

BEFORE THE LEWIS COUNTY
HEARING EXAMINER

IN RE APPLICATION OF GOOD
CRUSHING, INC. TO AMEND SPECIAL
USE PERMIT SUP19-0002) SUP25-0001
)
) GOOD CRUSHING, INC.'S
) MOTION FOR REASSIGNMENT

I. INTRODUCTION AND RELIEF REQUESTED

The Hearing Examiner assigned to this matter, Mr. Mark Scheibmeir, has a close personal relationship with adjacent property owners who submitted comments opposing the subject proposal, contending it would be a “nightmare” and is “unacceptable.” Mr. Scheibmeir is precluded from conducting the hearing and rendering a decision on the subject application under the appearance of fairness doctrine, which requires that quasi-judicial proceedings be conducted in a manner that avoids even the appearance of bias. Accordingly, Good Crushing, Inc., respectfully moves for reassignment of this matter from Mr. Scheibmeir to an alternative, deputy or special deputy Hearing Examiner.

II. FACTUAL BACKGROUND

Good Crushing, Inc. operates a quarry (the “Goods Quarry”) in Lewis County that consists of a 141.8-acre mine site on parcels #01500-000-000 and #014999-000-000 (the

1 “Site”). Goods Quarry includes two historical mine sites (consisting of (1) the former
2 Johnson Quarry located in the southern portion of parcel #01500-000-000, which has been
3 mined since the 1960s; and (2) the previous Goods Quarry, located on parcel #014999-
4 000-000 and the northern portion of parcel #014999-000-000, which started mining in
5 1998) along with adjoining rural property.
6

7 Good Crushing obtained a special use permit in 2021 (SUP19-0002, or the “2021
8 SUP”) to conduct operations on both historic mine sites along with surrounding property
9 into one contiguous quarry operation. Condition 23 of the SUP includes hours of
10 operation restrictions, limiting regular operational hours from 7:00 a.m. to 5:00 p.m.,
11 Monday through Friday, but during daylight hours only.¹ Condition 23 allows for some
12 exceptions to these hour limits in association with public projects or to provide emergency
13 response, provided approval is obtained from Lewis County Community Development.
14

15 Subsequent to issuance of the 2021 SUP, it became apparent to Good Crushing
16 that other, fully operational mines in Lewis County are not subject to the same or similar
17 hour restrictions as the Goods Quarry. Additionally, Good Crushing has been unable to
18 obtain timely decisions from Community Development in response to requests to conduct
19 work outside of the standard operations hours. Thus, in 2025, Good Crushing submitted
20 an application to Lewis County to revise Condition 23 of the 2021 SUP, to allow daytime
21 processing and loadout of customer trucks up to 7 days per week (7 a.m. to 10 p.m.);
22 loadout limited to 20 loads per hour) and nighttime loadout of customer trucks up to 7
23

24 ¹ Under Condition 24 of the 2021 SUP, blasting activity is more limited (10:00 a.m. and 4:00 p.m.
25 (Monday through Friday); no blasting activities is allowed on Saturday or Sunday.

1 days per week (10 p.m. to 7 a.m.; loadout limited to 8 loads per hour) (the “Proposal”).

2 Lewis County notified the public of the Proposal and invited public comments.

3 Lona Lewis and Shirley Lewis submitted public comments in opposition to the Proposal.²

4 Lona Lewis and Shirley Lewis both live directly west of and adjacent to the Site (386

5 Hale Road West, Winlock and 112 Salmi Road, Winlock, respectively). Among other

6 things, Lona Lewis asserted that the Proposal “will be a nightmare” and requested “the

7 SUP for Good Crushing Inc. should stand as approved in 2021.”³ Shirley Lewis

8 commented that the Proposal “is unacceptable.”⁴

9

10 On January 20, 2026, counsel for Good Crushing obtained a letter stating that Mr.

11 Mark Scheibmeir has been assigned as the Hearing Examiner for Good Crushing’s SUP

12 revision application. Good Crushing understands that Mr. Scheibmeir has a close,

13 personal relationship with Lona Lewis. First Declaration of Alan Good (“Good Decl.”) ¶

14 4. Specifically, Good Crushing understands that Lona Lewis is the mother of one of Mr.

15 Scheibmeir’s best friends from childhood, that Mr. Scheibmeir and Lona Lewis

16 themselves have a close relationship on account of that friendship, and that Mr.

17 Scheibmeir and Lona Lewis have remained in contact over the years. *Id.* Additionally,

18 Good Crushing understands that Shirley Lewis is the daughter of Lona Lewis and the

19 sister of Mr. Scheibmeir’s close childhood friend. *Id.* ¶ 5.

22

23 ² Copies of these comments letters are available on the County’s website for this application.

[https://lewiscountywa.gov/departments/community-development/current-planning-](https://lewiscountywa.gov/departments/community-development/current-planning-applications/sup25-0001-good-crushing/)

[applications/sup25-0001-good-crushing/](https://lewiscountywa.gov/departments/community-development/current-planning-applications/sup25-0001-good-crushing/). See document titled “SUP25-0001 All NOA SEPA

Comments,” comments #14 (PDF p. 24) and #15 (PDF pp. 25-28).

24 ³ *Id.*, Comment #14 (PDF p. 24).

25 ⁴ *Id.*, Comment #15 (PDF p. 25).

III. AUTHORITY AND ARGUMENT

The appearance of fairness doctrine requires that this matter be reassigned to an alternative, deputy or special deputy Hearing Examiner.

Washington's appearance of fairness doctrine applies to quasi-judicial actions of local decision-making bodies, including hearing examiners, that determine the legal rights, duties, or privileges of specific parties in a hearing or contested case proceeding. RCW 42.36.010. The hearing on Good Crushing's Proposal is a quasi-judicial, local land use decision, as the Hearing Examiner will make a determination that affects the legal rights and privileges of Good Crushing. Hence, the appearance of fairness doctrine applies to this proceeding.

The appearance of fairness doctrine “has been developed to preserve the highest public confidence in those governmental processes which bring about zoning changes or which formulate property use and land planning measures.” *Swift v. Island County*, 87 Wn.2d 348, 361, 552 P.2d 175 (1976). The development of this doctrine is closely tied to the recognition by courts “that restrictions on the free and unhampered use of property imposed by planning and zoning compel the highest public confidence in governmental processes bringing about such action.” *Narrowsview Pres. Ass'n v. Tacoma*, 84 Wn.2d 416, 420, 526 P.2d 897 (1974) (disagreed with on other grounds by *Norway Hill Pres. & Prot. Ass'n v. King Cty. Council*, 87 Wn.2d 267, 276 n.6, 552 P.2d 674 (1976)). Decisionmakers tasked with “conducting fair and impartial fact-finding hearings must, as far as practical, be open-minded, objective, impartial, free of entangling influences, and give the appearance of impartiality.” *Id.*

1 The appearance of fairness doctrine does not require a showing that actual
2 influence was exerted to bring about a decision, but only that some interest may have
3 substantially influenced a decisionmaker. *Fleck v. King County*, 16 Wn. App. 668, 670,
4 558 P.2d 254 (1977). Quasi-judicial decisionmakers “must be as above suspicion and
5 reproach as courts themselves.” *Id.* “It is the possible range of mental impressions made
6 upon the public’s mind, rather than the intent of the acting governmental employee, that
7 matters.” *Swift*, 87 Wn.2d at 361. Thus, the doctrine requires recusal if “a disinterested
8 person, having been apprised of the totality of a board member’s personal interest in a
9 matter being acted upon, [would] be reasonably justified in thinking that partiality may
10 exist[.]” *Id.* *See also* 16 Wn. App. at 672 (doctrine violated if a reasonable person, given
11 knowledge of entangling influences, “could not state with certainty that considerations not
12 a part of the record . . . *might* have influenced the vote) (emphasis in original); *Swift*, 87
13 Wn.2d 348, 361-62 (doctrine applies when the “opportunity exists for public suspicion”).
14

15 Partiality evidencing a personal disposition for or against a party violates the
16 appearance of fairness doctrine. *Fleck*, 16 Wn. App. 668, 673. Thus, a close personal
17 relationship between a decisionmaker and parties – or even between multiple
18 decisionmakers – requires recusal and/or reassignment. *Narrowsview Pres. Ass’n*, 84
19 Wn.2d 416, 420; *Fleck*, 16 Wn. App. 668, 672. While a decisionmaker’s “mere
20 acquaintance with, or casual business dealings in a minimal sense” with interested parties
21 does not violate the doctrine, closer relationships are prohibited. *Narrowsview Pres. Ass’n*,
22 84 Wn.2d 416, 421. This is true even where it is clear that the decisionmaker would not
23
24

1 personally benefit from the decision. *Id.* at 420. Rather, the doctrine is violated if someone
2 with whom the decisionmaker has a close relationship would derive a benefit from the
3 decision. *Id.* (doctrine violated when one of the four members of a planning commission
4 who voted in favor of a rezone was employed by a bank that stood to benefit from a
5 favorable decision on the rezone, even though he (1) was not an officer of the bank at the
6 time of the vote, (2) was not involved in decisions regarding the relevant bank account,
7 and (3) would not personally benefit from the decision).

9 Good Crushing respectfully submits that this matter must be reassigned to an
10 alternative Hearing Examiner under the appearance of fairness doctrine due to Mr.
11 Scheibmeir's close, personal relationship with Lona Lewis and/or Shirley Lewis. As
12 discussed above, Good Crushing understands that Lona Lewis is the mother of one of Mr.
13 Scheibmeir's best childhood friends, that Mr. Scheibmeir and Lona Lewis have a close
14 relationship on account of that friendship, and that Mr. Scheibmeir and Lona Lewis have
15 remained in contact. Good Decl. ¶ 4. Good Crushing also understands that Shirley Lewis
16 is the daughter of Lona Lewis and the sister of Mr. Scheibmeir's close friend. *Id.* ¶ 5.

18 Both Lona Lewis and Shirley Lewis live directly next to the Site and are opposed
19 to the Proposal because they are concerned that it will impair the personal enjoyment of
20 their properties. *Supra* § II. A reasonable person, knowing these facts, could question
21 whether a decisionmaker's close, personal relationship with Lona Lewis and Shirley
22 Lewis "might ... influenc[e]" the decision on Good Crushing's Proposal (*Fleck*, 16 Wn.
23 App. 668, 672) or at the very least would "be reasonably justified in thinking that
24
25

1 partiality may exist" (*Swift*, 87 Wn.2d at 361). This is sufficient to "cast suspicion on the
2 outcome of the" decision, violating the appearance of fairness doctrine. 16 Wn. App. 668,
3 672.

4 For the foregoing reasons, this matter should be reassigned to a deputy or special
5 deputy Hearing Examiner. Good Crushing respectfully requests that Hearing Examiner
6 Scheibmeir directly reassign this matter to an alternative Hearing Examiner or appoint an
7 alternative Hearing Examiner to the extent that he is authorized to do so. Alternatively,
8 Good Crushing requests that Mr. Scheiber make a recommendation for appointment of an
9 alternative Hearing Examiner or take such other action as necessary and appropriate for
10 reassignment of this case to an alternative Hearing Examiner.

12 **IV. CONCLUSION**

13 For the foregoing reasons, Good Crushing, Inc. respectfully requests that this
14 matter be reassigned from Mr. Scheibmeir to an alternative, deputy or special deputy
15 Hearing Examiner.

17 DATED this 28th day of January, 2026.

18 PLAUCHÉ & CARR LLP

19 By: s/Jesse DeNike
20 Jesse DeNike, WSBA #39526
21 *Attorney for Good Crushing, Inc.*
22 1218 Third Ave Ste 2000
23 Seattle, WA 98101
T: (206) 588-4188
F: (206) 588-4255
24 E-mail: jesse@plauchecarr.com

DECLARATION OF SERVICE

The undersigned hereby declares under penalty of perjury that on the 28th day of January, 2026, she caused a true and correct copy of the foregoing document to be transmitted for service as follows:

Sent via FedEx Priority Overnight

Mark C. Scheibmeir
Lewis County Hearing Examiner
299 NW CENTER STREET
CHEHALIS, WA 98532-2008

Sent via Electronic Mail & USPS First Class Mail

Karen Witherspoon
Senior Project Planner
Lewis County Community Development
125 NW CHEHALIS AVE
CHEHALIS, WA 98532-2010
Email: karen.witherspoon@lewiscountyyw.org

DATED this 28th day of January, 2026, at Seattle, Washington.

s/Aimeé Muul
Aimeé Muul, Legal Assistant
aimee@plauchecarr.com