

**BEFORE THE HEARING EXAMINER
FOR SKAGIT COUNTY**

In the Matter of the Appeal of)	No. PL16-0097; No. PL16-0098
)	Appeal No. PL22-0142
)	
Central Samish Valley Neighbors)	Concrete Nor'West/Miles Sand
)	and Gravel SUP
)	
A Mitigated Determination)	ORDER ON PRE-HEARING
<u>of Nonsignificance</u>)	CONFERENCE

TO: Kyle Loring, Attorney for Appellants
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Sofia Cavanaugh, County Hearing Coordinator & Records Management and Clerk to the
Hearing Examiner
Via email to: sofiabc@co.skagit.wa.us [For file]

BACKGROUND

Concrete Nor'West/Miles Sand and Gravel (Applicant) has requested a Special Use Permit (SUP) (PL16-0097) to permit a proposed gravel mine/quarry on properties located approximately 1.5 miles north of Grip Road and south/southwest of the Samish River. The Applicant has also submitted a Forest Practice Conversion application. Skagit County (County) determined that both applications were complete on March 22, 2016.

The County Planning and Development System acted as lead agency and analyzed the environmental impacts of the proposed project as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The County reviewed the Applicant's environmental checklist and other information on file and determined that, with conditions, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the County issued a Mitigated Determination of Nonsignificance (MDNS) with 19 mitigation measures on February 22, 2022, a comment deadline of March 11,

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2022, and an appeal deadline of March 25, 2022. On March 25, 2022, Attorney Kyle Loring, on behalf of Central Samish Valley Neighbors, filed an appeal of the MDNS.¹

SEPA MDNS APPEAL

WAC 197-11-680(3)(v) provides: “. . . the appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before one hearing officer or body.” In addition, SCC 14.06.070(2)(d) provides: “Any appeals of a determination of nonsignificance shall be combined with and processed at the same time as the hearings or appeals of the underlying development permit.”

By email dated March 28, 2022, Brandon Black, Planning Manager, Skagit County Planning and Development Services stated:

Since the Department will still need time to prepare staff findings for the Special Use, and prepare a response to the appeal, it is recommended that a pre-hearing conference be conducted to outline the timing of the submittal of documents and the eventual hearing. SCC 14.06.160(4)(a) requires an open record hearing be conducted and a decision rendered within 90 days of the receipt of the appeal. Given the scope of the project, staff would request the 90 day timeframe be extended to adequately prepare the staff findings and appeal response.

The Hearing Examiner’s Rules of Procedures Sec. 3.11(a) provide:

When it will assist the orderly and efficient disposition of the appeal, the Examiner may schedule and hold a prehearing conference of parties. Among other things, a prehearing conference may consider:

- (1) Settlement of the appeal;
- (2) Simplification, definition or limitation of issues;
- (3) The possibility of obtaining stipulations relating to undisputed facts, the admission of documents or other matters which will avoid unnecessary proof;
- (4) Identification of witnesses and documentary or other evidence to be presented at hearing;
- (5) The Conduct of reasonable discovery prior to hearing;
- (6) Procedural matters.

¹ The appeal identified the “Appellants” as the Central Samish Valley Neighbors and its representatives Martha Bray, John Day, Linda Walsh, Larry Hedgepeth, Josie Hedgepeth [sic], Wallace Groda, Bria Browser, Jedidiah Holmes, Kathy Reim, Robert Reim, Jim Wiggins, and Abbe Rolnick. The appeal states that the “Appellants” are represented by Attorney Kyle Loring. *Appeal*. The Hearing Examiner’s Rules of Procedures 3.08(b) provides for groups, like Central Valley Neighbors, to be represented by a specific person and have that person “exercise the rights of the party.” Accordingly, unless otherwise notified, Attorney Kyle Loring will receive service on all orders or other matters involved in this appeal on behalf of the Appellants.

ORDER

The Hearing Examiner determines that a virtual Pre-Hearing Conference shall be held with the parties (Appellants' Attorney, Applicant, and County) at **1:00 PM, April 11, 2022**, in order to set an appeal hearing date, agree on a briefing schedule, and address any other procedural issues.²

So ordered this 1st day of April 2022.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center

² The County shall make virtual access information available to the parties prior to the Pre-Hearing Conference.