

**WHITMAN COUNTY
BOARD OF ADJUSTMENT
March 24, 2022
Zoom Meeting**

MEMBERS:

Larry Cochran, Chair
Rick Finch – Vice-Chair
David Swannack
Ryan Kile

Staff: Alan Thomson – Whitman County Planner; Grace Di Biase, Whitman County Assistant Planner; Brandon Johnson, Public Works; Elinor Huber, Clerk.

Applicant: Panhandle Truck and Equipment Repair, LLC

Requests: Operation of farm and heavy equipment repair shop.

Location: The site is addressed as 1862 Chase Road, in the southeast quarter of Section 28, Township 20 N., Range 45 E., WM., Whitman County, Washington. The site is approximately 3.42 miles southwest of the Town of Tekoa, WA.

FINDINGS OF FACT

1. On February 3, 2022, Joshua and Hana Sperber, owners of Panhandle Truck and Equipment Repair, LLC, applied for a conditional use permit to operate a farm and heavy equipment repair shop in the Agricultural District. (See **Exhibit 1**, conditional use application.)
2. The 6-acre parcel is addressed as 1862 Chase Road, Tekoa, WA, 99033. The property is in the southeast quarter of Section 28, Township 20 N., Range 45 E., W.M., Whitman County, Washington. The site is approximately 3.42 miles southwest of the Town of Tekoa, WA. (See **Exhibit 2**, vicinity map.)
3. As per Section 19.10.090 – conditional uses and administrative permits of the Whitman County Zoning Code, a conditional use permit for an agricultural repair shop can be issued. The applicant proposes to use an existing shop for repairing farm and heavy equipment. There will be a total of four employees. ~~with eight vehicular trips per day to the business.~~ (See **Exhibit 3**, aerial.)

Rick Finch – I have a question on the Findings of Fact. I think the eight trips per day seems pretty light. If you take some customers, I'm associated with a repair shop and we get almost that many trips per day from the parts delivery people, let alone employees and customers. I don't know if it makes any difference in the trip, if it is twenty, I don't think it would be a number of concern. I don't know if we should change it. It depends on what the applicants say.

Ryan Kile – The question would be to Alan, is there a restriction of how many trips per day?

Alan Thomson – No, unless there is an extremely amount of traffic, it could impact the roads. That would pull in the Public Works Department with Mark Storey, in order to get some sort of feel for that but this does not rise to that level. This is the number the applicant gave to us so I think the applicant should chip in and answer that question.

Hana Sperber – When I was going off of that, I was just thinking basically employees. But I would say,

Joshua Sperber – It all depends on the day but we are usually not getting customers every day. I would say maybe an average of 10-12. The UPS driver comes out quite bit, too, but not every day.

Rick Finch – It seemed a little unreasonably low to me, but I don't see there is any reason not to put what would be an appropriate number, but I don't have a of heartache about it.

Larry Cochran – If it is not a concern, why don't we just strike that last half of that sentence?

Ryan Kile – Yes, let's hope they have 100 trips a day.

Larry Cochran – So, we can just say, "There will be a total of four employees." Strike the rest of the sentence. Unless there is an issue we don't know about.

Alan Thomson – I can't think of any issue at all.

Larry Cochran – Is the applicant okay with that?

Joshua Sperber – Yes.

Larry Cochran – Is the rest of the Board okay with striking that? Okay, moving on.

4. On February 10, 2022, Whitman County Planning issued a Determination of Nonsignificance (DNS) under the State Environmental Policy Act Rules (Chapter 197-11 WAC) for SEPA 22-03. The comment period ended on Thursday, February 24, 2022, and no comments were received. (See **Exhibit 4**, DNS).
5. All landowners within 300' of the site were notified of the applicant's request and public hearing before the Board of Adjustment by mail sent from Whitman County Planning on February 23, 2022. An affidavit of mailing is on file to confirm the recipient list. The comment period ended at 5:00 p.m. on March 24, 2022, and no comments were received. (See **Exhibit 5**, affidavit of mailing; **Exhibit 6**, notification letter.)

Larry Cochran – Does that statement still hold true?

Alan Thomson – Yes, it does.

6. On March 3, 2022, a legal advertisement for the notice of conditional use hearing was published in the Whitman County Gazette. A copy of the legal advertisement was placed on the bulletin board at the front of the Public Works Department. The comment period ended at 5:00 p.m. on March 24, 2022, and no comments were received. (See **Exhibit 7**, advertisement.)

Larry Cochran – Is that still true?

Alan Thomson – Yes.

7. The Sperber's have written into their Statutory Warranty Deed the right to withdraw water from the well on the adjacent landowner's property. ~~Less than five gallons of water per day may be used for equipment and hand washing.~~ No water will be discharged onto the ground. (See **Exhibit 8**, Statutory Warranty Deed.)

Larry Cochran – So, Alan, would you like to clarify more for me?

Alan Thomson – Yes, you've seen the Warranty Deed. That is the first time I've seen that myself but that is a legal document that states that they do have a legal right to withdraw water from the adjacent landowner's well. Typically, an easement under most circumstances but this is written into the warranty deed.

Rick Finch – My question on that is I read the warranty deed, I believe that, again the five gallons of water per day I didn't see any restriction in the warranty deed to the amount of water so again, that seems like it is either unnecessary language to have in there or almost impossibly restrictive.

Grace Di Biase - Can I speak?

Larry Cochran – Go ahead.

Grace Di Biase – First I want to apologize. My direct link wasn't working so I had to manually type in the link and my computer wasn't able to load it. I'm here. Thank you for your patience.

The reason why there is specified five gallons per day is that is what the Sperber's provided in their SEPA and that way the Board can know what they intend to use. It is pretty minimal. Thank you.

Rick Finch – So, but then the only water that it addresses is hand washing and equipment washing? What about toilets, and drinking water? Four employees are going to have more toilet flushes. Again, what is the point of having that very low amount of water stated?

Alan Thomson – I think that is just stating Mrs. Sperber's thought about how much water they will withdraw. It does not mean that is their limit. That is not written into the warranty deed. That is just what they anticipate using. You could strike that if you want.

Rick Finch – So, I don't know. Maybe they are great water conservers and that is their goal and that is all they want to use. It just seems to me like it doesn't need to be there. If it is not realistic, why put it in?

Joshua Sperber – We don't actually use a lot of water but we bring bottled water in just because the lines are old but everything basically is just what it says. It doesn't say anything about the toilet but the toilet and cleaning hands, we have a parts washer inside the shop that is contained and we have a company come and pump out the stuff every couple months. They clean out the parts washer. So, we don't use a lot for cleaning equipment and stuff like that.

Larry Cochran – It just seems like it just locks you in and who knows what the future holds? So, if it doesn't need to be there, let's just strike it.

David Swannack – I agree with that.

Larry Cochran – Is that okay with the rest of the Board?

Ryan Kile – Yes.

Rick Finch – Yes.

Larry Cochran – Okay, we will strike that sentence, ~~“Less than five gallons of water per day may be used for equipment and hand washing.”~~

Grace Di Biase - Okay, thank you.

8. At the time of this hearing no written comments have been received by Whitman County Planning concerning this notification.

CONCLUSIONS OF LAW

1. The ~~County Planner~~ **Board of Adjustment** has been granted authority to render this decision.

Alan Thomson – I think we need to change that one. It should read, **“The Board of Adjustment,”** not the County Planner.

Larry Cochran – That's what I was thinking. If you had the authority, why did it come to us?

Rick Finch – Why are we here, tonight, Alan?

Alan Thomson – That was a wish.

Grace Di Biase – I'll change that, too.

2. As conditioned, the proposed use is consistent with the intent, purposes, and regulations of the Whitman County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Whitman County Code.

4. As conditioned, the use will comply with all required performance standards as specified in Whitman County Code.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Whitman County Code or the Comprehensive Plan.
6. Any Finding of fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

Larry Cochran – Okay, are there any other additions to the Findings of Fact?

Grace Di Biase – No.

MOTION by Rick Finch and seconded by Dave Swannack to approve the Findings of Fact. Motion passed.

DECISION

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application CUP 22-03 for Panhandle Truck and Equipment Repair, is hereby APPROVED subject to the following conditions of Approval.

CONDITIONS OF APPROVAL

Planning staff concludes that this proposal is consistent with the Whitman County Comprehensive Plan and Zoning Ordinances. Planning staff approves this administrative use permit contingent upon the following conditions:

1. The applicant shall obtain necessary permits from Whitman County and other permitting agencies. This conditional use permit is not to be construed as approval for these other agencies. The applicant must obtain these necessary permits or approvals. Failure to obtain these permits is basis for revoking this conditional use permit.
2. This ~~administrative use~~ continual use permit will be continuous with the ownership of the property. Should ownership change, the Whitman County ~~Planning Department~~ **Board of Adjustment** must be notified. The conditions apply to the land regardless of transfer of owners.
3. All outdoor lighting has to be full-cutoff so as to not allow light to escape the business location.

Alan Thomson – I have a comment on #2, in the second sentence. It should read the **Board of Adjustment** instead of the “Planning Department.” And it is not an “administrative use permit.” It should read a “**conditional use permit**, instead of an administrative use permit.

Grace Di Biase – Thank you.

Larry Cochran – Are there any other additions to the conditions?

Rich Finch – I don't have anything.

Ryan Kile – No.

David Swannack – No.

MOTION by Ryan Kile and seconded by Rick Finch to approve the Conditions of Approval. Motion passed.

Larry Cochran – So, your **CUP 22-03** is approved. So, Josh, you have your conditional use permit.

Joshua Sperber – Thank you.

Larry Cochran – I have one question. How close are you to the Spokane County line?

Joshua Sperber – Probably, about ten miles.

Larry Cochran – I figured you had to be somewhere close up there. Okay, Alan, Grace, is there anything else to come before the Board?

Alan Thomson – Yes, I've got some information for Josh and Hana. There is an appeal period and Grace will be getting in touch with you about that. Congratulations, you have your permit. If you want, you can check out now and we will be in touch with you.

Joshua Sperber – Thank you.

7:19 p.m. - Adjourned

