MEMORANDUM

TO: Thurston County Planning Commission
FROM: Olivia Story, Assistant Planner
DATE: May 2, 2012
SUBJECT: Chapter 20.54 SPECIAL USE - Asphalt Plant Special Use Permit

Background Summary

An interim ordinance was established in 2003 that prohibited:

- the designation of mineral lands
- the issuance of special use permits for mineral extraction, and
- the issuance of special use permits for asphalt production.

The section regarding the designation of mineral lands has been resolved. While the mineral extraction special use permit (SUP) moratorium is no longer in effect, the County still must review the special use permit criteria.

The section of the moratorium that prohibits asphalt plants is still in effect. This is the only remaining issue left from the moratorium. Staff will be working on this issue prior to addressing mineral extraction SUP criteria. Since the initial adoption, the interim ordinance has been renewed several times.

- Most recent renewal date: February 14, 2012,
- Next expiration date: August 14, 2012.

An extension of the moratorium will be necessary if this issue is not resolved by that time. Because it is undesirable to continue extended moratoriums, the Board has indicated they would like to resolve the issue prior to another renewal. Over the next few weeks staff will be bringing proposed regulations for asphalt plants for the Planning Commission’s consideration and recommendation.
The Planning Commission would need to set a public hearing date by May 16th and have a recommendation to the board following the hearing in order for the board to take action prior to the August 14, 2012 renewal date for the moratorium. If it appears that the County is unable to meet this schedule, the moratorium will need to be extended. Attachment C outlines the proposed work schedule needed to be followed to meet the deadline.

**Board of Commissioners Goals**

The Board of Commissioners met on April 25, 2012 to discuss the permitting of asphalt plants. As a result of their meeting, they asked staff to review several issues with the Planning Commission.

- In order to reduce the potential negative effects of asphalt plants, (noise, air quality, traffic) the Board suggested limiting the number of plants allowed in the County at any one time.

- The Board also requested the Planning Commission consider whether to allow the continued use of existing asphalt plants once the gravel mine has closed. For instance, if an existing gravel mine closes, any asphalt plant located in that mine could be allowed to request a new SUP to continue operation in the same location, subject to the requirements in place at the time they submit their application. The Board would like new draft language to be studied for existing asphalt plants to remain on site after the mine closes.

- The Board would like to consider adding trails to the list of areas an asphalt plant must be set back 1,000 feet from.

- If a subarea plan is in place and is more restrictive, the subarea plan restrictions should take precedence over other siting criteria established in the development code. A restriction should be included to require consistency with the Comprehensive Plan. Sub area plans and joint plans are adopted as part of the Comprehensive Plan.

- The Board would also like staff and the Planning Commission to review Chapter 17.20 of the Thurston County Code (TCC), the Mineral Extraction Code, to ensure consistency with any recent changes made to the Mineral Lands of Long Term Commercial Significance designation criteria and any proposed changes related to the new asphalt plant regulations.

- In regards to Recycled Asphalt Pavement (RAP), the Board asked staff and the Planning Commission to define what “covered” means in the proposed regulations. There are several options, such as a tarp, a roof, a walled or an un-walled building. All of these options attempt to keep the rainwater off. This would eliminate storm water runoff, and higher fuel usage to dry the materials. Examples of these will be shown at the meeting.
Planning Commission Work

There are a few unresolved issues since the last time the Planning Commission met to discuss this issue on April 21, 2011. Attachment A is a matrix that outlines these unresolved issues, the associated pros and cons, and staff’s recommendation. These issues include:

- **Issue 1:** Members of the public have expressed concern for the emissions coming from asphalt plants. Some emissions from asphalt plants are classified as "dangerous waste". They have suggested a 1,000 foot setback for asphalt plants based on dangerous waste management facilities. The proposed text would read as follows:
  
a. Setbacks. Asphalt plants shall be separated by a distance of 1,000 feet from public parks and public preserves, which include parks, public trails, national wildlife refuges, state conservation areas, wildlife areas, and other government-owned preserves. In addition, asphalt plants should be at least 1,000 feet from the boundary of any residential zoning district with an existing or zoned density of greater than 1 dwelling unit per 5 acres, urban growth areas, and any residential lot less than one acre in size.

- **Issue 2:** The proposed text changes require that asphalt plants must be located in or adjacent to an active gravel mine. This would limit the number and location of asphalt plants. However, the public feels the proposal disregards the damaging impacts to ground and drinking water, as well as aquifer recharge areas and wetlands. The proposed Critical Areas Ordinance addresses the groundwater issue. Asphalt plants would not be permitted in Category I Critical Aquifer Recharge Areas, including the one, five and ten year time of travel zone for wellhead protection areas. The proposed text would read as follows:
  
b. Asphalt plants must be in, or adjacent to, an active gravel mine. The parcel upon which the asphalt plant is located shall be a minimum of 40 acres individually or in combination with an existing gravel mine parcel or parcels.

- **Issue 3:** The public has expressed concern for groundwater contamination from RAP stockpiles, and hopes to eliminate the potential for storm water runoff. Additionally, if the RAP is wet from rainwater, it will use more fuel to dry before it can be used. The wetter the RAP, the more energy is needed, the more pollution is produced, the higher the cost to the plant. The public’s suggestion is to cover the stockpiles of RAP with a walled building. Members of the industry say a walled building would be too costly, and suggest other methods to accomplish the same result. These include storing it in a conical shape, storing it on a paved grade for drainage, and using RAP at the high end of the grade first. The drainage manual has best management practices, and asphalt plants are required to follow them. The proposed text would read as follows:
e. Asphalt Plants shall comply with the requirements and best management practices of the Thurston County Drainage Design and Erosion Control Manual. Recycled Asphalt Pavement shall be stored on an impervious area with a surrounding berm or curb that enables stormwater to be collected and treated. Recycled Asphalt Pavement storage areas shall be covered to prevent contaminated runoff. Cover shall be achieved by the use of a weighted tarp or permanent roof structure.

o Issue 4: There is concern that RAP may come from a contaminated site, and bring toxic materials into the asphalt plant. The suggestion is to only allow RAP when the source can be documented, and proven to be non-toxic. Lakeside implements a Material Acceptance Policy and prohibits any RAP that was obtained from a hazardous or dangerous facility or from a MTCA cleanup site. These are Industry Best Management Practices. The proposed text would read as follows:

h. The source of Recycled Asphalt Pavement shall only be from highways, roadways, runways, parking lots and shall not be from a contaminated site such as a Superfund site or Model Toxic Control Act site. The asphalt plant operator shall provide semiannual reports to the county documenting the source of all Recycled Asphalt Pavement brought to the production site.

o Issue 5: The use of diesel as a burner fuel has raised some concern with the public. Diesel creates four times the pollutants as natural gas when producing asphalt. Members of the industry did not feel this was unreasonable, however, they requested that if the restriction to natural gas or propane fuel is not reasonably accommodated, ORCCA should be given authority to apply limitations.

i. Asphalt plants shall be fueled by natural gas, propane, or an alternative fuel with the same or less hazardous emissions or waste as natural gas or propane.

o Issue 6: Also under consideration are the Administrative Special Use Permit (ASUP) requirements for temporary asphalt plants. Currently, Thurston County permits temporary asphalt plants through an ASUP. Through the proposed text change, Thurston County will continue to require an ASUP for a temporary asphalt plant. According to the Washington Department of Transportation, a highway project in Washington State is a complex process and is dependent upon many departments for review, approval, cooperation, and coordination. Many federal, state, and local laws and regulations govern all aspects of a project
Attachment B has the most recent changes made to the draft asphalt plant SUP.

After Planning Commission review, changes will be incorporated into the draft. A work session will be held on May 16, 2012 to discuss additional changes. During this meeting, the Planning Commission may set a public hearing for June 20, 2012 on asphalt plants SUP. The Planning Commission will have an opportunity to review the draft regulations prior to the hearing during a work session to be held on June 6, 2012.

ATTACHMENTS:

- Attachment A - Matrix outlining unresolved issues
- Attachment B - Draft asphalt plant SUP
- Attachment C - Time/work schedule needed to meet August 14, 2012 deadline
<table>
<thead>
<tr>
<th>Attachment B</th>
<th>Issue</th>
<th>Pros</th>
<th>Cons</th>
<th>Staff Analysis</th>
<th>PC Recommendation</th>
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| 1           | Page 1, Item a                                                        | Members of the public have expressed concern for the emissions coming from asphalt plants. Some emissions from asphalt plants are classified as "dangerous waste". They have suggested a 1,000 foot setback for asphalt plants based on dangerous waste management facilities. | Susan Markey, Tom Cook, Howard Glastetter - Some emission from asphalt plants are classified as "dangerous waste" | Lakeside and Landau Associates - Asphalt plants are not hazardous or dangerous waste management facilities, and have significantly lower emissions than waste incinerators. No other city or county in WA has a setback of this size. | ORCCA –
• Setback standards are very site specific.
• 1,000 may be overkill,
• Adjustments to stack height may be adjusted to accommodate a shorter setback. |
<p>| 2           | Page 1, Item b                                                        | The proposed text changes require that asphalt plants must be located in or adjacent to an active gravel mine. This would limit the number and location of asphalt plants. However, the public feels the proposal disregards the damaging impacts to ground and drinking water, as well as aquifer recharge areas and wetlands. The proposed Critical Areas Ordinance addresses the groundwater issue. Asphalt plants would not be permitted in Category I Critical Aquifer Recharge Areas, including the one, five and ten year time of travel zone for wellhead protection areas. | Limit the use to the location the materials are coming from. | Tom Cook - Disregards the damaging impacts to ground and drinking water, as well as aquifer recharge areas and wetlands. | • Asphalt plants will still be required to meet all water quality protection standards whether in or out of a gravel pit. |</p>
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<td>3</td>
<td>Page 2, Item e</td>
<td>The public has expressed concern for groundwater contamination from RAP stockpiles, and hopes to eliminate the potential for storm water runoff. Additionally, if the RAP is wet from rainwater, it will use more fuel to dry before it can be used. The wetter the RAP, the more energy is needed, the more pollution is produced, the higher the cost to the plant. The public's suggestion is to cover the stockpiles of RAP with a walled building. Members of the industry say a walled building would be too costly, and suggest other methods to accomplish the same result. These include storing it in a conical shape, storing it on a paved grade for drainage, and using RAP at the high end of the grade first. The drainage manual has best management practices, and asphalt plants are required to follow them.</td>
<td>Howard Glastetter - The wetter the RAP, the more energy is needed, the more pollution is produced, the higher the cost to the plant. There are three ways to keep RAP dryer: 1. store under a roof 2. store uncovered in a conical shape 3. Store with a 3% paved grade.</td>
<td>Lakeside - There are other effective options to minimize moisture. These include:  • Storing in a conical shape,  • Storing on a paved grade for drainage,  • Using RAP at the high end of the grade first.</td>
<td>• The drainage manual has best management practices, and asphalt plants are held to abide by them.</td>
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| 4 Page 2, Item h | There is concern that RAP may come from a contaminated site, and bring toxic materials into the asphalt plant. The suggestion is to only allow RAP when the source can be documented, and proven to be non-toxic. Lakeside implements a Material Acceptance Policy and prohibits any RAP that was obtained from a hazardous or dangerous facility or from a MTCA cleanup site. These are Industry Best Management Practices. | Lakeside - Lakeside implements a Material Acceptance Policy and prohibits any RAP that was obtained from a hazardous or dangerous facility or from a MTCA cleanup site. These are Industry Best Management Practices. | Tom Cook - No procedure to identify if RAP from highways, roadways, runways, or parking lots have been contaminated by toxic chemical spills.                                                                                         | - The Industry has a method to document source of RAP.  
- Will not accept RAP from a MTCA site.  
- Not possible to document unknown spills.                                                                                                                                                                           |                   |
| 5 Page 2, Item i | The use of diesel as a burner fuel has raised some concern with the public. Diesel creates four times the pollutants as natural gas when producing asphalt. Members of the industry did not feel this was unreasonable, however, they requested that if the restriction to natural gas or propane fuel is not reasonably accommodated, ORCCA should be given authority to apply limitations. | Howard Glastetter - Diesel creates 4 times the pollutants as natural gas when producing asphalt.                                                                                                        | Lakeside - In the event that the restriction to natural gas or propane fuel is not reasonably accommodated, ORCCA should be given authority to apply limitations.                                                                                                           | - County policy is to reduce greenhouse gas emissions.  
- Natural gas is 53.06 kg of CO2  
- Propane is 63.07 kg of CO2,  
- Diesel is 73.15 kg of CO2                                                                                                                                                                                   |                   |
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<td>Tom Cook - Protecting public health, safety and the environment.</td>
<td>• DOT requires similar permits from federal agencies to operate a temporary plant associated with a DOT project.</td>
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The Thurston County Code is hereby amended to read as follows:

 Deleted Text: Strikethrough Proposed Changes: Underlined

 Staff Comments: Italics Unaffected Omitted Text: (...)

 Chapter 20.54 SPECIAL USE*

 20.54.070

 ... 3.1 Asphalt production. Asphalt plants (hot mix or batch plants) are subject to the following provisions:

 a. Setbacks. Asphalt plants shall be separated by a distance of 1,000 feet from public parks and public preserves, which include parks, national wildlife refuges, state conservation areas, wildlife areas, and other government-owned preserves. In addition, asphalt plants should be at least 1,000 feet from the boundary of any residential zoning district with an existing or zoned density of greater than 1 dwelling unit per 5 acres, urban growth areas, and any residential lot less than one acre in size.

 b. Asphalt plants must be in, or adjacent to, an active gravel mine. The parcel upon which the asphalt plant is located shall be a minimum of 40 acres individually or in combination with an existing gravel mine parcel or parcels.

 c. The location of asphalt plants shall be consistent with the Comprehensive Plan and Sub-Area Plan designations.

 d. Prior to commencing operation, the asphalt plant operator shall provide evidence to the County that the facility has received a National Pollution Discharge Elimination Systems (NPDES) general permit, unless it provides written confirmation of an exemption from the agency with jurisdiction over such permit.

 e. Asphalt Plants shall comply with the requirements and best management practices of the Thurston County Drainage Design and Erosion Control Manual.
f. RAP shall be stored on an impervious area with a surrounding berm or curb that enables stormwater to be collected and treated. RAP storage areas shall be covered to prevent contaminated runoff. Cover shall be achieved by the use of a weighted tarp or permanent roof structure.

g. Asphalt plants shall provide necessary space to accommodate delivery trucks on the site.

h. Asphalt plants shall have County approved haul routes.

i. The source of Recycled Asphalt Pavement (RAP) shall only be from highways, roadways, runways, parking lots and shall not be from a contaminated site such as a Superfund site or Model Toxic Control Act (MTCA) site. The asphalt plant operator shall provide semi-annual reports to the county documenting the source of all RAP brought to the production site.

j. Asphalt plants shall be fueled by natural gas, propane, or an alternative fuel with the same or less hazardous emissions or waste as natural gas or propane.

k. The operation shall obtain and maintain a solid waste permit from Thurston County environmental health for operations which recycle asphalt.

l. Where the language in this section conflicts with the Thurston County Code, state or federal law, the stricter language shall apply.

m. The above criteria apply only to permanent asphalt batch plants. Temporary asphalt production is allowed within the boundaries of a specific public project site with approval of an administrative special use permit for a period not to exceed twelve months. There must be at least twelve months between the end of one temporary use period and the beginning of another on the same project site.
**Asphalt batch plans are allowed in these zones only when they have a Asphalt Plant special use permit.**
## Work Program Summary – Asphalt Plants Special Use Permits

*May 2, 2012*

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<th>Timeline</th>
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<tr>
<td>Planning Commission– Work session to consider amendments to Chapter 20.54.070 of the County Code.</td>
<td>May 9, 2012</td>
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<tr>
<td>Planning Commission– Work session to consider amendments to the Chapter 20.54.070 of the County Code.</td>
<td>June 6, 2012</td>
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<tr>
<td>Planning Commission– Public hearing and follow up work session to consider amendments to the Chapter 20.54.070 of the County Code.</td>
<td>June 20, 2012</td>
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<tr>
<td>Board– Briefing to consider amendments Chapter 20.54.070 of the County Code.</td>
<td>July 11, 2012</td>
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<tr>
<td>Board– Public hearing to consider amendments to the Chapter 20.54.070 of the County Code.</td>
<td>August 7, 2012</td>
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<tr>
<td>Board– Follow-up work session to review public hearing comments and give staff final direction on the proposed amendments.</td>
<td>August 9, 2012</td>
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<tr>
<td>Adoption of ordinance amending Chapter 20.30B of the Thurston County Code to reflect the Planning Commission and the Board’s goals.</td>
<td>August 14, 2012</td>
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<td><strong>Expiration of interim ordinance</strong></td>
<td><strong>August 14, 2012</strong></td>
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</tbody>
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