

**A G E N D A**  
**UMATILLA COUNTY BOARD OF COMMISSIONERS**  
**Meeting of Thursday, December 16, 2015, 1:30 p.m.**  
Umatilla County Courthouse, 216 SE 4<sup>th</sup> St., Room 130, Pendleton, OR

\* \* \* \* \*

**A. CALL TO ORDER**

**NEW HEARING: PLAN MAP AMENDMENT #P-114-15, ZONE MAP AMENDMENT #Z-305-15, AND TEXT MAP AMENDMENT #T-15-060 FOR WEBB SLOUGH QUARRY, OREGON DEPARTMENT OF TRANSPORTATION (ODOT), applicant.** The Board of Commissioners will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Webb Slough quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the west side of US Highway 395, at Mile Post 34.80, described as Township 3 South, Range 30½ East, Sections 12 & 13, Tax Lot 503. Standards of approval are provided in Oregon Administrative Rules (OAR) and include OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

**NEW HEARING: PLAN MAP AMENDMENT #P-115-15, ZONE MAP AMENDMENT #Z-306-15, AND TEXT MAP AMENDMENT #T-15-063 FOR WESTON MOUNTAIN QUARRY, ODOT, applicant.** The Board of Commissioners will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Weston Mountain quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the southeast side of State Highway 204, at Mile Post 2.2, described as Township 4 North, Range 35 East, Sections 24, Tax Lot 7303. Standards of approval are provided in OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

**D. ADJOURN**

**DRAFT MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, November 19, 2015**  
**6:30 p.m., Umatilla County Justice Center, Media Room**  
**Pendleton, Oregon**

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**COMMISSIONERS**

**PRESENT:** Randy Randall, Chair, Gary Rhinhart, Tammie Williams,  
David Lee, Suni Danforth, Cecil Thorne, Don Marlatt,  
Tami Green.

**ABSENT:** Don Wysocki.

**STAFF:** Carol Johnson, Bob Waldher, Brandon Seitz, Tierney  
Dutcher, Gina Miller.

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**NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. A  
RECORDING OF THE MEETING IS AVAILABLE AT THE PLANNING  
DEPARTMENT OFFICE.**

**CALL TO ORDER:**

Chair Randy Randall called the meeting to order at 6:30 p.m. and read the opening statement.

**MINUTES:**

Chair Randall asked the Planning Commission to review the minutes from September 24, 2015 and October 22, 2015 for adoption. Commissioner Danforth moved to adopt the minutes. Mr. Waldher stated that he had several clarifications he wanted added to the minutes; Page 3 of second paragraph of Sept. 24 - line should read, "proposed project would be co-located within 500 feet of an existing transmission line", Page 3 of third paragraph of Sept. 24 - line should read, "the project connects the Wallula substation to the McNary substation", Page 3 of fourth paragraph of Sept. 24 - should read " Mr. Fritz advised that Pacific Power proposes to co-locate a new 230 kV line within 500 feet of existing BPA and Pacific Power transmission lines". Commissioner Danforth moved to adopt the minutes, with corrections, and the motion was seconded by Commissioner Rhinhart. Motion carried by consensus.

**CONTINUED HEARING:**

**REQUEST FOR A PUBLIC HEARING FOR LAND USE DECISION REQUEST #LUD-185-15, BLUE MOUNTAIN CHRISTIAN FELLOWSHIP, applicant/property owners.** During the public comment period, a "Request for a Public Hearing" was submitted on July 27, 2015. The request is to develop an 80 foot by 80 foot cemetery on

church-owned property. The area of the Blue Mountain Christian Fellowship property proposed for the cemetery is located on the south side of Sunquist Road (County Road No. 512) at the northeast corner of Tax Lot #1100, in Township 6N, Range 35E, Section 21A. The situs address for this property is 52322 Sunquist Road, Milton Freewater, OR 97862. Criteria of approval are found in Umatilla County Development Code 152.059 (B), 152.617 (II).

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

**Staff Report:** Bob Waldher, Senior Planner, presented the staff report. He referred to a map on the screen, showing the subject property and the new proposed location of the cemetery by the applicant since the last hearing. He said there was a new site plan in their information packets. Mr. Waldher referenced the zoning for the subject parcel, Exclusive Farm Use (EFU), and that it provides for use as a cemetery in conjunction with a church, per Oregon Revised Statutes (ORS) 215.283 and Umatilla County Development Code (UCDC) 152.059(B). He said there was a letter from the applicant, Paul Zehr, stating that he had spoken with several neighbors. The letter also contained a new site plan and a letter from soil scientist Don Wysocki, stating that a cemetery would pose negligible risks to health if state regulations were followed. Mr. Waldher stated that he had also received a letter from another neighbor, Ryan Daggett, after the information packets had been mailed out. The letter from Mr. Daggett raised several concerns about the proposed cemetery. He distributed a copy of the letter to the Planning Commission.

Mr. Waldher advised the Planning Commission of their options for this application; they can approve the application as is based on evidence provided by the applicant, they can impose additional conditions such as moving the location of the cemetery or requiring sight obscuring screening, or they can deny the application if they feel the applicant did not meet the conditions of approval.

Mr. Waldher explained that the new site plan provided by the applicant showed a new location for the cemetery, landscaping proposals, and flush mounted grave markers that would not show a split rail fence around the cemetery, shade trees and a hedge. A letter from Mr. Wysocki was also included, stating that additional soil testing had been done.

**Applicant Testimony:** Jason Derstine, 83902 Winesap Road, Milton-Freewater. Mr. Derstine stated that Chad Derstine had been in contact with several of the neighbors. Chair Randall asked why the cemetery had not been moved closer to the parking lot, as suggested at the prior hearing. Mr. Derstine said the current location had been chosen after discussions with the neighbors.

**Opponent Testimony:** None offered.

**Public Agencies:** None offered.

Chair Randall closed the hearing and moved to deliberation.

Chair Randall asked to review the conditions of approval. Mrs. Johnson advised that the site plan should include setbacks for any new structures according to the zone. Vision clearance, fencing and other conditions were discussed. Mrs. Johnson said that the Planning Commission could add a condition of approval that addressed the fencing issue. This condition could specify the type of fence and that it must meet height requirements and setback standards. Discussion followed on the fence requirement and a variance to the standards.

Commissioner Rhinhart moved to approve the application, with a condition of requiring the applicant to work with the county on a site plan showing an acceptable placement of the fence. Commissioner Marlatt seconded the motion. Motion passed 8:0.

### **CONTINUED HEARING:**

**CONDITIONAL USE PERMIT REQUEST #C-1248-15 AND LAND USE DECISION REQUEST #LUD-188-15 FOR WALLULA TO MCNARY 230-kV TRANSMISSION LINE, PACIFIC POWER, applicant.** Planning Commission will review the Conditional Use Permit Request and Land Use Decision Request by Pacific Power to build a 230-kV transmission line from the McNary Substation near Umatilla, OR to Wallula, WA, near the Oregon/Washington border. The proposed transmission line route would pass through public and private lands and would parallel existing Bonneville Power Administration and Pacific Power transmission lines. Criteria of approval include Umatilla County Development Code 152.059, 152.617 (II)(7), and 1972 Umatilla County Zoning Ordinance 3.114, 3.116, 3.026, and 7.040.

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

**Staff Report:** Bob Waldher, Senior Planner, presented the staff report. He stated that Pacificorp had provided the requested additional material from the last hearing and it was included in the Planning Commission packet. The Pacificorp consultant provided a technical memorandum on October 9, 2015 and addressed the following matters raised at the last hearing; visual impacts from the project in the historic and scenic highway program as identified in the statewide Planning Goal 5, supplemental findings related to the EFU provisions in Chapter 152, a discussion on the feasibility of double circuiting on the existing 230 kV transmission line and information on tentative cumulative impacts associated with the project. In addition to the technical memorandum, Pacificorp provided a copy of the Department of State Lands (DSL) removal/fill permit for wetlands. Mr. Waldher discussed the land owners included in this project, and reminded the Planning Commission that a total of 5 land owners had not signed off on the lease agreement and would not be considered part of this application. They would have to resubmit a new application in the future if those land owners opted to participate in the project. He had amended the findings to clearly state this requirement. Mr. Waldher handed out two letters of support that had been received via email that same day.

Commissioner Lee asked what percentage of the project was represented by the 5 land owners who had not yet signed a lease. Mr. Waldher suggested that the applicant could better respond to this question.

**Applicant Testimony:** Paul Hicks, CH2M Hill and Brian Fritz, Pacificorp, 825 NE Multnomah St, Portland, OR and 2121 SW 4<sup>th</sup> Ave, Portland, OR. Mr. Hicks said they wanted to discuss the technical memo information they provided that had been requested in September. He stated that their material was consistent with county code and Comprehensive Plan. They had four key topics they responded to in this material. In regards to the visual impact and historic highway, the presence of the project will not change or alter the view or character, as it will not be seen from Highway 730 and Highway 37. As it nears Hat Rock, parts can be seen but they are similar in appearance to the existing transmission line. Mr. Hicks discussed Chapter 152.617 (II) on Exclusive Farm Use (EFU), and how the project complies with 4 out of 6 criteria as detailed in the technical memo. He stated that cost was not the determining factor in siting this transmission line. They sited the route based on existing substations, and adjacent transmission lines rights-of-ways. He went on to talk about their meeting the criteria for reclamation measures as required by landowners. The project will not cause any significant changes to accepted farm practices and will not result in any significant increases of cost to farming practices, so they comply with Sub-Section 7 of Chapter 152.617. Mr. Hicks talked about the feasibility of double-circuiting on the existing 230 kV line. According to their reliability standards developed and enforced by the North American Electric Reliability Corporation, this would not be feasible. More detailed information about this reasoning was included in the technical memo.

Commissioner Lee asked why they weren't building a 500 kV line instead of the proposed 230 kV line to handle future load. Mr. Fritz explained that they look at all the lines in the area, and what would happen if a line were to go out of service. If the 530 line went out of service, it would overload voltage of the system for the 230 lines and do more harm than if they stayed with the 230 kV line. The new materials will be able to handle higher megawatts, providing more capacity and allows them to rebuild in the future without cutting service to customers. Chair Randall asked how long this line would be good for, and Mr. Fritz confirmed it would be good for nearly 50 years and that it would accommodate load growth in the meantime. He explained that many factors were considered when determining power supply, including natural resources, like solar and wind which are very hard to predict. Chair Randall asked about the 5 land owners that have not signed the lease, and Mr. Fritz explained that this represented about 22 miles total in Umatilla County and that not quite half the project was located in Umatilla County.

Commissioner Rhinhart asked about cumulative effects, like bird mortality, and were they proposing any mitigation for this. Mr. Fritz said they will be putting bird flight diverters on the lines, and the designs meet the avian standards. Commissioner Rhinhart asked if they had ever considered providing financial mitigation to the Blue Mountain

Wildlife Rehab Center. Discussion followed on bird fatalities and mitigation on federal lands.

**Opponent Testimony:** Randy Rupp, 176 (inaudible) Richland, WA, and Patrick Gregg, PO Box 218, Pendleton, OR, representing Mr. Rupp. Mr. Rupp briefly requested that the Planning Commission deny the application, (inaudible) and stated that the line can be built elsewhere. He stated that this big corporation was running over an individual and shouldn't have the right to steal his land.

Mr. Gregg confirmed that his client had not signed a lease with Pacificorp. He advised that Mr. Rupp owns 6-7 miles of land in the proposed project scope of 22 miles in Umatilla County. Mr. Rupp stated that he is not trying to stop Pacific Power, but he contends that they do not need another line to do it. Discussion followed on interruption of power service to customers. Mr. Gregg talked about "double-stacking" the lines, and how this would not create a bigger problem if something happened to the existing line. He stated that they believe cost to be the defining reason behind the proposed project, which does not meet the standards. He pointed out that there was very little explanation from the applicant in the additional technical memo about cost not being the defining reason behind the project. Mr. Gregg discussed various reasons why they believed that all the reasons provided by the applicant all came back to cost as the basic reason for wanting to build the line where it is. They do not believe that the applicant has sufficiently explained why cost is not the primary reason, and requested that the application be denied.

Mr. Rupp stated that there were other landowners who opposed this project but did not come to the hearing because they didn't believe that they could fight something like this because they didn't own enough land.

**Public Agencies:** None offered.

**Rebuttal:** Mr. Hicks stated that cost seemed to be the primary concern from the opponent, and they stated they did address the code in their supplemental memo. According to Chapter 152.617 (II7A2), cost alone cannot be the sole consideration for a project. He said they provided evidence that the site is within 500 feet of existing transmission lines to meet policy guidance from the State of Oregon to minimize impact to; avoid potential development in wetlands, proximity to existing structures, minimize impacts to farm ground and encroach upon active farm uses and satisfy feasibility and reliability which is the key consideration. All these points illustrate that it is not based on cost alone.

Mr. Fritz discussed what would happen if they were to lose one line, and how the second line increases their reliability of service to their customers. He stated that it does cost more to double circuit, but this is not their primary concern. They would need twice the amount of right-of-way for a larger 500 kV line, based on safety codes. He discussed in detail how they determined the best way to site this project. Discussion followed on the question of double-circuiting. Mr. Fritz said they are only double-circuiting in some

places where they are able to. He confirmed that they have lost lines before and had to replace insulators and conductors, and they lose lines to wildfires every year. In addition to catastrophic loss, it involves taking the line out of service for routine maintenance.

Chair Randall asked if there was any kind of solution for Mr. Rupp's concerns, and if double circuiting on a small portion of his land would be a viable option. He reminded the Planning Commission that the decision at this hearing would not involve Mr. Rupp's land.

Commissioner Lee asked if they had considered a buried line. Mr. Fritz said it would require much more land for a 230 kV line, and the environmental impacts are bigger as it requires more land to dig up to bury the line. Mr. Fritz talked about the requirements for burying a transmission line, and why buried lines are more difficult to maintain. It only makes sense to bury lines in urban settings as they are sited with other buried utilities.

Chair Randall closed the hearing and moved to deliberation. Commissioner Marlatt asked if this application was only dealing with the landowners who had signed the lease agreement with Pacificorp, and it was confirmed that the other landowners who haven't yet signed would have to submit a separate application. Commissioner Lee stated that the line needed an upgrade. Commissioner Danforth agreed and stated that the infrastructure needed rebuilding, and she supports energy co-location and corridors. She said she understood Mr. Rupp's position and hoped that the suggestion for the applicant to work with him would work out.

Commissioner Danforth moved to approve #C-1248-15 and LUD #185-15, and Commissioner Lee seconded the motion. Motion was approved by a vote of 6:2.

#### **CONTINUED HEARING:**

**PLAN MAP AMENDMENT #P-114-15, ZONE MAP AMENDMENT #Z-305-15, AND TEXT MAP AMENDMENT #T-15-060 FOR WEBB SLOUGH QUARRY, OREGON DEPARTMENT OF TRANSPORTATION (ODOT), applicant.** Planning Commission will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Webb Slough quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the west side of US Highway 395, at Mile Post 34.80, described as Township 3 South, Range 30½ East, Sections 12 & 13, Tax Lot 503. Standards of approval are provided in Oregon Administrative Rules (OAR) and include OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

Chair Randall called for declarations of ex-parte' contact, biases, conflicts of interest or abstentions, there were none.

**Staff Report:** Bob Waldher, Senior Planner, presented the staff report. He stated that ODOT submitted a Post-Acknowledgement Plan Amendment (PAPA) application requesting that the county include the expansion of Webb Slough quarry as a significant aggregate site. Mr. Waldher referred to a figure on the screen and noted that it was also included in the October hearing packet. The existing quarry located on Tax Lot #503 is 11.2 acres and ODOT recently expanded it by 19.98 acres with land needed from the owner of Tax Lot #500. He pointed out that our department has not yet received an application for a boundary line adjustment and said it's typically approved prior to processing the application for the plan amendment. He recommended that, as a precedent condition, the applicant will be required to complete and submit a boundary line adjustment application for Tax Lot #500 to finalize the process.

Mr. Waldher noted that the county code has not been updated with the division 23 rules for aggregate. The OAR 660-023-0180 will be used to establish findings. The application constitutes a PAPA and is subject to criteria listed in OAR 660-023-0030. Mr. Waldher advised the Planning Commission on their options for a decision. They may decide to amend the comprehensive plan to add the Webb Slough quarry expansion to the County's inventory of significant sites and establish an aggregate resource overlay zone on the expansion area. Following approval of the Planning Commission this comprehensive plan and map amendment will be heard before the Umatilla County Board of Commissioners.

Chair Randall asked if the Commissioners will be hearing about this prior to the Boundary Adjustment. Mr. Waldher said that is his understanding, and as a condition of approval the county planners office would ask the applicant to submit a supplement that includes the boundary line adjustment in their application. He clarified that the tax lot #500 was deeded to ODOT but not processed through the Umatilla County Planning Dept.

The applicant, Mr. Knight, stated that he did submit an application for the boundary line adjustment after receiving the required signatures. Chair Randall requested that the applicant testimony begin so the conversation becomes part of the meeting record.

**Applicant Testimony:** Patrick Knight, ODOT, 3012 Island Ave. La Grande, OR 97850. Mr. Knight stated that it was his understanding that they had submitted an application for the boundary line adjustment some time ago but he is willing to resend the paperwork. It was discussed that he was working with a Planner who no longer works for the County. The office will work with Mr. Knight to locate the previously submitted application or complete a new application, if necessary. Mrs. Johnson advised that we cannot accept a copy of the document, as the signatures on the form are required to be original when they are recorded in County Records. Commissioner Rhinhart mentioned the property involved was part of George Wachter's place in an area formerly known as Ridge, OR. Chair Randall clarified that the only condition on the Staff Report was that they complete a boundary line adjustment, and Mr. Waldher confirmed this was correct.



Mr. Knight stated that the Planning Department had received a letter from a surrounding property owner who was concerned about dust and farming. Mr. Knight reminded the commission that the DEQ requires ODOT to meet all air quality standards on the property. Mr. Waldher noted that the letter received was regarding the Weston Mountain quarry, not the Webb Slough quarry. They agreed it was a matter for the next hearing.

**Opponent Testimony:** None offered.

**Public Agencies:** None offered.

**Rebuttal:** None offered.

Chair Randall closed the hearing and moved to deliberation.

Commissioner Rhinhart noted there is currently a sign indicating, “No Trespassing, No Dumping, No Shooting” as the site is located right next to the road and has been known to be an area of the highway where people have shot guns toward the highway. There was a discussion about signage in the area. He wanted to be sure the sign would remain visible to the public and he requested that it be added this as a condition to the Commission’s approval of these amendments.

Commissioner Rhinhart moved to recommend approval of Plan Map Amendment #P-114-15, Zone Map Amendment #Z-305-15, and Text Map Amendment #T-15-060 with the condition that they provide the proper signage and complete the boundary line adjustment. Commissioner Tammie Williams seconded the motion. Motion was approved by a vote of 8:0.

#### CONTINUED HEARING:

**PLAN MAP AMENDMENT #P-115-15, ZONE MAP AMENDMENT #Z-306-15, AND TEXT MAP AMENDMENT #T-15-063 FOR WESTON MOUNTAIN QUARRY, ODOT, applicant.** Planning Commission will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Weston Mountain quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the southeast side of State Highway 204, at Mile Post 2.2, described as Township 4 North, Range 35 East, Sections 24, Tax Lot 7303. Standards of approval are provided in OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

Chair Randall called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions, there were none.

**Staff Report:** Bob Waldher, Senior Planner, presented the staff report. He stated that this issue is similar to the last issue discussed and displayed the map on the overhead

screen. Mr. Waldher referred to a letter received on October 26th from Ms. Corinne Stumbo, owner of Tax Lot #7201 & #7202. Mr. Waldher stated that in the letter Ms. Stumbo raised concerns about traffic conflicts between trucks accessing the quarry and farm equipment that will need to enter and exit the adjacent farm fields. She asked ODOT to consider improving the access approach to the farm field. The applicant is aware of the request and received a copy of the letter.

The criteria for approval for this application are the same as they were for the Webb Slough quarry. The Planning Commission may decide to amend the Comprehensive Plan to add Weston Mountain quarry expansion to the County's inventory of significant sites and establish an aggregate resource overlay zone on the expansion area. The Planning Commission's recommendation will also be given to the Umatilla County Board of Commissioners for final approval.

Commissioner Rhinhart wanted to be sure they plan to use existing access and not create a new one and the applicant confirmed this to be true.

**Applicant Testimony:** Patrick Knight, ODOT, 3012 Island Ave. La Grande, OR 97850. Commissioner Rhinhart asked Mr. Knight if he has reviewed the letter from Ms. Stumbo and if he has any concerns about what she has brought up. Mr. Knight confirmed he has read the letter and assured the Commission that they are required to address those things within their process. There won't be any new access and no use of an underground natural gas line. Mr. Knight has not contacted Ms. Stumbo and does not plan to because they have addressed her concerns in the application and meet the criteria. Commissioner Rhinhart said it makes sense to talk to the property owner about her concerns.

**Opponent Testimony:** None offered.

**Public Agencies:** None offered.

**Rebuttal:** None offered.

Chair Randall closed the hearing and moved to deliberation.

Commissioner Williams opened a discussion about the concerns raised in the letter. Commissioner Rhinhart has seen the quarry and doesn't think the concerns are justified because they won't be creating any more dust than they already do. He noted there is a steep downhill slope and a pond is up above the site. In the area where the road enters and exits the visibility is rough. He mentioned it would be neighborly for the applicant to talk to the land owner and let them know they were doing their best to make everyone happy.

Commissioner Rhinhart moved to recommend the Plan Map Amendment #P-115-15, Zone Map Amendment #Z-306-15, and Text Map Amendment #T-15-063 to the Board of Commissioners with proper signage posted. Mr. Waldher noted the office has completed a boundary line adjustment for this application. Commissioner Lee seconded the motion.

Motion was approved by a vote of 8:0.

**OTHER BUSINESS:**

On behalf of Tamra Mabbott, Mr. Waldher distributed a document with information on new changes coming to the National Flood Plain Development Program through FEMA and working with NOAA.

Mr. Waldher introduced the new Planning Commission member, Tami Green. Tami gave a short bio of herself; Her family is originally from the area and recently moved back to be close to family after being in Baker County for the past 25 years. She is married and has two daughters. Tami served as County Clerk for the County of Baker for 14 years and worked for the county for a total of 17 years. She hopes to use her experience to contribute to the Commission and appreciates the opportunity to serve. Tami resides on Patty Creek Rd. The Planning Commission welcomes Tami Green.

**ADJOURNMENT:**

Chair Randall adjourned the meeting at 8:32 p.m.

Respectfully submitted,

Gina Miller  
Secretary

( Minutes adopted by the Planning Commission on \_\_\_\_\_ )

# UMATILLA COUNTY BOARD OF COMMISSIONERS

December 16, 2015

## NEW HEARING:

**PLAN MAP AMENDMENT #P-114-15, ZONE MAP  
AMENDMENT #Z-305-15, AND TEXT MAP AMENDMENT  
#T-15-060 FOR WEBB SLOUGH QUARRY, OREGON  
DEPARTMENT OF TRANSPORTATION (ODOT), applicant.**

Planning Commission will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Webb Slough quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the west side of US Highway 395, at Mile Post 34.80, described as Township 3 South, Range 30½ East, Sections 12 & 13, Tax Lot 503. Standards of approval are provided in Oregon Administrative Rules (OAR) and include OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

# Umatilla County

## Department of Land Use Planning

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DIRECTOR  
TAMRA MABBOTT

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

RURAL  
ADDRESSING

LIAISON, NATURAL  
RESOURCES &  
ENVIRONMENT

### MEMO

**TO:** Umatilla County Board of Commissioners  
**FROM:** Bob Waldher, Senior Planner  
**DATE:** December 8, 2015

**RE: December 16, 2015 Board of Commissioners Hearing  
Oregon Department of Transportation – Webb Slough Quarry Expansion  
Plan Map Amendment, #P-114-15  
Zone Map Amendment, #Z-305-15  
Text Map Amendment, #T-15-060**

#### ***Background Information***

The Oregon Department of Transportation (ODOT) recently submitted a Post Acknowledgement Plan Amendment (PAPA) application requesting that Umatilla County include the expansion of Webb Slough Quarry in the Umatilla County Goal 5 inventory as a significant aggregate resource site, and protect the site by applying the Aggregate Resource (AR) Overlay Zone over the expansion area. The existing quarry site (Tax Lot 503) is 11.2 acres. ODOT recently completed a property line adjustment to expand Tax Lot 503 by 19.98 acres with land purchased from Tax Lot 500. The quarry site is listed as a 3C site in the Umatilla County Comprehensive Plan Technical Report. The current aggregate extraction site is a Goal 5 significant aggregate site and is protected by the AR Overlay Zone.

#### ***Criteria of Approval***

The Umatilla County Development Code has not been updated with the Division 23 Rules for Aggregate. The Oregon Administrative Rules 660-023-0180 to establish a Goal 5 Large Significant Site will be directly applied per OAR 660-023-180 (9). This application constitutes a PAPA and is subject to the criteria listed in Oregon Administrative Rules (OAR) 660-023-0030 through 660-023-0050, and OAR 660-023-0180.

#### ***Conclusion***

The Board of Commissioners may decide to amend the Comprehensive Plan to add the Webb Slough Quarry expansion to the County's inventory of significant sites and establish an aggregate resource overlay on the expansion area.

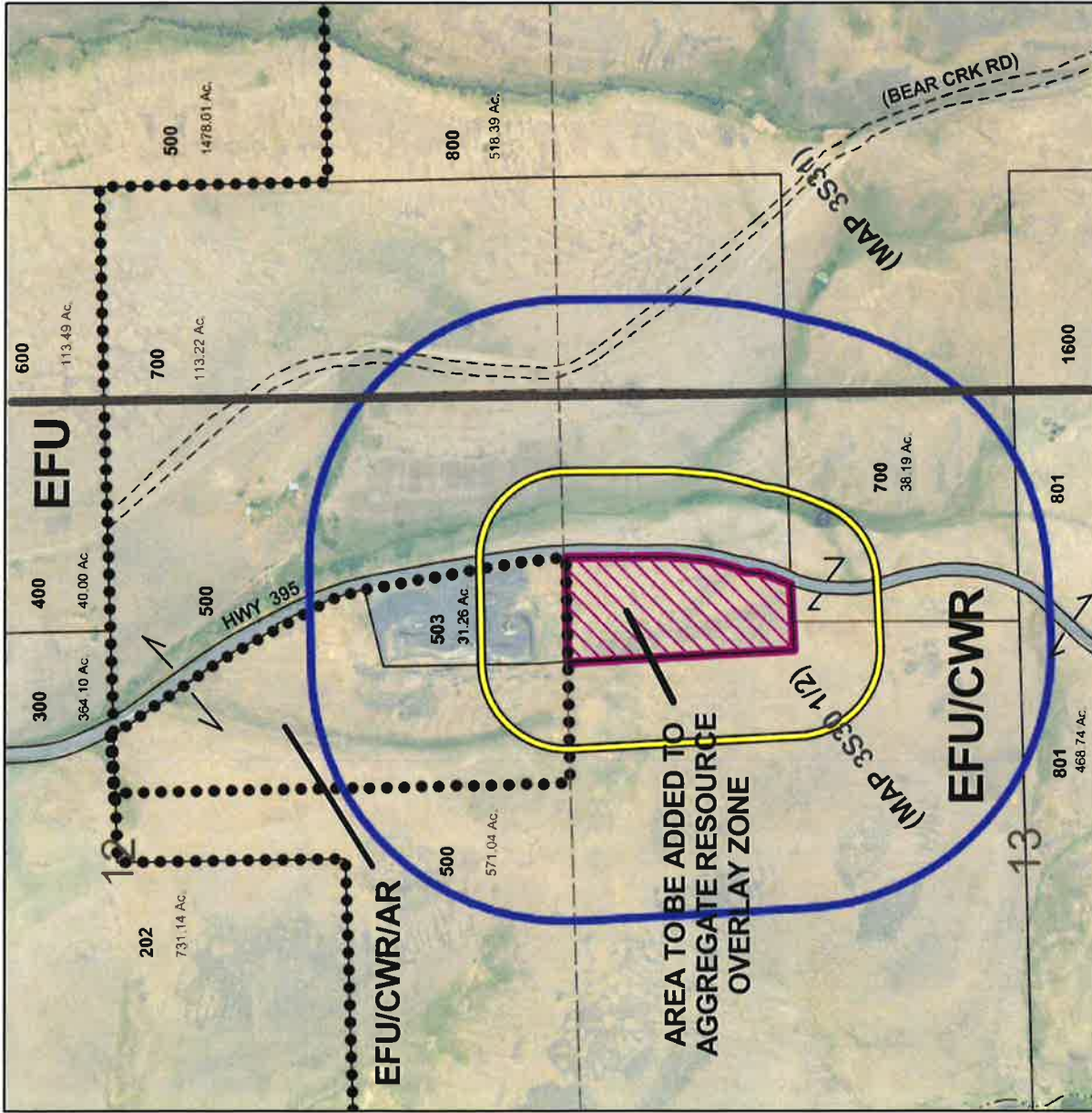
#### ***Attachments***

The following attachments have been included for review by the Board of Commissioners:

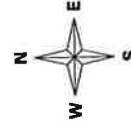
- Preliminary Findings and Conclusions
- Proposed AR Overlay Expansion Map

**PROPERTY OWNERS WITHIN NOTICE  
AREA OF SUBJECT PARCEL**

- MAP 3S30 1/2
- 202 ANDERSEN RANCHES
  - 300 KOPP MAYANNA (TRS)
  - 400 WACHTER GEORGE
  - 500 PIQUET EMMA WACHTER (EST)  
C/O WACHTER GEORGE
  - 503 STATE OF OREGON ODOT**
  - 700 WHITTAKER JAMES W (TRS) ETAL
  - 801 CUNNINGHAM SHEEP & LAND CO
- MAP 3S31
- 500 SPIN & MARTY LLC
  - 600 WACHTER GEORGE
  - 700 PIQUET EMMA WACHTER (EST)  
C/O WACHTER GEORGE
  - 800 WHITTAKER JAMES W (TRS) ETAL
  - 1600 CUNNINGHAM SHEEP & LAND CO



2014 AERIAL PHOTO






DATE: 3/30/15

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Not intended for legal use. Created by J. Alford, Umatilla County Planning Department.

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COMP PLAN AMENDMENT #P-114-15/ TEXT AMENDMENT #T-15-060  
 ZONING MAP AMENDMENT #Z-305-15  
 OREGON DEPT OF TRANSPORTATION, APPLICANT/OWNER  
 MAP 3S30 1/2, TAX LOT 503

-  Subject Area
-  500' around Gravel Pit
-  1500' around Gravel Pit

**UMATILLA COUNTY BOARD OF COMMISSIONERS  
FINAL FINDINGS AND CONCLUSIONS  
WEBB SLOUGH QUARRY  
COMPREHENSIVE PLAN MAP AMENDMENT, #P-114-15,  
COMPREHENSIVE PLAN TEXT AMMENDMENT T-15-060  
ZONING MAP AMENDMENT #Z-305-15  
MAP #3S 30 1/2, TAX LOT #503, Account #135290**

1. APPLICANT: Patrick Knight, 3012 Island Ave, La Grande, OR 97850
2. OWNERS: Oregon Department of Transportation, 3012 Island Ave, La Grande, OR 97850
3. REQUEST: The Oregon Department of Transportation (ODOT) recently completed a property line adjustment to expand Tax Lot 503 by 19.98 acres with land purchased from Tax Lot 500. As a result, ODOT is requesting that Umatilla County include the expansion in the Umatilla County Goal 5 inventory as a significant aggregate resource site, and protect the site by applying the Aggregate Resource (AR) Overlay Zone over the expansion area. The quarry site is listed as a 3C site in the Umatilla County Comprehensive Plan Technical Report. The current aggregate extraction site is a Goal 5 significant aggregate site and is protected by the Aggregate Resource Overlay Zone.
4. LOCATION: The property is located on the west side of US Highway 395, at mile post 34.80.
5. SITUS: No site address is assigned to this property.
6. ACREAGE: Prior to the property line adjustment, Tax Lot 503 was approximately 11.2 acres and Tax Lot 500 approximately 590.03 acres. The 19.98 acre expansion of Tax Lot 503 resulted in a parcel of approximately 31.62 acres.
7. PERMITS: Multiple permits have been issued to Tax Lot 503. Since 1974 seven (7) Conditional Use Permits and ten (10) zoning permits have been issued for aggregate mining and crushing operations. The most recent permit, ZP-07-242, was issued in 2007 to resume operations. The existing AR overlay was created in 2003 through Zone Amendment #Z-277 and Text Amendment #T-03-012.
8. COMP PLAN: North/South Agriculture Region Designation
9. ZONING: Exclusive Farm Use Zone (EFU, 160 acre minimum) and Critical Winter Range Overlay (CWR)
10. ACCESS: The property has access from Highway 395 South.

FINAL FINDINGS AND CONCLUSIONS

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- 11. ROAD TYPE: Highway 395 South is a paved, state-maintained roadway.
- 12. EASEMENTS: There are no access easements on these parcels.
- 13. LAND USE: The property has historically been used as pasture land and a quarry site.
- 14. ADJACENT USE: Property around this parcel is used for farming and grazing.
- 15. LAND FORM: Columbia River Plateau
- 16. SOIL TYPES: The subject property contains predominately Non-High Value soil types. High Value Soils are defined in UCDC 152. 003 as Land Capability Class I and II. The soils on the subject property are predominately Class VI.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
31D: Gurdane Silty Clay Loam, 7 to 25 percent slopes	IVe	---
33D: Gurdane-Rockly Complex, 2 to 20 percent slopes	VII	---
<i>Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as "e" – erosion prone, "c" – climate limitations, "s" soil limitations and "w" – water (Survey, page. 172).</i>		

- 17. BUILDINGS: There are no buildings on this property.
- 18. UTILITIES: The parcel is not served by utilities.
- 19. WATER/SEWER: There are no ground water rights on this property.
- 20. FIRE SERVICE: The subject property is served by a rural fire district.
- 21. IRRIGATION: The subject property is not served by an irrigation district
- 22. FLOODPLAIN: This property is NOT in a floodplain.
- 23. NOTICES SENT: Notice sent to DLCD August 20, 2015.
- 24. HEARING DATE: A public hearing was held before the Umatilla County Planning Commission on November 19, 2015 at 6:30 PM at the Justice Center, 4700 Pioneer Place, Pendleton, OR 97801.

A second public hearing will be held before the Board of County Commissioners on December 16, 2015 at 9:00 AM at the Umatilla County Courthouse, Room #130, 216 SE 4<sup>th</sup> Street, Pendleton, OR 97801.



25. AGENCIES: Umatilla County Assessor, Umatilla County Public Works, Department of Transportation Region 5-Highways Division, Department of Land Conservation and Development, Department of Environmental Quality, Department of Geology and Mineral Industries, Department of State Lands

26. COMMENTS: No public or agency comments were received. During the public hearing on November 19, 2015, Planning Staff noted that ODOT recently expanded Tax Lot 503 by 19.98 acres with land deeded from the property owner of Tax Lot 500. Subsequent to the preliminary findings being prepared, the Planning Department determined that the applicant did not complete a boundary line adjustment application for the portion of Tax Lot 500. Typically, the Planning Department would require that a property line adjustment to be completed prior to the application for the plan amendment. It was recommended and approved by the Planning Commission that a precedent condition of approval be added to require the applicant to submit a completed boundary line adjustment application and legal descriptions to the Planning Department. This is included in Precedent Condition #1, below.

Also during the hearing, Planning Commission recommended that a precedent condition be added to the findings requiring ODOT to install "No Firearms Activities" signs at the entrance to the quarry to deter the public from shooting firearms within the quarry site. This is included in Subsequent Condition #6, below.

NOTE: The Umatilla County Development Code has not been updated with the Division 23 Rules for Aggregate. The Oregon Administrative Rules 660-023-0180 to establish a Goal 5 Large Significant Site will be directly applied per OAR 660-023-180 (9).

**27. GOAL 5 ISSUES:** Scenic, Open Space, Historic, Wildlife, and other resources.

In order to mine aggregate in Umatilla County, a site must either be an active insignificant site, or be listed on the Goal 5 Inventory of the Umatilla County Comprehensive Plan as a significant site. This site is not currently on the Goal 5 Inventory as a significant site. The applicant proposes to utilize quality/quantity information to obtain approval of the plan amendment to add the site to the Umatilla County inventory of significant aggregate sites and obtain Goal 5 protection of the resource. Part of this Goal 5 protection is to include the site under the AR Overlay Zone. The Umatilla County Comprehensive Plan requires that "[a]ny proposed modification to the text or areas of application (maps) of the AR, HAC, CWR or NA Overlay Zones shall be processed as an amendment to this plan." Therefore, this application constitutes a Post-Acknowledgement Plan Amendment (PAPA), and is subject to the criteria listed in Oregon Administrative Rules (OAR) 660-023-0030 through 660-023-0050, and OAR 660-023-0180. The Department of Geology and Mining Industries (DOGAMI) reclamation plan (on file with DOGAMI) informs ODOT to replace overburden and seed the site with native grasses for grazing once the quarry is exhausted. As a condition of approval for operation, the applicant must acquire a DOGAMI permit.

**28. STANDARDS OF THE OREGON ADMINISTRATIVE RULES, DIVISION 23 FOR GOAL 5 LARGE SIGNIFICANT SITES** are found in **OAR 660-023-0180 (3), (5), & (7), OAR 660-023-040, and OAR 660-023-050**. The standards for approval are provided in underlined text and the responses are indicated in standard text.

**OAR 660-023-0180 Mineral and Aggregate Resources**

**(3) [Large Significant Sites]** An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in subsections (a) through (c) of this section, except as provided in subsection (d) of this section:

(a) A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or 100,000 tons outside the Willamette Valley;

(b) The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section; or

(c) The aggregate site is on an inventory of significant aggregate sites in an acknowledged plan on the applicable date of this rule.

(d) Notwithstanding subsections (a) through (c) of this section, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996 had an enforceable property interest in the expansion area on that date, an aggregate site is not significant if the criteria in either paragraphs (A) or (B) of this subsection apply:

(A) More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on the date of this rule; or

(B) More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil on NRCS maps available on the date of this rule, unless the average width of the aggregate layer within the mining area exceeds:

(i) 60 feet in Washington, Multnomah, Marion, Columbia, and Lane counties;

(ii) 25 feet in Polk, Yamhill, and Clackamas counties; or

(iii) 17 feet in Linn and Benton counties.

To assess the quality, quantity, and location of the resource, ODOT reviewed and summarized existing, geologic mapping, topographic surveying, subsurface drilling and laboratory testing of rock materials. The proposed quarry site is estimated to contain approximately 1,000,000 cubic yards (500,000 tons) of rock of a quality that exceeds ODOT's standard specifications for base rock. The quarry meets (exceeds) the criteria for a significant aggregate site in accordance with OAR 660-023-180 (3)(a). In addition the adjoining existing site is listed in the Umatilla County Comprehensive Plan Technical Report of Goal 5 Resources in the Inventory of Rock Material Sources as a 3C Significant Site. This criterion is satisfied.

(5) [Large Significant Sites] For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving an aggregate site determined to be significant under section (3) of this rule, the process for this decision is set out in subsections (a) through (g) of this section. A local government must complete the process within 180 days after receipt of a complete application that is consistent with section (8) of this rule, or by the earliest date after 180 days allowed by local charter.

(a) [Impact Area] The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.

ODOT's studies, which involved reviewing aerial photographs and conducting field reconnaissance, suggest there is no factual evidence to indicate the presence of significant potential conflicts with other uses beyond the 1,500 foot impact area. ODOT provided a map of the project which includes the 1,500 foot impact area. This map has been added to the project record and is included as an attachment to this document. The Umatilla County Planning Commission finds that factual information is not present to indicate that there would be significant conflicts beyond the 1,500 foot impact area from the boundaries of the proposed expansion. The 1,500 foot impact area is sufficient to include uses listed in (b) below. This criterion is satisfied.

(b) [Conflicts created by the site] The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

(A) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e. g. , houses and schools) that are sensitive to such discharges;

One dwelling exists within 1,500 feet of the existing quarry. However, there are no dwellings within the 1,500 foot Impact Area of the proposed expansion. The Umatilla County Planning Commission finds that no conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges exist within the 1500 foot impact area. Land within the impact area is zoned EFU and is used primarily for agricultural activities such as farming and grazing. Although no conflicts have been identified within the impact area and no mitigation measures are imposed,

the applicant has addressed voluntary mitigation measures that will be implemented to minimize potential impacts from noise, dust, or other discharges. These measures are described below:

Noise

Mining is already approved on the existing quarry which has been used as an aggregate source in the past. Noise levels from future operations are not expected to exceed the noise levels from previous mining operations at the site. The noise level will not exceed DEQ recommendations. Noise levels are not an issue to existing uses, as there are no conflicts identified in proximity of the quarry.

Dust

Typically, quarry operations such as aggregate extraction, stockpiling, crushing and processing, and hauling activities are potential sources of dust. Operations in the site must conform to Oregon Department of Environmental Quality (DEQ) air quality standards. As part of normal operations, contractors must submit a site specific dust control plan and use dust suppression methods to mitigate dust during all operations in the quarry site and during hauling activities. Measures will be taken to mitigate fugitive dust resulting from equipment and vehicle use both onsite and along the haul route. These measures will meet Oregon DEQ air quality permit requirements outlined in the General Air Contamination Discharge Permit for portable crushers and asphalt batch plants and all other applicable laws and regulations. Also, ODOT construction inspectors will ensure that contractor activities such as dust suppression are routinely incorporated into operation of the quarry site.

Stormwater and Pollution

Other discharges typically encountered in quarry activities are stormwater, fluids, and debris from the operating equipment. As part of their contract, ODOT requires contractors operating in quarry sites to prepare and adhere to site-specific pollution control and erosion control plans. Stormwater and pollution control is a regular part of the quarry operations, therefore these impacts will be minimized.

(B) Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;

The Umatilla County Planning Commission finds that the only roads within a one mile area of the proposed expansion area are US Highway 395 and Bear Creek Road (County Road #1411). US Highway 395 is a paved two lane state highway and has the capacity to handle heavy truck traffic and additional truck trips each day. Bear Creek Road is a dirt road which provides local access and roughly parallels US Highway 395. Bear Creek Road has no access points to/from US

Highway 395 within one mile of the access to the quarry and would not provide any beneficial use for quarry operations. Therefore, Bear Creek Road would not be impacted by the aggregate operation. Access to the expansion area will be from the existing quarry access which is an ODOT approved access. This quarry site is only used to support public road projects (transportation system improvements), and the traffic generated from operations at this site will be temporary and sporadic. It is not anticipated that the continued use of this quarry would create or increase conflicts to the transportation system within one (1) mile of the site beyond current levels already associated with the existing quarry operations.

(C) Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR chapter 660, division 013;

The Umatilla County Planning Commission finds that there are no public airports within the Impact Area. The closest public airport is located some 27 miles northeast of the mine operation. Thus, no conflicts are recognized in terms of public airports and the proposed mining operation.

(D) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

The Umatilla County Planning Commission finds that the existing aggregate quarry is protected as a significant resource with an AR Overlay Zone, but would not be in conflict with the proposed expansion. The proposed expansion is also in a Critical Winter Range (CWR) Overlay Zone which protects winter range for deer and elk by limiting dwelling density and commercial development. Table D-V, on page D-15, of the Umatilla County Comprehensive Plan Technical Report identifies land uses that are compatible and incompatible with elk and deer winter ranges. A rock pit is not identified as an incompatible use. Construction of residences or commercial development is not proposed as part of this mining expansion. The 20 acre expansion of the existing quarry would have little to no effect on the carrying capacity of the winter range as road work projects, including the extraction of aggregate materials, are typically not completed in the winter. Therefore, conflicts should not occur to the winter range. Thus, it is found that there are no significant conflicts between the proposed aggregate site and identified Goal 5 resources.

(E) Conflicts with agricultural practices; and

The Umatilla County Planning Commission finds that the agricultural practices within the 1500 foot impact zone of the quarry site are primarily pasture and grazing. The potential conflicts to agricultural practices stems from the possibility of dust movement onto adjacent farmland. Aggregate extraction from this quarry is done to support road construction and maintenance activities on public roads and the quarry is used on an as-needed basis. Haul roads and heavy trucks which have the potential to cause large amounts of dust are not proposed as part of this project. Although there will be some truck movement, when the quarry is in use, truck movement will not be of a level typically experienced in a commercial mining operation. In summary, the agricultural practices in the Impact Area are those that would not be adversely impacted by the mining operation.

(F) Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon DOGAMI regulations pursuant to ORS 517.780;

The Umatilla County Planning Commission finds that there are no other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon DOGAMI regulations. Therefore, this criterion is not applicable.

(c) [If conflicts exist, measures to minimize] The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.

The Umatilla County Planning Commission finds that no conflicts were identified within the 1,500 foot impact area. Therefore, this criterion is not applicable. Although no conflicts have been identified within the impact area, the applicant has addressed mitigation measures that will voluntarily be implemented to minimize potential impacts from noise, dust, or other discharges. These measures are described (b)(A) above.

(d) [If conflict can't be minimized then conduct an Economic, Social, Environmental, and Energy (ESEE) analysis] The local government shall determine any significant conflicts identified under the requirements of subsection (c) of this section that cannot be minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. Local governments shall reach this decision by weighing these ESEE consequences, with consideration of the following:

- (A) The degree of adverse effect on existing land uses within the impact area;
- (B) Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and
- (C) The probable duration of the mining operation and the proposed post-mining use of the site.

The Umatilla County Planning Commission finds that no conflicts were identified. Therefore, this criterion is not applicable.

(e) [Amend Plan] Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e. g. , site plan review), if required by the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not

provide opportunities to deny mining for reasons unrelated to these requirements, or to attach additional approval requirements, except with regard to mining or processing activities:

(A) For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;

(B) Not requested in the PAPA application; or

(C) For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.

The Umatilla County Planning Commission finds that no conflicts were identified. Therefore, this criterion is not applicable.

(f) [Post mining uses] Where mining is allowed, the local government shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, local governments shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.213(1) or 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking. Local governments shall coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.

The Umatilla County Planning Commission finds that the post mining uses must comply with the EFU Zone and the DOGAMI Reclamation Plan requirements. The applicant's post mining reclamation plan to contour and revegetate the subject property for grazing would be in compliance with these requirements. This criterion is satisfied.

(g) [Issuing a zoning permit] Local governments shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the local government.

The Umatilla County Planning Commission finds that the aggregate processing will be limited to the boundaries of the existing approved quarry site. Therefore, reauthorization of the existing processing operation is not required.

(7) [Protecting the site from other uses/conflicts] Except for aggregate resource sites determined to be significant under section (4) of this rule, local governments shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. (This requirement does not apply if, under section (5) of this rule, the local government decides that mining will not be authorized at the site.)

The process to determine how to protect the site from other uses/conflicts is to conduct an ESEE Analysis. OAR 660-023-0040 & 0050 are addressed below.

### **660-023-0040 ESEE Decision Process**

(1) Local governments shall develop a program to achieve Goal 5 for all significant resource sites based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. This rule describes four steps to be followed in conducting an ESEE analysis, as set out in detail in sections (2) through (5) of this rule. Local governments are not required to follow these steps sequentially, and some steps anticipate a return to a previous step. However, findings shall demonstrate that requirements under each of the steps have been met, regardless of the sequence followed by the local government. The ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected. The steps in the standard ESEE process are as follows:

- (a) Identify conflicting uses;
- (b) Determine the impact area;
- (c) Analyze the ESEE consequences; and
- (d) Develop a program to achieve Goal 5.

The items (a) through (d) will be addressed below.

(2) Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:

The subject parcel is surrounded on all sides by EFU zoning. The permitted and conditional uses available in the EFU Zone are found in Umatilla County Development Code Chapter 152. 056, 058, 059 and 152. 060. A listing is shown below of uses that may be possible within the Impact Area (possible conflicting uses are shown in bold).

- |  |  |
|--|--|
| <u>UCDC 152. 056 - EFU Permitted Uses –</u><br><u>Outright</u> | (H) Construction of a road   |
| (A) Farm Use   | (I) Utility facility service lines                                 |
| (B) Harvesting of a forest product.                            | (J) Maintenance or minor betterment of existing Transmission lines |
| (C) On-site filing   | (K) The transport of biosolids                                     |
| (D) Temporary public roads                                     | (L) Reconstruction of roads  |
| (E) Projects specifically identified in the TSP                | (M) Irrigation canals  |
| (F) Landscaping  | (N) Minor betterment of roads                                      |
| (G) Emergency measures   |  |



UCDC 152. 058 - EFU Permitted Uses –  
Zoning Permit

- (A) Activities within parks
- (B) Operation for the exploration of geothermal
- (C) Operations for the exploration for minerals
- (D) Winery
- (E) Farm stands
- (F) Replacement Dwellings**
- (G) Signs
- (H) Accessory buildings
- (I) On-site filming
- (J) Takeoff and landing of model aircraft
- (K) Fire Service facilities
- (L) Gathering of fewer than 3,000 persons
- (M) Wetlands
- (N) Climbing and passing lanes
- (O) Accessory structures to a farm use
- (P) Met towers
- (Q) Home Occupations
- (R) Agri-Tourism

UCDC 152. 059 - EFU Permitted Uses –  
Land Use Decisions

- (A) (Item Deleted)
- (B) Churches and Cemeteries**
- (C) Utility Facilities Necessary for Public Service
- (D) A facility for the processing of forest products
- (E) Continuation of fire arms training
- (F) A facility for the processing of farm crops
- (G) The land application of reclaimed water
- (H) (Item Deleted)
- (I) (Item Deleted)
- (J) (Item Deleted)
- (K) Dwellings – Farm, Non-Farm and Lot of Record Dwellings**

UCDC 152. 060 - EFU Conditional Uses

- (A) Commercial activities in conjunction with farm use
- (B) Mining
- (C) Private Parks, private playgrounds, private hunting and fishing preserves and private campgrounds
- (D) Public parks
- (E) Golf Courses
- (F) Commercial utility facilities for the purpose of generating power for public use
- (G) Personal Use Airports
- (H) Home occupations**
- (I) Community centers**
- (J) Hardship Dwellings**
- (K) Dog kennels
- (L) A site for the disposal of solid waste
- (M) The propagation, cultivation, maintenance and harvesting of aquatic species.
- (N) Construction of additional passing lanes
- (O) Reconstruction of additional passing lanes
- (P) Improvement of public roads
- (Q) Destination Resorts
- (R) Living History Museum
- (S) Bottling of water
- (T) On-Site filming
- (U) Construction of highways
- (V) Residential houses
- (W) Transmission or communication towers
- (X) Expansion of existing county fairgrounds
- (Y) Room and board**
- (Z) Wildlife habitat
- (AA) Aerial fireworks display
- (BB) Composting facilities
- (CC) Uses compatible with the TSP
- (DD) Public or private schools
- (EE) Agri-Tourism

Uses that might be considered conflicting are potential dwellings and certain uses allowed either through a land use decision or conditional use process, including churches, schools, community centers and home occupations. Thus, possible conflicting future uses in the Impact Area are identified as:

- Dwelling Uses (includes churches, schools, community centers, and home occupations)

(a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (Therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)

Based on applicable zoning, the Umatilla County Planning Commission identified dwelling uses as potential conflicting uses. This criterion is not applicable.

(b) A local government may determine that one or more significant Goal 5 resource sites are conflicting uses with another significant resource site. The local government shall determine the level of protection for each significant site using the ESEE process and/or the requirements in OAR 660-023-0090 through 660-023-0230 (see OAR 660-023-0020(1)).

The Umatilla County Planning Commission finds that there are Goal 5 protected resource sites, namely the existing Aggregate Resource overlay and a small fraction of the Critical Winter Range overlay, that lie within the 1,500 foot Impact Area. The Umatilla County Planning Commission determined in the findings above that the impact area does not significantly conflict with other Goal 5 resource sites. This criterion is not applicable.

**(3) Determine the impact area.** Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource site.

The Umatilla County Planning Commission finds that an Impact Area was defined as 1,500 feet from the boundary of the proposed expansion area of Tax Lot 503. The project site and impact area are included in the map attachment to this document.

**(4) Analyze the ESEE consequences.** Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than

one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.

There are six (6) properties in the impact area zoned EFU. Within the ordinance for the EFU Zone, there are over 40 permitted uses and some 31 conditional uses listed above. In the past, the quarry has been mined intermittently to support road construction and maintenance activities on nearby roadways with the latest operations permitted in 2007. Most EFU uses are compatible with the mining operation. Uses that might be considered conflicting are potential dwellings and certain uses allowed either through a land use decision or conditional use process, including churches, schools, community centers and home occupations. Thus, possible conflicting future uses in the Impact Area are identified as:

- Dwelling Uses (includes churches, schools, community centers, and home occupations)

The ESSE Analysis follows:

**(a) Economic Consequences of Future Uses**

Prohibiting future uses in the Impact Area may decrease the value of land in the EFU Zone. There are currently no dwelling uses located within the 1,500 foot Impact Area. If future dwelling uses were proposed on any of the parcels, all but one of the property owners in the Impact Area could locate dwelling uses to be outside of the Impact Area, likely resulting no change to the overall value of land. This one parcel is that is approximately 40 acres and is almost fully within the 1,500 foot Impact Area. This parcel is of a size that would not typically allow for the establishment of a dwelling in the current underlying EFU Zone and CWR overlay. However, if a dwelling could be approved, it can be sited greater than the 500 foot minimum distance allowed by the County Development Code from a mining site.

Limiting future uses in the Impact Area is unlikely to cause any positive or negative economic consequences. Future uses, especially dwelling uses, are already limited by the underlying EFU and CWR overlay zoning.

Allowing future uses within the Impact Area is not likely to cause an economic impact to the aggregate operation. Future uses, as a condition of approval, would require landowners to sign a Covenant Not to Sue, protecting the mining activities covered by the AR Zoning Overlay.

**(b) Social Consequences of Future Uses**

Both prohibiting and limiting future uses within the Impact Area is unlikely to cause any positive or negative social consequences.

Allowing future uses, such as dwellings, in the impact area could cause negative social consequences if unmitigated noise occurs from the operation. The applicant did not conduct a noise study as part of this application because there were no conflicts identified within the 1,500 foot study area. The applicant notes that mining operations at this site are only intermittent (the site would not operate on a daily basis) so any conflicts that could arise would be very temporary in nature.

The quarry operator must adhere to the DEQ Noise Standard as found in OAR 340-035-0035 *Noise Control Regulations for Industry and Commerce*. If future uses such as dwellings do occur, and complaints from associated with noise from the operation do occur, a Noise Study may be required to verify what noise levels are being experienced and whether or not the noise levels exceed the DEQ standards. The cost of the Noise Study would be the responsibility of the mine operator. Additional review by the County would be required if noise complaints are received.

**(c) Environmental Consequences of Future Uses**

Whether future uses are prohibited, limited, or allowed within the Impact Area is unlikely to cause any positive or negative environmental consequences.

**(d) Energy Consequences of Future Uses**

Whether dwelling uses are prohibited, limited, or allowed within the Impact Area is unlikely to cause any positive or negative energy consequences.

**(5) Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:**

**(a) A local government may decide that a significant resource site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.**

**(b) A local government may decide that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.**

**(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.**

As noted in the ESEE analysis above, the number of dwellings and dwelling uses are already limited by the underlying EFU zoning. Future uses, as a condition of approval, would require landowners to sign a Covenant Not to Sue, protecting the mining activities covered by the AR Zoning Overlay. The Umatilla County Planning Commission has determined that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.

**660-023-0050 Programs to Achieve Goal 5**

(1) For each resource site, local governments shall adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to OAR 660-023-0040(5). The plan shall describe the degree of protection intended for each significant resource site. The plan and implementing ordinances shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses. A program to achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5) (b) and (c)).

As noted in the ESEE analysis, above, future uses within the 1,500 foot impact area are limited by the underlying EFU zoning. However, land use applications for uses (such as dwellings) within the impact area will have additional review criteria of demonstrating that the use will not conflict with the mining operation. Future uses, as a condition of approval, would require landowners to sign a Covenant Not to Sue, protecting the operation as covered by the County's AR Overlay zoning.

(2) When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:

(a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;

(b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or

(c) It is a performance standard that describes the outcome to be achieved by the design, siting, construction, or operation of the conflicting use, and specifies the objective criteria to be used in evaluating outcome or performance. Different performance standards may be needed for different resource sites. If performance standards are adopted, the local government shall at the same time adopt a process for their application (such as a conditional use, or design review ordinance provision).

The Umatilla County Planning Commission finds that there are no standards to be applied to protect the mining operation more than what is typically required for development. This criterion is not applicable.

(3) In addition to the clear and objective regulations required by section (2) of this rule, except for aggregate resources, local governments may adopt an alternative approval process that includes land use regulations that are not clear and objective (such as a planned unit development ordinance with discretionary performance standards), provided such regulations:

(a) Specify that landowners have the choice of proceeding under either the clear and objective approval process or the alternative regulations; and

(b) Require a level of protection for the resource that meets or exceeds the intended level determined under OAR 660-023-0040(5) and 660-023-0050(1).

The Umatilla County Planning Commission finds that there are no alternative regulations specified to protect the mining operation. This criterion is not applicable.

**29. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR ESTABLISHING AN AR OVERLAY ZONE** are found in Sections 152.487 and 152.488. The following standards of approval are underlined and the findings are in normal text.

**152.487 CRITERIA FOR ESTABLISHING AN AR OVERLAY ZONE:** Section 152.487 of the Umatilla County Development Code lists required criteria the Planning Commission must consider for establishing an AR Overlay Zone. Criteria are listed and underlined. Evaluation responses are provided in normal text.

(A) At the public hearing the Planning Commission shall determine if the following criteria can be met:

(1) The proposed overlay would be compatible with the Comprehensive Plan;

**County Response:** The Umatilla County Planning Commission finds the proposal complies with the Comprehensive Plan, Chapter 8, and Policy 38:

Policy 38. (a) The County shall encourage mapping of future agencies sites, ensure their protection from conflicting adjacent land uses, and required reclamation plans.

(b) Aggregate and mineral exploration, extraction, and reclamation shall be conducted in conformance with the regulations of the Department of Geology and Mineral Industries.

(c) The County Development Ordinance shall include conditional use standards and other provisions to limit or mitigate conflicting uses between aggregate sites and surrounding land uses

Policy 38 (a) is met through the Goal 5 process. It was found that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent. The mining operation will adhere to DOGAMI rules for operation and reclamation of the site as required by (b). Conditions of approval will be imposed on the applicant as required by 660-023-0180 (5)(c), above, that will place operational restrictions on mining operations to mitigate conflicts.

(2) There is sufficient information supplied by the applicant to show that there exists quantities of aggregate material that would warrant the overlay;

The Umatilla County Planning Commission finds that the applicant's PAPA indicates that the proposed aggregate expansion area would produce approximately 1,000,000 cubic yards of aggregate material that exceeds ODOT specifications. The existing mining operation is listed as a medium quantity site in the Technical Report and the applicant has provided that with the proposed expansion area, the quarry is estimated to contain 1,000,000 cubic yards of aggregate resources to meet the OAR-660-023-180(3) and (4) standards. These criteria are discussed in the findings under OAR 660-023-0180(3) above regarding quantity/quality.

(3) The proposed overlay is located at least 1,000 feet from properties zoned for residential use or designated on the Comprehensive Plan for residential;

The Umatilla County Planning Commission finds that surrounding properties are zoned EFU and designated as North/South Agriculture in the Umatilla County Comprehensive Plan. No residential zoning is present within 1,000 feet of the proposed overlay.

(4) Adequate screening, either natural or man-made, is available for protecting the site from surrounding land uses.

Surrounding land use consists of pasture and cropland and the site is somewhat obscured by the topography along Highway 395. Therefore, the Umatilla County Planning Commission finds that screening to protect the site from surrounding land uses is not necessary.

(5) The site complies with Oregon Administrative Rules (OAR) 660-023-0180.

The Umatilla County Planning Commission finds that the standards found in (OAR) 660-023-0180 were found to be met by the proposed mining operation. This criterion is met.

**152.488 MINING REQUIREMENTS:** Section 152.488 of the Umatilla County Development Code lists mining requirements for aggregate sites under the AR Overlay Zone. Criteria are listed and underlined. Evaluation responses are provided in standard text.

(A) All work done in an AR Overlay Zone shall conform to the requirements of DOGAMI or its successor, or the applicable state statutes.

The Umatilla County Planning Commission finds that the applicant has submitted a copy of the DOGAMI operating permit and, as a condition of approval, will be required to obtain all necessary State Permits.

(B) In addition to those requirements, an aggregate operation shall comply with the following standards:

- (1) For each operation conducted in an AR Overlay Zone the applicant shall provide the Planning Department with a copy of the reclamation plan that is to be submitted under the county's reclamation ordinance;

The Umatilla County Planning Commission finds that the reclamation plan requirements must meet the standards of DOGAMI and that a copy of the reclamation plan is to be submitted to the Planning Department.

- (2) Extraction and sedimentation ponds shall not be allowed within 25 feet of a public road or within 100 feet from a dwelling, unless the extraction is into an area that is above the grade of the road, then extraction may occur to the property line;

No extraction and sedimentation ponds related to mining are planned as part of the project. This criterion is not applicable.

- (3) Processing equipment shall not be operated within 500 feet of an existing dwelling at the time of the application of the Overlay Zone. Dwellings built after an AR Overlay Zone is applied shall not be used when computing this setback.

No dwellings are located within the 1,500 foot impact area, and processing equipment is currently located on the existing quarry site. Therefore, this criterion is not applicable.

- (4) All access roads shall be arranged in such a manner as to minimize traffic danger and nuisance to surrounding properties and eliminate dust.

The Umatilla County Planning Commission finds that an approved access is currently in use for quarry ingress and egress. No new access is being proposed for the expansion area. The access road is arranged in a manner that has and will continue to minimize traffic danger and nuisance to surrounding properties throughout the existence of the quarry.

**30. FINAL DECISION: THIS REQUEST TO AMEND THE COMPREHENSIVE PLAN TO ADD THIS SIGNIFICANT SITE TO THE COUNTY'S INVENTORY OF SIGNIFICANT SITES AND ESTABLISH AN AGGREGATE RESOURCE OVERLAY ON THE EXPANSION AREA MAY COMPLY WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, SUBJECT TO THE FOLLOWING CONDITIONS:**

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request:

1. Provide the Planning Department a completed application and legal descriptions for a property line adjustment.



2. The County Planning Department will prepare an Ordinance to amend the County Comprehensive Plan to add this aggregate site known as the Webb Slough Quarry to the County's Inventory of Significant Sites as a Large Significant Site. After approval by the Board of Commissioners, the County will submit the Notice of Adoption to DLCD.
3. Pay notice costs as invoiced by the County Planning Department.

Subsequent Conditions: The following subsequent conditions must be fulfilled following final approval of this request Umatilla County:

4. Obtain all other federal and state permits necessary for development. Provide copies of these permit approvals to the County Planning Department.
  - a. Obtain all applicable permits for the mining operations from DOGAMI before these activities begin. Applicant will obtain approval from DOGAMI for the reclamation plan and submit a copy of the reclamation plan to the Planning Department.
  - b. Obtain all applicable permits for the mining operation from DEQ (air, noise, and water quality issues) before these activities begin.
5. Obtain a Zoning Permit from the Umatilla County Planning Department to finalize the approval of the aggregate site expansion.
6. Install "No Firearms Activities" signage at the entrance of the quarry to provide public safety.
7. If the site were to lay inactive for a period of greater than one year, a new zoning permit must be obtained.
8. Adhere to DEQ Noise Standard as found in OAR 340-035-0035, *Noise Control Regulations for Industry and Commerce*.
9. If cultural artifacts are observed during ground-disturbing work, that work must cease in the development area until the find is assessed by qualified cultural resource personnel from the State Historic Preservation Office and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). Once qualified cultural resource personnel from SHPO and CTUIR are satisfied, the ground-disturbing work may continue.
10. Contour and revegetate the quarry for grazing purposes during post-mining activities according to the requirements of the DOGAMI application.

FINAL FINDINGS AND CONCLUSIONS

ODOT, Plan Amendment, #P-114-15, Text Amendment T-15-060, Zoning Map Amendment. #Z-305-15

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UMATILLA COUNTY BOARD OF COMMISSIONERS

Dated \_\_\_\_\_ day of \_\_\_\_\_, 2015

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George L. Murdock, *Chair*

# UMATILLA COUNTY BOARD OF COMMISSIONERS

December 16, 2015

## NEW HEARING:

PLAN MAP AMENDMENT #P-115-15, ZONE MAP AMENDMENT #Z-306-15, AND TEXT MAP AMENDMENT #T-15-063 FOR WESTON MOUNTAIN QUARRY, ODOT, applicant. Planning commission will review the request of ODOT to amend the Umatilla County Comprehensive Plan to add the existing Weston Mountain quarry (listed in the Comprehensive Plan Technical Report), and the proposed quarry expansion, to the list of Goal 5 protected, significant resource aggregate sites. This amendment would expand the Aggregate Resource (AR) Overlay Zone to protect the site and to allow mining of the expanded aggregate site. The subject quarry is located on the southeast side of State Highway 204, at Mile Post 2.2, described as Township 4 North, Range 35 East, Sections 24, Tax Lot 7303. Standards of approval are provided in OAR 660-023-0180 (3), (5), & (7); OAR 660-023-040; and OAR 660-023-050.

# Umatilla County

## Department of Land Use Planning

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DIRECTOR  
TAMRA MABBOTT

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

RURAL  
ADDRESSING

LIAISON, NATURAL  
RESOURCES &  
ENVIRONMENT

### MEMO

**TO:** Umatilla County Board of Commissioners  
**FROM:** Bob Waldher, Senior Planner  
**DATE:** December 8, 2015

**RE: December 16, 2015 Board of Commissioners Hearing  
Oregon Department of Transportation – Weston Mountain Quarry Expansion  
Plan Map Amendment, #P-115-15  
Zone Map Amendment, #Z-306-15  
Text Map Amendment, #T-15-063**

#### ***Background Information***

The Oregon Department of Transportation (ODOT) recently submitted a Post Acknowledgement Plan Amendment (PAPA) application requesting that Umatilla County include the expansion of Weston Mountain Quarry in the Umatilla County Goal 5 inventory as a significant aggregate resource site, and protect the site by applying the Aggregate Resource (AR) Overlay Zone over the expansion area. The existing quarry site (Tax Lot 7303) is 24.60 acres. ODOT recently completed a property line adjustment to expand Tax Lot 7303 to 29.19 acres. The quarry site is listed as a 3C site in the Umatilla County Comprehensive Plan Technical Report. The current aggregate extraction site is a Goal 5 significant aggregate site and is protected by the AR Overlay Zone.

#### ***Criteria of Approval***

The Umatilla County Development Code has not been updated with the Division 23 Rules for Aggregate. The Oregon Administrative Rules 660-023-0180 to establish a Goal 5 Large Significant Site will be directly applied per OAR 660-023-180 (9). This application constitutes a PAPA and is subject to the criteria listed in Oregon Administrative Rules (OAR) 660-023-0030 through 660-023-0050, and OAR 660-023-0180.

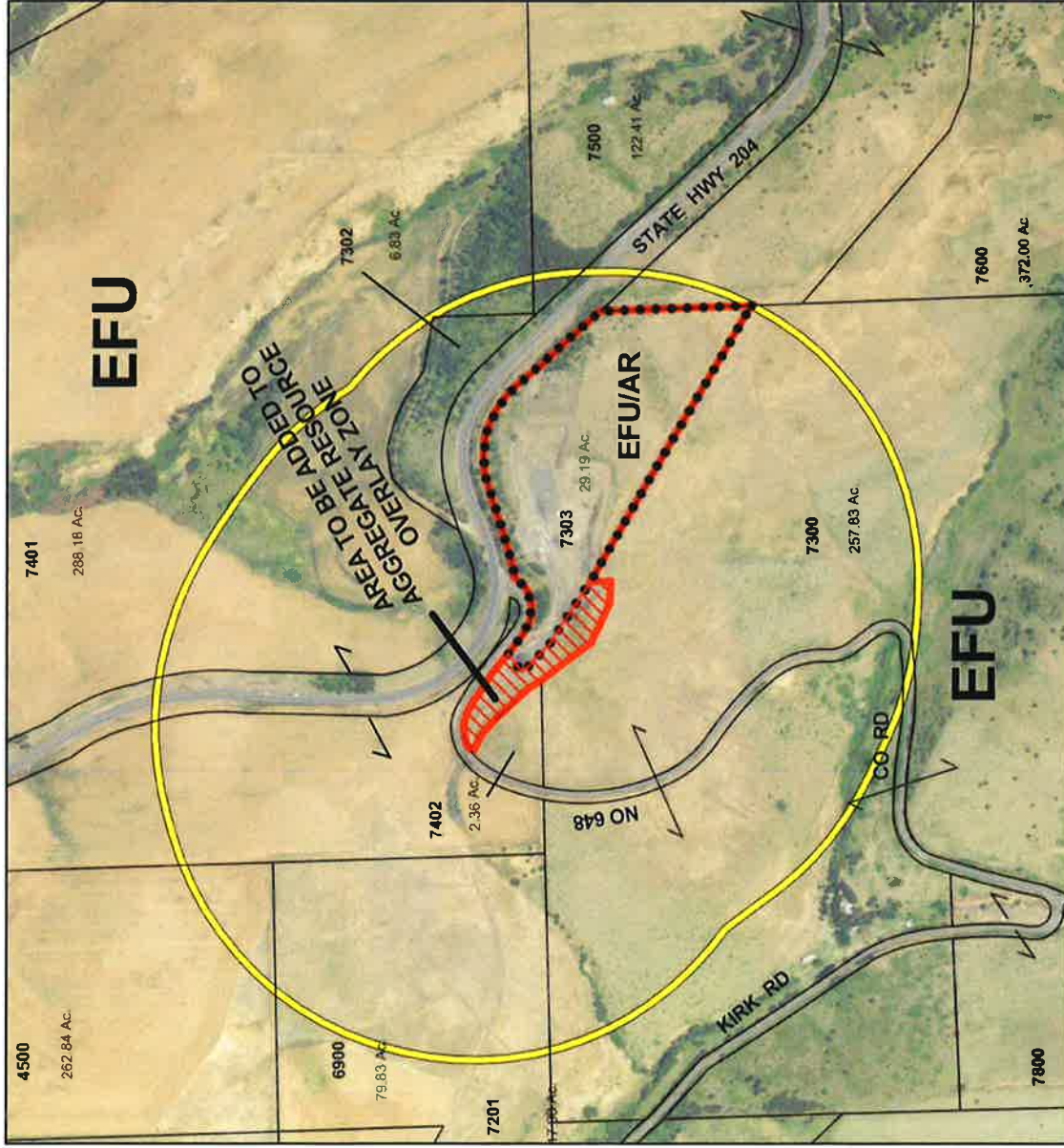
#### ***Conclusion***

The Board of Commissioners may decide to amend the Comprehensive Plan to add the Weston Mountain Quarry expansion to the County's inventory of significant sites and establish an aggregate resource overlay on the expansion area.

#### ***Attachments***

The following attachments have been included for review by the Board of Commissioners:

- Preliminary Findings and Conclusions
- Proposed AR Overlay Expansion Map



PLAN AMENDMENT #P-115-15  
 ZONE MAP AMENDMENT #Z-306-15  
 TEXT AMENDMENT #T-15-063  
 OREGON DEPT. OF TRANSPORTATION, APPLICANT/OWNER  
 MAP 4N35, TAX LOT 7303

-  Subject Property
-  1500' Buffer around Expansion Area
-  Expansion Area to be Zoned EFU/AR

2014 AERIAL PHOTO

DATE: 9/23/15

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Not intended for legal use. Created by J. Alford, Umatilla County Planning Department  
 y:\workspace\planning\vicinity maps\M-PRODOT\_P\_115\_15.gws

PROPERTY OWNERS WITHIN NOTICE AREA OF SUBJECT PROPERTY

MAP & TAXLOT	OWNER
4N35000004500	JOHNS RANCH INC
4N35000006900	PERRINE RONALD J & JILL S
4N35000007300	ELLIS RUTH
4N35000007302	STUMBO CORINNE E
<b>4N35000007303</b>	<b>STATE OF OREGON</b>
4N35000007401	STUMBO CORINNE E
4N35000007402	SAMPSON RUTH A
4N35000007500	SCHMIDT GORDON R & SCHMIDT RICHARD D
4N35000007600	HATLEY JAMES D & EVELYN E
4N35000007600A1	KWHT
4N35000007600A2	FALCON CABLE ATTN TAX DEPT
4N35000007600A3	VERIZON WIRELESS



**UMATILLA COUNTY BOARD OF COMMISSIONERS  
FINAL FINDINGS AND CONCLUSIONS  
WESTON MOUNTAIN QUARRY  
COMPREHENSIVE PLAN MAP AMENDMENT, #P-115-15,  
COMPREHENSIVE PLAN TEXT AMMENDMENT T-15-063  
ZONING MAP AMENDMENT #Z-306-15  
MAP #4N 35, TAX LOT #7303, Account #142926**

1. APPLICANT: Patrick Knight (ODOT), 3012 Island Ave, La Grande, OR 97850
2. OWNERS: Oregon Department of Transportation, 3012 Island Ave, La Grande, OR 97850
3. REQUEST: The Oregon Department of Transportation (ODOT) recently completed a property line adjustment to expand Tax Lot 7303 from approximately 24.6 acres to 29.19 acres. As a result, ODOT is requesting that Umatilla County include the expansion in the Umatilla County Goal 5 inventory as a significant aggregate resource site, and protect the site by applying the Aggregate Resource (AR) Overlay Zone over the expansion area. The quarry site is listed as a 3C site in the Umatilla County Comprehensive Plan Technical Report. The current aggregate extraction site is a Goal 5 significant aggregate site and is protected by the Aggregate Resource Overlay Zone.
4. LOCATION: The property is located on the southeast side of State Highway 204, approximately 2 miles east of the community of Weston.
5. SITUS: No site address is assigned to this property.
6. ACREAGE: Prior to the property line adjustment, Tax Lot 7303 was approximately 24.6 acres. The property line adjustment resulted in an expanded parcel of 29.19 acres.
7. PERMITS: Multiple permits have been issued to Tax Lot 503. Since 1981 three (3) Conditional Use Permits and nine (9) zoning permits have been issued for aggregate mining and crushing operations. The most recent permit, ZP-11-085, was issued in 2011 for extraction and processing operations.
8. COMP PLAN: North/South Agriculture Region Designation
9. ZONING: Exclusive Farm Use Zone (EFU, 160 acre minimum)
10. ACCESS: The property has access directly off of Kirk Road (County Road #648) which is approximately 250 feet from the intersection with Highway 204.
11. ROAD TYPE: Kirk Road is a graveled, county-maintained road. Highway 204 is a paved, state-maintained roadway.

Department of Geology and Mineral Industries, Department of State Lands

26. **COMMENTS:** One comment letter was received from an adjacent landowner, Ms. Corinne Stumbo on October 26, 2015. In her letter, Ms. Stumbo noted that she is the owner of two adjacent tax lots and had concerns regarding conflicts between truck traffic and farm equipment accessing her property. Ms. Stumbo requested that ODOT improve the access approaches into her farm field. The Planning Commission discussed Ms. Stumbo's concerns at the November 19, 2015 hearing and noted that her property has bordered the aggregate site for many years and matters regarding access road improvements should be addressed between ODOT and the land owner.

During the public hearing on November 19, 2015, the Planning Commission recommended that a precedent condition be added to the findings requiring ODOT to install "No Firearms Activities" signs at the entrance to the quarry to deter the public from shooting firearms within the quarry site. This is included in Subsequent Condition #5, below.

**NOTE:** The Umatilla County Development Code has not been updated with the Division 23 Rules for Aggregate. The Oregon Administrative Rules 660-023-0180 to establish a Goal 5 Large Significant Site will be directly applied per OAR 660-023-180 (9).

**27. GOAL 5 ISSUES:** Scenic, Open Space, Historic, Wildlife, and other resources.

In order to mine aggregate in Umatilla County, a site must either be an active insignificant site, or be listed on the Goal 5 Inventory of the Umatilla County Comprehensive Plan as a significant site. This site is not currently on the Goal 5 Inventory as a significant site. The applicant proposes to utilize quality/quantity information to obtain approval of the plan amendment to add the site to the Umatilla County inventory of significant aggregate sites and obtain Goal 5 protection of the resource. Part of this Goal 5 protection is to include the site under the AR Overlay Zone. The Umatilla County Comprehensive Plan requires that "[a]ny proposed modification to the text or areas of application (maps) of the AR, HAC, CWR or NA Overlay Zones shall be processed as an amendment to this plan." Therefore, this application constitutes a Post-Acknowledgement Plan Amendment (PAPA), and is subject to the criteria listed in Oregon Administrative Rules (OAR) 660-023-0030 through 660-023-0050, and OAR 660-023-0180. The Department of Geology and Mining Industries (DOGAMI) reclamation plan (on file with DOGAMI) informs ODOT to replace overburden and seed the site with native grasses for wildlife habitat once the quarry is exhausted. As a condition of approval for operation, the applicant must acquire a DOGAMI permit.

(5) [Large Significant Sites] For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving an aggregate site determined to be significant under section (3) of this rule, the process for this decision is set out in subsections (a) through (g) of this section. A local government must complete the process within 180 days after receipt of a complete application that is consistent with section (8) of this rule, or by the earliest date after 180 days allowed by local charter.

(a) [Impact Area] The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.

ODOT's studies, which involved reviewing aerial photographs and conducting field reconnaissance, suggest there is no factual evidence to indicate the presence of significant potential conflicts with other uses beyond the 1,500 foot impact area. Without such evidence, the impact area is limited to 1,500 feet. Umatilla County has prepared a map which includes the 1,500 foot impact area. This map has been added to the project record and is included as an attachment to this document. The Umatilla County Planning Commission finds that factual information is not present to indicate that there would be significant conflicts beyond the 1,500 foot impact area from the boundaries of the proposed expansion. The 1,500 foot impact area is sufficient to include uses listed in (b) below. This criterion is satisfied.

(b) [Conflicts created by the site] The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

(A) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;

The Umatilla County Planning Commission finds that no conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges exist within the 1500 foot impact area. Land within the impact area is zoned EFU and is used primarily for agricultural activities such as farming and grazing. Although no conflicts have been identified within the impact area and no mitigation measures are imposed, the applicant has addressed voluntary mitigation measures that



support public road projects (transportation system improvements), and the traffic generated from operations at this site will be temporary and sporadic. It is not anticipated that the expansion of this quarry would create or increase conflicts to the transportation system within one (1) mile of the site beyond current levels already associated with the existing quarry operations.

(C) Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR chapter 660, division 013;

The Umatilla County Planning Commission finds that there are no public airports within the Impact Area. The closest public airport is located some 24 miles northeast of the mine operation. Thus, no conflicts are recognized in terms of public airports and the proposed mining operation.

(D) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

The Umatilla County Planning Commission finds that the existing aggregate quarry is protected as a significant resource with an AR Overlay Zone, but would not be in conflict with the proposed expansion. There are no other Goal 5 sites within the impact area.

(E) Conflicts with agricultural practices; and

The Umatilla County Planning Commission finds that the agricultural practices within the 1,500 foot impact zone of the quarry site are primarily pasture and cropland. The potential conflicts to agricultural practices stems from the possibility of dust movement onto adjacent cropland. Aggregate extraction from this quarry is done to support road construction and maintenance activities on public roads and the quarry is used on an as-needed basis. Haul roads and heavy trucks which have the potential to cause large amounts of dust are not proposed as part of this project. Although there will be some truck movement, when the quarry is in use, truck movement will not be of a level typically experienced in a commercial mining operation. In summary, the agricultural practices in the Impact Area are those that would not be adversely impacted by the mining operation.

(F) Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon DOGAMI regulations pursuant to ORS 517.780;

The Umatilla County Planning Commission finds that there are no other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon DOGAMI regulations. Therefore, this criterion is not applicable.

(c) [If conflicts exist, measures to minimize] The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to

(f) [Post mining uses] Where mining is allowed, the local government shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, local governments shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.213(1) or 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking. Local governments shall coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.

The Umatilla County Planning Commission finds that the post mining uses must comply with the EFU Zone and the DOGAMI Reclamation Plan requirements. The applicant's post mining reclamation plan to contour and revegetate the subject property for wildlife habitat would be in compliance with these requirements. This criterion is satisfied.

(g) [Issuing a zoning permit] Local governments shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the local government.

The Umatilla County Planning Commission finds that the aggregate processing will be limited to the boundaries of the existing approved quarry site. Therefore, reauthorization of the existing processing operation is not required.

(7) [Protecting the site from other uses/conflicts] Except for aggregate resource sites determined to be significant under section (4) of this rule, local governments shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. (This requirement does not apply if, under section (5) of this rule, the local government decides that mining will not be authorized at the site.)

The process to determine how to protect the site from other uses/conflicts is to conduct an ESEE Analysis. OAR 660-023-0040 & 0050 are addressed below.

#### **660-023-0040 ESEE Decision Process**

(1) Local governments shall develop a program to achieve Goal 5 for all significant resource sites based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. This rule describes four steps to be followed in conducting an ESEE analysis, as set out in detail in sections (2) through (5) of this rule. Local governments are not required to follow these steps sequentially, and some steps anticipate a return to a previous step. However, findings shall demonstrate that requirements under each of the steps have been met, regardless of the sequence followed by the local government. The ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected. The steps in the standard ESEE process are as follows:

- (B) **Churches and Cemeteries**
- (C) Utility Facilities Necessary for Public Service
- (D) A facility for the processing of forest products
- (E) Continuation of fire arms training
- (F) A facility for the processing of farm crops
- (G) The land application of reclaimed water
- (H) (Item Deleted)
- (I) (Item Deleted)
- (J) (Item Deleted)
- (K) **Dwellings – Farm, Non-Farm and Lot of Record Dwellings**

UCDC 152. 060 - EFU Conditional Uses

- (A) Commercial activities in conjunction with farm use
- (B) Mining
- (C) Private Parks, private playgrounds, private hunting and fishing preserves and private campgrounds
- (D) Public parks
- (E) Golf Courses
- (F) Commercial utility facilities for the purpose of generating power for public use
- (G) Personal Use Airports

- (H) **Home occupations**
- (I) **Community centers**
- (J) **Hardship Dwellings**
- (K) Dog kennels
- (L) A site for the disposal of solid waste
- (M) The propagation, cultivation, maintenance and harvesting of aquatic species.
- (N) Construction of additional passing lanes
- (O) Reconstruction of additional passing lanes
- (P) Improvement of public roads
- (Q) Destination Resorts
- (R) Living History Museum
- (S) Bottling of water
- (T) On-Site filming
- (U) Construction of highways
- (V) Residential houses
- (W) Transmission or communication towers
- (X) Expansion of existing county fairgrounds
- (Y) **Room and board**
- (Z) Wildlife habitat
- (AA) Aerial fireworks display
- (BB) Composting facilities
- (CC) Uses compatible with the TSP
- (DD) Public or private schools
- (EE) Agri-Tourism

Uses that might be considered conflicting are potential dwellings and certain uses allowed either through a land use decision or conditional use process, including churches, schools, community centers and home occupations. Thus, possible conflicting future uses in the Impact Area are identified as:

- Dwelling Uses (includes churches, schools, community centers, and home occupations)

- (a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (Therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)

- Dwelling Uses (includes churches, schools, community centers, and home occupations)

The ESSE Analysis follows:

**(a) Economic Consequences of Future Uses**

Prohibiting future uses in the Impact Area may decrease the value of land in the EFU Zone. There are currently no dwelling uses located within the 1,500 foot Impact Area. If future dwelling uses were proposed on any of the parcels, all but two of the property owners in the Impact Area could locate dwelling uses to be outside of the Impact Area, likely resulting no change to the overall value of land. In addition, these two parcels are quite small (less than seven acres) for the EFU zone, and are located on higher-quality soils, so permitting a dwelling use on these parcels would be extremely difficult/unlikely due to the underlying zoning requirements for establishing a dwelling on EFU land.

Limiting future uses in the Impact Area is unlikely to cause any positive or negative economic consequences. Future uses, especially dwelling uses, are already limited by the underlying EFU zoning.

Allowing future uses within the Impact Area is not likely to cause an economic impact to the aggregate operation. Future uses, as a condition of approval, would require landowners to sign a Covenant Not to Sue, protecting the mining activities covered by the AR Zoning Overlay.

**(b) Social Consequences of Future Uses**

Both prohibiting and limiting future uses within the Impact Area is unlikely to cause any positive or negative social consequences.

Allowing future uses, such as dwellings, in the impact area could cause negative social consequences if unmitigated noise occurs from the operation. The applicant did not conduct a noise study as part of this application because there were no conflicts identified within the 1,500 foot study area. The applicant notes that mining operations at this site are only intermittent (the site would not operate on a daily basis) so any conflicts that could arise would be very temporary in nature.

The quarry operator must adhere to the DEQ Noise Standard as found in OAR 340-035-0035 *Noise Control Regulations for Industry and Commerce*. If future uses such as dwellings do occur, and complaints from associated with noise from the operation do occur, a Noise Study may be required to verify what noise levels are being experienced and whether or not the noise levels exceed the DEQ standards. The cost of the Noise Study would be the responsibility of the mine operator. Additional review by the County would be required if noise complaints are received.

achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5) (b) and (c)).

As noted in the ESEE analysis, above, future uses within the 1,500 foot impact area are limited by the underlying EFU zoning. However, land use applications for uses (such as dwellings) within the impact area will have additional review criteria of demonstrating that the use will not conflict with the mining operation. Future uses, as a condition of approval, would require landowners to sign a Covenant Not to Sue, protecting the operation as covered by the County's AR Overlay zoning.

(2) When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:

(a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;

(b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or

(c) It is a performance standard that describes the outcome to be achieved by the design, siting, construction, or operation of the conflicting use, and specifies the objective criteria to be used in evaluating outcome or performance. Different performance standards may be needed for different resource sites. If performance standards are adopted, the local government shall at the same time adopt a process for their application (such as a conditional use, or design review ordinance provision).

The Umatilla County Planning Commission finds that there are no standards to be applied to protect the mining operation more than what is typically required for development. This criterion is not applicable.

(3) In addition to the clear and objective regulations required by section (2) of this rule, except for aggregate resources, local governments may adopt an alternative approval process that includes land use regulations that are not clear and objective (such as a planned unit development ordinance with discretionary performance standards), provided such regulations:

(a) Specify that landowners have the choice of proceeding under either the clear and objective approval process or the alternative regulations; and

(b) Require a level of protection for the resource that meets or exceeds the intended level determined under OAR 660-023-0040(5) and 660-023-0050(1).

The Umatilla County Planning Commission finds that there are no alternative regulations specified to protect the mining operation. This criterion is not applicable.

## **29. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR**

The Umatilla County Planning Commission finds that surrounding properties are zoned EFU and designated as North/South Agriculture in the Umatilla County Comprehensive Plan. No residential zoning is present within 1,000 feet of the proposed overlay.

(4) Adequate screening, either natural or man-made, is available for protecting the site from surrounding land uses.

Surrounding land use consists of pasture and cropland. Therefore, the Umatilla County Planning Commission finds that screening to protect the site from surrounding land uses is not necessary.

(5)The site complies with Oregon Administrative Rules (OAR) 660-023-0180.

The Umatilla County Planning Commission finds that the standards found in (OAR) 660-023-0180 were found to be met by the proposed mining operation. This criterion is met.

**152.488 MINING REQUIREMENTS:** Section 152.488 of the Umatilla County Development Code lists mining requirements for aggregate sites under the AR Overlay Zone. Criteria are listed and underlined. Evaluation responses are provided in standard text.

(A) All work done in an AR Overlay Zone shall conform to the requirements of DOGAMI or its successor, or the applicable state statutes.

The Umatilla County Planning Commission finds that the applicant has submitted a copy of the DOGAMI operating permit and, as a condition of approval, will be required to obtain all necessary State Permits.

(B) In addition to those requirements, an aggregate operation shall comply with the following standards:

(1) For each operation conducted in an AR Overlay Zone the applicant shall provide the Planning Department with a copy of the reclamation plan that is to be submitted under the county's reclamation ordinance;

The Umatilla County Planning Commission finds that the reclamation plan requirements must meet the standards of DOGAMI and that a copy of the reclamation plan is to be submitted to the Planning Department.

(2) Extraction and sedimentation ponds shall not be allowed within 25 feet of a public road or within 100 feet from a dwelling, unless the extraction is into an area that is above the grade of the road, then extraction may occur to the property line;

No extraction and sedimentation ponds related to mining are planned as part of the project. This criterion is not applicable.

FINAL FINDINGS AND CONCLUSIONS

ODOT, Plan Amendment, #P-115-15, Text Amendment T-15-063, Zoning Map Amendment. #Z-306-15

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- b. Obtain all applicable permits for the mining operation from DEQ (air, noise, and water quality issues) before these activities begin.
4. Obtain a Zoning Permit from the Umatilla County Planning Department to finalize the approval of the aggregate site expansion.
5. Install "No Firearms Activities" signage at the entrance of the quarry to provide public safety.
6. If the site were to lay inactive for a period of greater than one year, a new zoning permit must be obtained.
7. Adhere to DEQ Noise Standard as found in OAR 340-035-0035, *Noise Control Regulations for Industry and Commerce*.
8. If cultural artifacts are observed during ground-disturbing work, that work must cease in the development area until the find is assessed by qualified cultural resource personnel from the State Historic Preservation Office and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). Once qualified cultural resource personnel from SHPO and CTUIR are satisfied, the ground-disturbing work may continue.
9. Contour and revegetate the quarry for wildlife habitat during post-mining activities according to the requirements of the DOGAMI application.

UMATILLA COUNTY BOARD OF COMMISSIONERS

Dated \_\_\_\_\_ day of \_\_\_\_\_, 2015

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George L. Murdock, *Chair*