

**COUNTY
BOARD OF ADJUSTMENT
May 9, 2019
CU 19-02**

MEMBERS:

**Jim Lemon, Chairman
Larry Cochran
Rick Finch**

STAFF: Alan Thomson, Whitman County Planner; Katrin Kunz, Whitman County Assistant Planner; Elinor Huber, Clerk.

Audience: Jeff Motley, Pullman; Roy Druffel, Pullman.

7:33 p.m. – Jim Lemon opened **CU 19-02**. Come on up, Jeff Motley.

Applicant: *Norm Druffel & Sons*

Requests: *A conditional use permit to operate an inert landfill in the Agricultural District.*

FINDINGS OF FACT

1. *On April 10, 2019, Norm Druffel & Sons applied for a conditional use permit to operate an inert landfill. The requested volume of fill is approximately 58,000 cubic yards. (See **Exhibit 1**, Conditional use application.) The applicant previously obtained a conditional use permit for an inert fill site at that location in 2003 and filled approximately 2,000 cubic yard. That permit, CU 03-11, expired in 2008.*

Larry Cochran – Are we just expanding the landfill that is already there? Is this going to be a separate one?

Jeff Motley – No expansion. It is just that the time period didn't allow to get done what Roy wanted done. We need more time to do the original.

Larry Cochran – So, we are talking about one that is already there. It is just not full yet?

Jeff Motley – Correct.

Jim Lemon – You ran out of time?

Jeff Motley – We ran out of time.

2. *Norm Druffel & Sons is the owner of the 156-acre parcel and the approximately 0.7-acre project site is located on the south end of the parcel, approximately ½ mile west of the WA-ID state line*

and just north of Old Moscow Road, in the SW ¼ of Section 5, Township 14 N., Range 46 E., W.M., Whitman County, Washington. (See Exhibit 2, Vicinity map.)

3. *The site is located in the Agricultural District and landfills for inert material are authorized in the Agricultural District as a conditional use. See Whitman County Code Chapter 19.10.090(A)(16).*
4. *The need for a fill site at this location is due to an increase in development activities taking place in the Moscow area.*
5. *The site is bordered on all sides by agricultural land. Norm Druffel & Sons own all of the surrounding land. There are two other adjacent landowners within 300 feet, one to the south of the County Road and one residential parcel to the west. (See Exhibit 3, Assessor's map.)*
6. *The proposed fill site is a steep eyebrow surrounded by farmland. The eyebrow has never been farmed and has mature trees, young trees, and bushes on it. The eastern part of the eyebrow has been identified by a qualified botanist as Palouse Prairie vegetation in good condition and worthy of protection. This area is not to be filled and has to be fenced off from the rest of the fill site. (See Exhibit 4, Aerial, see Exhibit 5, Site plan, and see Exhibit 6, Palouse Prairie report.)*

Jim Lemon – I have a question about the Palouse Prairie report. It is in there but there is no date and there is no signature. I don't know who wrote it. If we are going to accept the exhibit, we should have a name and verify what we say was done by somebody.

Alan Thomson – The name of the botanist is Rich Old.

Katrin Kunz – The report just says that he went up there. I don't know when he,

Jim Lemon – Okay, for the record we'll say that staff has stipulated that Rich Old, and I believe it is the same Rich Old that used to teach botany. If you could get a date, put it on there. That answers my question.

7. *The site will be accessed off Old Moscow Road.*

Jim Lemon – Is that a gravel road?

Jeff Motley – Yes.

Larry Cochran – It is right at the junction, isn't it?

Jeff Motley – We are real close to the state line where it is asphalt.

Jim Lemon – I was just looking at the map and was wondering if there was any concern about coming off of that. I imagine construction material can be hauled anytime during the year until posting and freeze restrictions. Whether that would constitute effects to the road.

Alan Thomson – It will be closed down during the winter for heavy traffic and that is known and that is up to the Road Department and they will shut that down and the Druffels and the Motleys would be made aware of that.

8. *There are no potential wetlands present within 200' of the project site. The area is not within a flood hazard area according to the FIRM.*
9. *All adjacent landowners within 300 feet of the project were informed of this request and hearing by U.S. mail. At the time of this hearing no comment has been received by Whitman County Planning concerning this notification. Also notified were the City of Moscow and the University of Idaho.*

Jim Lemon – Does that stand true as of tonight?

Katrin Kunz – Yes.

~~10. A public notice of the conditional use hearing was published in the Whitman County Gazette on April 18, 2019.~~

11. *Whitman County is lead agency for the State Environmental Policy Act (SEPA) and issued a Determination of Nonsignificance (DNS) for the original project on October 2, 2003. For the current application the County is adopting the original SEPA. An addendum to the original SEPA was sent to the SEPA register on May 3rd, 2019, addressing the discovery of Palouse Prairie remnants on site. (See Exhibit Z, SEPA addendum.)*

Jim Lemon – The County prepared that, didn't you?

Alan Thomson – Yes.

MOTION by Larry Cochran and seconded by Rick Finch to accept the Findings of Fact as read and corrected. Motion passed.

CONCLUSIONS

1. *The Board of Adjustment has been granted authority to render this decision.*
2. *Based on the evidence set forth in the Findings of Fact and the environmental review the proposed use as conditioned is consistent and in harmony with the goals and policies of the Whitman County Comprehensive Plan.*
3. *As conditioned the proposed use is consistent with the general purposes of the zoning code.*

CONDITIONS

Planning staff recommends the conditional use be approved contingent upon the following conditions:

- 1. The applicant shall obtain any necessary permits from Whitman County (Building Permit) and other permitting agencies. This conditional use permit is not to be construed as approval for these other agencies. The applicant must contact and obtain these necessary permits or approvals. Failure to obtain these permits is basis for revoking this conditional use permit.*
- 2. This conditional use permit shall be continuous with the ownership of the property. Should the ownership change, Whitman County must be notified. The conditions apply to the land regardless of transfer of owners.*
- 3. Only clean earth and rock shall be permitted to be disposed of at this site. The applicant and subsequently the landowner shall be responsible for ensuring that no non-permitted materials shall be dumped on the site. If such dumping occurs, the non-permitted materials are to be removed and fill cannot resume until removal is complete.*

Jeff Motley – This is something I didn't catch. What Druffel Farms wants to accomplish is they want to reclaim this for farming. They want only clean soils in this site. So, #3 and #4 both deal with the idea of inert materials and I guess perhaps an easy way to deal with this, this is a down grade in my opinion. Perhaps we get rid of #3 and change #4 to read, "*inert materials shall not be permitted.*" It is not our intent to place inert materials there. Neither does Druffel Farms want that.

Larry Cochran – So, on #3 just delete "and rock," and just call it clean earth only?

Jeff Motley – We could do that. I'm sorry, I didn't catch that.

Alan Thomson - It is an easy fix. County code does allow for inert landfills. Dirt and gravel and just soils are inert. It is all inert. So the fix to that would be take out, "*rock.*" If that is all you want that is all you get.

Jeff Motley – That is all Druffel Farms wants.

Alan Thomson – so just take out the "*rock*" part. "*Only clean earth shall be allowed.*"

Jeff Motley – Okay, but my concern is the applicant would be required to get a permit from the DOE and I don't believe that would be right would it?

Alan Thomson – Yes, it is.

Jeff Motley – For filling of dirt?

Alan Thomson – Yes, it is. It is a landfill, so regardless, the State has their fingers in that pie too. They require a permit and it is not really a big deal. All it is they will be making sure that non-permitted stuff does not go in there. Over a certain number of cubic yards and that number is 250 cubic yards, the state permitting comes in. It is for anything really. So, if you are even returning it to farmland the State still requires a permit for that.

Jeff Motley – Okay, I didn't know that.

Jim Lemon – Things have changed and I think #4 will pick up on that here. Any other questions on #3? We are okay with just dirt? I think this isn't a bad thing to say. We've had, back several years ago we had a couple fills like this and it was stipulated it would be dirt and rock and before long the applicants were coming in and asking for help because people were dumping anything and everything they could put there. This gives you some wordage that you can throw in front of them.

Alan Thomson – We might want to amend the application because the application says "rock" so we can strike rock out of the application.

Jeff Motley – Let's just make it easy, we have to make the application. We'll just do it the way it is written and that's not a problem.

Rick Finch – the owners can limit whatever they want to.

Jim Lemon – And you guys have control.

Jeff Motley – Certainly.

Rick Finch – This way you are not responsible if somebody does dump rock and it is buried.

Jeff Motley – Just leave it the way it is written.

4. *Before the filling can begin, the applicant will need to go through the Department of Ecology's permitting process for an inert landfill. The application will be submitted to the Whitman County Environmental Health Department and then reviewed by Ecology. A permit will be issued by the state.*
5. *The eastern part of the project area that has been identified by the specialist as Palouse Prairie vegetation has to be protected and fenced off with a silt fence from the rest of the fill site.*
6. *There shall be no burning on the site.*
7. *Water as needed, supplied by a water truck, shall be used to control dust.*
8. *Access to the site shall be controlled by a locked gate and barriers to prevent unauthorized access.*
9. *Topsoil shall be used for reclamation of any part of the fill site that is complete and seeded to grass or returned to agricultural use.*
10. *The elevation of the filled site will be no higher than the elevation of the highest point of the surrounding landscape bordering the fill site.*
11. *The applicant will be responsible for the total cleanup of the fill site if closure of the facility is planned. This means that any stockpiles should be leveled or buried and the site returned to natural topography.*

12. A sign shall be posted reading: "private fill site - no dumping, violators will be prosecuted," by the applicant.

13. A stormwater and erosion control plan completed by a professional engineer licensed in the State of Washington shall be implemented during the filling period.

14. Hours of operation will be from 7:30 a.m. to 5:00 p.m., Monday through Friday.

Jim Lemon – I assume that is okay with you or is this something that needs to be debated?

Alan Thomson – It is up to the applicant.

Jim Lemon – As read, okay.

15. A breach of these conditions will mean a revocation of this permit.

Larry Cochran – So, this is already a fill site and the other permit has expired? But there is no expiration on this one?

Alan Thomson – That is up to you.

Jim Lemon – Being the oldest guy on this Board, usually when we have permits for stuff like this, quarries, and other things, we have put a time frame on it, because our feelings have always been if you come and you want a permit and it means you want to use it and you're not going to let it sit here idle for 2-3 years. I know you don't plan to do that. It is not a bad thing to do and we can set it anyway you want.

In past years, there were a couple of permits issued and there was no activity on it. They just sat there. We termed it as mining us. In other words they got the permit and they thought they could drag it on. So that was the feeling at the time.

Personally, I think it is whatever you think but I don't think it is a bad thing to do. Knowing you two, I have a feeling it is going to go to work right away. So, whatever you think.

Larry Cochran – We have also put a time limit on but also can be renewed by administrative extension.

Alan Thomson – The numbers are usually ten years. That is what you've put on it. The conditional use lasts for ten years and if necessary they can come back to us and apply for an administrative extension for another ten years.

Jim Lemon – Have you done any figuring as far as, you are opening it up, and you are going through this process. Do you have an idea about how long it will take or a goal of time when you think you can fill it, level it and put it back to natural topography?

Jeff Motley – We are always at the mercy of the public sector in the funding that they get. This is close to Moscow so what we are really looking for is the U of I and the projects that they come out with. They got one right now that won't get the job done, but they might be in a dry spell in ten years. That is why we are here today. It's the big projects that complete these projects. That is a lot of yardage.

So, I can't predict the funding that the U of I is going to get over the next ten years and whether it is adequate or not. We are not like garbage collectors where we have a steady stream all the time. This thing is a balloon that can get really big for several years or it can dry up. I know that is not an answer. We are at the mercy of the public sector and when they get funding for projects.

Jim Lemon – What do you guys think?

Larry Cochran – So, we put on a ten year time with a ten year extension? That is 20 years.

Jeff Motley – I would think that would be adequate. I think that ten years could be short-sided perhaps but with the administrative extension, I'm pretty sure we'd get the job done.

Larry Cochran – In twenty years none of us are going to be here anyway.

Rick Finch – At least we don't have to hear it again.

Jim Lemon – I know it's going to get done. It looks like it is a perception of fairness to everybody else that gets a conditional use permit and we put a time on it.

MOTION by Larry Cochran and seconded by Rick Finch to put a ten-year permit with a ten-year administrative extension or until the 58,000 cubic yards is reached, whichever comes first. Motion passed.

Alan Thomson – Or until the 58,000 cubic yards is reach, whichever comes first.

Jim Lemon – That's not a bad thing, either, because there have been times when it supposedly it was to be filled and leveled and you'll do it, I know.

MOTION by Rick Finch and seconded by Larry Cochran to accept the recommended conditions as read and amended. Motion passed.

MOTION by Larry Cochran and seconded by Rick Finch to grant **CU-19-02** to the applicant. Motion passed.

7:57 p.m. – Meeting closed.

These minutes have been read and approved by Planning Staff.

| Name | Title | Date |
|--------------------|--------------------------|----------------|
| <u>Katrin Kutz</u> | <u>Assistant Planner</u> | <u>5/13/19</u> |