



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

August 15, 2011

Ordinance 17167

Proposed No. 2011-0225.2

Sponsors Gossett

1 AN ORDINANCE concurring with the recommendation of the
2 hearing examiner to approve, subject to conditions,
3 reclassification of certain property located at 31002 SE
4 Enumclaw-Chinook Pass Road, as described in department of
5 development and environmental services file no. L11TY401
6 from I-P, Industrial to I-P, Industrial with a revised P-Suffix
7 condition, at the request of Miles Sand & Gravel Company, and
8 amending King County Title 21A, as amended, by modifying the
9 zoning map to reflect this reclassification.

10 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

11 SECTION 1. This ordinance adopts and incorporates the findings and conclusions of the
12 July 14, 2011, report and recommendation of the hearing examiner, filed with the clerk of the
13 council on August 10, 2011, upon the application of Miles Sand and Gravel to reclassify certain
14 property described in department of development and environmental services file no. L11TY401.

15 SECTION 2. The recommendation of the hearing examiner to reclassify the subject
16 property from I-P, Industrial to I-P, Industrial with a revised P-Suffix condition is hereby

17 adopted, subject to conditions. Upon this ordinance becoming effective, the land use services
18 division shall amend the official zoning maps of King County to reflect this action.
19

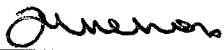
Ordinance 17167 was introduced on 5/16/2011 and passed by the Metropolitan King County Council on 8/15/2011, by the following vote:

Yes: 9 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,
Ms. Patterson, Ms. Lambert, Mr. Ferguson, Mr. Dunn and Mr.
McDermott
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments: A. Hearing Examiner Report Dated July 14, 2011

July 14, 2011

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
 King County Courthouse, Room 1200
 516 Third Avenue
 Seattle, Washington 98104
 Telephone (206) 296-4660
 Facsimile (206) 296-0198
 Email hearingexaminer@kingcounty.gov

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Development and Environmental Services File No. **L11TY401**
 Proposed Ordinance No. **2011-0225**

MILES SAND AND GRAVEL
 Rezone Application

Location: 31002 SE Enumclaw-Chinook Pass Road

Applicant: Miles Sand & Gravel Company
represented by Mike Schuh
 1220 M Street SE
 Auburn, WA 98071
 Telephone: (253) 833-3705
 Email: mikes@gravelpits.com

and

represented by William Lynn, Attorney
 Gordon Thomas Honeywell
 1201 Pacific Avenue Suite 2100
 Tacoma, WA 98402
 Telephone: (253) 620-6500
 Email: wlynn@gth-law.com

King County: Department of Development and Environmental Services (DDES)
represented by Mark Mitchell
 900 Oakesdale Avenue SW
 Renton, WA 98057
 Telephone: (206) 296-7119
 Email: mark.mitchell@kingcounty.gov

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:
 Department's Final Recommendation:
 Examiner's Recommendation:

Approve
 Approve, (modified)
 Approve (modified)

EXAMINER PROCEEDINGS:

Hearing Opened: June 21, 2011
 Hearing Closed: June 21, 2011

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

ISSUES AND TOPICS ADDRESSED:

Modification of use limitations within the I-P zone classification in the Forest Production District.

SUMMARY:

A modification to the P-suffix condition, designating the approved uses on the subject property, is granted.

FINDINGS, CONCLUSIONS AND RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:1. **General Information:**

A request for a zone reclassification from I-P, Industrial, to I-P, Industrial with a revised P-Suffix condition. The proposed revision is to allow for another use of the existing truck and equipment maintenance facility originally developed as part of the now surplused Weyerhaeuser White River Mill. No onsite mining and processing is proposed.

Location: Weyerhaeuser-White River Mill site - 31002 SE Enumclaw-Chinook Pass Rd (SR 410)

Proponent: Miles Sand and Gravel Company
 400 Valley Avenue NE
 Puyallup, WA 98372
 253-833-3705
 Attn: Mike Schuh

Threshold Determination: Determination of Non significance (DNS)
Date of Issuance: May 10, 2011
King County Action: Zone Reclassification / P-Suffix revisions

Requested Zone: I-P, Industrial, with revised P-Suffix conditions to allow other natural resource activities, truck and equipment maintenance.

Existing Zone: I-P, Industrial, with P-suffix conditions limiting use of the property to forest production activities.

Community Plan: Enumclaw
Section/Township/Range: SW 28-20-07
Comprehensive Plan Designation: F (Forest Production District)

2. The facts set forth in the King County Land Use Services Division's Preliminary Report to the King County Hearing Examiner for the June 21, 2011 public hearing are found to be correct, except as modified by the following findings, and are incorporated herein by this reference.
3. King County Comprehensive Plan policies for the rural area and natural resource lands "encourage natural resource-based industries and natural resource land uses in the Rural Area as required by the GMA (Growth Management Act)." King County Comprehensive Plan page 3-1. The existing Industrial (I)-P zone on the subject property is surrounded largely by properties zoned Forest (F). A small portion of the southeast corner of the property is adjacent to an area zoned Mineral (M)-P. The existing P-suffix condition, applied to the property in 1997, was explicitly "intended to recognize an existing legally established use."

The use that was recognized by the existing P-suffix condition was vehicle maintenance and office, with associated activities, supportive of logging on the subject property and other properties in the area. The vehicle maintenance function provided for the maintenance, repair and temporary storage of heavy equipment used for logging.
4. The maintenance, repair and storage of vehicles and equipment used to support other natural resource industries, such as mineral extraction, and for transportation of sand, gravel and other aggregates, is not significantly different than the currently authorized use. After the closing of the previously existing lumber mill on the site, the property owner continued to maintain the existing vehicle maintenance and office facilities, and has marketed them for the purpose of continuing the preexisting use. No action by the property owner has indicated a purpose or intent to abandon the previously existing use for vehicle and equipment repair and maintenance.
5. The proposed modification to the P-suffix condition would enable a new user of the subject property to continue essentially the same use as is permitted by the current P-suffix condition, supportive of a different industry that is also authorized within the Forest Production District. The proposal would have no additional impact upon the environment than is common in the maintenance, service and storage of lumber and forest products vehicles and equipment.
6. The reclassification of the subject property to modify the P-suffix condition would facilitate re-use of the subject property for the maintenance, repair and storage of vehicles and equipment used in the natural resource industries, and would restore employment on the site. The proposal would not have adverse environmental impacts of a nature or extent different than impacts from the lawful use of the site for maintenance, service and storage of vehicles and equipment used in association with the forestry operations that occurred on the site. Accordingly, the requested modification of the P-suffix condition is in the public interest and is consistent with the King County Comprehensive Plan.
7. The applicant has proposed limiting the area to be used for vehicle repair, maintenance and storage to approximately four acres northeast of the existing maintenance building, and limiting the number of vehicles onsite for repair and maintenance or storage to not more than 60 vehicles at any one time. The department has proposed a similar area limitation, but with a limit of 20 vehicles onsite at one time.
8. The Department of Development and Environmental Services has also recommended a condition that no general storage of hauling vehicles and other mining equipment be authorized; the applicant objects to this recommended condition.
9. The applicant's proposal is to service its own vehicles and equipment on the site; a general equipment repair, maintenance and storage facility, for repair, maintenance and storage of vehicles and equipment owned by others, is not requested.

10. No evidence was presented, or SEPA review conducted, to support development of additional portions of the site for industrial use.

CONCLUSIONS:

1. The proposed modification of the P-suffix condition should not authorize any site development that would encompass or impact areas not already developed.
2. There is no evidence that the specific number of vehicles on the site at any given time for repair, maintenance or storage would have any effect or impact beyond the effect and impact of the historical use of the property, provided that the use of the property is solely for maintenance, repair and storage of the property owner's vehicles and equipment.
3. The proposed reclassification meets the requirement of KCC 20.24.190 for additional examiner findings when reclassification of property is recommended.
4. Reclassification of the subject property to I-P, modifying the P-suffix condition, should be approved as recommended below.

RECOMMENDATION:

1. Reclassification of the subject property is approved to I-P, with the following P-suffix condition in lieu of the prior P-suffix condition:

"Uses are limited to:

"Processing of harvested timber into dimensional lumber, cants, treated lumber, plywood and similar wood products, as enumerated in the following Standard Industrial Classification Manual (Executive Office of the President, Office of Management and Budget, 1987 ed.) codes: 242, 2435, 2436, 2439, 2491, and 2493; plus, storage of logs and wood products produced onsite, wholesaling and packaging of products produced on site, helipad, accessory structures customarily incidental to the above uses, and generation or cogeneration of energy with forest product residues used in the permitted processes on site;

"Repair and maintenance of the property owner's owned or leased vehicles and equipment, which are used in resource processing, production or transportation of resource based products, including associated storage of the property owner's owned or leased vehicles and equipment.

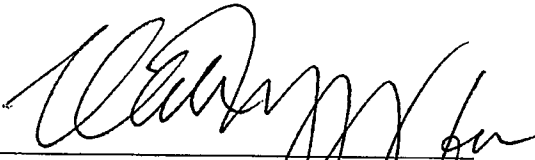
"This zoning (modification of the P-suffix condition) is intended to recognize an existing legally established use and other similar resource uses consistent with King County Comprehensive Plan Policy R-620. The underlying King County Comprehensive Plan designation of this site remains Forest Production District.

"This modification of the P-suffix condition does not authorize the expansion of the area of the subject property currently developed for the purposes authorized by this condition. Any expansion of the developed area on the site shall be subject to environmental review, and will require modification of the P-suffix condition."

2. With regards to water availability, prior to occupying the site, the applicant shall satisfy the City of Enumclaw or other water purveyor that all necessary agreements are in place, and any upgrades to the water system conveyance and infrastructure serving the site, for domestic and fire flow purposes, are guaranteed and will be developed in a timely fashion. Upon completion of the preceding, the applicant shall obtain the concurrence of Fire District #28 that the site has adequate fire protection for the proposed use.

3. No on site mineral extraction, processing of sand and gravel, or stock piling of off site material is authorized.

ORDERED July 14, 2011.



James N. O'Connor
King County Hearing Examiner *pro tem*

NOTICE OF APPEAL

July 28, 2011 August 4, 2011 In order to appeal the decision of the hearing examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250 (check payable to King County Office of Finance) on or before **July 28, 2011**. If a notice of appeal is filed, the original two copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before **August 4, 2011**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, prior to the close of business (4:30) p.m. on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. If the Office of the Clerk is not officially open on the specified closing date, delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance that implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting the Council may adopt the Examiner's recommendation, defer action, refer the matter to a Council committee, or remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act (LUPA) is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within 21 days of the date on which the Council passes an ordinance acting on this matter. (The LUPA defines the date on which a land use decision is issued by the Council as the day the Council passes the decision ordinance.)

MINUTES OF THE JUNE 21, 2011, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L11TY401.

Mr. Jim O'Connor was the Hearing Examiner in this matter. Participating in the proceeding were Mark Mitchell, William Lynn, Rick Little, Mike Schuh, and Robert W Thorpe.

The following Exhibits were offered and entered into the record:

Exhibit no. 1 Application for zone reclassification submitted February 8, 2011

- Exhibit no. 2 Application questionnaire submitted February 8, 2011
- Exhibit no. 3 Certificate of applicant status/transfer submitted February 8, 2011
- Exhibit no. 4 Certificate of water availability submitted February 8, 2011
- Exhibit no. 5 Assessor map 27-28-33-34-20-07
- Exhibit no. 6 Site Plan submitted February 8, 2011
- Exhibit no. 7 DDES staff report
- Exhibit no. 8 State Environmental Policy Act (SEPA) threshold determination of non-significance issued May 10, 2011
- Exhibit no. 9 SEPA checklist submitted February 8, 2011
- Exhibit no. 10 DDES rezone application file no. L11TY401
- Exhibit no. 11 Site Fire Flow/Water Availability Memorandum from Scott Woodbury, City of Enumclaw Department of Public Works
- Exhibit no. 12 DDES exhibit list
- Exhibit no. 13 Photographs of the subject property and buildings located within

JNOC/vsm