

ISLAND COUNTY HEARING EXAMINER

RE: SITE PLAN REVIEW) File No. SPR 103/15
)
Applicants: Krieg Construction) FINDINGS OF FACT
) CONCLUSIONS OF LAW
) AND DECISION

SUMMARY OF APPLICATION AND DECISION

APPLICATION: Krieg Construction seeks Site Plan Review for a Type III Surface Mine, located off of Taylor Road, north of Sleeper Road, in the Rural Zoning District.

DECISION: The Hearing Examiner for Island County grants approval of the requested SPR 103/15, subject to Conditions of Approval.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing on July 7, 2016.

I.

PRELIMINARY INFORMATION

Applicant: Krieg Construction

Property Location: 70 West Sleeper Road
Island County, WA 98277

Assessor's Parcel Number: R23318-101-4250

Applicable Ordinances: Zoning Ordinance Chapter 17.03 ICC, Land Use Review Ordinance Chapter 16.19 ICC, Site Plan Review Ordinance Chapter 16.15 ICC., Surface Mining Chapter 17.03.180.U ICC

Publication: Notice of Application with SEPA, April 29, 2015, The Whidbey News Times, The South Whidbey Record

Mailing of Public Notice to Parties of Record and Neighboring Property Owners:
April 20, 2015

Affidavit of Posting Notice of Application with SEPA: April 29 2015

Hearing Date: July 7, 2016

EXHIBIT LOG – corrected 7/7/16
SPR 103/15 Krieg Construction Surface Mine

Tab 1

1. Staff Report

Tab 2 – Site Data

2. Request for Comments, dated 4/10/15
3. ESRI GIS Vicinity Map

Tab 3 – Application

4. Taylor West Surface Mine Expansion Project Narrative, dated 4/8/15, (Updated 2/17/16)
5. Master Land Development Permit Application, submitted 4/10/15 (Updated 2/17/16 in green)
6. Form F Application for Site Plan Review for Surface Mine, submitted 4/10/15
 - a. Field Indicators Worksheet
 - b. Assessors Map ID: 605
 - c. Memorandum from Dave Wechner to Michelle Pezley re: waiving of pre-application conference requirement
 - d. List of associated professional consultants
 - e. Site access map
 - f. Proposed DNR permit Narrative, updated 2/17/16 with attached application for reclamation permit
 - g. Letter of intent to share common boundary from Dan Cox to Don Krieg, with associated map, rcv'd 1/11/16
 - h. Geotech report from Associated Earth Sciences Inc., dated 2/4/16
 - i. Stormwater report dated 4/2/15, updated 1/26/16 from Gregory R. Cane, P.E.
 - j. SEPA Environmental Checklist
7. Site Plan Sheets
 - a. R-1 Vicinity Map & Cover Sheet
 - b. R-2 Existing Conditions Map
 - c. R-3 Extraction & Reclamation Sequence Map
 - d. R-4 Typical Extraction & Reclamation Plan
 - e. R-5 Final Reclamation Plan
 - f. R-6 Final Reclamation Sections
 - g. R-7 Erosion Control & Drainage Plan
 - h. R-8 Details / Activity Ledger
 - i. R-9 Standard Details – BMPs

Tab 4 - Notices

8. **Affidavit of Posting documentation** attached to letter of transmittal from Cane Engineering to Michelle Pezley, dated 4/29/15.
9. Affidavit of Publication dated 4/29/15

10. Affidavit of Mailing Public Notice to parties within 300 feet, dated 4/20/15.
11. Notice of Hearing on 7/7/16 letter from Paula Bradshaw to Cane Engineering, dated 6/16/16

Tab 5 – Agency Comments

12. Review Comments – re: Krieg Construction mine expansion from Michelle Pezley to Gregory Cane P.E., dated 8/13/15
13. Review Comments from Aneta Hupfauer to Michelle Pezley, dated 5/12/15
14. Review Comments from Douglas Kelly to Aneta Hupfauer, dated 5/11/15
15. Review Comments from Bill Poss to Michelle Pezley, dated 3/8/15
 - a. Previous Review Comments from Bill Poss to Michelle Pezley, dated 8/13/15.

Tab 6 – Correspondence

16. Email from Ellen White, Cane Engineering to Michelle Pezley, dated 7/22/15
17. Email from Ellen White, Cane Engineering to Michelle Pezley, dated 7/30/15
18. Letter from Gregory Cane P.E. to Michelle Pezley, dated 10/10/15

Tab 7 – Public Comments

19. Faxed public comment from Jan Kammemga to Island County, dated 4/13/15

Tab 8 – SEPA Determination

20. Final SEPA Threshold Determination with Affidavit of Mailing and dated 5/31/16.
21. Inadvertent Archaeological and Historical Resources Discovery Plan

Tab 9 – Documents received after file mailed to Hearing Examiner

22. Affidavit of publication of hearing date – WNT, published 6/22/16
23. Staff Report letter from Paula Bradshaw to Gregory Cane, Cc Donald Krieg, dated 6/27/16
24. Trip Generation and Traffic Report, submitted as an exhibit at hearing
25. Concurrency Certificate, submitted as an exhibit at hearing

HEARING TESTIMONY

Michelle Pezley
Island County Planning & Community Development
PO Box 5000
Coupeville, WA 98239

Gregory R. Cane, P.E.
231 SE Barrington Drive, Suite 205
Oak Harbor, WA 98277

II.

The Island County Planning and Community Development Department has recommended approval of the requested Site Plan Review, SPR 103/15, subject to conditions. The Findings of Fact and Conclusions of Law of the Associate Planner are set forth in a Staff Report, Exhibit #1, dated June 22, 2016, a copy of which is attached hereto and incorporated herein by this reference.

The Applicant indicated there were no factual inaccuracies in the Staff Report. The Applicant indicated no objection to the Conditions of Approval requested by Staff.

The Hearing Examiner has made a thorough review of Staff's Findings of Fact and recommended Conditions of Approval. The Hearing Examiner concurs with Staff's recommendations.

III.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

CONCLUSIONS OF LAW

I.

The Application is a Type III Site Plan Review. Appropriate notices have been given and a public hearing has been held on the requested Site Plan Review for a Type III Surface Mine.

II.

The proposal, as conditioned by Staff, is consistent with the Site Plan Review Criteria of ICC 16.15 and with the specific Land Use Standards of ICC 17.03.180 P., Q., R., & S., and for Surface Mining in a Rural Zoning District set forth in ICC 17.03.180.U. Planning and Community Development Staff concluded that, subject to conditions, the application was consistent with these applicable criteria.

III.

Other County Agencies with jurisdiction evaluated the proposal and have indicated no objection to approval, subject to conditions.

IV.

The Island County Hearing Examiner should approve SPR 103/15 and grant Site Plan Approval for the Type III Surface Mine.

V.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

Site Plan Review Approval for a Type III Surface Mine, SPR 103/15, is hereby granted to Krieg Construction, Inc., located on Assessor's Parcel No. R23318-101-4250, addressed off of Taylor Road, north of Sleeper Road, Island County, Washington, subject to the following Conditions of Approval:

General Conditions

1. Site development activities approved by this decision shall be in substantial conformance to the plans on Sheets R-1 through R-9, dated February 2016 (Exhibit 7 in the Hearing Examiner's file).
2. Deviation from the approved plans must be reviewed and approved through a formal site plan amendment process.
3. The Applicants shall adhere to all conditions and requirements outlined in the memorandum, dated March 8, 2016 from Island County Public Works. (See Exhibit No. 15 in Hearing Examiner file).
4. The Applicants' development activities on, and use of, the subject parcel shall be in compliance with all applicable Washington State Laws and Island County Codes.
5. Should any information provided by the Applicants or their authorized representative be found to be inaccurate, the Conditions of Approval identified in this Decision are subject to change.
6. The Applicant's reclamation of mined lands, as provided in the Reclamation Plan and application for the Washington State Department of Natural Resources, shall be carried out in accordance with the requirements, the Reclamation Plan, Washington State Department of Natural Resources Permit and Chapter 78.44 RCW. The operator shall guarantee all Reclamation work accomplished for a period of two (2) years or such greater

period as may be determined necessary by the Hearing Examiner to assure the permanency of any or all physical Reclamation features. Upon Reclamation, no condition shall remain which will or could lead to the degradation of water quality.

7. The Applicant/Property Owner shall provide Island County with a copy of the Approved Washington State Department of Natural Resources Reclamation Permit and Inspection Report.
8. Upon completion or discontinuance of surface mining, the Operator shall file with the Planning Department a Reclamation Report which shall comply with the requirements of this subsection.
9. No explosives are allowed at this site.
10. The Applicant shall conduct all activities of surface mining and processing, as determined in the Site Plan Review Approval, in a manner so that noise, dust and bright lights do not exceed levels compatible with the uses of adjacent lands.
11. The Applicant's operations at the site shall only be permitted to occur between 7:00 a.m. – 6:00 p.m., Monday thru Friday.
12. The Applicant shall replace dead or dying vegetation within the setback buffer, immediately; or, if in winter, within the next planting season per ICC 17.03.180.P.3.b (vi).
13. In the event that any ground-disturbing activities, other project activities related to this development, or in any future development uncover protected cultural materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.), the actions as listed in Staff Report Attachment E must be followed. Compliance with all applicable laws pertaining to archaeological resources (RCW 27.53, 27.44 and WAC 25-48) and human remains (RCW 68.50) is required. Failure to comply with this requirement could constitute a Class C Felony.
14. The operator shall provide a bond or other security in an amount sufficient to cover the cost of reclamation of the property according to the approved reclamation plan; provided that, the County may accept a bond required by the Department of Natural Resources, pursuant to the Washington State Surface Mining Act, if it is deemed the amount of the bond adequate.

Expiration of Site Plan Review Approval

15. Site Plan Review Approval shall remain in effect as long as the excavation continues in compliance with the Conditions of the Site Plan Approval. If operations are terminated, or discontinued for a period of three (3) years or more, the Approval shall terminate except for reclamation of the site. The Operator may request, and the Hearing Examiner may grant, extensions of a time limitation provided that the surface mining is in compliance with all conditions and the Approved Reclamation Plan.

Entered this 20th day of July 2016, pursuant to authority granted under the Laws of the State of Washington and Island County.

Michael Bobbink

MICHAEL BOBBINK
Island County Hearing Examiner

APPEAL PROCESS:

Decisions of the Examiner on Type III applications shall be final and conclusive unless within fourteen (14) days following mailing of such decision a written statement of appeal is filed with the board by the Applicants, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a Department of the County or to other than the first appellant. The appeal of a Type III decision shall be a Closed Record Appeal.



ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111, Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6th Street, P. O. Box 5000, Coupeville, WA 98239-5000
Internet Home Page: <http://www.islandcounty.net/planning/>

STAFF REPORT & RECOMMENDATION TYPE III SITE PLAN REVIEW – SPR 103/15 KRIEG CONSTRUCTION SURFACE MINE Corrected on 7/7/16

I – PROJECT SUMMARY

Cane Engineering, representing the property owner Krieg Construction, requests site plan review approved for a Type III Surface Mine. The property is located off of Taylor Road, north of Sleeper Road.

The property owner also owns the abutting mine, which is east of the subject property. The abutting mine was approved on August 26, 1985 with the binding site plan of 02/87. The property to the north is also a mine, which was approved June 27, 2011 with the site plan review of 072/11. The property to the west is the access for the mine to the north. No mining is allowed on the access property.

The applicant and property owner attended a pre-application meeting with staff on January 23, 2013. Dave Wechner waived the requirement for a second pre-application as the codes had not changed since the original pre-application conference as allowed under Island County Code (ICC) 16.19.070.B. Furthermore, per Island County Code 16.19.050.B, mines which are listed as a mineral resource are exempt from a community meeting.

The proposal is not SEPA exempt. The final SEPA Determination of Non-Significant was issued on May 31, 2016. The decision was not appealed.

The site is ten acres, which meets the minimum lot size for a mine. The applicant proposes a zero setback along the northern property line and part of the east which abuts the property owner's mine. The rest of the setbacks are to be 50 feet.

II – PERMIT DATA

Permit Type	Site Plan Review Type III
Permit Number	SPR 103/15
Date of Complete Application	4/10/15
Decision	Approved, with Conditions
Applicant/Owner	Krieg Construction
Agent	Cane Engineering

III – SITE DATA

Address	N/A Oak Harbor, WA 98277
Parcel Number(s)	R23318-101-4250
Parcel Area(s)	10
Zone Designation	Rural (R)
Allowable Density	1DU/ 5AC
Critical Areas/Overlays	APCZU Noise Zone 3 and APZ Zone 2

IV – STAFF CONTACTS

Department	Name	Phone	Email
Planning	Michelle Pezley	360-678-7817	m.pezley@co.island.wa.us
Public Health	Aneta Hupfauer	360-678-7995	AnetaH@co.island.wa.us
Public Works	Bill Poss	360-678-7813	billp@co.island.wa.us

V – REGULATORY COMPLIANCE

Regulatory Requirement	Complies (Y/N)	Comments
A. Rural (R)- ICC 17.03.060	Yes	Meets all applicable criteria
B. Site Plan Approval – ICC 16.15	Yes	Complies with all regulations
C. Land Use Standards – ICC 17.03.180 P., Q., R., & S.	Yes	Project may comply, with conditions
D. Surface Mining- ICC 17.03.180.U	Yes	Project may comply, with conditions
Public Health/Sanitation	Yes	Approved, with conditions (see Attachment C)
Public Works/Engineering	Yes	Approved, with conditions (see Attachment D)

VI – PUBLIC COMMENTS

Island County received one public comment during the public comment period of April 29, 2015 to May 13, 2015. The one public comment was in opposition to the proposal.

Jan Kammemga voiced disappointment in the process from the last approval from Krieg Construction Surface Mine. (Exhibit 19)

VII – FINDINGS

A. Rural (R) Zone (ICC 17.03.060)

1. The project site is zoned “Rural” (R)
2. Surface Mining is allowed as a conditional use per ICC 17.03.060 as Type III review. Applicant proposes a surface mine on the subject property.
3. Minimum lot size within the Rural Zoning District is five acres. The lot is 10 acres. 17.03.180.U requires 10 acres for a surface mine.
4. Surface mines require 50 foot setbacks. The applicant proposes zero setback/ buffer where another surface mine is located and 50 foot buffer where is not abutting an active surface mine.

The project is subject to site plan review per ICC 17.03.060.B

B. Site Plan Approval – ICC 16.15

ICC 16.15.040 Application Requirements

Finding: The applicant submitted the application on April 10, 2015. Michelle Pezley, Associate Planner, deemed the application complete on April 10, 2015.

ICC 16.15.060 Conditions of Approval for NR Uses in the R, RR, RA, RF, and CA Zones

A. Environmental Impact:

Finding: The applicant proposes a surface mine. SEPA was issued and not appealed (Exhibit 20). The use proposed by the applicant will not result in any significant environmental impacts that cannot be mitigated by reasonable mitigation measures.

B. Services and Utilities:

Finding: Island County finds that the use as proposed may be adequately served by (and will not impose an undue burden on) any of the services, improvements, facilities, or utilities that serve the area surrounding the project site. The materials submitted with the application indicate that the project will not have connections to water or septic.

C. Permitted Uses:

Finding: As previously discussed, a surface mine is conditional use Type III within the Rural Zoning District. The findings of fact and conditions of approval associated with this decision demonstrate and ensure compliance with all applicable development standards and design guidelines. The development standards of 17.03.180 identify conditions that must be met for this use in the Rural Zoning District.

D. Site Suitability:

Finding: The subject site is physically suitable for the type, density, and intensity of the use being proposed. The site is within the designated mineral lands.

E. Public Interest and Welfare:

Finding: The project proposed by the applicant must be designed so as not to be detrimental to the public interest, health, safety, or welfare and not to have a significant detrimental impact on the surrounding neighborhood. During the review process, Island County Public Health Department reviewed the proposal and determined that it complies with all applicable rules, laws, regulations, and policies pertaining to public health. Island County Department of Public Works determined that the proposal will not result in traffic or safety impacts in the surrounding area, given compliance with development standards required by the code and those as conditioned in this land use recommendation.

The Land Use Standards in ICC 17.03.180 details development standards which must be met for surface mines in a Rural Zoning District. This decision reviews the application as presented in light of those standards and cites them as conditions of approval.

The County concludes potential adverse impacts to the surrounding area can be mitigated by the proposed project.

F. Rural Character:

Finding: The proposal is generally consistent with Island County’s adopted definition of “Rural Character,” provided that the development standards identified in this report are implemented to mitigate any potential adverse impacts to the surrounding rural area and nearby properties.

G. Rural Agriculture or Commercial Agricultural Zone:

Finding: The proposal is not within a Rural Agriculture or Commercial Agricultural Zone; therefore, this criterion does not apply.

16.15.070 Decision Making Authority

In approving an application for a Nonresidential conditional use in the R, RR, RA, RF, or CA Zones, including home industries, the decision-making authority may impose conditions to protect the rural character surrounding the proposed use and to preserve the purpose of the underlying zone. Any such conditions shall be supported by a written finding and have a direct nexus to and be limited to those specific actions necessary to protect the rural character for any specific project. These conditions may include, but are not limited to, the following:

D. Limiting the hours and days of operation.

Finding: All operations at the site shall only be permitted to occur between 7:00am-6:00pm, Monday-Friday as proposed by the applicant. **(Condition)**

ICC 16.15.080 Criteria for Approval

An application for Site Plan Review shall not be approved unless it meets the requirements of this section. No development pursuant to an approved Site Plan shall be undertaken unless it meets the requirements of Titles 8, 11, 13 and 17 of ICC pertaining to such development.

Finding: Public Works provided review of Titles 11 and 13 and findings are found in Bill Poss memo dated by Bill Poss on March 8, 2016 (Exhibit 15). Public Health reviewed the proposal and

found that proposal meets Title 8 criteria as listed in memo by Aneta Hupfauer dated May 12, 2015 (Exhibit 13). The Findings of Fact for Title 17 are within this report.

1. Open Space:

Finding: Section 17.03.180.U does not require additional open space. The applicant proposes 1.77 acres of the site to remain native vegetation with the 50 foot setbacks/buffers required. The remaining site will be left as pervious surface.

2. Site Lay-Out:

Finding: The applicant proposes to use 83% of the site for the surface mine. The property is not classified as agricultural land. The applicant meets the site lay-out criteria.

3. Lighting:

Finding: The use will not need fixed lighting.

4. Building Design:

Finding: No building is proposed.

5. Surface Water Drainage:

Finding: Bill Poss, Public Works Development Coordinator reviewed the engineered Stormwater Report by Cane Engineering dated ~~April 2, 2015~~ January 26, 2016. The report concluded that all stormwater will be retained onsite.

6. Utility Services:

Finding: The applicant does not propose any utilities to the site.

7. Advertising Features:

Finding: The applicant does not propose a sign.

8. Traffic and Circulation:

Finding: Public Works approved a transportation concurrency certificate. There will not be circulation to traffic on site.

ICC 16.15.160 Expiration of Site Plan Approval

Finding: The site plan approval shall remain in effect as long as the excavation continues in compliance with the site plan's conditions of approval. If operations are terminated, or discontinued for a period of three (3) years or more, the approval shall terminate except for reclamation of the site. The operator may request and the hearing examiner may grant, extensions of a time limitation provided that the surface mining is in compliance with all conditions and the approved reclamation plan. **(Condition)**

C. Land Use Standards – ICC 17.03.180 P., Q., R., & S.

1. ICC 17.03.180.P Non-Residential Design, Landscaping, and Screening Guidelines

ICC 17.03.180.P.1: Building Design in the R zone:

Finding: The applicant does not propose a building.

ICC 17.03.180.P.3: Landscaping and Screening in R zone:

Finding: The applicant proposes to maintain the existing 50 foot native vegetation buffer from the west, south, and east property lines that is not adjacent to another active mining operations. The applicant proposes security fencing. Landscaping Maintenance is required per ICC 17.03.180.P.3.b(vi). Dead or dying vegetation must be replaced immediately or if in winter, within the next planting season. **(Condition)**

ICC 17.03.180.P.5: Screening:

Finding: The applicant propose to keep existing landscaping along the west, south, and east property lines with a security fence.

2. ICC 17.03.180.Q Parking, Access and Circulation

ICC 17.03.180.Q.2. Minimum Requirements

Finding: There are no parking standards for this use. The applicant meets the parking requirements.

ICC 17.03.180.Q.7 Access and Circulation

Finding: Access and circulation was approved by Public Works. Public Works found that the access proposed will meet the county standards for the proposed traffic count of the development.

3. ICC 17.03.180.R Signs and Outdoor Lighting

Finding: The applicant is not proposing a sign for the business.

4. ICC 17.03.180.S Site Coverage and Setbacks

Finding: The applicant meet all setback requirements.

D. Surface Mine - ICC 17.03.180.U

1. ICC 17.03.180.U.1. Application

Finding: The applicant submitted a report from a professional geologist, Associated Earth Sciences Incorporated, which meets the requirements of 1.a (see exhibit 6.h). The applicant also provided a reclamation plan which also has been reviewed ~~and approved~~ by the Washington State Department of Natural Resources. **(Condition)**

2. ICC 17.03.180.U.2. Siting and phasing

Finding: The site is 10 acres and is 1,600 feet from the closest Rural Residential Zoning District.

3. ICC 17.03.180.U.3: Reclamation

Finding: The applicant provided a reclamation plan and the application for the Washington State Department of Natural Resources. Reclamation of mined lands shall be carried out in accordance with the requirements, the Reclamation plan, Washington State Department of Natural Resources permit and Chapter 78.44 RCW. The operator shall guarantee all Reclamation work accomplished for a period of two (2) years or such greater period as may be

determined necessary by the Hearing Examiner to assure the permanency of any or all physical Reclamation features. Upon Reclamation, no condition shall remain which will or could lead to the degradation of water quality. **(Condition)**. The applicant/ property owner shall provide Island County a copy of the approved Washington State Department of Natural Resources Reclamation Permit and inspection report. **(Condition)**. Upon completion or discontinuance of surface mining the operator shall file with the Planning Department a reclamation report which shall comply with the requirements of this subsection. **(Condition)**

4. **ICC 17.03.180.U.4: Operation:**

Finding: The applicant owns one of the two properties to the East. The property to the north is also an active and approved surface mine. SPR 072/09 allowed the setback to be reduced to zero for part of that adjacent to the active mine. The property to the west is also part of the mine but the property owner is not permitted to extract materials from that property.

The applicant proposes to use the existing vegetation for screening in the 50 foot setback areas. The property is not within view of a public right-of-way. The applicant also proposes a fence as required under U.4.e.

The applicant has not required used of explosives. No explosives are allowed at this site. **(Condition)**.

All mining operations shall be consistent with The Taylor West Surface Mine Expansion Plans Sheets R-1 through R-9 dated February 2016 (Exhibit 7). **(Condition)**.

Per 4.j. All activities of surface mining and processing shall be conducted in a manner so that noise, dust and bright lights do not exceed levels compatible with the uses of adjacent lands as determined in the approval of the site plan. **(Condition)**

5. **ICC 17.03.180.U.5: Reclamation Bond**

Finding: The hearing examiner may require that the operator provide a bond or other security in an amount sufficient to cover the cost of reclamation of the property according to the approved reclamation plan. Provided that the county may accept a bond required by the Department of Natural Resources pursuant to the Washington State Surface Mining Act if he deems the amount of the bond adequate. **(Condition)**

VII – RECOMMENDATION

Based upon the above review, Island County staff concludes that proposed SPR 103/15 is consistent with all applicable zoning, land use, and environmental regulations; and hereby, makes the recommendation to approve Site Plan Review application SPR 103/15 subject to the following conditions of approval:

VIII – CONDITIONS OF APPROVAL

General Conditions:

1. Site development activities approved by this decision shall be in substantial conformance to plans on Sheets R-1 through R-9 dated February 2016 (Exhibit 7).
2. Deviation from the approved plans must be reviewed and approved through a formal site plan amendment process.
3. The applicant must adhere to all conditions and requirements outlined in the attached memorandum from Island County Public Works (See Exhibit 15).
4. All development activities on, and use of, the subject parcel shall be in compliance with all applicable Washington State laws and Island County codes.
5. The conditions of approval identified in this report are subject to change if any information provided by the applicant or their authorized representative are found to be inaccurate.
6. The applicant provided a Reclamation Plan and the application for the Washington State Department of Natural Resources. Reclamation of mined lands shall be carried out in accordance with the requirements, the Reclamation plan, Washington State Department of Natural Resources permit and Chapter 78.44 RCW. The operator shall guarantee all Reclamation work accomplished for a period of two (2) years or such greater period as may be determined necessary by the Hearing Examiner to assure the permanency of any or all physical Reclamation features. Upon Reclamation, no condition shall remain which will or could lead to the degradation of water quality.
7. The applicant/ property owner shall provide Island County a copy of the approved Washington State Department of Natural Resources Reclamation Permit and inspection report.
8. Upon completion or discontinuance of surface mining the operator shall file with the Planning Department a reclamation report which shall comply with the requirements of this subsection.
9. No explosives are allowed at this site.
10. All activities of surface mining and processing shall be conducted in a manner so that noise, dust and bright lights do not exceed levels compatible with the uses of adjacent lands as determined in the approval of the site plan.
11. All operations at the site shall only be permitted to occur between 7:00am-6:00pm, Monday-Friday.
12. Dead or dying vegetation within the setback buffer must be replaced immediately, or if in winter, within the next planting season per ICC 17.03.180.P.3.b(vi).
13. In the event that any ground-disturbing activities, other project activities related to this development, or in any future development uncover protected cultural materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.), the actions as listed in Exhibit 21 must be followed. Compliance with all applicable laws pertaining to archaeological resources (RCW

27.53, 27.44 and WAC 25-48) and human remains (RCW 68.50) is required. Failure to comply with this requirement could constitute a Class C Felony.

14. The operator shall provide a bond or other security in an amount sufficient to cover the cost of reclamation of the property according to the approved reclamation plan. Provided that the county may accept a bond required by the Department of Natural Resources pursuant to the Washington State Surface Mining Act if it is deemed the amount of the bond adequate.

Expiration of Site Plan Approval

15. The site plan approval shall remain in effect as long as the excavation continues in compliance with the conditions of the site plan approval. If operations are terminated, or discontinued for a period of three (3) years or more, the approval shall terminate except for reclamation of the site. The operator may request and the hearing examiner may grant, extensions of a time limitation provided that the surface mining is in compliance with all conditions and the approved reclamation plan.

IX – APPEALS

Decisions of the Examiner on Type III applications shall be final and conclusive unless within fourteen (14) days following mailing of such decision a written statement of appeal is filed with the board by the Applicant, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a Department of the County or to other than the first appellant. The appeal of a Type III decision shall be a Closed Record Appeal.

SIGNED THIS _____ DAY OF JUNE 2016

Michelle Pezley, Senior Planner

Exhibits:

7. Site Plan Sheets R-1 though R-9 dated February 2016
13. Memorandum from Aneta Hupfauer dated May 15, 2015
15. Memorandum from Bill Poss dated March 8, 2016
21. Inadvertent Archaeological and Historic Resources Discovery Plan for Island County