

**COMMISSIONERS' MINUTES
KITITAS COUNTY, WASHINGTON
APPEAL HEARING**

THURSDAY

3:00 P.M.

APRIL 22, 2004

Board members present: Chairman Perry D. Huston, Vice-Chairman Bruce Coe and Commissioner Max A. Golladay.

Others: Shannon Carlson, Deputy Clerk of the Board; James Boyle, Appellant; Mr. Travis Misfieldt, Attorney for the Appellant; Steve Lathrop, Attorney for Proponent; Allison Kimball, Community Development Services Operations Supervisor; Clay White, Staff Planner; Pat Deneen, Proponent and approximately 9 members of the public.

APPEAL HEARING

RONALD RECYCLING

CDS

At approximately 3:00 p.m. **CHAIRMAN HUSTON** opened a continued hearing to consider an appeal to the Community Development Services administrative decision regarding the interpretation of the zoning codes for Ronald Recycling, Inc.

CHAIRMAN HUSTON reviewed the quasi-judicial process and said Clay White would serve as the Community Development Services representative. **CHAIRMAN HUSTON** disclosed that he had prior contact with Mr. Lathrop relating to process and of his memorandum dated April 14, 2004. **COMMISSIONER COE** disclosed that he had been working closely with the Community Development Services department, following Mr. Taylor's departure, but did not have any discussions with the employees to the appeal, other than asking Mr. White to present factual information at the hearing. He also talked with Mr. Chad Bala about the process. **COMMISSIONER GOLLADAY** talked with Patti Johnson, Solid Waste Director on the State Department of Ecology regulations for street sweepings. He had not received any materials from her. City of Ellensburg Street sweepings are transported to a waste management facility in Moses Lake. **MR. MISFIELDT** asked Commissioner Golladay if Douglas County had another site and if they considered street sweepings solid waste? **COMMISSIONER GOLLADAY** said it was treated like solid waste. **CHAIRMAN HUSTON** read a memorandum into the record he drafted to Julie Kjorsvik, Clerk of the Board, clarifying comments he had during the Ronald Recycling appeal dated April 12, 2004. There were no objections to entering the letter into the record.

The Chairman swore in **CLAY WHITE, STAFF PLANNER**. He read his Staff Report into the record dated April 22, 2004, and gave some general

information about the proposal submitted by Pat Deneen on January 13th, 2004. Mr. Deneen requested a determination be made on the specific permitting process for allowing the processing of Street Sweeping. The Kittitas County Community Development Services issued a letter on January 26th, 2004 stating the proposed use was a permitted use in the General Industrial Zone Pursuant to KCC 17.48.020(D). An appeal was filed February 9th, 2004 by James Boyle representing the Concerned Citizens of the Upper County. Mr. White gave a history and site analysis. In his opinion, there were some details of the proposal missing. He thought more information should have been given before a decision was made. He also went over the appeal issues that Mr. Boyle brought forward in his letter that he submitted that started the appeal process. Mr. White recommended that the Board reverse the January 26th 2004 letter from David Taylor to Mr. Pat Deneen and that the applicant should be required to submit a more detailed application of information regarding the potential operation so a new administrative decision could be made.

CHAIRMAN HUSTON swore in Mr. Misfeldt, Attorney Representing the Appellant. **MR. MISFELDT** questioned the past practices of the Community Development Services and if they were consistent. He questioned some of the comments made in the letter from Mr. David Taylor with regard to the definition of street sweeping and if street sweepings were considered an agricultural product. Mr. Misfeldt explained what he believed street sweeping were and how they should be processed. He did not believe that they should be handled as an agricultural product.

CHAIRMAN HUSTON swore in Mr. James. Boyle. **MR. BOYLE, APPELLANT** referred to his letter that he submitted to the Board. He gave a brief history and said the applicant should be required to have a Conditional Use Permit.

CHAIRMAN HUSTON swore in Steve Lathrop, Chad Bala and Pat Deneen. **STEVE LATHROP, ATTORNEY REPRESENTING THE PROPONENT**, went over additional background information since Mr. Taylor was no longer employed with the County. He explained that this situation is similar with others and is consistent with the proposed use of the property. He explained that he and Mr. Taylor along with Mr. Deneen had several conversations with regard to the Recycling plant that was not documented, so that is why Mr. White doesn't have all the information. Mr. Lathrop had several conversations with Fire Marshal Derald Gaidos, Director of Public Health Nancy Goodloe and Environmental Health Departments John Wolpers with regard to the manufacturing of soil and what kinds of components that would be mixed together to make the soil. Mr. Lathrop went through the process of how the soil is made through screening and that none of the county staff that he spoke with had issues with it. Even though there was nothing in writing Mr. Lathrop explained that Mr. Taylor

knew what Mr. Deneen's intentions were from all the conversations that they had. He gave examples of other soil making plants (Mellegaard on Manastash) and insists that the production of soils is an agricultural product. **CHAD BALA**, testified that Kittitas County supports agricultural products and allowed the manufacturing of top soil, and gave Pacific Topsoil as an example. He explained the process that Pacific Topsoil went through. **COMMISSIONER COE** asked Mr. Bala if Pacific Topsoil was using street sweepings to manufacture soil? **MR. BALA** said he did not know what they were using, but knew the owner was required to identify the substance he was using. Mr. Bala cited the County Code and explained that this request, complies with the code. **MR. LATHROP** explained that there are limitations to uses in Ag-20 zoning and how important it was to not look at this as a "street sweeping" request but a soil producing plant. **COMMISSIONER HUSTON** referred to a letter dated February 3, 2004 from Frank Ragland.

STEVE LATHROP stated that David Taylor was presented with the full proposal, it was clear that the only material being brought in would be clean material and it is an outright permitted use. Mr. Taylor's decision was consistent and reasonable within the Kittitas County Code. Mr. Lathrop insisted that top soil is an agricultural product, Mr. Taylor's decision was based on all the information provided and he believes that Board should uphold Mr. Taylor's decision.

MR. DENEEN explained that when the Conditional Use Permit was denied by the Planning Commission, he met with the CDS staff and changed his application so that it complied with the code and didn't require a CUP. After meeting with staff and changing his request, he withdrew his appeal on the CUP and moved on with the process of completing his new application.

MR. MISFELDT questioned Mr. Pat Deneen as to why he didn't want to bring his application back through the Conditional Use Permit process in front of the public. **MR. DENEEN** explained that it would be a waste of money and time spent and that he would like to move forward because it is a permitted use.

COMMISSIONER GOLLADAY moved to recess for 5 minutes. **COMMISSIONER COE** second. Motion carried 3-0.

Meeting re-convened at 5:10 p.m.

STEVE LATHROP entered into the record a Power Point presentation on CD that gave a history of the site and pictures that Mr. Deneen took of the County and what they do with their street sweeping materials.

MR. PAT DENEEN, PROPONENT explained that the site is a multi use site on over 500 acres. There was some identified contamination that

has been cleaned up. He explained the process that material being used to produce soil would undergo. He gave a history of the site. He explained that all materials would be tested. Mr. Deneen presented a power point presentation. Mr. Deneen explained that he followed the County Road department around for a few hours and showed the pictures he took. He explained that the same material that the road crew takes from the ditch is similar to the material he will be using at the recycling site. He also followed the County dump truck because he wanted to see where the County dumps their material and found that the County dumps the material at a residence off of HWY 970. He showed pictures of Pacific Topsoil and explained the listings of materials that they accept at their facility. He explained that what he was wanting to do is similar to the facility owned by Pacific Topsoil.

MR. MISFELDT brought up the issues of contaminated soils and the method that Mr. Deneen will have to make sure the soils are clean. He explained that the soils have potential of being contaminated. He also made reference to the letter written by Mr. Frank Ragland. Mr. Misfeldt is asking that the Board reverse the CDS decision.

MR. WHITE said he agreed and disagreed with the issue, but not having a lot of documentation to go on makes it hard to say it is a permitted use. He is asking that Mr. Deneen go through another process and obtain all the necessary documentation needed to determine whether or not this is a permitted use.

STEVE LATHROP explained that the planner that made this decision has had several years of experience in interpreting the code, as well as experience in land use planning. Past practices indicate that this is an outright permitted use and Mr. Taylor was confident in making that decision.

THERE BEING NO OTHERS INTERESTED IN TESTIFYING, THE CHAIRMAN CLOSED THE PORTION OF THE HEARING FOR INTERESTED PARTIES.

MR. WHITE gave his final arguments. He explained that everyone has a difference when interpreting the code and that is why there are specific permitted uses.

MR. BOYLE said he has heard the term "absolutely clean" used several times. He read from the Department of Ecology the definition of "street sweepings". He added that he wouldn't eat any food that was grown from the soil made from street sweepings.

MR. LATHROP focused on two (2) points. It is clear that the focus is street sweepings and not top soil. Consistency is important. Making top soil is an Agricultural product. This site is located in an Ag. 20 zone.

COMMISSIONER GOLLADAY said the question is whether or not someone needs a permit to make top soil. He went over the zoning code and what agency would be tasked with the enforcement if a soil producing plant opened without a permit. He said he is in support of the CDS Directors decision.

COMMISSIONER COE said he didn't feel the decision was improper and therefore believes the decision of the Director should be upheld.

COMMISSIONER HUSTON discussed the points made on how the soil is to be made. It is an agricultural operation. **COMMISSIONER HUSTON** ruled the letter from David Taylor stating that it is a permitted use should stand.

COMMISSIONER COE moved to uphold the Chair's ruling, and uphold the Community Development Services Directors decision to allow the processing of street sweepings as a permitted use with the General Industrial Zone, KCC 17.48. **COMMISSIONER GOLLADAY** seconded. Motion carried 3-0.

Meeting adjourned at 5:50 p.m.

DEPUTY CLERK OF THE BOARD

**KITTITAS COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON**

Shannon L. Carlson

Perry D. Huston, Chairman