

**Whitman County Board of Adjustment
Zoom Public Hearing
CU-21-03
May 13, 2021**

MEMBERS:

**Larry Cochran, Chairman
Ryan Kile**

**Rick Finch, Vice Chairman
David Swannack**

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

Others: Chris Peha, Northwest Grain Growers; John Cranor, Northwest Grain Growers; Adam Schmidtgall, Anderson Perry & Associates; Darrell Booth, Northwest Grain Growers.

7:02 p.m. –Chairman Larry Cochran opened the hearing.

Ryan Kile – I am going to have to recuse myself voting tonight and participating in this and will be jumping off. But, I am fully supportive of it but due to me working for Northwest Farm and Credit Services they would prefer that I don't vote in dealing with customers. Northwest Grain Growers is a customer. So, we hate to show any favoritism and I think the project makes sense. I don't see any issues with it but we wouldn't want to have any public comments come back that would be viewed as favoritism or anything like that. I'm sorry, Chris. I hope you understand that.

Chris Peha – I understand completely, Ryan and I appreciate your support. I completely understand your position and that makes the most sense, for sure.

Ryan Kile – So, do you have enough members on for tonight?

Alan Thomson – Yes, we do. We have three voting members so we are good for a quorum.

Ryan Kile – Okay, I'm going to exit the meeting and I wish you guys good luck and we will talk to you at the next Board of Adjustment meeting.

Alan Thomson – Thanks, Ryan.

Larry Cochran – So, Adam, are you a Northwest Grain Growers guy, too?

Adam Schmidtgall – Yes, I am grain consultant for Northwest Grain Growers.

Larry Cochran – Okay. So there is no one on line that is not involved with the project. Is that correct?

Alan Thomson – It looks like Darrell and John Cranor are associated with Northwest Grain Growers.

Larry Cochran – That is quite a driveway you built, Darrell.

Darrell Booth – An expensive one.

Larry Cochran – Okay, so let me get to the Finding of Facts. This is a virtual hearing by zoom. We had the one conflict with Ryan, so hopefully nobody else has conflicts with this hearing.

Rick Finch – I’m good.

David Swannack – I’m good, too.

Larry Cochran – I will read the Findings of Fact. If there are questions that come up as we go through them, we will need you to state your name for the record.

Applicant: Northwest Grain Growers

Requests: A conditional use permit for a commercial agricultural commodity warehouse in the Agriculture District.

FINDINGS OF FACT

1. On April 9, 2021, Northwest Grain Growers applied for a conditional use permit for the operation of a commercial agricultural commodity warehouse. (See **Exhibit 1**. Conditional use application.)
2. In the application packet the applicant prepared a written statement addressing the conditional use criteria stated in the application form. (See **Exhibit 2**, Written statement.)
3. The plan entails construction of temporary and permanent grain storage pads. The purpose of the storage pads is to store grain after harvest before it is shipped. The project will be completed in two phases. Phase 1 will be the temporary storage pad and will begin construction in 2021 for use during 2021 harvest. Phase 2 is scheduled to begin construction following the 2021 harvest and will consist of two paved storage pads for use in 2022 and beyond.
4. The project site is located in the Agricultural District of unincorporated Whitman County, approximately 0.5-mile northwest of Endicott, Washington on the Endicott West Highway. The legal description is Section 30, Township 17N., Range 41 E. W. M., Whitman County Washington. The proposed grain storage site is a relatively flat 20-acre site large enough for the proposed temporary and two permanent ground pads. The temporary pad will be approximately 525 feet long and 160 feet wide for a storage capacity of 1.0 million bushels (MB). The permanent pads are 330 feet in diameter and will provide

storage of up to 2MB per pad. The temporary pad will be constructed on the native soil and permanent pads will be constructed on a paved surface. Other improvements will include a scale, conveyors, gravel access roads, and truck turnaround areas. (See **Exhibit 3**, Vicinity map and **Exhibit 4A** and **4B**, Site plans.)

5. Grain piles, both the temporary (Phase 1) and permanent (Phase2), will either be picked up immediately following harvest (September to October) or covered by the end of August to the first half of September for later pick up. The picking up or covering of piles is dependent on market conditions and the decision to cover or pick up is made each harvest season. If piles are to remain on the ground pads, they will be covered with tarps to prevent rodent infestation.) The tarps are sewed on site with large panels that make up the tarp. The tarp is removed in smaller sections as needed to provide loader access. By removing the tarp in smaller sections, this allows most of the pile to remain covered until it is all picked up. Timing for picking up covered piles is a function of market conditions. Pick up can occur any time between October and June of the following year. This ensures that the pads are empty and ready for the next harvest.
6. Commercial agricultural commodity warehouses are authorized in the Agricultural District as a conditional use. Section 19.10.010 of the Whitman County Code (WCC) establishes the intent of the Agricultural District as follows:

The Agricultural District provides minimum standards for areas of general agricultural land use including requirements for single-family dwellings and accessory dwelling units. It is intended that agriculture be the primary use in this district and that the goals of the County Comprehensive Plan be pursued where reasonably possible. [See **Exhibit 5**, WCC 19.10.010 and **Exhibit 6**, WCC 19.10.090(A)(9)]

7. Commercial Agricultural Commodity Warehouses are compatible with uses and agriculturally zoned and managed areas. These types of business are necessary to farmers in order to sell their crops.
8. The site is approximately ½ mile west of the town of Endicott. The land to the north, south, and west of the site is farmland. There is a house approximately 300 feet south of the site across the Endicott Road. The Endicott Gun Club is approximately 400 feet to the east of the site and the Endicott Elementary School is approximately 1,500 feet to the east of the site.
9. The site is accessed off Endicott Road. The County Road Department has approved a driveway access point. (See **Exhibit 7**, Access permit.)
10. No water or sewer is proposed for this project.

11. Wetlands are mapped near the project site and a wetland report was done and received on January 19, 2021. The report found that there will be no impacts to the wetlands or their buffers from the project. (See **Exhibit 8**, Wetland report.)
12. A soils investigation of the site was conducted by Anderson Perry & Associates, Inc. (See **Exhibit 9**, Soils investigation letter.)
13. A storm water plan has been prepared for the finished site by Anderson Perry, an engineering company. (See **Exhibit 10**, Storm Water report.)
14. 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. (See **Exhibit 11**, Assessor's map.)

Larry Cochran – Alan, is this still correct?

Alan Thomson – Yes, that is still correct.

15. A public notice of the conditional use hearing was published in the Whitman County Gazette on April 22, 2021.
16. Whitman County is lead agency for the State Environmental Policy Act (SEPA) and issued a Mitigated-Determination of Nonsignificance (M-DNS) for the proposed project on April 22, 2021. Three conditions were placed on the SEPA Determination:
 1. A storm water run-off plan for the grain facility shall be drawn up and available before the issuance of the conditional use permit. Plans and implementation shall be completed by a professional engineer licensed in the State of Washington.
 2. Using best management practices, implement erosion control methods as necessary to prevent project run-off. All disturbed surfaces will either be covered in gravel paved, or revegetated.
 3. Any outdoor lighting shall be shielded downward to prevent light being shed on adjoining land.
17. The comment period ended on May 6, 2021, and two comments were received. (See **Exhibit 12**, email from Whitman County Environmental Health Department and **Exhibit 13**, Ecology letter.)

18. On May 10, 2021, the Responsible Official responded to the comments and upheld the M-DNS decision. No SEPA appeals were received. (See **Exhibit 14**, SEPA response email to Ecology.)

Larry Cochran – So, Alan, are you the responsible official?

Alan Thomson – Yes, I am.

Larry Cochran – So, you finally got Ecology satisfied?

Alan Thomson – Well, you read the correspondence. I wouldn't say they were entirely satisfied, but as per the law, as per the code with the backing of the wetlands specialist, the critical areas ordinance allows me to make a decision if I have the backing of the wetlands specialist, which we have. So, therefore, I said it wasn't necessary to go back out there again. They seemed to be okay with that. Ecology seemed to be okay with that but we are still in an appeal period. There is a 15-day appeal period from May 10th, so we'll see. I don't anticipate an appeal.

Larry Cochran – This would be a good time for them to come look, beings it is so dry.

Alan Thomson – The wetland is a good 150 feet away from any impacts. Even if it were at 150 feet, the maximum distance for a Category 3 wetlands which is most likely what it is according to the wetland specialist, the maximum buffer is 150 feet. So, in my mind we are clear. That's why I made that decision.

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

Rick Finch – Not I.

David Swannack – I'm fine.

CONCLUSIONS OF LAW

1. The Board of Adjustment has been granted authority to render this decision.
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.

MOTION by Rick Finch and seconded by David Swannack to approve the Findings of Fact.

Larry Cochran – I approve. Motion passed.

DECISION

Based on the above Findings of Fact and Conclusions of Law, conditional use permit application CUP 21-03 Northwest Grain Growers Commercial Agricultural Commodity Warehouse is hereby APPROVED subject to the following Conditions of Approval.

CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The applicant shall obtain any necessary permits from Whitman County (e.g. 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. The project will comply with applicable setback requirement in WCC 19.10.040.
4. The project will comply with applicable height limit in WCC 19.10.050.
5. During construction and operations, the project shall comply with applicable state noise standards.
6. Implement construction work-hour controls so that most noise-generating activities occur between 6 a.m. and 6 p.m.

7. The applicant shall obtain and comply with conditions of all applicable emission permits.
8. All vehicles used during construction and operation will comply with applicable federal and state air quality regulations for exhaust emissions.
9. The applicant shall maintain a water truck on-site during construction for dust-suppression.
10. Truck beds will be covered in accordance with local, state, and federal requirements when transporting grain on public roads.

Larry Cochran – I have a question on this one. Is this the farmers hauling in or the company hauling in, or who does this pertain to?

Alan Thomson – That would be anybody that is using the facility. All trucks. And that is taken directly out from PNW Hearing Examiner’s conditions. So, I guess everybody has got to comply with federal regulations whether you are the operators of this facility or farmers bringing their grain to the facility.

Larry Cochran – So, will there be any farmers hauling to this facility right out of the field?

John Cranor – Yes, during harvest it will be farmer, primarily farmer direct field to the site.

Larry Cochran – How many of those farmers actually have tarps on their trucks?

John Cranor – I can’t answer that Larry, and I also don’t know. I mean there are certain farm exemptions and I certainly don’t know the language or regulations regarding what they are required to do versus us as a commercial operator required to do without some research.

Alan Thomson – It could fall in line with local state and federal requirements because the private landowners have to be responsible for local state regulations, as well.

Larry Cochran – I am assuming that a lot of these are the same as the PNW Conditional Use permit that was done?

Alan Thomson – Exactly. This is the exact same type of operation.

Rick Finch – Are these the same conditions?

Alan Thomson - Yes, this is directly from the Hearing Examiner’s conditions that was his decision. Exact language.

Rick Finch – I mean on these things, you know, that is a condition this Board isn't responsible for regulating that unless there are complaints about this and it is brought back to the Board. I think before that the County would have communications with the operator. I can just imagine our Sheriff's Department pulling over every truck coming from the field that is uncovered during harvest. I'm not too worried that it is this Board's problem.

Larry Cochran – The only law that I know is as long as the commodity you are hauling is more than 6 inches below the top of the rack it doesn't have to be tarped.

Rick Finch – Yes, and it is not falling off. They can pull you over for it falling off. So, I think you are right.

Larry Cochran – Like everything else, we kind of skirt around some of the requirements, maybe but.

Rick Finch – Maybe that is the federal or the state and local requirement, so.

Larry Cochran – Right.

11. The applicant shall design and implement a storm water drainage system in consultation with a professional engineer licensed in the State of Washington.
12. The project will comply with specifications and best management practices contained in its National Pollutant Discharge Elimination System (NPDES) permit and Stormwater Pollution Prevention Plan (SWPPP) to reduce erosion potential. All disturbed surfaces will either be covered in gravel, paved, or revegetated.
13. A jurisdictional wetland has been identified on the eastern border of the project per a formal report by a qualified wetland specialist. The specialist has determined that the project will not affect either the wetland or its buffer. The applicant will develop the project per the site plan submitted as part of the CUP application thus avoiding any impacts to jurisdictional wetlands.
14. Any outdoor lighting shall be shielded downward to prevent light being shed on adjoining land.
15. This permit is subject to administrative review by Whitman County Planning Staff at the end of the first, third, and fifth years, of full operation. If unforeseen adverse consequences are found to exist by staff during their review, or if staff finds that the current Conditions of Approval are not adequate to mitigate the impacts related to the project, then staff may refer this matter back to the Board of Adjustment to conduct a public hearing to determine whether or not the existing Conditions of Approval are adequate or need to be modified or expanded. Further, if during this period of time staff

determines, in its sole discretion, that additional professional studies need to be performed, staff is hereby authorized to require the Applicant to conduct those additional studies related to potential or actual adverse consequences of the ongoing project.

Larry Cochran – So, Rick, or David, any other conditions to consider?

David Swannack – As for the school, I'm a little concerned about the dust at the school but (inaudible) doesn't bother me, but the noise at the school are the things I'm thinking about.

Darrell Booth – I have been in touch with a member of the school board, Marv Schmick, and brought up those concerns as well, prior to the application for the conditional use permit. We talked about those concerns about dust and noise, especially when school gets out because there is potential but only it could be during school and we are willing to work with the school at those times. When school gets out that we will go to probably cease operations for the half hour or forty-five minutes. Because there is a lot of foot traffic in Endicott with school children after school. We will work with the school on that. I will be in touch with the school superintendent on that to work through those issues.

David Swannack – Okay.

Rick Finch – I think with the way it is written in there to have the reviews of the first, third, and fifth year, if there are concerns that come up from neighbors they can eventually be addressed at that point. They haven't chosen to negatively comment at this time. It sounds like the company is being conscientious about that. That is good to hear.

Larry Cochran – Any other comments? Anything else, David?

David Swannack – Nope.

MOTION by Rick Finch and seconded by David Swannack to accept the conditions as read.

Rick Finch – Yes.

David Swannack – Yes.

Larry Cochran – Yes. Motion passed. Your **CU 21-03** is approved. Now we just need rain so there will be something to put in there.

John Cranor – It might not be the year to fill it up if we don't get the rain pretty soon. We are all doing a rain dance.

Larry Cochran – Alan, do you have anything else for the Board?

Alan Thomson – Nothing tonight. Just a word to the NW Grain Growers people. I'll be sending you out a letter shortly here with the details of approval and there is an appeal period, a 21-day appeal period from the date of the decision which is today. So, I will be sending you a note to that effect next week. Nothing else for the Board. We don't have anything on the horizon yet, either. I will let you know if something crops up.

John Cranor – I appreciate all of your time and consideration this evening and thank you for hearing our conditional use permit.

Darrell Booth – Thank you.

MOTION by David Swannack and seconded by Rick Finch to adjourn the meeting. Motion passed.

Adjourned – 7:35 p.m.

These minutes have been proofed and approved by Planning Staff:

Name

Title

Date