

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Lautenbach Industries, Inc.  
c/o Troy Lautenbach  
975 Lakeview Street  
Bellingham, WA 98229

**Agent:** Environmental Health Services, LLC  
c/o Dave Bader  
1721 35th  
Bellingham, WA 98229

**File No:** PL09-0300

**Request:** Special Use Permit

**Location:** Southwest corner of the intersection of Ovenell Road and Ball Road, Tract 2 of SP #14-83, within a portion of Sec 9, T34N, R3E, W.M.

**Parcel No:** P21275

**Land Use Designation:** Bayview Ridge Heavy Industrial (BR-HI)

**Summary of Proposal:** To relocate an existing recycling operation to the Bayview Ridge Heavy Industrial zone. The recycling facility will receive truckloads of construction, demolition and land-clearing debris which will be unloaded at the site and sorted. Some of the material will be repackaged and shipped off site. Land-clearing debris, urban wood waste, roofing and concrete will be processed on site by grinding or crushing into reusable materials. Structures will include an office trailer/scale house, and one or more manufactured buildings for material drop and sort areas and for dry commodity storage. The facility will receive materials from the applicant company, from pre-contracted self-haulers, and from the public.

**Public Hearing:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on February 10, 2010.

**Decision:** The application is approved, subject to conditions.

## **FINDINGS OF FACT**

1. Lautenbach Industries, Inc. seeks a Special Use Permit to relocate a recycling business to the Bayview Ridge Heavy Industrial zone.
2. The proposed site is an approximately 5.48 acre parcel located on the south side of Ovenell Road at the southwest intersection of Ovenell and Ball Road. The property is Tract 2 of SP #14-83, within a portion of Sec. 9, T34N, R3E, W.M.
3. The site is currently vacant, with scattered trees and pasture grass. The topography is generally flat with some undulations sloping up modestly northward. No water bodies, wetlands or drainage facilities exist on the site, other than roadside drainage ditches,
4. The site is surrounded by heavy industrial activities. The County's solid waste transfer station is adjacent to the west. Allied Waste's curbside-collected recyclable materials transfer station is immediately to the southwest. To the north, across Ovenell Road is industrial property owned by the Port of Skagit County on which other industrial uses and the Skagit Regional Airport are located. To the east is a Puget Sound Energy power and transmission station. In the near vicinity are a sulfur handling facility, a potato processing and storage facility, an organic waste composting facility, a log mill and a lumber mill.
5. Lautenbach Industries is primarily a transporter of recyclable construction, demolition and land-clearing debris from points of generation to recycling facilities. The subject facility will accommodate materials hauled there by the applicant's trucks, by pre-contracted self-haulers and the public.
6. Four activities are proposed for the site: (1) staging management of containers used to haul recyclable materials, (2) receiving of recyclable construction, demolition and land-clearing debris, (3) separation of materials and re-packaging of loads into single commodity recyclables for off site transport for further processing or use, and (4) grinding or crushing of land-clearing debris, urban derived wood debris, and possibly separated asphalt shingles and concrete.
7. Empty containers are delivered to job sites for the placement of recyclable materials. Non-recyclables are not allowed. The applicant's drivers inspect each loaded box and require the removal of unacceptable materials. If necessary a box can be rejected for transport.
8. Once approved, a load will be transported to the subject site and deposited in a covered tip area. There materials are sorted, with some separated materials thereafter being re-transported off site to recycling or reuse facilities.
9. In addition to Lautenbach-transported loads, pre-contracted self haulers will be allowed to transport recyclables to the facility and the public will be allowed to bring in loads.

All loads will be inspected for unacceptable materials prior to acceptance. Unacceptable materials will be directed to the neighboring County transfer station.

10. Co-mingled or moisture sensitive materials will be tipped in specified covered areas. A general mechanical sort will occur first. Materials needing further sorting will be directed to an elevated conveyor sort line where they will be manually separated by type. Sorted materials will be stored in covered bunkers or containers awaiting transport. Wood material will be stockpiled and ground to meet reuse needs. Subject to Health Department approval, clean asphalt shingles, bricks and concrete will also be processed on-site. Stockpiles generally will not exceed 1,500 yards. Outside storage of separated commodities in covered boxes will generally not exceed seven days.

11. Site development is anticipated to move from the southern portion of the property to the northern portion over time. Initially, a manufactured structure on a durable concrete surface will be installed for relocation of the existing operation. Later, the applicant's existing "coverall" structure will be relocated to the site and the hand sort conveyor ("pick line") will be installed. For drainage, appropriately sized retention/detention/sedimentation facilities will be built.

12. Over time, the sorting infrastructure is not anticipated to increase significantly from that proposed. However, material warehousing capacity likely will need to be increased in the future and the application seeks permission for a total build-out of warehouse capacity equal to the lot coverage allowed in the zone.

13. The applicant estimates that the overall operation will involve 11 to 15 people. In time the operation is projected to grow to about 30 employees.

14. The proposal is for the site to be open to the public Monday through Saturday from 7 a.m. to 5 p.m. Internal operations may be carried on all hours of the day and night.

15. Vehicles will enter and leave the site from a roadway at the south end leading into Ball Road and from thence to Ovenell Road. The Department of Public Works will require a paved apron on Ball Road where it intersects with Ovenell Road to accommodate the commercial access.

16. At first, the operation is projected to generate 50 to 75 vehicle trips per day during the construction season. The goal is to generate from 150 to 200 vehicle trips per day. Ovenell Road is an improved major arterial built for the heavy industrial zone. It is presently underutilized. The road system has the capacity to handle the traffic anticipated. .

17. Employee parking will be provided on site. Customers will be unloading and leaving, not parking.

18. In overall appearance the site will look like an extension of the adjacent transfer station. The structures will be compatible with other heavy industrial development in the area. They will be located several hundred feet off of Ovenell Road.

19. The application was deemed complete on September 28, 2009, and a Notice of Development Application was posted and published on October 8, 2009. No public comments were received. A Mitigation Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA) was issued on November 5, 2009. No appeals were received.

20. The MDNS contained the following conditions:

a. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage Ordinance. Said measures shall remain in place until completion of the project.

b. The applicant shall comply with Northwest Air Pollution Authority requirements..

c. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance, as it relates to increased runoff resulting from additional impervious surfaces. Stormwater controls will need to be installed at the time of building permit application. The design will need to be in accordance with the 2005 Stormwater Management Manual for Western Washington.

d. The applicant shall comply with Fire Code Standards.

e. An engineered soils compaction report shall be required for all structures placed on fill material.

f. The applicant shall comply with all relevant provisions of 14.24 of the Skagit County Code (Skagit County Critical Areas Ordinance).

g. The applicant shall comply with all requirements of the Skagit County Health Department.

h. The proposal shall comply with all applicable requirements of SCC 14.16. Most notably, SCC 14.16.190 BR-HI, SCC 14.16.210 Airport Environs Overlay, SCC 14.16.215 Bayview Ridge Urban Growth Area, SCC 14.16.830 Landscaping, SCC 14.16.840 Performance standards, and SCC 14.16.850 General provisions.

i. A Construction Stormwater General Permit (NPDES) may be required by the Department of Ecology.

21. The application was circulated to various County departments for review. Their comments are reflected in conditions of approval. The City of Burlington noted that sewer service is available for the discharge of domestic wastewater. No industrial waste discharges are proposed. PUD#1 advises that sufficient water for fire protection and drinking purposes is available to the site.

22. No existing or potential dwelling units will be impacted by the project.

23. The materials accepted at the site will be generally dry in nature and will not likely result in the leaching of pollutants onto adjacent properties. Moreover, they will not be putrescible materials likely to attract disease vectors. Diligent load inspection and the sorting of materials on concrete surfaces and under cover will further minimize the risk of waste discharges to the groundwater. Materials handling practices will be governed by a Facility Plan of Operation reviewed and approved by the Health Department.

24. Based on all the circumstances, the Examiner finds that the proposed use of the site does not pose any demonstrable threat of contamination to Agricultural-Natural Resource Lands (AG-NRL) in the vicinity, provided that the conditions of the Special Use Permit are met.

25. As conditioned, the project will meet all applicable regulations regarding environmental disturbance. Permanent land disposal of hazardous waste is not proposed.

26. The criteria for Special Use Permit approval are set forth at 14.16.900(1)(b)(v), as follows:

(A) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.

(B) The proposed use complies with the Skagit County Code.

(C) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.

(D) The proposed use will not generate intrusions on privacy of surrounding uses.

(E) Potential effects regarding the general public health, safety and general welfare.

(F) For special uses in . . . Natural Resource Lands, the impacts on long-term natural resource management and production shall be minimized.

(G) The proposed use is not in conflict with the health and safety of the community.

(H) The proposed use will be supported by adequate public facilities or services and

will not adversely affect public services to the surrounding areas or conditions can be established to mitigate adverse impacts on such facilities.

27. The Staff Report finds that the applicant's explanation of the proposal adequately establishes compliance with the above criteria. The Hearing Examiner concurs. The Staff Report is by this reference incorporated herein as though fully set forth.

28. The only public testimony at the hearing was from a neighboring land owner who favors the development, but was interested in any changes to be made to Ball Road. Ball Road is a private road. The applicant will need to participate in its share of the cost of maintenance of the road.

29. The Examiner notes that the proposed land use is similar to a number of uses that are permitted outright in the heavy industrial zone.

30. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. SCC 14.06.050(b)(ii).

2. The requirements of SEPA have been met.

3. Solid waste processing, recycling and transfer facilities are allowed by Hearing Examiner Special Use Permit in the Bayview Ridge Heavy Industrial (BR-HI) zone, if the Examiner finds that that the operations do not pose an demonstrable threat of contamination to adjacent AG-NRL lands, that applicable environmental regulations will be met, and that the operation is not one of several enumerated operations with high pollution potential. SCC 14.16.190(6)(b). The requisite findings have been made.

4. The proposal, as conditioned, will be consistent with the Special Use Permit criteria of SCC 14.16.900(1)(b)(v).

5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

### **CONDITIONS**

1. The project shall be installed and operated as described in the application materials except as the same may be modified by these conditions. The land use permission hereby given is for the development up to the lot coverage permitted in the zone.

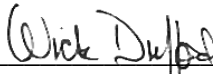
2. The applicant shall obtain all other necessary permits and approvals and abide by the conditions of same.
3. The applicant shall comply with the conditions set forth in the MDNS. (See Finding 20)
4. The applicant shall comply with all applicable federal, state and local regulations, including but not limited to SCC 14.16.840 (performance standards), Chapter 173-60 WAC (noise standards), Chapters 173-201A WAC and 173-200 WAC (surface and ground water quality),
5. The applicant shall submit and receive approval for a Facility Plan of Operation from the County Health Department and shall comply with the provisions of same.
6. The operators of the facility shall obtain a Solid Waste Permit from the County Health Department, and comply with all other Health Department requirements.
7. Prior to obtaining the Solid Waste Permit, the operators shall provide their plans to Public Works for determination of whether the site will require designation as a solid waste handling site. If required, such designation shall be obtained.
8. The applicant shall secure the necessary approval from the City of Burlington for sewer hookup, and shall comply with all City of Burlington requirements for installation and operation. In addition, a current letter of water availability from PUD#1 is required.
9. Prior to building permit application the applicant shall submit a drainage analysis to Public Works that details the measures that will be taken and the facilities that will be installed for control of stormwater. The design shall meet the requirements of the 2005 Stormwater Management Manual for Western Washington. The applicant shall obtain any necessary coverage under an Industrial Stormwater Permit through the Washington State Department of Ecology. Stormwater controls shall be installed in conjunction with the building permit process.
10. In conjunction with the drainage analysis, the applicant shall address treatment of surface run-off and washdown water and provide information on how maintenance of water quality will be achieved.
11. The intersection of Ball Road with Ovenell Road shall be improved to the satisfaction of the Department of Public Works. An access permit shall be obtained from Public Works. Necessary improvements shall be made prior to the start up of any business activities.
12. The applicant shall cooperate with the owners of other properties served by Ball Road in meeting its fair share of maintenance responsibilities.
13. The project shall be commenced within two years of permit approval.

14. Failure to comply with any condition may result in permit revocation.

**DECISION**

The requested Special Use Permit (PL09-0300) is approved, subject to the above conditions.

**DONE**, this 22nd day of February, 2010.

  
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Wick Dufford, Hearing Examiner

Date transmitted to Applicant: February 22, 2010

**RECONSIDERATION/APPEAL**

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written notice of appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.