



CITY OF SUMAS

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Memo

To: Honorable Mayor and Members of the Sumas City Council

From: Carson Cortez, City Planner

CC: Rollin Harper, Sehome Planning and Development Services

Date: October 28, 2024

Re: Grainger General Binding Site Plan Question

On July 24, 2023, the Sumas City Council approved a Report of Decision for a General Binding Site Plan Application submitted by Dave Grainger for his property on the 300 block of Bob Mitchell Way. Conditions 2 and 3 of the Conditions of Approval for the General Binding Site Plan outline specifications to do with a proposed public heavy haul road to be constructed prior to recording of a General Binding Site Plan, built to heavy haul and Canadian-weight standards, as well as an upgraded rail crossing where the road crosses the BNSF rail spur within the property.

Since the approval of this Report of Decision, the applicant, along with his contracted engineers at Reichhardt and Ebe, have been working on getting approval from the Washington Utilities and Transportation Commission (UTC) for the upgraded rail crossing, on top of BNSF's own rail crossing standards. So far, there have been numerous issues with getting permits for the rail crossing due to the proposed road being on a public right-of-way. Having the road be public means the crossing would need to include improvements that far exceed Mr. Grainger's affordability and would take much more time than the General Binding Site Plan has allotted Mr. Grainger to complete these improvements.

A solution to this issue is that the roadway be transitioned to a private road instead of public right-of-way. This would mean that Mr. Grainger would not be required to obtain permitting from the UTC and would only have to follow BNSF's crossing standards. Mr. Grainger believes that he can meet BNSF's standards for the crossing and still have enough budget and time to finish the rest of the improvements required of him in the above-mentioned Conditions of Approval.

Transitioning the proposed road from public to private does come with some challenges in regard to the proposed utility lines that would run along the right-of-way. The City's solution is to include utility and access easements along the private road to allow City crew to access and maintain the utilities as needed.

Subsection 20.44.100(6) of the Sumas Municipal Code requires that all access driveways, on-site vehicular travel routes, and vehicular turn-arounds in the industrial zone meet city standards, and that fire district standards shall be met prior to the commencement of operations. This requirement allows the City to ensure that the proposed private road continue to meet city standards as if it were a public right-of-way.

The question before the council is this. Transitioning the road from public to private constitutes a minor modification from the approved General Binding Site Plan. Does the City Council accept this modification as being equivalent to the approved design? If so, Mr. Grainger can proceed to construction with minimal delay. If not, Mr. Grainger would need to apply for a new General Binding Site Plan and begin that process again, delaying the project significantly.

APPENDIX A TO REPORT OF DECISION

SUMAS DEVELOPMENT LLC GENERAL BINDING SITE PLAN CONDITIONS OF APPROVAL

1. Approval is granted only for the activities described in the Project Application. All mitigation measures described in the Application and the supporting documentation are hereby incorporated as conditions of the Project, unless specifically excluded below. All permits and approvals required for the operation of the Project from either the City of Sumas or other agencies shall be obtained in conformance with the requirements of such agencies.
2. The general binding site plan recorded with the County Auditor shall show the locations of all dedications of **rights-of-way** and **granting of easements**.
3. The right-of-way for the proposed heavy haul road shall be a minimum of sixty (60) feet in width and shall include area to allow construction of a turn-around of sufficient size to accommodate turning movements by large, industrial truck-and-trailer rigs. The **size of the right-of-way shall be approved by the Public Works Director**.
4. Prior to recording of the general binding site plan, the proposed heavy haul road shall be constructed to Canadian-weight, heavy haul standards, including an upgraded rail crossing, paved shoulders and connection to Bob Mitchell Way. The design of the heavy haul road shall include two **12-foot-wide travel lanes** with minimum **four-foot-wide paved shoulders** on both sides of the entire length of the roadway and around the entirety of the cul-de-sac. **Final plans shall be approved by the Public Works Director and Fire Chief** prior to construction.
5. Prior to recording of the general binding site plan with the Whatcom County Auditor's office, water system improvements meeting City standards shall be installed to the satisfaction of the Public Works Director. Water system improvements shall include extension of a water main to the west from the cul-de-sac at a location determined by the Applicant and acceptable to the City to connect to an existing water main located in Barbo Road.
6. Prior to recording of the general binding site plan, sewer system improvements meeting City standards shall be extended within the Site to the satisfaction of the Public Works Director.
7. Prior to recording of the general binding site plan, stormwater management facilities meeting City standards shall be constructed to serve the development to the satisfaction of the Public Works Director. Previously constructed improvements may be utilized to satisfy this requirement where determined to be appropriate by the Public Works Director.
8. Prior to recording of the general binding site plan, electrical utility system improvements meeting City standards shall be installed to the satisfaction of the Public Works Director.
9. Prior to recording of the general binding site plan, telephone, communication system and other private utility system improvements shall be installed to serve future development within the Site.
10. Prior to recording of the general binding site plan, lighting improvements meeting City standards shall be installed to the satisfaction of the Public Works Director.

11. Prior to recording of the general binding site plan, an internal pedestrian facility, such as the proposed four-foot-wide paved shoulder, shall be installed on both sides of the heavy haul road to the satisfaction of the Public Works Director.
12. Plans for all road and utility improvements shall be submitted to the City for review and approval prior to construction.
13. The Applicant shall work in cooperation with the City and neighboring property owners to design and construct an appropriate system of pedestrian facilities to provide safe access to the Site from the downtown area if such connection is determined to be in the public interest by the City Council. Such cooperation shall include participating at an appropriate level to fund construction of such pedestrian facilities.
14. The general binding site plan and all specific binding site plans shall conform to the requirements set forth in Chapter 20.94 SMC.
15. Within a period of five years from the date of initial Council approval, the general binding site plan to be recorded with the County Auditor shall be presented to the City Council for final approval. Such approval shall only be granted when the Council finds that all required improvements have been completed and all conditions of approval have been met.
16. One or more specific binding site plans shall be submitted to the City for administrative approval within a period of five years from the date of recording of the general binding site plan.
17. One or more additional specific binding site plans may be submitted within a period of five years from the end of the above-described five-year period.
18. All easements and dedications, including but not limited to a five-foot utility easement adjacent to all internal and adjacent rights-of-way, as shown on the proposed plat or otherwise required by City Code, shall be reviewed and approved by the Public Works Director and included on the face of the general and specific binding site plans prior to recording.
19. A Note shall be placed on the general binding site plan providing notification regarding the location of the property within the 100-year floodplain, as required by SMC 15.20.
20. Prior to recording of the general binding site plan, right-of-way dedications within the two parcels located between the binding site plan property and Bob Mitchell Way shall be reviewed and approved by the City Council. Said dedications shall be recorded with the County Auditor either prior to or concurrent with the recording of the general binding site plan.
21. All stormwater facilities located outside of dedicated rights-of-way shall be placed in separate tracts to be owned and maintained by the owners of the lots developed within the general binding site plan property.
22. A Note shall be included on the face of the general binding site plan recorded with the County Auditor granting the City the right to enter said privately owned properties for the purpose of inspecting the privately owned stormwater management facilities, identify any maintenance activities that have not been completed consistent with applicable standards and establish a timeframe for completing said required maintenance, and further granting the City the additional right to perform any uncompleted maintenance at the sole cost and expense of the lot owners or lot owners association.

23. A Note shall be included on the face of the general binding site plan and any subsequent specific binding site plans recorded with the County Auditor clearly stating that future developments within the binding site plan property may be required to provide areas within future lots that are sufficient to accommodate short-term truck parking and staging areas to reduce the need for truck parking within public rights-of-way.
24. The secondary access to the Site from Barbo Road for emergency vehicles shall be maintained to the satisfaction of the Sumas Public Works Director and the Whatcom County Fire District No. 14 prior to the recording of the general binding site plan. A Note shall be included on the face of the general binding site plan recorded with the County Auditor establishing that secondary access to the Site shall be established and maintained in conjunction with the recording of future specific binding site plans to the satisfaction of the City Public Works Director and the Whatcom County Fire District No. 14 to ensure provision of secondary access for emergency vehicles from Barbo Road to the cul-de-sac located within the public right-of-way.
25. Any finding of fact or conclusion of law that is also a condition of approval is hereby adopted as such.