor; Allison Kimball, Community Development Services Operations Supervisor; Clay White, Staff Planner; Pat Deneen, Proponent and approximately 15 members of the public.

APPEAL HEARING CONCRETE BATCH PLANT CDS

At approximately 10:00 a.m. CHAIRMAN HUSTON opened a hearing to consider an administrative appeal of the Community Development Services Director’s decision relating to the requirement of a Conditional Use Permit for the operation of a Concrete Plant at the former Ronald Mill Site.

CHAIRMAN HUSTON disclosed that David Taylor was no longer employed with Kittitas County. He reviewed the quasi-judicial process and said Clay White would serve as the Community Development Services representative. He read a memorandum into the record he drafted to Julie Kjorsvik, Clerk of the Board, clarifying comments he had during the Ronald Recycling appeal. There were no objections to entering the letter into the record. CHAIRMAN HUSTON disclosed that he had prior contact with Mr. Lathrop relating to process and of his memorandum dated April 14, 2004. COMMISSIONER COE disclosed that he had been working closely with the Community Development Services department, following Mr. Taylor’s departure, but did not have any discussions with the employees to the appeal, other than asking Mr. White to present factual information at the hearing.

The Chairman swore in CLAY WHITE, STAFF PLANNER. He read his Staff Report into the record dated April 20, 2004, and gave a history of the appeal. He explained how Mr. Deneen specifically requested a determination on the specific permit process for locating a concrete manufacturing business within the General Industrial Zone, KCC 17.52. In a letter, he cited KCC 17.52.020 (Permitted Uses, General Industrial Zone), which refers to KCC 17.48.020 (Permitted Uses, Light Industrial Zone). Mr. Deneen felt that a concrete manufacturing business was “similar” to a permitted use under KCC 17.48.020(E), but was requesting a formal determination. He said a
Concrete Manufacturing business in the General Industrial Zone (KCC 17.52) has been judged as a conditional use by the Community Development Services Department on a consistent basis.

He summarized that although a Concrete Batch Plant was a less intense use, than both cement and asphalt manufacturing, it is the most closely related when trying to determine if the use should be permitted, conditional, or not allowed within General Industrial Zone. He recommended that the decision made by David Taylor on March 17, 2004 to Mr. Pat Deneen, be upheld and that a conditional use permit be required for the placement of a Concrete Manufacturing Plan in the General Industrial Zone.

CHAIRMAN HUSTON swore in Steve Lathrop, Chad Bala and Pat Deneen. STEVE LATHROP, ATTORNEY REPRESENTING THE PROONENT, submitted a Memorandum into the record, dated April 20, 2004, from David Taylor, former Director of Community Development Services. It stated that in his 10-years of professional experience as a Planner for Kittitas County, he believed Concrete Manufacturing was a permitted use in the General Industrial zone. MR. LATHROP felt the decision issued on January 26, 2004 by the Community Development Services, determining that a Concrete Manufacturing was a permitted use in the General Industrial Zone under KCC 17.48.020(E) was correct. PAT DENEEN, PROONENT presented a Compact Disc and History of the Ronald Mill Site into the record. He compared his proposal with another project (Higginbotham) that did not require a Conditional Use Permit. He further explained specifics and details of his application. CHAD BALA explained that concrete production was a permitted use in the General Industrial zone. CLINT PERRY submitted written testimony, comparing cement, concrete, typical cement plants, asphalt batch plants, conditional uses, and the on site process. MR. WHITE and MR. LATHROP presented rebuttal testimony.

CHAIRMAN HUSTON recessed the meeting for five minutes at 11:40 a.m.

CHAIRMAN HUSTON reconvened the meeting at 11:46 a.m. and asked for testimony from interested parties. GREG McELROY, ATTORNEY REPRESENTING ELLENSBURG CEMENT PRODUCTS gave his interpretation and history of the current land use code. He said if people did not like the correct process, than they should go through the county’s annual docketing process to change it. He explained that Ellensburg Cement Products had to go through the CUP process, and it was a good way of getting to know your neighbors. He felt the Board should apply the same standards for everyone, and the proponents should have to go through the same Conditional Use Permit process. JASON (Last name unknown) REPRESENTING ELLENSBURG CEMENT PRODUCTS explained he was a Concrete Technologist and that Conditional Use Permits had always been required. Ellensburg Cement Products had spent thousands of dollars going through the process. He noted that
concrete batch plants were required to obtain air quality permits. JEFF HUTCHEISON REPRESENTING ELLensburg CEMENT PRODUCTS said he had no issues with the proponent’s proposal, other than they should be held accountable and go through the necessary CUP process. He felt people do interchange the words “cement” and “concrete”. He submitted into the record, copies of standard specifications for cement concrete and pavement. MARK FISCU, ATTORNEY REPRESENTING THE CONCERNED CITIZENS OF THE UPPER COUNTY testified that concrete batch plants were not a permitted use in the General Industrial zone. He said the Board of Adjustment had turned the applicants down two times previously, and they were trying to go another way around the proper process. He felt the applicants should have to go through the proper process and obtain a Conditional Use Permit. JAMES BOYLE, CHAIRMAN OF THE CONCERNED CITIZENS OF UPPER COUNTY spoke against the application and said it was not suited for the area. THERE BEING NO OTHERS INTERESTED IN TESTIFYING, THE CHAIRMAN CLOSED THE PORTION OF THE HEARING FOR INTERESTED PARTIES.

MR. WHITE said the application was most closely related to those that require going through the Conditional Use Permit process, and Mr. Taylor’s decision in his second letter should stand. MR. LATHROP presented closing arguments and felt the application was an outright permitted use. He said any consideration of air quality permits were outside the county’s jurisdiction. He felt Mr. Taylor’s first interpretation was correct, and there should not be a Conditional Use Permit required.

COMMISSIONER COE moved to continue the hearing until April 28, 2004 at 10:00 a.m. for Board Discussion and Decision. COMMISSIONER GOLLADAY seconded. Motion failed 1-2. (Commissioner Coe voted against the motion).

CHAIRMAN HUSTON felt that upon reviewing the code and words used for specific purposes, it was probably the intent to include all activities of that type to require a Conditional Use Permit. Based on the record, history and tone/intent of the code, he ruled to uphold the determination of the Planning Director, and require the applicant to go through the Conditional Use Permit process. COMMISSIONER GOLLADAY said that upon reviewing the historical information and application, he agreed that the Conditional Use Permit process was appropriate. COMMISSIONER COE said he sympathized with the confusion, but after consideration of the record, he agreed with the Chair’s ruling.

COMMISSIONER COE moved to uphold the Chair’s ruling, and uphold the Community Development Services decision to require a conditional use permit be obtained for the placement of a Concrete Manufacturing Plan in the General Industrial Zone, and to direct staff to prepare the enabling documents for the Board’s consideration at the May 4,
2004, Agenda Session. COMMISSIONER GOLLADAY seconded. Motion carried 3-0.

Meeting adjourned at 12:45 p.m.

CLERK OF THE BOARD

KITTITAS COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

Julie A. Kjorsvik

Perry D. Huston, Chairman