THURSTON COUNTY PLANNING COMMISSION

Minutes April 21, 2010

1. 6:30 P.M. CALL TO ORDER
Chair Lane called the April 21, 2010 meeting of the Thurston County Planning Commission to order at 6:30 p.m. Commissioners provided self-introductions.

Attendance: Chair Chris Lane, Commissioners Scott Nelson, Kathleen O’Connor, Edward Fleisher, Tom Cole, Christine Spaulding & Liz Kohlencob

Absent: Bill Jackson

Staff: Scott Clark, Scott Longanecker, Prosecuting Attorney, Jeff Fancher,

2. 6:31 P.M. APPROVAL OF AGENDA
MOTION: Commissioner O’Connor moved to approve the agenda. Commissioner Nelson seconded. Motion carried.

2. 6:32 P.M. PUBLIC COMMUNICATIONS (Not associated with topics for which public hearings have been held.)
Mark Hancock (P.O. Box 88028 Federal Way, WA) a member of the audience came forward to talk to the Commission about the variance process when other certain code adjustments have been made. In particular the asphalt plant Attachment A that was discussed during the April 7, 2010 Planning Commission meeting where it was stated by staff that you could apply for a variance even if a certain set-back had already been applied. The application process and standards were then stated by the audience member and the application and description were given to the Commission.

James Essig (1525 East Marine View, Everett, WA) a member of the audience came forward to talk to the Commission about a follow-up on locating asphalt plants within active mines. He stated that this had actually been discussed at previous meetings. The text changes that were discussed in Attachment A of the Asphalt Plant report changes from the Planning Commission meeting on April 7, 2010 were stated in regards to the set-back requirement that the Commission discussed. Mr. Essig proposed the following language to be considered into the asphalt plant regulations: Existing asphalt plants shall continue operation after the exhaustion of the mineral resource so as long as the asphalt plant was permitted within an active mine upon the original use permit was granted. Changes to the existing use permit approval can be considered under the application of a use permit modification. Other language was referenced.

The official audio is available on line at:
http://www.co.thurston.wa.us/planning/planning_commission/planning_comm_minutes.html

Commissioner Liz Kohlencob arrived.

3. 6:39 P.M. WORKSESSION: A8 & A12 Development Code
Staff: Scott Longanecker
Mr. Longanecker explained that A8 Development Code is a proposed change in Title 20, Section 20.34.020 to limit junk vehicles in rural zones of Thurston County that currently do not have any limitations. The title change is to make the junk vehicle regulations consistent throughout the county. The three new zones this would apply to are long term forestry, long term agriculture and the McCallister Geological Sensitive Area. The text change is if your lot is less than half an acre then you are limited to two junk vehicles, if the lot is larger than half an acre than the limit shall be four junk vehicles. A conversation ensued.

Mr. Longanecker explained that A12 Development Code has to do with accessory structures in Thurston County. In 2008 ordinance was passed, 14.182 that allowed accessory structures to be constructed on nearby or adjacent parcels, which is adjacent to the primary residence. It has been found that this is not consistent with any other of our zoning districts, our UGA allows this but most jurisdictions do not. A conversation ensued.

4. 7:03 P.M. PUBLIC HEARING: Mineral Extraction
   Staff: Olivia Terwilleger

Chair Lane stated that the purpose of this public hearing was to listen to the proposed amendment to the Thurston County Mineral Extraction Special Use Permit Ordinance and accept public comment. A sign-in sheet has been provided for members of the public who wish to testify. Ms. Terwilleger gave a brief overview of the mineral extraction special use permit ordinance.

Chair Lane opened the public hearing at 7:06 p.m.

James Essig-1525 East Marine View Drive, Everett, WA-Spoke Against (some text changes)
Tom Cook-652 Sandra Lee Court SE Olympia, WA-Spoke in Support
Howard Glastetter-11110 Kuhlman Road SE Olympia, WA 98513-Spoke Against (some text changes, written testimony submitted also)
Mark Hancock-P.O. Box 88028, Federal Way, WA-Spoke Against (some text changes, written testimony submitted also)

Chair Lane closed the public hearing at 7:19 p.m.

5. 7:20 P.M. WORKSESSION: Mineral Extraction
   Staff: Olivia Terwilleger & Scott Clark

Mr. Clark explained the purpose of having a work session on the same subject just after the public hearing. The reason being so the topic was fresh in the Planning Commission’s mind and if they had any questions they could be discussed right after hearing public comment. A discussion ensued.

The Commission took a brief break.

6. 7:38 P.M. WORKSESSION: Asphalt Plants
   Staff: Scott Clark

Mr. Clark explained that at the last meeting the Commission asked for text changes in regards to recycling centers and that those changes had been made. The other changes were a
definition was added for batch plants. A discussion ensued. During the discussion Commissioner Cole asked staff to find out how the temporary asphalt plants are evaluated in an actual SEPA that has been performed recently. They would help to see if a level of rigor is typically applied and is consistent with what the Planning Commission would like to see implemented in Thurston County. A member of the audience, James Essig was then called upon to give an example of what he has seen and stated: “This is a very recent example, which is a SEPA” and the Planning Commission and staff then agreed to take in a written testimony at a later date.

7. **8:08 P.M. SET OF PUBLIC HEARINGS:**

**MOTION:** Commissioner Nelson moved to set the following public hearing dates:

- A8 & A12 Development Code, **May 19, 2010**

**Commissioner O’Conner seconded. Motion carried.**

8. **8:09 P.M. STAFF UPDATES**

Mr. Clark provided the following staff updates:
- Scott Clark will be out of town from May 10, 2010 till May 27, 2010. Cindy Wilson and Jeremy Davis will be running the Planning Commission Meetings during that time.
- The Planning Department received a grant for Watershed Characterization and they are working on the final details.

9. **8:10 P.M. CALENDAR**

- May 5, 2010 – All Commissioners will be in attendance
- May 19, 2010 – Commissioner Tom Cole will not be in attendance

10. **8:11 PM ADJOURN**

With there being no further business, Chair Lane adjourned the meeting at 8:11 p.m.

[Signature]

Chris Lane, Chair

Prepared by Carrie Toebbe, Recording Secretary
April 20, 2010

2000 Lakeridge Dr. SW
Olympia, WA 98502
Thurston County Planning Commission

RE: Thurston County Asphalt Plant Special Use Ordinance

Thurston County Planning Commission,

The purpose of this letter is to follow up on previous communications in regards to only locating asphalt plants within active mining sites. The Planning Commission has discussed the issue of allowing an asphalt plant to continue operating in its current location after the mine has been exhausted on several occasions. In addition to the work sessions, stakeholders have submitted comment in reference to this topic a number of times as well. I am confused as to why this issue continues to make its way back into the proposed Special Use language after it has been discussed time and time again. Not only has this issue been a topic of discussion by the Thurston County Planning Commission, it was actually voted on to remove such language on February 3, 2010. Although it was not unanimous, a majority of the Commission agreed that existing asphalt plants should be allowed to remain after a mine had been exhausted so long as a Special Use Permit was granted. In addition, there was also a consensus that the proximity of an asphalt plant to the source of aggregates would be a factor of economics, not a pre-determined distance such as “near-by, adjacent, across the street from, ¾-1 mile” or otherwise noted.

During the Planning Commission Work Session on April 7, 2010 the Asphalt Plant SUP Ordinance was once again a topic on the agenda. Revised language contained in Chapter 20.54.070 Section3.1.b regarding asphalt plants to be located in, or adjacent to, an active gravel mine was briefly discussed. During this discussion a member of the Planning Commission made comment that existing asphalt plants would be considered a legal non-conforming use or otherwise “grandfathered”. Based on this consideration there should be language in the code that addresses continued operation of grandfathered asphalt plants which were originally permitted at an active gravel mine. Though an asphalt plant located within an active mine maybe an ideal scenario at the time of permitting, it is not necessary to have on-site gravel mining to continue operation of grandfathered asphalt plants into the future. Previous discussions have concluded moving the impacts of asphalt plants to various mining sites around Thurston County was not a desirable outcome; it seems rational to address the scenario of continued operation of an existing asphalt plant (previously permitted as an accessory use) in the revised code.

We propose the following language to allow grandfathered asphalt plants to continue operations;

“Existing asphalt plants shall continue operation after the exhaustion of a mineral resource so as long as the asphalt plant was permitted within an active mine at the time the original use permit was granted. Changes to the existing use permit approval maybe considered under the application of a Use-Permit Modification.”

In order for an operator of a grandfathered plant to continue to improve and upgrade a facility, the operator needs to be confident in the status of the permit. The code should be clear that an operator may continue operations so long as the plant is operated in a responsible manner.

Granite also has concerns with another section of the proposed ordinance pertaining to the establishment of temporary asphalt production facilities.
Section 20.54.070, 3.1.I clearly states that

“The above criteria apply only to permanent asphalt batch plants. Temporary asphalt production is allowed within the boundaries of a specific public project site without a special use permit....”

This section should not only be a concern of the stakeholders but also of the County Planning Staff.

The wording allows the establishment of asphalt production facilities regardless of proximity to critical areas, residential neighborhoods, public preserves, or local treasures such as the Nisqually Valley; without a review process to determine whether siting is appropriate or whether conditions of approval could mitigate any environmental impacts. Over the past few years an enormous amount of effort has gone into developing siting criteria for asphalt plants. This last section of regulation within the proposed ordinance will ignore any siting restrictions as long as the operation is deemed temporary. This section assumes that the environmental impacts of short-term operations will not be significant without the benefit of a review process to ensure that the impacts are, in fact, not significant. Whether a newly established asphalt plant operates for 1 month, 12 months, or 10 years it should be subject to a conditional use process and SEPA environmental review that would analyze the impacts of the asphalt plant operations. The purpose of SEPA is to analyze the environmental impacts of a specific proposal. Thurston County Planning and Development Services should have the opportunity to identify and analyze all of the impacts associated with a specific proposal regardless of the timeline of operation. The conditional use process and SEPA analysis should review traffic patterns, noise impacts, air emissions and any existing alternatives which may be available to supply asphalt materials for a specific public project.

Considering that the cost of mobilizing a portable asphalt plant would be in the range of $50,000 - $80,000; a contractor would only consider this temporary option when the project is large enough to justify the setup cost. Knowing that temporary asphalt plants would only be established for large project proposals it seems logical to assess the impacts of the portable facility which may include high production volume that will occur on a 24hr a day operation, to ensure that any impacts are mitigated appropriately.

It was the goal of the Planning Commission and Thurston County Planning Staff to establish siting criteria for asphalt batch plants and to develop specific provisions which minimize the impacts to the natural environment and the citizens of Thurston County. Allowing temporary batch plants to setup in accordance with a specific public project without any detailed operating conditions seems to defeat the purpose of developing such criteria.

Best Regards,

James Essig, Resource Coordinator

Granite Construction Company, Puget Sound Region

(360) 410-8117  james.essig@gcinc.com
April 21, 2010

Thurston County Planning Commission  
2000 Lakeridge Drive SW  
Olympia, WA 98502

RE: Mineral Lands Public Hearing Comments

Dear Commissioners:

Thank you for this opportunity to comment on the proposed changes to the Mineral Extraction language in the Special Use chapter of the County Code (20.54.070 #21). As a member of the Thurston County Mineral Lands Task Force, we also bring over 40 years of experience in this industry (including over 30 years in Thurston County).

The changes to the code as proposed are unreasonable and not supported in a number of areas. These include:

1) In proposed paragraph 21.a, no extraction activities may be permitted in sites that have not been designated as mineral lands of long term commercial significance. This would appear to be in contradiction with WAC 365-190-040(6) which states “The purpose [of designation] is not to confine all natural resource production activity only to designated lands nor to require designation as the basis for a permit to engage in natural resource production.” Designation is to set aside valuable land, not to limit use of land.

2) In proposed paragraph 21.b, critical area exclusions include buffers that are 2 to 4 times greater than current code requirements. These buffer distances are random in nature, as there is no science cited to defend them, no explanation of the impacts that they are supposed to protect from, and no consideration for the specifics of a proposed mineral extraction project which may not have those impacts. Extreme buffers without consideration of project and site specifics are not reasonable, particularly when the code does not allow for flexibility in those requirements during the permitting process where different distances may be justified. Furthermore, the mineral lands projects are already subject to the critical areas ordinance, and that is where these regulations should be – not in this section of the code. Administration is simpler, and as CAO’s change over time what will happen here? The Mineral Lands Task Force did not support extreme random buffers that lacked specifics to define and defend them - that should carry some weight now. If these distances are still to be pursued, there will need to be a public process of review.

3) In proposed paragraph 21.b.vii, the wellhead protection requirements are not well defined, are extreme, and do not allow for the consideration of specific site conditions and
proposed operations during the permit process. By its nature, the supply of gravel normally lies in areas of “porous soils” with an “absence of till”, and therefore is likely within a “10-year travel zone” and area of “sole potable water supply for residents in the area.” Are these requirements intended to be only in Category 1 aquifer recharge areas? Does “gravel” fall under “minerals”? What are the impacts that call for these restrictions? The code allows mining operations on small parcels, which may only be a front-end loader taking material on an occasional basis and not digging into groundwater. Even though that operation has little or no impact, these requirements do not take that into consideration or allow any flexibility in the permit process to accommodate an operation based on factual site specific impacts. Random distances should be modified by actual site conditions.

4) In proposed paragraph 21.c, what are the “no net loss” standards that will apply here? How does this apply to an operation that by its nature involves digging into the land? Since it says “not limited to” the impacts cited, what will happen if a future development use is proposed for the land after mining that is allowed under the zoning for the property, in lieu of returning the land to its natural state?

5) In proposed paragraph 21.f, it says that the stricter standards in this language will supersede the current Critical Areas regulations. Where is the science to back up these extreme regulations, and what are the impacts from mining that warrant them? What if the mining operation does not have those impacts due to the size of the operation and/or the specific site conditions? There is no flexibility in this code to accommodate that, and the County’s variance process is not designed to allow that flexibility (it is too restrictive to be applied here). The ability to make changes needs to be stated, with minimums set, and authority given to staff and/or the Hearing Examiner to set standards during the SUP process as appropriate based on actual site and project specifics.

6) In proposed paragraph 21.n, designation is again a requirement for a special use application for mineral extraction, and is contrary to WAC 365-190-040(6) as noted above.

In summary, while we respect the need to protect the environment, we cannot agree with extreme “one size fits all” buffers and other restrictions, without also building in the flexibility to consider specific site conditions and the characteristics of the specific mining operation being proposed, thereby matching the real environment with real impacts, not imagined ones.

Thank you for your consideration of the above.

Very truly yours,

SEGALI E PROPERTIES LLC

Mark A. Segale
April 20, 2010

Thurston County Planning Commission
2000 Lakeridge Drive SW
Olympia, WA  98502-6045

RE:  Asphalt Advisory Task Force Recommendations Comments for Asphalt Plant
Ordinance Work Session

Dear Commissioners:

Thank you for your efforts and commitment to obtain accurate scientific information and
comprehensive feedback from all stakeholders to effectively develop public policy decisions
with regards to siting and permitting of asphalt plants. Lakeside Industries, Inc. (Lakeside) is
dedicated, as expressed through our past actions and our corporate mission statement, “to
preserve the Environment through recycling, continually improving technologies, and the
dedicated acts of each individual.” Our mission aligns with the community vision of Thurston
County and we look forward to continued dialogue as we jointly develop policy that will support
local economies while protecting the environment and public health. As an industry stakeholder
and member of the community, Lakeside appreciates the opportunity to provide additional
knowledge and scientific based information and feedback.

The Final Report to the Board of County Commissioners from the Asphalt Advisory Task Force:
Recommendations on the Permitting of Asphalt Plants notes that the objective of the Asphalt
Advisory Task Force was “the development of recommendations report regarding the siting and
permitting of asphalt plants and use of recycled asphalt in these plants.” While Lakeside
supports the majority of siting and recycle recommendations presented by the Asphalt Advisory
Task Force (AATF), this letter present further information for consideration.

Appropriate Use of Existing Literature. The 1000-foot setback criteria for asphalt plants,
currently proposed by the Planning Commission, seems to reflect or be based on siting criteria
imposed on Dangerous Waste Management facilities per Chapter 173-303 WAC. Ecology
prepared Chapter 173-303 Dangerous Waste Regulations based on siting criteria presented in a
Technical Information Memoranda prepared by Landau Associates, Inc.¹ The development of
siting criteria was mandated by the legislature in the State Hazardous Waste Management Act
(RCW 70.105).

By state definition, scientific and analytical testing information, and physical operational characteristics, asphalt plants (including recycling asphalt) are not hazardous or dangerous waste management facilities. Asphalt plants are not incinerators and asphalt plants have significantly lower emissions than waste incinerators. Therefore to apply siting criteria developed for dangerous waste management facilities is inappropriate.

No other Washington county or city poses a setback of this size. Noise, light and glare and landscaping buffer regulations are more effective to ensure reasonable compatibility rather than a simple setback standard. The standards for granting of a Special Use Permit should be sufficient for determining the appropriate setback necessary to provide reasonable compatibility of an asphalt plant and adjacent uses.

**Authorized vs. Evaluated Emissions.** The Planning Commission was presented with a comment letter erroneously stating that the Olympic Region Clean Air Agency (ORCAA) "authorized the new asphalt plant in the Nisqually Valley to emit 107.7 tons of pollutants, of various types, per year". The new asphalt plant owned and operated by Lakeside Industries is not authorized by ORCAA to emit 107.7 tons of pollutants per year. In fact, the new plant is authorized to emit no more than 37.7 tons of pollutants per year.

As further demonstration of Lakeside’s commitment to protect the environment and ensure the welfare of the community, Lakeside has donated funds to ORCAA specifically for the construction, operation, and maintenance of an ambient air monitoring station located in the Nisqually Valley. Lakeside has contributed $40,000 in these efforts since August of 2007.

**Use of Diesel as a Burner Fuel.** Lakeside agrees that the use of natural gas or propane fuel to manufacture asphalt results in lower emissions as compared to diesel fuel. Permanent new asphalt plants can reasonably accommodate restricting fuel use to natural gas, propane, or another fuel of equal or lesser emissions. However, in the event the restriction is not reasonably accommodated, ORCAA should be given due authority to evaluate the applicability of other fuels and apply appropriate limitations.

**Management of Recycled Asphalt Product (RAP).** Lakeside agrees that managing RAP to minimize moisture retained in the RAP results in lower emissions due to reduced burner fuel consumption which reduces production costs. We appreciate AATF member acknowledgement that, in addition to storing RAP under a roofed structure, there are other equally effective management options available to minimize the moisture content in RAP. Lakeside’s RAP management program implements the other recognized options including storing RAP uncovered in a conical shape, storing the RAP on a paved grade to allow drainage, and using RAP at the high end of the grade first.

In addition, Lakeside agrees that knowing and understanding the source of RAP brought on-site is crucial to ensuring protection of the surface water and ground water. As such, Lakeside implements a Material Acceptance Policy and prohibits acceptance of any RAP that was
obtained from a hazardous or dangerous waste facility or contaminated RAP removed as part of MTCA cleanup. These are Industry Best Management Practices. Rather than attempting to prescriptively manage site operations, requiring implementation of Industry Best Management Practices (which change as new knowledge is gained and technology advances) will be more effective and comprehensive long term.

Overall, I think we can agree that Lakeside’s mission aligns with the County’s vision to protect the environment and community while maintaining and supporting well managed growth. We again appreciate the opportunity to contribute industrial knowledge to assist with making sound decisions and well formulated recommendations.

Sincerely,

[Signature]

Karen Garnes
Environmental Program Director
April 19, 2010

Thurston County Planning Commissioners
2000 Lakeridge Drive SW
Olympia, WA 98502-6045

Dear Commissioners:

My name is Tom Cook and I live at 652 Sandra Lee Court Se, Olympia, WA 98513. My purpose in writing this letter is to provide my comments regarding the proposed amendments to Mineral Extraction Code, Special Use 20.54.070.

I support the adoption of the proposed text changes to Chapter 20.54.070 Mineral Extraction of the Special Use Code. It is understood that the new established environmental criteria may change once the Critical Area Ordinance is revised.

Let it be noted that the word “asphalt” even though it is missing from 20.54.070.21.k.iii should have been included and noted by a strikeout line as proposed in earlier drafts. This change needs to be reflected in the final Code.

Thank you for the opportunity to comment.

Sincerely,

Tom Cook
Howard Glastetter  
11110 Kuhlman Road SE  
Olympia, WA 98513-9605  
April 21, 2010 - Public Comment  

Thurston County Planning Commission  

Dear Commissioners,  

I was an alternate member of the Mineral Lands Task Force, attending 12 of 13 meetings starting in 2004, filling in for Tom Cook twice. I was a member of the Asphalt Advisory Task Force, starting 2007, attending 9 of 10 meetings. I've also attended recent Planning Commission meetings that analyzed MLTF and AATF results.  

I'm commenting on the proposed text changes for Chapter 20.54.070, in particular, the following text found on the bottom of page 2 and the top of page 3. The text currently reads (I've bolded and underlined what needs to be removed):  

All other accessory uses are allowed only when approved after administrative review by the department.  
ii. Accessory uses are permitted only in conjunction with an existing mineral extraction operation. The permit for the accessory use expires when the SUP for the mineral extraction expires, is revoked, or when significant mineral extraction activity as defined in Section 17.20.150 ceases.  

I propose the following changes to the above wording (additions bolded and underlined):  

All other uses are allowed when approved after administrative review by the department. A public hearing would be required if a non-accessory use would have significant traffic or environmental impacts.  
ii. Non-extraction uses are permitted only in conjunction with an existing mineral extraction operation. The permit for the non-extraction use expires when the SUP for the mineral extraction expires, is revoked, or when significant mineral extraction activity as defined in Section 17.20.150 ceases.  

The rationale for the changes is as follows (you may need to glance between the two above paragraphs): The document defines what are accessory uses. There are no “other accessory uses” just “other uses”. Giving a go ahead “only when approved after an administrative review by the department” has a potential for abuse. All non-extraction industry in a mine should cease when a mine stops extraction. These functions should either be removed or have to be re-justified through a re-permitting process.  

Thank you,  

Howard Glastetter  

howard.glastetter@comcast.net  (360) 491-6645