



CITY OF PACIFIC
100 – 3rd Avenue Southeast
Pacific, WA 98047

June 3, 2014

Northwest Cascade
P.O. Box 73399
Puyallup, WA 98373

RE: Conditional Use Permit (CUP-13-001)

Dear Applicant:

Transmitted herewith is the Report and Decision of the City of Pacific Hearing Examiner relating to the above-entitled matter.

Very truly yours,

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

SKC/jjp
cc: Parties of Record

OFFICE OF THE HEARING EXAMINER

CITY OF PACIFIC

REPORT & DECISION

CASE NO.: Conditional Use Permit (CUP-13-001)

**OWNER/
APPLICANT:** Northwest Cascade
P.O. Box 73399
Puyallup, WA 98373

AGENT: Apex Engineering
Attn: Geoffrey Sherwin, PE
2601 South 35th Street
Tacoma, WA 98409

PLANNER: Lisa Klein, AICP, AHBL

SUMMARY OF REQUEST:

Conditional Use Permit (CUP) for a Pacific Honey Bucket portable toilet storage project located on two parcels at 210 and 230 County Line Road.

SUMMARY OF DECISION: Request granted, subject to conditions.

PUBLIC HEARING:

After reviewing City of Pacific Community Development Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on May 20, 2014, at 8:58 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1"** - **City of Pacific Community Development Department Staff Report with Attachments**
- EXHIBIT "2"** - **Affidavit of Publication**
- EXHIBIT "3"** - **Applicant's Proposed Changes to Conditions**

LISA KLEIN, AHBL, appeared, presented the Community Development Department Staff Report, and testified that the vesting date is August 12, 2013. The project is known as the Pacific Honey Bucket and the Environmental Official issued an MDNS that became final on April 18. Proper notice was provided in accordance with code requirements. Staff evaluated the project and determined that the proposed use is storage that is allowed in the applicable Office Park zone subject to acquisition of a conditional use permit. The storage use is allowed outright in the Light Industrial zone. The north portion of the site is located in the OP zone and the south portion in the LI zone. An office building is presently on parcel 151. The applicant will redesign the existing parking lot and the site plan shows a gated EVA only access onto County Line Road. The existing access onto said road will be eliminated and landscaped. Access will occur across an abutting parcel onto Roy Road. Staff has included said abutting parcel in the review as the applicant will use it for access and will also receive utility services through said parcel. Staff received comment letters from Ms. Bird and Mr. Casey as well as from DOE regarding hazardous waste cleanup. All issues are addressed in the MDNS. She received no public comments following revision of notice of the hearing. The project complies with all applicable codes and Comprehensive Plan policies. She referred specifically to the code sections addressing development in the OP zone. The applicant will use a ten foot wide setback plus screening consisting of Type III landscaping and will buffer the washing activities. They will install curb, gutter, and sidewalk on County Line Road, but all such improvements are present on Roy Road. The perimeter of the site is fenced. A 13 foot wide strip of property will be maintained next to County Line Road, and they do not need to add additional plants. A full 20 foot wide screen abuts the residential properties. The site plan shows 35 parking stalls whereas the use only requires 26. Even though some spaces are inadequate in size, they have plenty of parking. Staff recommends approval subject to conditions.

CHERYL EBSWORTH, Apex Engineering, appeared on behalf of the applicant and testified that they have worked well with staff and agree with most items. They have designed the site to fit with the surrounding community. All traffic will access from Roy Road. Originally, there were two driveways into the site from County Line Road and now they will have one EVA access therefrom. The property to the south of Parcel 143 is used for parking semi-trucks and is improved with commercial buildings. It is not a residential use as staff asserts, and the Assessor taxes it as an industrial use. The other abutting use is a commercial and industrial use within a single-family zone. The single-family use is setback about 100 feet from the property line and the intervening area is used for storage the same as they propose. They object to providing a walking path from their building to County Line Road as no sales will occur on the site and there is no reason for the public to visit. The LI zone requires the pathway but not the OP. The City is requiring the path in the OP zone and none is required. She introduced Exhibit 3, proposed changes to conditions. She testified that truck trips to the site will average several per day but definitely less than ten. The trips occur later in the morning, in the afternoon, and as late as 7 to 8 p.m. They pressure wash the santi-cans undercover with a drain and oil water separator.

MS. KLEIN reappeared and testified that the changes to Condition 3 are acceptable. They

did not look up the Assessor's information but visually assessed the parcel. Staff desires the fence. Concerning Condition 10, the applicant is correct and does not need to provide a pedestrian connection.

ADAM BRAUN, AHBL, professional engineer, appeared on behalf of the City and testified that he needs to check the OP zone classification. If the code requires the pedestrian connection, then they must provide it. However, if the code does not require it, then it can be removed.

Upon evaluating the code both parties determined the connection unnecessary. The parties also agreed that the code would control Condition 12.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 9:46 a.m.

NOTE: A complete record of this hearing is available in the City of Pacific Community Development Department.

FINDINGS, CONCLUSIONS, AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, previously viewed the property when it supported a wrecking yard, heard testimony, and taken this matter under advisement.
2. Pursuant to the State Environmental Policy Act (SEPA) and the City's SEPA regulations (Chapter 16.16), the City's Environmental Official designate issued a Mitigated Determination of Non-Significance (MDNS) on March 28, 2014 with a comment period ending on April 11, 2014. The MDNS became final on April 18, 2014. Three comment letters were received, but no appeals were filed.
3. Written notice of the application and public hearing was sent to all property owners within 300 feet of the site on April 24, 2014. Notice was also sent to other agencies and interested parties by regular mail on April 24, 2014, or email on April 25, 2014. Notice was published in the Auburn Reporter on April 25, 2014. Additionally, the notice was posted on the site and at City Hall on April 25, 2014. The code requires a public comment period of at least 15 calendar days from publication. The written public comment period expired on May 12, 2014, and no additional comments were received.
4. The applicant, Northwest Cascade, has a possessory ownership interest in two, rectangular, abutting parcels, both of which abut the south side of County Line Road opposite its intersections with Glacier Avenue South and Chicago Boulevard South within the City of Pacific. The eastern parcel (Parcel No. 4495700143) abuts County

Line Road for 167 feet, measures 552 feet in depth, and contains 2.12 acres. The western parcel (Parcel No. 4495700151) abuts County Line Road for 167 feet, measures 366 feet in depth, and contains 1.4 acres. Improvements on Parcel No. 151 include an administrative office building, paved and unpaved parking areas, and landscaping along the frontage with County Line Road. Parcel 143 is covered in gravel with the exception of stormwater ponds near County Line Road. Parcel 143 previously supported a nonconforming wrecking yard that was removed. The site was cleaned following removal of all wrecking yard materials.

5. The applicant submitted an application for a conditional use permit to allow improvement of both parcels with its Honey Bucket business. Activities would be limited to the cleaning, preparation, and storage of empty portable toilets. The applicant would also store vacuum trucks and trailers on the site and would continue to use the existing office building on Parcel 151 for administrative and shop purposes.
6. Activities will consist of trucks and trailers bringing empty portable toilets to a “dirty” queue area located on the southern portion of the eastern parcel (143). Employees move the portable toilets to a covered wash area where they pressure wash the outsides of the toilet structures. The wash water is collected in a drain and directed to an oil/water separator prior to entering the sewer system. The cleaned portable toilets are then stored in the northern area of both parcels. Sewage is removed from the portable toilets and the interior of the toilet is cleaned at the place of use. Pumper trucks remove sewage from the toilets and transport it to a sewage treatment facility. Said facility is located on a 1.4 acre parcel that abuts Roy Road South, south of the applicant’s parcel 151 (the western parcel). The site plan shows that sole access to the applicant’s parcels is provided from Roy Road South through the sewage treatment plant parcel. Full service driveways from the applicant’s parcels onto County Line Road will be closed and landscaped, and an EVA only access provided onto said road. The sewage treatment facility previously received conditional use permit approval in a Hearing Examiner Decision issued April 22, 2003, that remains in effect.
7. All of the applicant’s western parcel and approximately two-thirds of the eastern parcel are located within the Office Park (OP) zone classification of the Pacific Municipal Code (PMC). The southern third of the eastern parcel is located within the Light Industrial (LI) zone classification. Even though washing of the exterior of the portable toilets will occur on the LI portion of the site, the primary use of the site will consist of storage for both trucks and Honey Buckets. Section 20.54.030(M) PMC authorizes “Storage” within the OP zone classification subject to acquisition of a conditional use permit. Section 20.60.020(34) PMC authorizes “Storage” as an outright permitted use in the LI zone classification. The applicant has therefore properly applied for a conditional use permit as much of the storage will occur in the OP zone classification.

8. Parcels across County Line Road to the north are located within the Single-Family Residential-6 (RS-6) zone classification and improved with single-family residential homes. The parcel abutting the south property line of the western rectangle is improved with the previously approved sewage treatment plant and is within the LI classification. The parcel abutting the south property line of the east rectangle is improved with a residential use but appears to have a commercial use as well. The parcel abutting the west property line is improved with a single-family use located in the OP and LI classifications. The property to the east is improved with a contractor's service business and likewise within the OP and LI zone classifications. The applicant's proposed use, especially considering the sole, full service access from Roy Road, fits well with abutting uses and provides buffering and screening from residential parcels to the north of County Line Road.

9. The project satisfies all bulk regulations of the OP zone classification as set forth in PMC 20.54.020-060. The applicant proposes no new structures, and the existing office building measures more than 300 feet from County Line Road. Such greatly exceeds the minimum setback from roads of 25 feet. The building also meets the City height limitation of 30 feet. The site plan shows the parking and loading facilities set back at least 20 feet from County Line Road. The applicant's description of the business shows that it will not generate smoke, steam, gases, vibrations, or hazards beyond its property lines, and that it will comply with the provisions of PMC 20.68.160 entitled "Performance Standards" as addressed hereinafter. The southern third of parcel 143 located within the LI zone classification satisfies all bulk regulations set forth in PMC 20.60.020-.220 for the reasons set forth on Pages 9 and 10 of the Staff Report. The proposed wash building will be substantially lower than the maximum 45 foot height limit and no parking is proposed in the LI portion of the site. Based upon a view of the aerial photograph and testimony, the Examiner is satisfied that the home located on the parcel abutting the south property line is close to Roy Road and well-removed from the applicant's parcels. Furthermore, it appears that semi-trucks are parked and that other commercial uses occur between the residence and the applicant's parcels. Therefore, the existing solid board fence along the south property line is sufficient to provide buffering and screening for an abutting LI zoned parcel improved with commercial uses. The establishment of a ten foot wide, view obstructing, coniferous, green belt will not assist in noise mitigation nor will it provide significant or needed buffering. The said residential parcel is abutted on the west by the sewage treatment plant and on the east by a large contractor facility. Furthermore, it was abutted by the nonconforming wrecking yard previously located on the applicant's eastern parcel. Section 20.60.170 PMC requires a pedestrian walkway to the primary building entrance on a LI zoned parcel. However, in the present case, the applicant proposes only an undercover washing area for the portable toilets and will have no offices or administrative uses that pedestrians would need to access. Furthermore, access to the LI parcel is through the OP zoned parcel where the administrative offices are located. The OP zone classification does not require a sidewalk or other pedestrian access. Therefore, conditions of approval do not

require a designated, pedestrian access.

10. The project satisfies all general regulations, landscaping requirements, parking and loading requirements, Public Works standards, and surface water management requirements as discussed on Pages 10-14 of the Staff Report.
11. Prior to obtaining approval of a conditional use permit the applicant must show that the request satisfies the criteria set forth in PMC 20.20.050-.080. Findings on each criteria are hereby made as follows:
 - A. Section 20.20.050 PMC authorizes issuance of a conditional use permit if the proposal complies with all general use permit criteria set forth in PMC 20.20.060-.080 as well as all other applicable use permit criteria. As found above and as found on previously cited pages in the Staff Report, the proposal satisfies all such criteria.
 - B. Section 20.20.060 PMC requires the applicant to show that the proposed development is compatible with the surrounding neighborhood. Based upon surrounding uses to the east, west, and south and the buffering and screening provided along County Line Road to the north, the project is compatible with and will not adversely affect either single-family residential homes or existing businesses. The applicant proposes no large structures, and thus the scale, bulk coverage, and density is consistent with the area. The site will generate less than ten truck trips per day, none of which will occur during the early morning hours. The vehicle access onto Roy Road S.W. will not impact homes along County Line Road. The previous use of the site as a nonconforming wrecking yard had significantly greater impacts on the neighborhood than will the proposed use.
 - C. Section 20.20.070 PMC requires the applicant to show that the development will provide a convenient and functional living, working, shopping, or civic environment and be attractive based upon the nature of its use. The project provides a potential convenient, working environment for residents of nearby homes and is sensitive to adjacent living environments for the reasons set forth above. The proposed use is either allowed outright or permitted pursuant to a conditional use permit on the site. The project will be much more aesthetically pleasing than the previous, nonconforming, wrecking yard.
 - D. Section 20.20.080 PMC requires the applicant to show that the project will benefit the surrounding area or that it will provide an essential service to the community or region. Conditions of approval require the applicant to enhance the frontage along County Line Road, and the business itself will enhance the local economy through the creation of additional jobs. The applicant provides an essential service to the community and region by providing portable toilets to construction sites, offices, schools, and

community events. Storage and cleaning of the toilets is necessary to allow their continued use.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for a conditional use permit satisfies all applicable criteria of the PMC and is consistent with applicable policies of the City of Pacific Comprehensive Plan. Therefore, the conditional use permit should be approved subject to the following conditions:
 1. The SEPA Mitigation Measures incorporated into the Final MDNS dated April 18, 2014 are incorporated herein by reference.
 2. The approval of the CUP is contingent upon the portable toilets being empty and the interiors clean at the time of entry on parcels 449570-0151 and 449570-0143. The washing activities are limited to the exterior and there will be no handling of sewage.
 3. The CUP Site Plan illustrates proposed improvements on parcel 449570-0152. With the exception of access and utilities (notations 23, 35, 37, and 49 on the CUP Site Plan dated February 12, 2014 and date stamped by the City February 18, 2014), the uses and improvements shown for parcel 449570-0152 shall be reviewed for consistency with CUP-02-001 as part of the site development application for that parcel, and have not been reviewed or approved as part of CUP-13-001.
 4. The applicant shall provide landscape plans at the time of application for Site Development Permit that comply with the City requirements and specific conditions of approval.
 5. The applicant will provide a 20-foot wide strip of Type III landscaping across the County Line Road frontage of parcel 449570-0143. The landscape strip on the frontage of parcel 449570-0151 on County Line Road shall be 13-feet wide and shall retain the existing vegetation. A solid board or chain link with slats fence shall be provided between the landscaping and proposed storage use on both parcels. The fence on parcel 449570-0143 shall be located at the top of the stormwater pond wall.
 6. Type IV Landscaping shall be provided in the parking lot.
 7. The applicant shall maintain the solid board fence that currently extends across the south property line of Parcel 143 in an attractive condition.

8. The project shall conform to current stormwater regulations adopted by the City of Pacific (PMC 24.08.100), which is the latest edition of the King County Surface Water Design Manual, with City of Pacific amendments.
9. The proposed stormwater pond shall be located at the north end of parcel 449570-0143 as illustrated on the CUP Site Plan to provide additional separation from the proposed uses and the residential uses to the north.
10. Installation of curb, gutter, and sidewalk will be required on the property's frontage on County Line Road SW for parcel 449570-0143. Prior to the approval of Site Development Permits, the applicant shall enter into a Waiver of Local Improvement District Protest for the future undergrounding of utilities, half-street paving, and storm drainage improvements that may be completed by others at a later date.
11. A seven foot unpaved area is required between the 13-foot landscape strip on parcel 449570-0151 and the proposed storage uses to comply with PMC 20.68.160(I) and 20.54.090(A).
12. The applicant is required to provide a minimum of 26 parking stalls that meet the area requirements of PMC 20.72.020, and the referenced Figure 1 in PMC 20.72.050.3.E.
13. An access and utilities easement for use of access and extension of utilities from parcel 449570-0152 is required. The easement shall be recorded prior to issuance of site development permits.
14. Evidence of compliance with Department of Ecology's requirements for site cleanup, as described in their SEPA comment letter dated April 11, 2014 will be required prior to issuance of Site Development Permit.
15. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
16. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the

term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

DECISION:

The request for a conditional use permit to allow construction of the Northwest Cascade Pacific Honey Bucket business on Parcels 449570-0143 and 449570-0151 located at 210 and 230 County Line Road S.W. within the City of Pacific is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 3rd day of June, 2014.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 3rd day of June, 2014, to the following:

**OWNER/
APPLICANT:** Northwest Cascade
P.O. Box 73399
Puyallup, WA 98373

AGENT: Apex Engineering
Attn: Geoffrey Sherwin, PE
2601 South 35th Street
Tacoma, WA 98409

OTHERS:

Apex Engineering
Attn: Cheryl Ebsworth
2601 South 35th, Suite 200
Tacoma, WA 98409

Lisa Klein LKlein@AHBL.com

CITY OF PACIFIC

CASE NO.: Conditional Use Permit (CUP-13-001)

NOTICE

1. RECONSIDERATION:

Any aggrieved party or person affected by the recommendation of the Examiner may file with the Community Development Department a written request for reconsideration based on any one of the following grounds materially affecting the substantial rights of said party or person:

- A. Errors of procedure or misinterpretation of fact, material to the party seeking the request for reconsideration.
- B. Irregularity in the proceedings before the Examiner by which such party was prevented from having a fair hearing.
- C. Clerical mistakes in the official file or record transmitted to the Examiner, including errors arising from inadvertence, oversight, or omission, which may have materially affected the Examiner's decision on the matter.

The request must be filed no later than 4:30 p.m. on **June 23, 2014**, (14 working days) with the Community Development Department along with the required reconsideration fee at 100 – 3rd Avenue SE, Pacific, Washington 98047. This request shall set forth the bases for reconsideration as limited by the above. The Examiner shall review said request in light of the record and take such further action as he/she deems proper; including, but not limited to, denying the request, granting the request, with or without oral argument, and may render a revised decision.

- 2.** Appeal of City Council's final decision. The final decision of the City of Pacific City Council may be appealed to the courts.