

Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission Public Hearing Thursday, August 25, 2022, 6:30PM

To participate in the hearing please submit comments **before 4PM, August 25th** to planning@umatillacounty.gov or contact the Planning Department at 541-278-6252.

DIRECTOR
ROBERT
WALDHER

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

Planning Commission

Suni Danforth, Chair	Cindy Timmons
Don Wysocki, Vice-Chair	John Standley
Tammie Williams	Jodi Hinsley
Tami Green	Emery Gentry
Sam Tucker	

Planning Staff

Bob Waldher, Director
Carol Johnson, Senior Planner
Megan Davchevski, Planner/Transit Coordinator
Tamara Ross, Planner II/ GIS
Gina Miller, Code Enforcement Coordinator
Tierney Cimmiyotti, Administrative Assistant

1. **Call to Order**
2. **New Hearing**

TEXT AMENDMENT #T-091-22, PLAN AMENDMENT #P-134-22 & ZONE MAP AMENDMENT #Z-321-22; JIM HATLEY, APPLICANT/ ROSEMARY SCHEUNING ESTATE, OWNER. The applicant requests to expand a previously approved aggregate quarry (Scheuning Quarry) to include 25.8 acres of a 151.4 acre site to the Umatilla County Comprehensive Plan list of Goal 5 protected Significant Sites and apply the Aggregate Resource (AR) Overlay Zone. The subject property is on the north side of the Oregon Trail Highway, approximately 500 ft. east of the intersection of Old Airport Road and the Oregon Trail highway, just outside the City of Pendleton Urban Growth Boundary. The subject property is zoned Exclusive Farm Use. The criteria of approval are found in Oregon Administrative Rule 660-023-0040 – 0050, 660-023-0180(3), (5) & (7), and Umatilla County Development Code Section 152.487 – 488.

3. **Minutes Approval;** June 23, 2022 Hearing
4. **Other Business**
5. **Adjournment**

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PUBLIC TRANSIT

MEMO

TO: Umatilla County Planning Commission
FROM: Tamara Ross, Planner
DATE: August 17, 2022

RE: August 25, 2022 Planning Commission Hearing
Text Amendment T-091-22,
Zone Amendment Z-321-22 & Plan Amendment P-134-22

CC: Robert Waldher, Planning Director

Background Information

In 2004, the subject property was approved to include approximately 8.8 acres under Goal 5 Inventory and has been active since. There has not been any nuisance or other complaints filed with the county. The quarry has provided crushed rock and aggregate to private businesses and the City of Pendleton resulting in a local source which meets Oregon Department of Transportation asphalt specifications. The landowner and operator are seeking approval of a larger mining area to ensure the valuable resource is available for years into the future.

The applicant requests to expand a previously approved aggregate quarry (Westgate Quarry) to include 25.8 acres of a 151.4-acre site to the Umatilla County Comprehensive Plan list of Goal 5 protected Significant Sites and apply the Aggregate Resource (AR) Overlay Zone. The subject property is on the north side of the Oregon Trail Highway, approximately 500 ft. east of the intersection of Old Airport Road and the Oregon Trail Highway, just outside the City of Pendleton Urban Growth Boundary. The subject property is zoned Exclusive Farm Use (EFU).

Criteria of Approval

The criteria of approval are found in Oregon Administrative Rule 660-023-0040 – 0050, 660-023-0180 (3), (5) and (7), and Umatilla County Development Code (UCDC) Section 152.487 – 488.

Conclusion

The process of approval by the County involves review by the County Planning Commission with a recommendation to the Board of County Commissioners (BCC). The decision includes a set of Precedent and Subsequent Conditions of approval. The Planning Commission is tasked with determining if the application satisfies the criteria of approval, based on the facts in the record.

Memo

Planning Commission Public Hearing – August 25, 2022

Text Amendment T-091-22, Zone Amendment Z-321-22 & Plan Amendment P-134-22

The BCC must also hold a public hearing(s) and make a decision whether or not to adopt the proposed amendments. A public hearing before the BCC is scheduled for September 21, 2022.

Attachments

The following attachments have been included for review by the Planning Commission:

- Notice and Vicinity Map
- 1500-Foot Impact Area Map
- County Preliminary Findings and Conclusions
- Proposed Comprehensive Plan Text Amendment
- Proposed Zoning Map Amendment
- Lab Reports (C13407)
- City of Pendleton – Letter of Support
- Adjacent Property Owner – Letter of Support

PLANNING COMMISSION RECOMMENDATION OPTIONS

Motion to Recommend Approval Based on Evidence in the Record

I, Commissioner _____, make a motion to recommend approval of Schuening Estate Quarry Comprehensive Plan Text Amendment #T-091-22, Zoning Map Amendment # Z-321-22 and Comprehensive Plan Map Amendment P-134-22, to the Board of Commissioners based on the foregoing Findings of Fact and Conclusions of Law.

Motion to Recommend Approval with Additional Findings

I, Commissioner _____, make a motion to recommend approval of the Schuening Estate Quarry Comprehensive Plan Text Amendment #T-091-22, Zoning Map Amendment # Z-321-22 and Comprehensive Plan Map Amendment P-134-22, to the Board of Commissioners with the following additional Findings of Fact: _____.

Motion to Recommend Denial Based on Evidence in the Record

I, Commissioner _____, make a motion to recommend denial of the Schuening Estate Quarry Comprehensive Plan Text Amendment #T-091-22, Zoning Map Amendment # Z-321-22 and Comprehensive Plan Map Amendment P-134-22, to the Board of Commissioners based on the foregoing Findings of Fact and Conclusions of Law.

**UMATILLA COUNTY
PLANNING COMMISSION HEARING – AUGUST 25, 2022
UMATILLA COUNTY COMPREHENSIVE PLAN AMENDMENT, COMPREHENSIVE
PLAN TEXT AMENDMENT & ZONING MAP AMENDMENT
PACKET CONTENT LIST**

1.	Staff Memo to Planning Commission	Pages 1-2
2.	Notice and Vicinity Map	Page 5
3.	1500 ft. Impact Area Map	Page 6
4.	Staff Report & Preliminary Findings	Pages 7-34
5.	Proposed Text Amendment	Pages 35
6.	Proposed Zoning Map	Page 36
7.	Materials Lab Reports (C13407)	Pages 38-42
8.	City of Pendleton – Letter in Support	Page 43
9.	Adjacent Property Owner – Letter in Support	Page 44

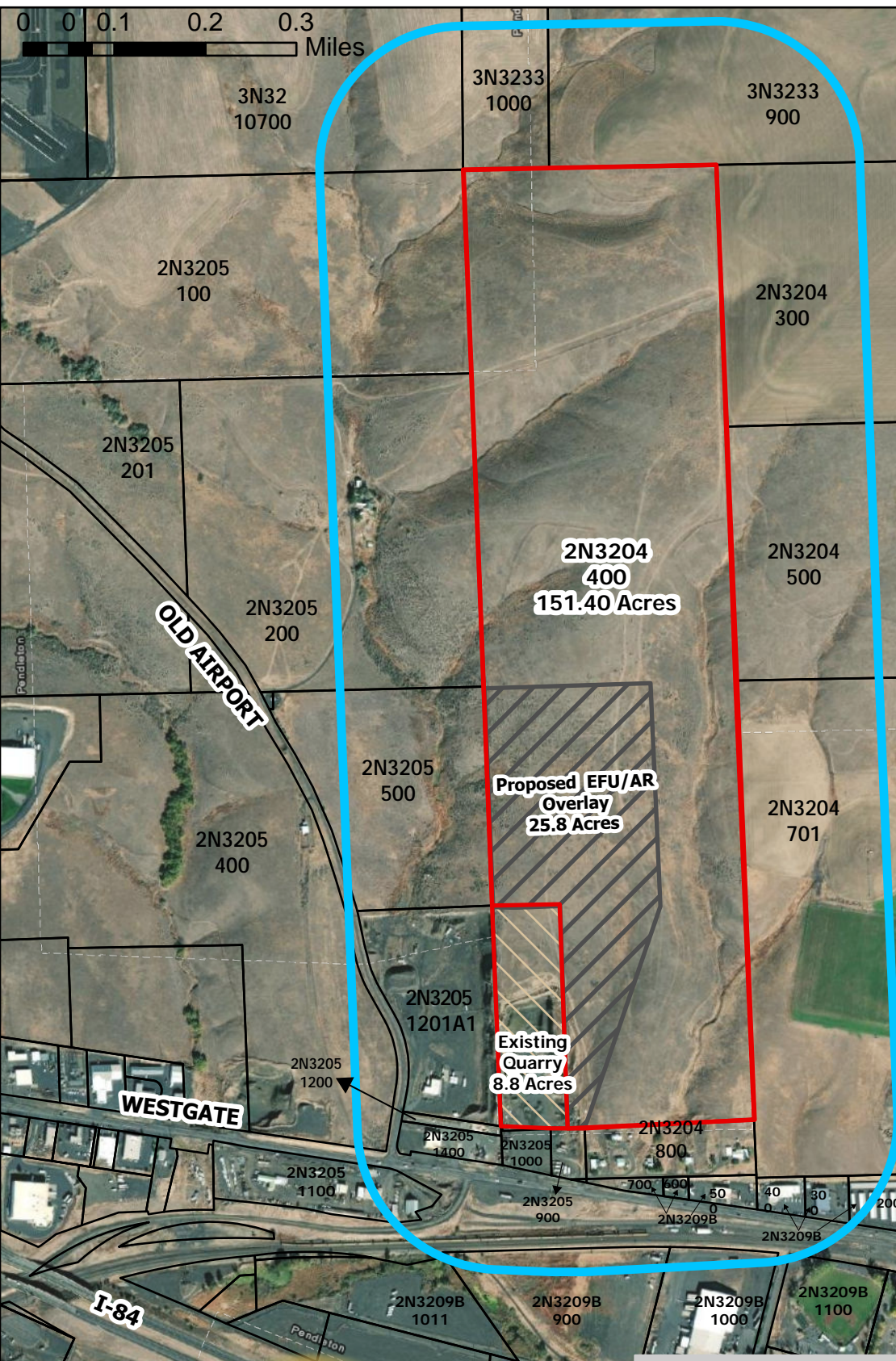
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APPLICANT: HATLEY CONSTRUCTION
OWNER: SCHUENING AIRPORT LAND LLC
MAP: 2N 32 04 TAX LOT: 400

T-091-22
Z-321-22
P-134-22



Notified Property Owners within 750ft of the Subject Parcel.



Map	Taxlot	Owner
2N3204	300	APPLEGATE SHANER NELSON
2N3204	400	SCHUENING AIRPORT LAND LLC
2N3204	500	PELETT ZACHARY WAITON CASH
2N3204	701	BLUE MT AREA EDUC DIST
2N3204	800	YOUNG ROBERT R
2N3204	900	HATLEY JD
2N3204	1000	HATLEY CONSTRUCTION INC
2N3205	100	PENDLETON CITY OF
2N3205	200	SCHUENING RONALD
2N3205	400	BARHYTE INVESTMENT GROUP LLC
2N3205	1100	UMATILLA COUNTY OF
2N3205	1200	HUGHES MJ & BARTLETT & SCHNELL
2N3205	1201	MID-COLUMBIA ASPHALT CO
2N3205	1400	HUGHES MJ & BARTLETT & SCHNELL
2N3208	1011	FIELDHOUSE & 17TH LLC
2N3209B	200	STORAGE CONCEPTS LLC
2N3209B	300	THIEME KRIS
2N3209B	400	CMA HOLDINGS LLC
2N3209B	500	GUTTERUD DAVID & DENA
2N3209B	600	GUTTERUD DAVID & DENA
2N3209B	600	UNITED PARCEL SERVICE
2N3209B	700	GUTTERUD DAVID & DENA
2N3209B	800	HATLEY JD
2N3209B	900	PENDLETON CITY OF
2N3209B	1000	ANGELL REALTY X LLC
2N3209B	1100	PENDLETON CITY OF
3N32	10700	PENDLETON CITY OF
3N3233	900	APPLEGATE SHANER NELSON
3N3233	1000	PENDLETON CITY OF



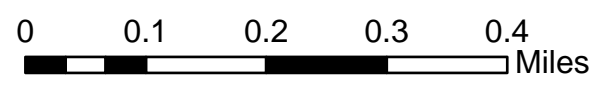
Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by T. Ross, Umatilla County Planning Department
 Date: 7/10/2022

LEGEND

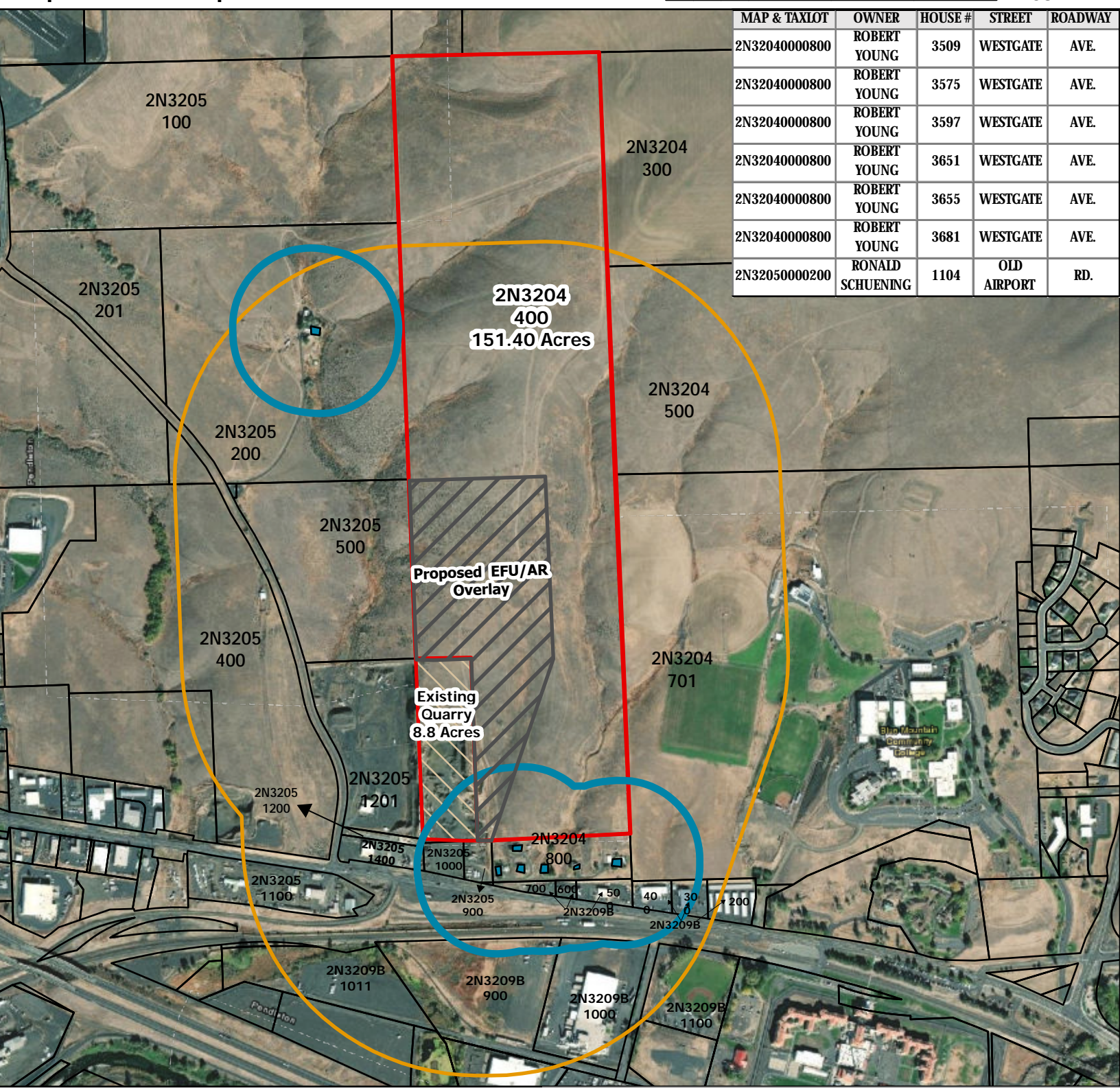
- Property Boundaries
- 750' Notice Buffer
- Subject Property
- Proposed AR Overlay
- Existing Quarry

APPLICANT: HATLEY CONSTRUCTION
OWNER: SCHUENING AIRPORT LAND LLC
MAP: 2N 32 04 TAX LOT: 400

T-091-22
Z-321-22
P-134-22



Impact Area Map



MAP & TAXLOT	OWNER	HOUSE #	STREET	ROADWAY
2N32040000800	ROBERT YOUNG	3509	WESTGATE	AVE.
2N32040000800	ROBERT YOUNG	3575	WESTGATE	AVE.
2N32040000800	ROBERT YOUNG	3597	WESTGATE	AVE.
2N32040000800	ROBERT YOUNG	3651	WESTGATE	AVE.
2N32040000800	ROBERT YOUNG	3655	WESTGATE	AVE.
2N32040000800	ROBERT YOUNG	3681	WESTGATE	AVE.
2N32050000200	RONALD SCHUENING	1104	OLD AIRPORT	RD.



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Impact Area per ORS 660-023-0180(5) (a). Created by T. Ross, Umatilla County Planning Department Date: 7/10/2022

Legend

- 500 ft. Dwelling Buffer
- Proposed AR Overlay
- 1,500 ft. Buffer
- Subject Property
- Dwelling Footprint
- Property Boundaries
- Existing Quarry

**UMATILLA COUNTY BOARD OF COUNTY COMMISSIONERS
PRELIMINARY FINDINGS AND CONCLUSIONS
SCHUENING ESTATE QUARRY
COMPREHENSIVE PLAN MAP AMENDMENT, #P-134-22,
COMPREHENSIVE PLAN TEXT AMENDMENT #T-091-22,
ZONING MAP AMENDMENT #Z-321-22
MAP 2N 32 04; TL #400 ACCT. #104635**

1. APPLICANT: Jim Hatley, 512 NW Cedar Street, Pilot Rock, OR 97868
2. CONSULTANT: T.M. Consulting, LLC., 80379 Zimmer Lane, Hermiston, OR 97838
3. OWNER: Schuening Airport Land LLC, 1104 Old Airport Road, Pendleton, OR 98801
4. REQUEST: The request is to expand an existing 8.8 acre quarry located on Tax Lot 400 of Assessor's Map 2N 32 04. The quarry is included in Umatilla County's list of large significant sites. The proposal involves three separate applications: A Comprehensive Plan Map Amendment to identify the quarry as a large significant site; a Comprehensive Plan Text Amendment to establish the additional acreage as a large significant site with protections under Goal 5 to allow mining; and a Zoning Map Amendment to include the site under the Aggregate Resource Overlay zone. The proposed 25.8 acres would be added to the existing 8.8 acres listed in Goal 5 Inventory within the Umatilla County Comprehensive Plan.
5. LOCATION: The subject property is on the north side of the Oregon Trail Highway, approximately 500 ft. east of the intersection of Old Airport Road and the Oregon Trail Highway. It is just outside the City of Pendleton's Urban Growth Boundary.
6. SITUS: A situs address has not been assigned at this time.
7. ACREAGE: Tax Lot # 400 is 151.40 acres.
8. COMP PLAN: The site has a Comprehensive Plan designation of North/South Agriculture.
9. ZONING: The subject property is zoned Exclusive Farm Use (EFU).
10. ACCESS: The applicant provides that existing access is provided from Westgate Avenue (U.S. Hwy. 30). The existing access is presumed to be permitted. The applicant proposes continued use of this existing access road and is not seeking additional access at this time.
11. ROAD TYPE: Westgate Ave. is a paved, 2-lane, state-maintained highway.

PRELIMINARY FINDINGS AND CONCLUSIONS

Schuening, Plan Amendment, #P-134-22, Text Amendment T-091-22, Zoning Map Amendment. #Z-321-22

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- 12. EASEMENTS: There are no known easements on the subject property.
- 13. LAND USE: The property is zoned to preserve and maintain agricultural lands for farm use, including range and grazing uses, consistent with existing and future needs for agricultural products, forest and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of air, water and land resources of the county. Mining occurs on the property under permit C-1063-04, Z-04-278 and T-04-015. The remainder of the property remains zoned for agricultural use.
- 14. ADJACENT USE: Adjacent land to the east consists of residential development with mixed light industrial uses. Areas to the south and west are light and heavy industrial uses. Areas to the north are undeveloped and zoned for farm use.
- 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 III and VII.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
6C: Anderly silt loam, 7 to 12 percent slopes	IIIe	IVe
6D: Anderly silt loam, 12 to 20 percent slopes	IIIe	-
48E: Licksillet very stony loam, 7 to 40 percent slopes	VIIIs	
70: Pits, gravel	-	-
<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: None.
- 18. UTILITIES: The subject property is within the service territory of Pacific Power Co. for electricity and Century Link for telephone service.
- 19. WATER/SEWER: Water for the subject property is provided through city services. The applicant provides, a septic system does not exist on the property; however, a porta potty is on site and maintained for the employees.
- 20. FIRE SERVICE: Riverside Fire District.
- 21. IRRIGATION: The subject property is not within an irrigation district and does not contain water rights.
- 22. FLOODPLAIN: This property is NOT in a floodplain.

PRELIMINARY FINDINGS AND CONCLUSIONS

Schuening, Plan Amendment, #P-134-22, Text Amendment T-091-22, Zoning Map Amendment. #Z-321-22

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23. WETLANDS: There are no known wetlands located on the subject property.
24. NOTICES SENT: Notice was sent to the Department of Land Conservation and Development (DLCD) on July 21, 2022. Notice was mailed to neighboring land owners and affected agencies on August 15, 2022 and a public notice was printed in the August 13, 2022 publication of the East Oregonian.
25. HEARING DATE: A public hearing is scheduled before the Umatilla County Planning Commission in the Justice Center Media Room, 4700 NW Pioneer Place, Pendleton, OR 97838 on August 25, 2022 at 6:30 PM.
- A subsequent hearing is scheduled before the Umatilla County Board of County Commissioners on September 21, 2022 at 9:00 AM. The hearing will be held in Room 130 at the County Courthouse, 216 SE 4th St., Pendleton, OR 97801.
26. AGENCIES: Umatilla County Assessor, Umatilla County Public Works, Pendleton Fire Department, City of Pendleton, Oregon Department of Transportation Region 5-Highways Division, Oregon Department of Land Conservation and Development, Department of Environmental Quality, Department of Geology and Mineral Industries, Department of State Lands, and Oregon Water Resources Department.

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. In 2004, 8.8 acres of this 151.4-acre EFU zoned parcel was included under the Umatilla County Goal 5 Inventory as a significant aggregate site. Additionally, the AR Overlay Zone was approved to protect the site from conflicting uses. This proposal will expand the existing site by 25.8 additional acres.

The applicant proposes to utilize quality/quantity information to obtain approval of the plan amendment to expand the site and add it to the Umatilla County inventory of large 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. As a condition of approval for operation, the applicant must acquire a DOGAMI permit and obtain approval of a reclamation plan. Copies of both the DOGAMI permit

and reclamation plan must be submitted to County Planning.

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.

The applicant provides that the material within this mining area would meet ODOT specifications for base rock and the expansion area would include more than 500,000 tons of material. A site evaluation has been conducted by Jerry Odom, licensed engineer, showing estimates of material which exceed quality and quantity requirements.

Umatilla County Finds the Schuening Quarry proposed expansion of 25.8 additional acres to the existing 8.8 acres listed in the Goal 5 Inventory meets the Oregon Department of Transportation (ODOT) specifications. First being, samples of aggregate material will be far more than 100,000 tons, the minimum required. Secondly, the rock samples demonstrate the quality of rock in both

the existing quarry and proposed expansion area is in accordance with OAR 660-023-0180(3)(a).

(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.

Applicant Response: Evaluations provided show analysis of conflicts based on the exterior boundary of the expansion area. The existing operation has resulted in no known impacts to neighboring properties. The operation area can be expected to create the same results thus generating no negative impacts. Dwellings are the only known land use where the operation may cause conflict, however, the buffer provides assurance that the operation will not conflict with the existing dwellings. If county or neighbors identify potential conflicts that warrant limitations in order to protect the source, applicant will respond.

County Finding: Umatilla County 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. Therefore, the 1,500-foot impact area is sufficient to include uses listed in (b) below.

(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;

Applicant Response: There are no homes or schools within the 1,500-foot impact area and the quarry has operated without conflicts to the existing dwellings since 2004. The

owner of the adjacent parcel has provided a letter in support of this expansion. The adjacent homes may be modestly impacted by noise, dust, or other dischargers from the proposed expansion however, based on historic compatibility, such impacts are expected to be minimal.

The applicant does acknowledge that the mining and processing operation can create noise, dust, and other discharges and will employ normal and customary practices to manage those impacts. Both noise and dust are regulated by the Oregon Department of Environmental Quality and the applicant has been in good standing with the General Air Contamination Discharge Permit for crushing and processing activities and will continue to do so with the expanded quarry area.

Blasting will be conducted as part of the mining process. The applicant and other contract operations will use best management practices when engaging in this activity. Blasting can create vibration and fly rock, but the use of beset management practices will prevent off-site impacts. As like earlier requirements the applicant will comply with requirements of DOGAMI.

With application of the sustainable management practices that have occurred, noise, dust, or other discharges will be minimized or eliminated within the 1,500-foot impact area.

County Finding: Umatilla County has identified one existing dwelling within the 1,500-foot impact area, and on lands zoned under the county's jurisdiction. This existing dwelling is more than 1,000 feet from the proposed expansion area. Six existing dwellings are located south of the proposed quarry expansion. These dwellings are located within the Urban Growth Boundary and are outside the county's zoning jurisdiction and are not included in the impact area analysis. However, a letter written from the associated property owner has been submitted with this application indicating no major conflicts or complaints with the current operation. Umatilla County finds with application of the management practices described above by the applicant, potential conflicts due to noise, dust, or other discharges will be minimized within the 1,500-foot impact area.

(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;

Applicant Response: Traffic would not trigger a traffic impact analysis as it would be less than the 250 average daily trips as outlined at UCDC 152.019(B)(2)(a). The operator will utilize existing access from Westgate (HWY 30) which indirectly provides access through two parcels owned by Jim Hatley, tax lot 1000 and 900. If a secondary access is

warranted, applicant will secure Access Point for Old Airport Road from County Public Works. It has been provided that there are three employees working on site, two of which have CDL licenses, resulting in two of the three trucks on site running at any given time. One tandem axel dump truck with a 15-ton capacity and the other two are belly dump tractor trailer units with tandem axels and a 25-ton capacity. If operating at peak capacity, two trucks would haul approximately 5 loads per day, for a total of 10 hauls. With regards to blasting at the quarry the typical schedule would be 3-4 times per year maximum and Hatley Construction Inc. has one employee licensed to do all the blasting.

County Finding: Umatilla County finds that the operator will continue to utilize the existing access from Westgate and traffic conflicts generated as part of the mining operation are not expected to increase significantly as part of the proposed expansion.

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

Applicant Response: The Pendleton Public Airport is located approximately 2 miles north and west of the subject parcel.

County Finding: Umatilla County finds the existing Pendleton Public Airport is located approximately 2 miles northwest of the existing aggregate site. There are no open water impoundments, that could attract birds and conflict with the existing airport are proposed.

(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;

Applicant Response: There are no known Goal 5 resource sites within the impact area except the existing 8.8 aggregate site.

County Finding: Umatilla County finds there are no known Goal 5 resource sites within the impact area for the aggregate site.

(E) Conflicts with agricultural practices; and

Applicant Response: There are no agricultural practices within the 1,500-foot impact area of the quarry.

County Finding: Umatilla Count finds that there does not appear to be agricultural practices occurring within the 1,500 foot impact area, given the steep topography and marginal, rocky soils. Therefore, the proposed quarry expansion is not expected to conflict with agricultural practices.

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

County Finding: Umatilla County 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.

Applicant Response: The applicants extensive experience with mining, rock crushing, processing and other heavy construction work minimize all identified potential conflicts. Substantially based on the mining activities since 2004.

County Finding: Umatilla County finds that no conflicts were identified within the 1,500-foot impact area. Although no conflicts have been identified within the impact area, the applicant will manage and mitigate impacts from dust and stormwater through various voluntary measures and best management practices. During mining and processing, if approved on site, the applicant or its contractors will implement best management practices and, as necessary or required, obtain necessary permits in the management of dust, stormwater, or other identified discharges.

(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.

Applicant Response: The applicant will implement best management practices and continue to maintain permits as necessary to ensure management of dust and stormwater. The applicant agrees to reasonable conditions the county may require.

County Finding: Umatilla County Planning finds that all identified potential conflicts will be minimized as described above. 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.

County Finding: Umatilla County 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.

Applicant Response: Similar to the originally permitted Schuening Quarry, the post mining use will involve reseeding disturbed areas with native grasses and keeping the land as a holding area until such time that the City of Pendleton amends their Urban Growth Boundary to include additional industrial or commercial acreage. The land does not contain class I, II or unique farmland soils and therefore post-mining activities are not required.

County Finding: Umatilla County finds the applicant has identified reseeding the disturbed areas and keeping them undeveloped for future inclusion into the City of Pendleton as a possible post-mining use. As a condition of approval, the applicant shall obtain approval from DOGAMI for the reclamation plan and submit a copy of the reclamation plan to the Planning Department.

(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.

Applicant Response: Based on the state standard, Umatilla County should approve the mining operation at the expanded area continuous to the existing quarry.

County Finding: Umatilla County finds processing is currently authorized at the Schuening Quarry under a previously authorized permit. This request is to expand the authorized quarry site. This criterion is applicable and a zoning permit is required to finalize approval as a precedent condition.

(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 applicant has provided an ESEE analysis. The analysis supports a decision to limit new conflicting uses within the impact area to assure protection of the aggregate site.

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;

The subject property is zoned Exclusive Farm Use (EFU). Adjacent property to the north and east is of similar terrain and is not cultivated farm ground. Parcel to the east has two rental houses. Multiple industrial and commercial businesses are in the vicinity.

(b) Determine the impact area;

A 1,500-foot buffer extending from the center of the proposed 25.8-acre aggregate expansion area.

(c) Analyze the ESEE consequences; and

See the analysis below.

(d) Develop a program to achieve Goal 5.

See the analysis 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 local government has identified conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. Potential conflicting uses found in the Umatilla County Development Code are outlined in the **Table 1**, below. This criterion is satisfied.

Table 1 - Potential Conflicting Uses

Zoning	Code Sections	Potential Conflicting Uses
EFU	152.056 Uses Permitted 152.058 Zoning Permit 152-059 Land Use Decisions or 152.060 Conditional Uses	No conflicting uses identified. Replacement Dwellings, Winery, Farm Stand, Home Occupations. Churches, Dwellings, Schools, Parks, Playgrounds, Community Centers, Hardship Dwellings, Boarding and Lodging Facilities, Various Commercial Uses Related to Agriculture.
Rural Tourist Commercial	152.282 Uses Permitted or 152.283 Conditional Uses	Boarding, Lodging, or Rooming house; Eating or drinking establishment; Accessory Dwelling; Travel Trailer Park.
Light Industrial	152.302 Uses Permitted 152.303 Conditional Uses	No conflicting uses identified. Accessory Dwelling; Commercial amusement establishment; Day care center; Mobile home or trailer park.
Agri-Business	152.291 Uses Permitted 152.292 Conditional Uses	No conflicting uses identified. Accessory Dwelling.

(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.)

Potential conflicting uses taken from the Umatilla County Development Code that could be adversely affected by mining on the proposed Goal 5 expansion area are identified above. Therefore, 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 only known Goal 5 resource within the boundary of the mining area or within the 1,500 foot impact area is the existing 8.8-acre quarry.

(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 impact area for an aggregate site is 1,500 feet, as specified by OAR 660-023-0180(5)(a). While there are businesses and dwellings nearby, there are no known impacts within the 1,500-foot impact area.

(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.

As shown in **Table 1**, above, the local government has determined several outright and permitted uses that are allowed by the different zones within the 1,500-foot impact area. For purposes of the ESEE analysis, these potential conflicting uses can be grouped into two types of similar uses:

- Dwellings (typically includes farm dwellings, non-farm dwellings, lot of record dwellings, replacement dwellings, hardship dwellings, home occupations, room and board operations)
- Public/Private Gathering Spaces (typically includes wineries, churches, community centers, private and public parks and playgrounds, living history museums, golf courses, public or private schools, various commercial uses related to agriculture)

The ESSE Analysis follows:

ESEE consequences related to review criteria for dwellings and gathering spaces in the 1,500-foot impact area surrounding the Schuening Quarry.			
	<i>Prohibit dwellings and gathering spaces</i>	<i>Condition the placement of new dwellings and gathering spaces</i>	<i>No change to review standards for dwellings and gathering spaces</i>
Economic Consequences	<p>Consequences related to new use on neighboring properties. There may be some negative economic impact to neighboring property owners if new dwellings or gathering places were not allowed within 1500 feet of the quarry boundary. Since only a portion of properties in the impact area are zoned for Exclusive Farm Use, all with a 160-acre minimum lot size, about half of the properties would be affected and some existing limits on dwellings are already in code, the negative impact would be small. Some uses that allow gathering spaces are also allowed either outright or conditionally.</p> <p>Consequences related to loss or interruption of quarry access. The economic benefit of preserving the applicant's ability to access material from this site does have an economic impact through direct employment and employment impacts on the various developments that rock is delivered to. The Rock It #2 Quarry will provide material for a variety of projects throughout Umatilla and Morrow Counties and possibly beyond.</p>	<p>Consequences related to new use on neighboring properties. The economic impact to neighboring property owners would be neutral given that the dwellings already exist. Additional dwellings would not be permitted prior to land being annexed into city.</p> <p>Consequences related to loss or interruption of quarry access. The economic benefit would be the same as that for a decision to prohibit uses since the proposed "limit" is to require that new uses would be permitted on the condition that the applicant except mining activity on this significant aggregate site.</p>	<p>Consequences related to new use on neighboring properties. The economic consequence for property owners would be neutral. This decision would maintain the current approval criteria for new residences and gathering places in the impact area.</p> <p>Consequences related to loss or interruption of quarry access. The economic impact would be negative. Interruptions in use of a quarry, due to complaints and nuisance lawsuits, have caused delays and increased costs for projects in the region. Expansion of this quarry supports economically efficient development and construction projects in the region. New noise sensitive uses locating within 1500 feet of the quarry will bring the possibility that limitations on quarry activity will be sought by people who are bothered by mining activity. The potential negative economic impact ranges from small to exceptionally large.</p>

PRELIMINARY FINDINGS AND CONCLUSIONS

Schuening, Plan Amendment, #P-134-22, Text Amendment T-091-22, Zoning Map Amendment. #Z-321-22

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	<i>Prohibit dwellings and gathering spaces</i>	<i>Condition the placement of new dwellings and gathering spaces</i>	<i>No change to review standards for dwellings and gathering spaces</i>
Social Consequences	<p>Consequences related to new use on neighboring properties. Removing the option to place a dwelling, which otherwise meets all existing review criteria, within 1500 feet of the quarry boundary, would have a negative social consequence. This would be similar if gathering spaces were also prohibited. The social consequences stem from a landowner’s desire to have reasonable options and flexibility when making choices about what they can and cannot do on their land.</p> <p>Consequences related to loss of quarry access. Various development and construction projects in the region and in the Pendleton area in particular, could forestall important projects that are dependent upon a good source of aggregate.</p>	<p>Consequences related to new use on neighboring properties. The social impact to neighboring property owners would be neutral since the neighbor had already supported the project.</p> <p>New dwellings and gathering spaces that meet existing review criteria would be allowed, provided the applicant agreed to accept the mining activity approved by the county.</p> <p>Consequences related to loss of quarry access. Various development and construction projects in the region that would utilize the aggregate material from this quarry may not transpire.</p>	<p>Consequences related to new use on neighboring properties. The social impact to neighboring property owners would be neutral if new dwellings and social gathering spaces within 1500 feet of the quarry boundary were allowed under the existing review criteria.</p> <p>Consequences related to loss of quarry access. Various development and construction projects in Pendleton that would otherwise utilize the aggregate material in the quarry may have to forego their development which could impact social activities including those that would benefit business.</p>

PRELIMINARY FINDINGS AND CONCLUSIONS

Schuening, Plan Amendment, #P-134-22, Text Amendment T-091-22, Zoning Map Amendment. #Z-321-22

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	<i>Prohibit dwellings and gathering spaces</i>	<i>Condition the placement of new dwellings and gathering spaces</i>	<i>No change to review standards for dwellings and gathering spaces</i>
Environmental Consequences	<p>Consequences related to new use on neighboring properties. There are no environmental consequences identified that stem from prohibiting new dwellings or social gathering spaces in the impact area.</p> <p>Consequences related to loss of quarry access. Efficient development practices include obtaining aggregate material from a quarry close to the project site. There will be significant environmental benefit from fewer vehicle emissions given hauling distance is minimized.</p>	<p>Consequences related to new use on neighboring properties. There could be a negative environmental consequence from noise if new dwellings or social gathering spaces were limited in the impact area. New dwellings and businesses in the impact area could be authorized on the condition that the applicant accept the mining activity approved by this decision. This approach assures that a property owner will make an informed decision when locating a new use. If they decide to locate within the impact area, they will be exposed to noise impacts when mining activities are conducted on the site.</p> <p>Consequences related to loss of quarry access. Efficient development practices include obtaining aggregate material from a quarry close to the project site. There will be some environmental benefit from fewer vehicle emissions when truck travel is minimized.</p>	<p>Consequences related to new use on neighboring properties. There could be a negative environmental consequence from noise if new dwellings and social gathering spaces were allowed in the impact area.</p> <p>Consequences related to loss of quarry access. There may be some negative environmental consequence if new uses in the impact area oppose mining activity and pose an obstacle to the use of this site. Efficient development practices include obtaining aggregate material from a quarry close to the project site. Vehicle emissions will increase if trucks must travel further to access material.</p>

PRELIMINARY FINDINGS AND CONCLUSIONS

Schuening, Plan Amendment, #P-134-22, Text Amendment T-091-22, Zoning Map Amendment. #Z-321-22

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	<i>Prohibit dwellings and gathering spaces</i>	<i>Condition the placement of new dwellings and gathering spaces</i>	<i>No change to review standards for dwellings and gathering spaces</i>
Energy Consequences	<p>Consequences related to new use on neighboring properties. There are no energy consequences identified that stem from prohibiting new dwellings or social gathering spaces in the impact area.</p> <p>Consequences related to loss of quarry access. Efficient development practices include obtaining aggregate material from a quarry close to the project site. There will be some negative energy consequences from additional fuel use if truck travel is increased due to loss of access to this quarry.</p>	<p>Consequences related to new use on neighboring properties. There are no energy consequences identified that stem from limiting new dwellings or social gathering spaces in the impact area.</p> <p>Consequences related to loss of quarry access. Efficient development practices include obtaining aggregate material from a quarry close to the project site. There will be some negative energy consequences from additional fuel use if truck travel is increased due to loss of access to this quarry.</p>	<p>Consequences related to new use on neighboring properties. There are no energy consequences identified that stem from allowing new dwellings or social gathering spaces in the impact area.</p> <p>Consequences related to loss of quarry access. Efficient development practices include obtaining aggregate material from a quarry close to the project site. There will be some negative energy consequences from additional fuel use if truck travel is increased due to loss of access to this quarry.</p>

(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.

Umatilla County has determined, through the ESEE analysis, that the resource site and the conflicting uses (dwellings and public/private gathering spaces) are important compared to each other. Therefore, Umatilla County finds that proposed conflicting uses

should be limited within the 1,500-foot impact area for the life of the Schuening Quarry in order to achieve Goal 5.

A condition of approval is imposed that any land use application for a proposed conflicting use within the 1,500-foot impact area, and within the zoning jurisdiction of Umatilla County, requires a waiver of remonstrance prior to final approval. The waiver shall include language stating that the applicant accepts normal mining activity at this significant aggregate site and restricts a landowner's ability to pursue a claim for relief or cause of action alleging injury from the aggregate operation.

Umatilla County finds that the waiver of remonstrance requirement for proposed conflicting uses along with the mitigation measures proposed by the applicant are adequate to minimize conflicts for future uses that potentially locate within the mining impact area.

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 \(c\)](#)).

Umatilla County finds that Policy 41 of the Umatilla County Comprehensive Plan shall be amended to list the Schuening Quarry as a significant aggregate resource site. The Umatilla County Zoning Map will be amended to apply the Aggregate Resource (AR) Overlay Zone to the subject property. In addition, a 1,500-foot buffer around the AR Overlay Zone will be shown on the Zoning Map to acknowledge that conflicting uses (dwellings and public/private gathering spaces) are limited. As noted previously, a condition of approval is imposed that any land use application for a proposed conflicting use within the 1,500-foot impact area, and zoned under the county's jurisdiction, requires a waiver of remonstrance prior to final approval. The purpose of this condition is not to disallow these activities, but to ensure that applicants for these types of uses be made aware of the mining operation and waive their rights to remonstrate against aggregate mining activities allowed by this decision. This would be consistent with current Umatilla County Development Code provisions found at 152.063(D) that are applicable to permitted mining activities. This criterion is met.

(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).

Umatilla County finds that proposed conflicting uses should be limited within the 1,500-foot impact area for the life of the Schuening Quarry in order to achieve Goal 5. The Umatilla County Zoning Map will be amended to apply the Aggregate Resource (AR) Overlay Zone to the subject property. In addition, a 1,500-foot buffer around the AR Overlay Zone will be shown on the Zoning Map to acknowledge that conflicting uses (dwellings and public/private gathering spaces) are limited. A condition of approval is imposed that any land use application for a proposed conflicting use within the 1,500-foot impact area, and zoned under the county's jurisdiction, requires a waiver of remonstrance prior to final approval.

(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).

Umatilla County finds that this request is related to aggregate resources. Therefore, 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;

The Umatilla County Comprehensive Plan and Technical Report both have input into this

decision. In 2004, the Umatilla County Comprehensive Plan was amended with Ordinance 2004-09 to include Tax Lot 400 located on Map 2N 32 04 as a significant site under the County's Goal 5 Aggregate Resources Inventory. This action seeks to expand the Goal 5 protection, and apply the Aggregate Resource Overlay Zone to the mining site along with a mapped buffer area to further protect the resource.

Comprehensive Plan Findings and Policies are also applicable. Finding 38 states, "Extraction of non-renewable aggregate and mineral resources requires ongoing exploration, reclamation, separation from adjacent incompatible land uses and access." The accompanying policy would also be applicable:

- 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.

The applicant is seeking protection of the aggregate site by the application of the Aggregate Resource Overlay Zone and protection from encroaching and conflicting uses by mapping of the buffer area to best achieve both this Finding and Policy.

Finding 41 would also be applicable and states, "Several aggregate sites were determined to be significant enough to warrant protection from surrounding land uses in order to preserve the resource." Based on this application, the applicant requests that the accompanying Policy be updated to list the Schuening Quarry.

Umatilla County finds that the applicant's request for limitations of conflicting residential and social gathering space uses is reasonable under the Goal 5 protection program and appears to be compatible with the Umatilla County Comprehensive Plan. This criterion is met.

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

Umatilla County finds that the applicant's PAPA shows sufficient information that the inventory of aggregate material at the Schuening Quarry is over 3.75 million tons and exceeds ODOT specifications and warrants the overlay. This criterion is met.

(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;

Umatilla County finds that there are no properties zoned for residential use within 1,000 feet of the proposed overlay that are under the county's jurisdiction. This criterion is met.

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

Umatilla County finds that the quarry expansion was configured in a way that provides screening from the surrounding dwellings. This criterion is met.

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

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

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.

Applicant Response: The applicant complies with DOGAMI mining permit requirements and will continue to do so relative to the 25.8-acre expansion area.

County Finding: Umatilla County finds that the applicant shall provide to the Umatilla County Planning Department 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;

Applicant Response: The applicant will complete the necessary reclamation plan require by DOGAMI and submit the same to Umatilla County. As noted above, the applicant and landowner does not have any immediate plans for reclamation given the longevity of mining in the 25.8-acre area. Any future reclamation activity would be compliant with the Exclusive Farm Use zone. Applicant will submit a reclamation plan for post-mining use upon request by county.

County Finding: Umatilla County 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;

Applicant Response: The applicant has and will continue to mine the aggregate resource leaving a 25-foot buffer area around the perimeter of the subject property.

County Finding: Umatilla County finds there are no existing dwellings that are within 100 feet from

the property boundary where the mining operation will be established and extraction ponds are not within 25 feet of a public road. As a condition of approval, the applicant shall provide a site plan to the Planning Department showing extraction and sedimentation ponds are not located within 25 feet of a public road or within 100 feet from a dwelling.

- (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.

Applicant Response: The dwelling currently located to the east of the quarry is more than 500 feet from the proposed expansion area. The landowner has provided a letter in support of the expanded quarry. Processing equipment will be set in such a way to retain this 500-foot setback requirement for the processing equipment.

County Finding: Umatilla County finds that there are no dwellings under the county's jurisdiction within 500 feet of processing equipment. This criterion is met. As a condition of approval, the applicant shall provide a site plan demonstrating that processing equipment will be sited to retain the 500-foot setback to the existing dwelling.

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

Applicant Response: The applicant will continue to use roadway from Highway 30 (Westgate). If access from the north is warranted, applicant will obtain an Access Permit from Umatilla County Public Works and applicant will provide water or other dust abatement to prevent dust.

County Finding: Umatilla County finds that the applicant will continue to utilizing the exiting access road. No other access roads are under consideration at this time. This criterion is met.

30. ANALYSIS OF STATEWIDE PLANNING GOALS 1 THROUGH 14.

Goal 1 Citizen Involvement: *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Applicant Response: Umatilla County's Comprehensive Plan and development codes outline the County's citizen involvement program that includes the activities of the Planning Commission and provides for the public hearing process with its required notice provisions. These notice provisions provide for adjoining and affected property owner notice; notice to interested local, state, and federal agencies; and allows for public comment to the process. More specifically this request will be publicly noticed and discussed at a public hearing and will be subject to input from citizens.

County Finding: Umatilla County finds that the applicant's request will go through the public hearing process and complies with Statewide Planning Goal 1 (Citizen Involvement).

Goal 2 Planning: *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

Applicant Response: Goal 2 establishes the underlining process that a county or a city needs to utilize when considering changes to their Comprehensive Plans and development codes. This application meets those requirements for this request.

County Finding: Umatilla County finds that through this amendment process, the applicant's request complies with the County's Comprehensive Plan and Development Code and therefore complies with Statewide Planning Goal 2 (Planning).

Goal 3 Agricultural Lands: *To preserve and maintain agricultural lands.*

Applicant Response: Goal 3 requires counties to preserve and maintain agricultural lands for farm uses. Counties must inventory agricultural lands and protect them by adopting exclusive farm use zones consistent with Oregon Revised Statute 215.203 et. seq. Mining is allowed as a condition use per ORS 215.283 and has been permitted at this location since 2004.

Goal 3 is relevant to this application as the proposal is on land currently zoned Exclusive Farm Use. While the primary purpose of this zone is to allow and protect farm operations there are many other uses that are allowed on farmland that are outlined in Oregon Revised Statute and codified in the Umatilla County Development Code. In this instance there is an intersection of Goal 3 and Goal 5 because an aggregate source has been identified, is determined to be significant, and the applicant is requesting protection for the site and for mining to be allowed.

County Finding: Umatilla County finds that the applicant's request appears to be consistent with Statewide Planning Goal 3 (Agricultural Lands) as demonstrated throughout this document.

Goal 4 Forest Lands: *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

Applicant Response: There are no forest lands impacted by this request. The Umatilla National Forest is significantly south of the subject property.

County Finding: Umatilla County finds that Statewide Planning Goal 4 (Forest Lands) does not directly apply to the applicant's request.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources: *To protect natural resources and conserve scenic and historic areas and open spaces.*

Applicant Response: the application is to protect the subject property under Statewide Planning

Goal 5 as a significant aggregate site. The subject property does not have any overlays or other known cultural resources or historical sites. There are no mapped wetlands on the subject property and no floodplain has been mapped.

This application for a Comprehensive Plan amendment to protect an aggregate resource has been reviewed under Oregon Administrative Rule 660-023-0180, the process required under Goal 5.

County Finding: Umatilla County finds that the applicant's the request has been reviewed under the necessary Goal 5 process and appears to be consistent with Statewide Planning Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources).

Goal 6 Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water and land resources of the state.*

Applicant Response: Goal 6 addresses the quality of air, water, and land resources. In the context of comprehensive plan amendments, a local government complies with Goal 6 by explaining why it is reasonable to expect that the proposed uses authorized by the plan amendment will be able to satisfy applicable federal and state environmental standards, including air and water quality standards.

The request to protect the subject property under Goal 5 and to allow mining, based on the analysis above can and will be compliant with Goal 6. The objective of this process is to protect an aggregate resource. Required measures protecting water are required under Oregon law and will be implemented during mining, processing, and stockpiling of aggregate material. Any mining or processing of aggregate material will be required to meet Oregon Department of Environmental Quality requirements for air quality through the imposition of air quality standards with some activities having to obtain an Air Contaminate Discharge Permit. The use of mining and processing techniques that include temporary and permanent Best Management Practices for erosion and sediment control and spill control and prevention can achieve compliance with both clean air and water standards.

County Finding: Umatilla County finds that the applicants request addresses air, water and land resource quality and will obtain necessary permits and implement best practices to be consistent with Statewide Planning Goal 6 (Air, Water and Land Resource Quality).

Goal 7 Areas Subject to Natural Hazards and Disasters: *To protect people and property from natural hazards.*

Applicant Response: Goal 7 provides for the planning and response to natural hazards and disasters. Given compliance with State DOGAMI mining requirements the quarry operation will not create any natural hazards. There are no known natural hazards on the subject property.

County Finding: Umatilla County finds that the applicants request is consistent with Statewide Planning Goal 7 (Areas Subject to Natural Hazards and Disasters).

Goal 8 Recreation Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Applicant Response: No recreation components are included in this application.

County Finding: Umatilla County finds that the applicant's request appears to be consistent with Statewide Planning Goal 8 (Recreation Needs) and Goal 8 does not directly apply to this request.

Goal 9 Economy: *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

Applicant Response: Umatilla County has a comprehensive plan that has been acknowledged to comply with Goal 9. The proposed quarry expansion has general economic benefit to construction and development in the Pendleton area as well as the region.

County Finding: Umatilla County finds that the applicant's request appears to be consistent with Statewide Planning Goal 9 (Economy).

Goal 10 Housing: *To provide for the housing needs of citizens of the state.*

Applicant Response: Housing is not being proposed and the expansion area will be conducted in a manner that does not negatively impact housing in the vicinity.

County Finding: Umatilla County finds housing is not a part of this proposal.

Goal 11 Public Services: *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

Applicant Response: Goal 11 requires local governments to plan and develop a timely, orderly, and efficient arrangement of public facilities and services. The goal provides that urban and rural development be guided and supported by types and levels of services appropriate for, but limited to, the needs and requirements of the area to be served. The approval of this request would support the local economy that provides for the employment of residents, delivery of goods, and allows for recreation and tourism in the region.

County Finding: Umatilla County finds that the applicant's request appears to support Statewide Planning Goal 11 (Public Services).

Goal 12 Transportation: *To provide and encourage a safe, convenient and economic transportation system.*

Applicant Response: Rock from this quarry is used for transportation project in and around the greater Pendleton area. City of Pendleton relies on this aggregate resource and has submitted a

letter in support of the Plan amendment and application.

County Finding: Umatilla County finds that the applicant’s request appears to support Statewide Planning Goal 12 (Transportation), as the mined rock could support future transportation projects in the area.

Goal 13 Energy: *To conserve energy.*

Applicant Response: Approval of this quarry expansion will continue to make aggregate material available for municipal and private construction activities in the greater Pendleton area, thus minimizing and reducing hauling distance. Hauling of aggregate is perhaps the largest energy consumption and therefore reducing hauling reduces energy consumption.

County Finding: Umatilla County finds that the applicant’s request appears to be consistent with Statewide Planning Goal 13 (Energy).

Goal 14 Urbanization: *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

Applicant Response: Proposed uses are not considered urban and therefore Goal 14 is not specifically applicable. The expansion area is configured so as to not limit urban development on nearby lands within the city of Pendleton Urban Growth area and City limits.

County Finding: Umatilla County finds that Statewide Planning Goal 14 (Urbanization) is not specifically applicable to this request.

31. DECISION:

BASED UPON THE ABOVE STATED FINDINGS AND CONCLUSIONS, THE SCHUENING ESTATE QUARRY 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 TO THE SCHUENING ESTATE QUARRY SITE IS APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS.

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

1. The County Planning Department will prepare an Ordinance to amend the County Comprehensive Plan to add this aggregate site known as the Schuening Estate 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.
2. 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:

1. Conform to the requirements of DOGAMI or its successor, or the applicable state statutes. 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.
2. Obtain a Zoning Permit from the Umatilla County Planning Department to finalize the approval of the aggregate site expansion.
3. If the site were to lay inactive for a period of greater than one year, a new zoning permit must be obtained.
4. Adhere to DEQ Noise Standard as found in OAR 340-035-0035, *Noise Control Regulations for Industry and Commerce*.
5. 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.
6. Contour and revegetate the quarry during post-mining activities according to the requirements of the DOGAMI application.
7. Any land use application for a proposed conflicting use within the 1,500-foot impact area, and within the zoning jurisdiction of Umatilla County, requires a waiver of remonstrance prior to final approval. The waiver shall include language stating that the applicant accepts normal mining activity at this significant aggregate site and restricts a landowner's ability to pursue a claim for relief or cause of action alleging injury from the aggregate operation.

UMATILLA COUNTY BOARD OF COMMISSIONERS

Dated _____ day of _____, 2022

George M. Murdock, *Commissioner*

John M. Shafer, *Commissioner*

Daniel L. Dorrان, *Commissioner*

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Proposed Umatilla County Comprehensive Plan Text Amendment

SCHUENING QUARRY Comprehensive Plan Map Amendment #P-134-22 Comprehensive Plan Text Amendment T-091-22 Zoning Map Amendment #Z-321-22 Township 2N, Range 32E, Section 04, Tax Lot 400

This proposed amendment to the Umatilla County Comprehensive Plan is to expand the existing Schuening Quarry and add to the Quarry Site (listed in the Comprehensive Plan Technical Report as a small site) to the list of Goal 5 protected, significant resource aggregate sites. The following proposed changes will be made in Chapter 8, Open Space, Scenic and Historic Areas, and Natural Resources:

Note: Proposed changes are in underlined text.

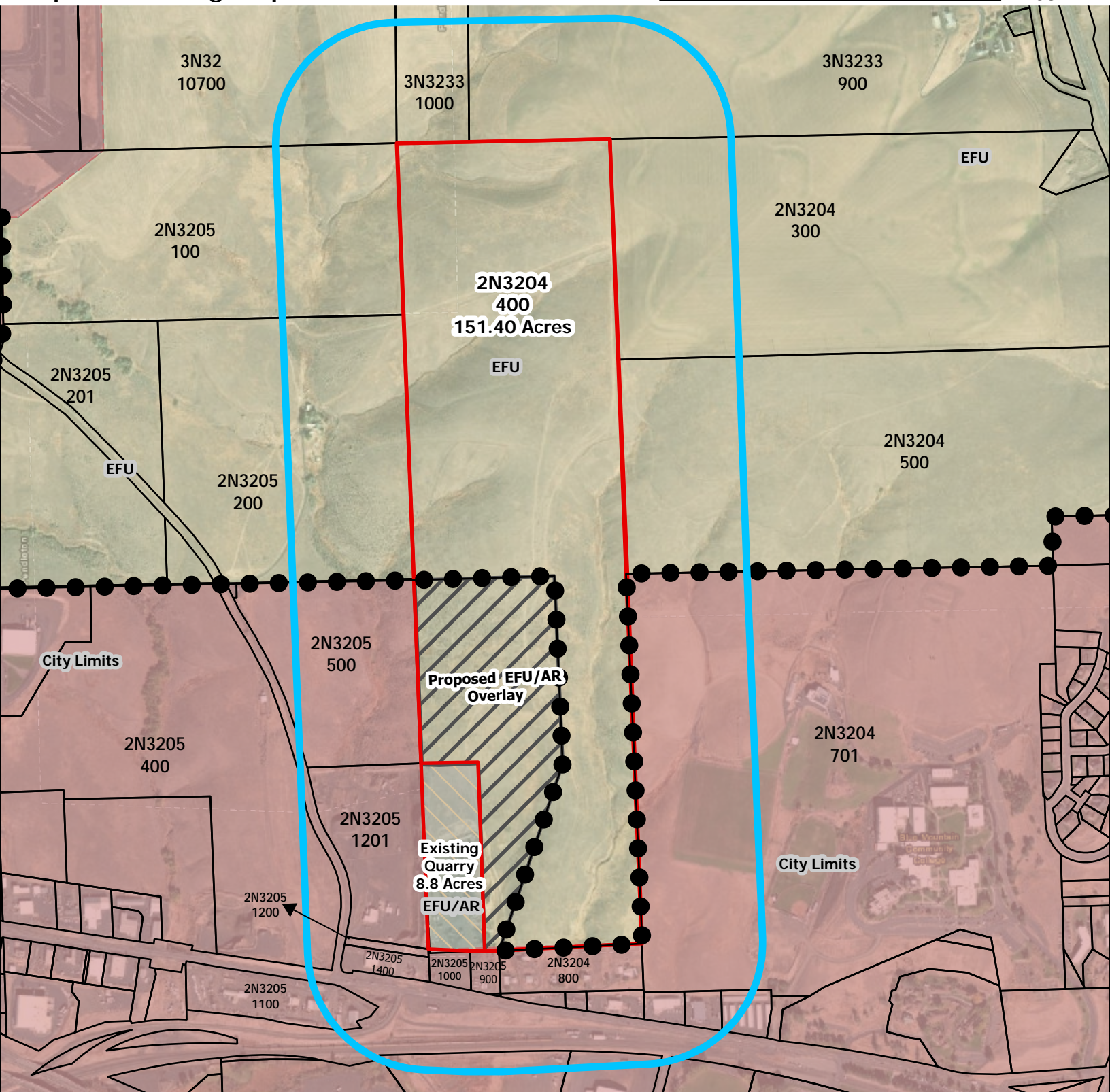
41. Several aggregate sites were determined to be significant enough to warrant protection from surrounding land uses in order to preserve the resource (see Technical Report).

41. In order to protect the aggregate resource, the County shall apply an aggregate resource overlay zone to the following existing sites:

- (1) ODOT quarry, T5N, R35E, Section 35, TL 6200, 5900.
- (2) ODOT quarry, T5N, R29E, Section 22, TL 800 (“Sharp’s Corner”)
- (3) Private, commercial pit, T4N, R38E, Section 27, TL 1100.
- (4) Upper Pit, T4N, R28E, Sections 28, 29, TL 4000.
- (5) ODOT quarry, T3N, R33E, Section 23, TL 100, 600, 700
- (6) Several quarries, T2N, R31E, Section 15, 16, 17, TL 400, 800, 3100. (See Technical report for specific site information).
- (7) ODOT quarry, T3S, R30 1/2, Section 12, 13, TL 503.
- (8) ODOT quarry, T4N, R35, TL 7303.
- (9) Private, commercial pit, T4N, R28E, Sections 30, 31, TL 300, 2200, 2202, 2203.
- (10) ODOT quarry, T1N, R35, Section 34, TL 800, 900, 1000, and T1S, R35, Section 03, TL 100.
- (11) ODOT quarry, T1S, R30, TL 1901.
- (12) ODOT quarry, T2N, R27, TL 2700.
- (13) Private, commercial pit, T4N, R27E, Section 25, TL 900, Section 36, TL 400, 500, 600, 700, 800, 1400, 1500.
- (14) Private, commercial pit, T2N, R32, Section 04, TL 400



Proposed Zoning Map



Legend

- Subject Property
- Property Boundaries
- Existing Quarry
- Proposed AR Overlay
- Zone Boundary
- City UGB

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Contract No.: C13407 EA No.: CON02659 Lab No.: 08-000901
 Project: US395; PENDLETON INTERCHANGE RAMP
 Highway: PENDLETON-JOHN DAY County: UMATILLA
 Contractor: WEAVER CONSTRUCTION CO Data Sheet No.: F42699 099
 Project Manager: HEATHER MCLOREN Org Unit: 5803 FA No.: X-STP-80-8028 (C27)
 Submitted By: MIKE DENNER Org Unit: 5803 Bid Item No.: 220
 Material Source: 10-107-5 WESTGATE Sample No.: 1
 Sampled At: FINAL BELT Sampled By: Qty Represented: 12 MONTHS
 DATE-Sampled: 08/ 4/ 2 Received: 08/ 4/ 7 Tested: 08/ 4/10 Witnessed By:
 Class/Type: COMPLIANCE Use: SHOULDER & AGGREGATE BASE Date Reported: APR 11 2008

Q or G: QUARRY			AGGREGATE LABORATORY REPORT - BASHAG		Size: 3/4-0
Test	Field	Lab			
T 174 S.E.			T 84 F. Grav.		T 85 C. Grav.
T 88 D.L.			Bulk:		Bulk:
T 90 P.I.			S.G.D.:		S.N.D.:
TP 61 Ttl Frac.			Appar.:		Appar.:
TM 226 Dust/Clay			Absorp.:		Absorp.:
TM 227 Cleaness			T 104 Soundness		TM 208 Degrade
TM 229 Blong pas			C A: T A:		
T 304			1.5-3/4:		
Uncomp. Voids			3/4-3/8:		
			3/8- #4:		Cycr Ht: 1.1 in.
			#4- #8:		WTD: 15.0 %
			#8- #16:		Finn Ht:
			#16-#20:		P20:
			#20-#50:		
T 329 Moisture			T 96 Abrasion		T 21 Impurity
T 27/11			13.7 %		Plate #:
Sieve	Passing	Passing	Type B		
2.5			TP 61 Fracture		TM 221 Friables
2			3/4:		Wt'd Avg :
1.5			1/2:		1.5 3/4:
1			3/8:		3/4-1/8:
3/4			1/4:		3/8- #4:
1/2			#10:		#4 #16:
3/8					
1/4			T 113 Lightweight		TM 225 Woodwaste
# 4			Coarse:		Lab:
# 8			Fine:		Field:
# 10			AASHTO T 288/289		AASHTO T 267
# 16			Resist: 0		Organic:
# 30			pH:		
# 40			AASHTO T 291		AASHTO T 290
# 50			Chloride:		Sulfate:
#100					
#200					

1 @ T96 - \$ 97.00
 1 @ 208A - \$ 74.00
 NSM - Not Sufficient Material
 REMARKS:
 Material represented by sample DOES comply with specifications.

TOTAL CHARGES: \$ 171.00

BUYER SHALL NOT BE RESPONSIBLE, EXCEPT IN FULL, WITHOUT WRITTEN APPROVAL OF THIS LABORATORY.

C: FILES : PROJ MGR: HEATHER MCLOREN ; WEAVER CONSTRUCTION CO ; PWS & C ; D TEST - AGGREGATE
 MIND DENNER OCCS

Exhibit B

Contract No.: C13333 EA No.: CON02589 Lab No.: 07-002217
 Project: OR335 @ ADAMS INTERSECTION & GREASEWOOD CR BR
 Highway: HAVANA-HELIX County: UMATILLA Data Sheet No.: F40736 641
 Contractor: WEAVER CONSTRUCTION CO FA No.: X STP BRP-8335(006)
 Project Manager: HEATHER McLOREN Org Unit: 5803 Bid Item No.: 390
 Submitted By: FRED OSWALD Org Unit: 5803 Sample No.: 3
 Material Source: 30-107-5 WESTGATE Qty Represented: ANNUAL COMPL
 Sampled At: STOCKPILE Sampled By: Witnessed By:
 DATE-Sampled: 07/ 6/26 Received: 07/ 6/29 Tested: 07/ 7/10 Date Reported: 7/ 20/10
 Class/Type: COMPLIANCE Use: SHOULDER & AGGREGATE BASE

Q or G: QUARRY		AGGREGATE LABORATORY REPORT - BASEAG		Size: 3/4-0	
Test	Field	Lab	T 84 F. Grav.	T 85 C. Grav.	
T 176 S.E.			Bulk:	Bulk:	
T 89 L.L.			M.S.D.:	S.S.D.:	
T 90 P.I.			Appar.:	Appar.:	
TP 61 Tbl Frac.			Absorp.:	Absorp.:	
TM 226 Dust/Clay			T 104 Soundness	TM 208 Degrade	
TM 227 Cleanness			C A: F A:		
TM 229 Elong pcs			2.5 3/4:		
T 304			3/4 3/8:		
Uncomp. Voids			3/8 #4:		Crse Mt: 0.5 in
			#4 #8:		P20: 13.5 %
T 329 Moisture			#8 #16:		fine mt:
T 27/11			#16 #30:		P20:
Sieva	Passing	Passing	#30 #50:		
2.5			T 96 Abrasion	T 21 Impurity -	
2			12.6 %	Plate #:	
1.5			Type R		
1			TP 61 Fracture	TM 221 Friables	
3/4			3/4:	Wt'd Avg:	
1/2			1/2:	1.5 3/4:	
3/8			3/8:	3/4-3/8:	
1/4			1/4:	3/8 #4:	
# 4			#10:	#4-#16:	
# 8			T 113 Lightweight	TM 225 Woodwast	
# 10			Coarse:	Lab:	
# 16			Fine:	Field:	
# 30			ASHTO T 288/289	ASHTO T 267	
# 40			Resist: Ω	Organic:	
# 50			pH:		
#100			ASHTO T 291	ASHTO T 290	
#200			Chloride:	Sulfate:	

1 @ T96 = \$ 97.00
 1 @ 208A = 74.00

NEM = Not Sufficient Material

TOTAL CHARGES: \$ 171.00

REMARKS:

Material represented by sample DOES comply with specifications.

REPORT SHALL NOT BE REPRODUCED, EXCEPT IN FULL, WITHOUT WRITTEN APPROVAL OF THIS LABORATORY.

C. FILES: PROJ NO: HEATHER McLOREN, WEAVER CONSTRUCTION CO, 800 S.O.A.C. 10/2007 - APPROPRIATE
 FRED OSWALD-JULS

Exhibit B
[Signature]
 Laboratory Services Manager

Contract No.: C13407 EA No.: CON02659 Lab No.: 07-003796
 Project: US395; PENDLETON INTERCHANGE RAMP
 Highway: PENDLETON-JOHN DAY County: UMATILLA Data Sheet No.: P42699 085
 Contractor: WEAVER CONSTRUCTION CO Org Unit: 5803 FA No.: X-RTP-80-5028(027)
 Project Manager: FRATHER MCLORREN Org Unit: 5803 Bid Item No.:
 Submitted By: MICHAEL DENNIE Sample No.: 1
 Material Source: 30-107-5 WESTGATE Qty Represented: 5000 TONS
 Sampled At: SOURCE Sampled By: Witnessed By:
 DATE-Sampled: 07/10/17 Received: 07/10/22 Tested: 07/10/26 Date Reported:
 Class/Type: COMPLIANCE Use: SHLDR & AGG BASE QUARRY ROCK D.T. 2 0 2007

Q or G: QUARRY Sieve	AGGREGATE LABORATORY REPORT - QUARRIES % Passing	Size: CHUNKS Mfg.	As Rec'd
4"	T 176 Sand Equivalent	72.	
3.5	T 89 Liquid Limit		
3	T 90 Plastic Index		
2.5	T 84 Fine Bulk Gravity		
2	S.S.D.		
1.5	Apparent		
1	Absorption (%)		
3/4	T 85 Coarse Bulk Gravity		
5/8	S.S.D.		
1/2	Apparent		
3/8	Absorption (%)		
1/4	TM 208a Coarse Degrad. Ht	1.9 in	
# 4	FTD	18.6 %	
# 10	TM 208b Fine Degrad. Ht		
# 40	FTD		
# 100			
# 200			
T 104 Sodium Sulfate Loss	TM 221 Friables	T 96 Abrasion	
1.5 - 3/4:	Weighted Avg.:	Type A 20.0 %	
3/4 - 3/8:	1 1/2 - 3/4:		
3/8 - # 4:	3/4 - 3/8:	TM 225 Woodwaste:	
# 4 - # 8:	3/8 - # 4:	TM 226 Dust/Clay:	
# 8 - # 16:	# 4 - # 16:	TM 227 Cleaness:	
# 16 - # 30:	T 113 Lightweight Pcs	TM 229 Blong Pcs:	
# 30 - # 50:	Coarse: Fine:	T 104 Unc Voids:	

1 @ T96 = \$ 57.00	NSM - Not Sufficient Material	TOTAL CHARGES: \$ 311.00
1 @ T176 = 41.00	REMARKS:	
1 @ 208A = 74.00	INFORMATIONAL	
3 @ 233X = 33.00	MENTS SPECIFICATION SECTIONS 02630.10(C) (D) & 02640.10(C) (D).	

REPORT SHALL NOT BE REPRODUCED, EXCEPT IN FULL, WITHOUT WRITTEN APPROVAL OF THIS LABORATORY.

CL: 7/10/17, PROJ MGR: FRATHER MCLORREN, WEAVER CONSTRUCTION CO, 800 S G.A.C., PENDLETON, OR 97050
 MTR: MICHAEL DENNIE

Exhibit B

Contract No.: C13333 EA No.: CON02589 Lab No.: 07-001841
 Project: CRSS @ ADAMS INTERSECTION & GRASEWOOD CR BR
 Highway: HAVANA-HELIX County: UMATILLA Data Sheet No.: F40736 633
 Contractor: WEAVER CONSTRUCTION CO Org Unit: 5803 PA No.: X-BTP-BRP 5335(006)
 Project Manager: HEATHER MULOREN Org Unit: 5803 Bid Item No.: 290
 Submitted By: FRED OSWALD Sample No.: 1
 Material Source: 30-107-5 WESTGATE City Represented: ANNUAL COMPLIANCE
 Sampled At: STOCKPILE Sampled By: Witnessed By:
 DATE Sampled: 07/ 6/ 3 Received: 07/ 6/ 7 Tested: 07/ 6/ 18 Date Reported:
 Class/Type: COMPLIANCE Use: RIPRAP AGGR

Q or G: QUARRY		AGGREGATE LABORATORY REPORT - RRAPAG		Size: CRUMKS	
Test		Field	Lab		
T 174	S.E.			T 84 F. Grav.	T 85 C. Grav.
T 89	L.L.			Bulk:	Bulk: 2.849
T 90	P.I.			S.S.D.:	S.S.D.: 2.858
TP 61	Tol. Frac.			Appar.:	Appar.: 2.877
TM 226	Dust/Clay			Absorp.:	Absorp.: 0.34 %
TM 227	Cleaness			T 104 Soundness	TM 208 Degrad
TM 229	Elong pcs			RapRap Avg.: 0.9 %	
208	Inch/Ga A/C			2.5-1.5: 0.6 %	
	Total A/C			1.5-3/4: 1.2 %	
	Retention				Crack No: 0.8 in
T 129	Moisture				M20: 15.1 %
T 27/11					Fine Ml:
	Sieve	Passing	Passing		D20:
	2.5			T 96 Abrasion	T 21 Impurity
	2				Plate #:
	1.5			TP 61 Fracture	TM 221 Friables
	1			3/4:	W'd Avg :
	3/4			1/2:	1.5-3/4:
	1/2			3/8:	3/4-1/8:
	3/8			1/4:	1/8- #4:
	1/4			#4 #10:	#4 #16:
# 4				T 113 Lightweight	TM 225 Woodwaste
# 8				Course:	Lab:
# 10				Fine:	Field:
# 16				AASHTO T 268/269	AASHTO T 267
# 30				Resist: 0	Organic:
# 40				pH:	
# 50				AASHTO T 291	AASHTO T 290
#100				Chloride:	Sulfate:
#200					

1 @ T85 = \$ 45.00
 2 @ T104 = 39.00
 1 @ TM208A = 74.00

NSM = Not Sufficient Material

TOTAL CHARGES: \$ 177.00

REMARKS:

Material represented by sample DORS comply with specifications.

REMARKS SHOULD BE RECORDED. RECEIPT IN FULL. WITHOUT WRITTEN APPROVAL OF THIS LABORATORY.

C: FILED : PROJ REP: HEATHER MULOREN ; WEAVER CONSTRUCTION CO ; 307 S O.A.C ; D TEST ADDR: FRED OSWALD (OCS)

Exhibit B

[Signature]
 Laboratory Services Manager

Contract No.: C14017 EA No.: CON02792 Lab No.: 09-004790
 Project: US30: COURT - DORION (PENDLETON) - OR11 @ ATHENA
 Highway: OMSOON WASHINGTON/PENDLETON County: UMATILLA Data Sheet No.: P42699 146
 Contractor: PIONEER CONSTRUCTION, INC PA No.: X-NW-STP-MTSA-0000(411)
 Project Manager: CRAIG RIPP Org Unit: 5803 Bid Item No.:
 Submitted By: MIKE DENNER Org Unit: 5803 Sample No.:
 Material Source: 30-107-S WESTGATE Qty Represented: 12 MONTHS
 Supplied At: KING PIT Sampled By: Witnessed By:
 DATE-Sampled: 09/8/26 Received: 09/10/16 Tested: 09/10/26 Date Reported: 09/10/26
 Class/Type: COMPLIANCE Use: AGGREGATE BASE

Test	Field	Lab	Size: 3/4-0
T 176 S.G.			T 84 F. Grav.
T 89 U.C.			Sulk:
T 90 P.T.			S.S.D.:
TP 61 Ttl. Fin.			Appar.:
TM 226 Dust/Clay			Absorp.:
TM 227 Cleaness			T 104 Soundness
TM 229 Blong pos			C A: F A:
T 304			1.5-3/4:
Uncomp. Voids			3/4 3/8:
			3/8- #4:
			#4- #16:
			#16-#30:
			#30-#50:
T 329 Moisture			T 96 Abrasion
T 27/11			16.5 #
Diave	Passing	Passing	Type B
2.5			TP 61 Fracture
2			3/4:
1.5			1/2:
1			3/8:
3/4			1/4:
1/2			#10:
3/8			T 113 Lightweight
1/4			Coarse:
# 4			Fine:
# 8			AASHTO T 286/289
# 10			Resist: Ω
# 15			pH:
# 30			AASHTO T 291
# 40			Chloride:
# 50			
#100			
#200			

1 @ T96 = \$ 97.00
 1 @ 208A = 74.00

NSM - Not Sufficient Material

TOTAL CHARGES: \$ 0.00

REMARKS:

Material represented by sample DOES comply with specifications.

KEVIN BROPHY - LABORATORY SERVICES MANAGER

REPORT SHALL NOT BE REPRODUCED EXCEPT IN FULL, WITHOUT THE WRITTEN APPROVAL OF THIS LABORATORY.

CI: PIONEER, 8607 NWB CROFT ST, PIONEER CONSTRUCTION, INC., 800 S O A C., OREGON - AGGREGATE DIVISION
 MIKE DENNER 5036

Exhibit B



CITY OF PENDLETON

Public Works Department
500 S.W. Dorion Avenue
Pendleton, Oregon 97801-2090
Telephone (541) 966-0202
FAX (541) 966-0251
TDD Phone (541) 966-0230
Website: www.pendleton.or.us

January 31, 2022

To Whom It May Concern:

The City of Pendleton is in support of Hatley Construction expanding their pit on Westgate Avenue. The City has been sourcing rock from this pit for our projects for many years. The central location and short haul times have helped the City save our taxpayers thousands of dollars over the years.

Over the last ten years, we have purchased an average of 5,000-10,000 tons of rock per year. Last year, for example, we used approximately 8,000 tons. This gravel has been used for several projects throughout town such as for trench backfill, road base, gravel street surfacing, etc. The City of Pendleton would like to be able to continue to utilize this very convenient and cost-effective source for gravel needs.

Sincerely,

Jeff Brown
Public Works Superintendent

Bob Patterson, PE
Public Works Director

JB/BP/jb/jh



3-3-22

JIM HATLEY,

I OWN APPROXIMATELY

6 ACRES NEXT TO YOUR

GRAVEL PIT AT WESTGATE

IN PENDELTON.

YOU WERE THINKING OF

EXPANDING YOUR PIT,

THAT WOULD BE PERFECTLY

FINE WITH ME, AND I

WOULD HAVE NO COMPLAINTS

SINCERELY,

ROBERT YOUNG

Robert Young

DRAFT MINUTES

**TYPE I LAND DIVISION, ROYER RANCHETTES
SUBDIVISION #S-061-22 & VARIANCE #V-360-22
HOOT ROYER, APPLICANT/ HSG-D LLC, OWNER**

The applicant requests approval to subdivide the property located on Assessor's Map 4N2817C, Tax Lots 1900 & 200. The applicant's proposed subdivision will create 6 lots of at least 4 acres in size. In addition, the applicant requests a variance to the county road standard

&

**LAND USE DECISION REQUEST, VERIFICATION OF
NON-CONFORMING USE #LUD-285-22: VINCENT
VAZZA & JANICE LOHMAN, APPLICANTS/ OWNERS.**

The applicants are requesting Verification of Non-Conforming Use approval to continue the use of the subject property as an apiary with accessory beekeeping equipment repair and an equipment/ automotive repair business.

**UMATILLA COUNTY
PLANNING COMMISSION HEARING
June 23, 2022**

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, June 23, 2022, 6:30pm
VIRTUAL HEARING

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COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Tammie Williams, Tami Green, Sam Tucker, Cindy Timmons, John Standley, Emery Gentry & Jodi Hinsley

STAFF: Carol Johnson, Senior Planner; Megan Davchevski, Planner/ Transit Coordinator; Tamara Ross, Planner; Tierney Cimmiyotti, Administrative Assistant & Gina Miller, Code Enforcement Coordinator

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

CALL TO ORDER

Chair Danforth called the meeting to order at 6:31pm and read the Opening Statement.

NEW HEARING

TYPE I LAND DIVISION, ROYER RANCHETTES SUBDIVISION #S-061-22 & VARIANCE #V-360-22: HOOT ROYER, APPLICANT/ HSG-D LLC, OWNER. The applicant requests approval to subdivide the property located on Assessor’s Map 4N2817C, Tax Lots 1900 & 200. The applicant’s proposed subdivision will create 6 lots of at least 4 acres in size. In addition, the applicant requests a variance to the county road standard. The land use standards applicable to the applicants’ request are found in Umatilla County Development Code (UCDC) 152.665, Type I Land Divisions & 152.625-630, Variances.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. There were none. She called for the Staff Report.

STAFF REPORT

Tamara Ross, Planner, presented the Staff Report. Mrs. Ross stated that there are two requests associated with this application. The applicant’s first request is for a new subdivision creating 6 lots. Proposed Lot 1 has a manufactured home and the remaining 5 proposed lots are undeveloped at this time.

The applicant’s second request is for a variance providing relief from the County’s road development standard. They propose to dedicate a new road through the subdivision by extending Horizon Lane and connecting to Southwest ‘I’ Avenue to provide access to Agnew Road. The substandard width of Southwest ‘I’ Avenue is outside the boundaries and ownership of the proposed Royer Ranchettes subdivision, and it is considered pre-existing and non-

conforming to the current road standard. The UCDC requires that easements serving more than 4 properties be 60 feet wide. The applicant requests a Variance to the access easement width requirement to reduce the County Subdivision “S-1” 60-foot easement width standard.

Mrs. Ross stated that the property is located north of Westland Road and east of Agnew Road, approximately 1 mile west of Hermiston City Limits. Notice of the applicant’s request and the public hearing was mailed on June 3, 2022 to the owners of properties located within 250 feet of the perimeter of Tax Lots 1900 & 200. Notice was also published in the *East Oregonian* on June 11, 2022 notifying the public of the applicants request before the Planning Commission on June 23, 2022.

Umatilla County Sheriff’s Office, Communications Captain, Karen Primmer, 4700 NW Pioneer Place, Pendleton, Oregon submitted an agency comment. Mrs. Ross stated that Capt. Primmer requested for the road serving the proposed subdivision to be named Horizon Lane all the way through, in place of Southwest ‘I’ Avenue. She noted that consistency in road naming makes it easier for emergency response teams to navigate. Mrs. Ross pointed out that Precedent Condition #5 requires the applicants to, “Submit and receive approval for the Road Naming Application of the private easement serving Lots 1 - 3, 5 & 6, renaming Southwest ‘I’ Avenue to Horizon Lane. If the road renaming is approved, install a new road sign at the intersection with Agnew Road, at a location approved by the Umatilla County Public Works Department.”

Mrs. Ross stated that the proposed Conditions of Approval address road improvement and access standards as well as survey and recording requirements, with final approval accomplished through the recording of the final subdivision plat. The land use standards applicable to these requests are found in UCDC 152.665, Type I Land Divisions & 152.625-630, Variances and the decision made by the Planning Commission is final unless timely appealed to the Board of County Commissioners (BCC).

Commissioner Wysocki asked for more information about the Variance request. He asked if staff has researched what it would take to create a 60-foot right-of-way, as required by the UCDC. Mrs. Ross stated that she has not done that research. Megan Davchevski, Planner, clarified that the land owner would need to dedicate part of their property to the easement. However, they are different land owners than the applicant. Therefore, a request to dedicate part of their property for this purpose would likely violate the Takings clause of the Fifth Amendment to the US Constitution which states that no private property be taken for public use without just compensation.

Chair Danforth asked for more information about Subsequent Condition #3 which requires that the applicant obtain all other permits necessary for development (septic, building, etc.). She asked if these requests are approved, and the lots are subsequently sold, what is the harm in the new owners waiting beyond 2 years to develop the land? Mrs. Ross clarified that the 2-year deadline only applies to Subsequent Condition #1, recording the final Subdivision Plat. She

offered to change the language to clarify the terms. Chair Danforth stated that it would be helpful to provide some kind of clarification, otherwise it could be interpreted that the 2-year deadline applies to all the Subsequent Conditions listed. Mrs. Ross agreed to make the language clearer.

Commissioner Standley asked for more information about Lot #4, with access to Westland Road. He questioned if the change in access point for the single lot will cause any issues. Mrs. Ross stated that the applicant received approval for the Westland Road access point in 2020 as part of the approval process for a Type V Land Division, Property Line Adjustment.

Chair Danforth directed the group to page 16 of the Commissioner's packets under Precedent Condition #4 where it states that the applicant must, "Sign and record an Irrevocable Consent Agreement for future participation in improvements to Westland Road to serve Lot 4, if and when, a Local Improvement District is formed for road improvements." Chair Danforth asked if there were any Local Improvement Districts in the region at this time. Mrs. Davchevski stated that there aren't any at this time. However, Planning Staff includes this condition to ensure that all land owners in the area are on the same page when it comes to improvement requirements, in the event that a Local Improvement District is formed at a later date.

Commissioner Standley asked who would have the authority to grant utility companies access to lay cables in the designated right-of-way. Mrs. Davchevski explained that it is designated as a private easement, not a County Road, so the property owners benefiting from the easement would be the authority on that matter.

Chair Danforth asked if Horizon Lane is a County Road. Mrs. Davchevski stated that it is a private easement which will connect to 'I' Avenue, which is an unimproved roadway dedicated to the public and will be maintained by the private land owners.

Commissioner Tucker expressed concern that reasonable standards are not always maintained after roadways are originally established. He asked for more information with regard to the owners shared responsibility of maintenance and repairs in the future. Mrs. Davchevski stated that property owners would need to negotiate that among themselves and any disputes among parties would be considered a civil matter. She added that Irrevocable Consent Agreements (ICA's) are legally binding agreements and recorded as part of the process.

Mrs. Johnson added that road agreements and Covenants, Conditions and Restrictions (CC&R's) are common as part of subdivision requests. However, homeowners are ultimately responsible for all monitoring, compliance and enforcement efforts.

Applicant Testimony: Hoot Royer, HSG-D, LLC, 9743 Groundhog Road, Gilmer, Texas & Charles "Chuck" Royer, 78668 Powerline Road, Hermiston, Oregon. Mr. (Hoot) Royer stated that his vision for the property is to get some good use out of it by creating buildable lots. He plans to keep one lot to develop for himself and the rest will be sold to buyers who will be able to develop in the future. He believes this will be the best way to make use of the property.

Mr. (Chuck) Royer stated that he echoes what his son expressed. He pointed out that there is a shortage of 4-acre buildable lots in the area. He added that they hope to enrich the community by providing additional rural homesites offering opportunities for livestock, farming and garden activities.

Chair Danforth revisited her concern about Subsequent Condition #3, which she interpreted as a requirement for the applicant to obtain all other permits necessary for development on all the newly created lots within a 2-year period. She asked if this would be difficult to do, given the vision they expressed for the properties. Mr. (Chuck) Royer agreed that new owners should not be held to a 2-year development timeframe. Mrs. Ross reiterated that the 2-year deadline only applies to Subsequent Condition #1, recording the final Subdivision Plat. She maintained that she is open to changes in the language to clarify those terms. Chair Danforth thanked her for the additional clarification. Mrs. Johnson added that Subsequent Condition #2 & #3 could be removed entirely, if the Planning Commission chooses. They are only in place currently to memorialize the steps which need to happen before development occurs. Chair Danforth stated that she liked the idea of removing #2 & #3 from the list of Subsequent Conditions because she doesn't feel they are necessary to include as they will happen anyway.

Commissioner Wysocki asked for confirmation that there are no water rights on the subject property. Mrs. Ross confirmed that there are no water rights. Commissioner Wysocki pointed out that each new lot owner will be entitled to an exempt well which is able to irrigate 1/2 acre of land, which means the remaining 3.5 acres of each lot will remain dry land. Mr. (Chuck) Royer stated that he is making sure potential buyers are aware that there are no water rights connected to the proposed lots.

Chair Danforth pointed out that the application indicated that a title search of the property did not show the presence of an easement, but an irrigation pipeline is clearly there. She asked for more information about the pipeline present on the property. Mr. (Chuck) Royer stated that he was not made aware of the pipeline until after he purchased the property. He stated that he spoke with Lawrence Pedro, the pipeline owner, and they have plans to come up with an agreement.

Mr. (Hoot) Royer clarified that the pipeline moves from east to west across lots #1 and lot #6. He stated that they found the pipe and did subsequent research but were unable to find any documentation for an easement. As a result, they noted it on the tentative plan for the subdivision, but no other action has been taken at this time.

Commissioner Tucker asked again if anything can be done by Staff or the Planning Commission to require an agreement between landowners to maintain the roadway. He believes a legally binding agreement of shared obligation would help to prevent disputes in the future. Chair Danforth stated that Staff expressed an opportunity for such an agreement in the form of CC&R's.

Mr. (Hoot) Royer stated that he grew up near this property and plans to develop on one of the lots. He expressed personal interest in the road being maintained and irrigation pipe being protected. He stated that he is not opposed to adding language to the CC&R's to ensure all property owners are responsible for the maintenance of Horizon Lane. However, he asked for clarification on which property owners would benefit from the use of the road and should be included in the agreement. Commissioner Tucker stated that the agreement would need to be between the owners of the newly created subdivision lots. He added that it's not likely that a landowner outside of the subdivision, even if they do in fact benefit from the roadway, would agree to a road maintenance obligation. Mr. (Hoot) Royer reiterated that he is not opposed to a road maintenance agreement or contract among the subdivision lot owners. Commissioner Tucker explained that the time to make such an agreement would be now, while all proposed lots are still under their ownership. As a result, when the lots are sold to new owners in the future the agreement will already be in place and stay with the land moving forward.

Chair Danforth pointed out that Precedent Condition #3 requires the applicant to, “[s]ign and record an Irrevocable Consent Agreement for future participation in improvements to Horizon Lane to serve Lots 1 through 3, 5 and 6, if and when, a Local Improvement District is formed for road improvements.” She clarified that Lot 4 would not be included in the ICA, because it has an established access point off Westland Road.

Commissioner Timmons asked about the current state of the property, prior to development. Mr. (Hoot) Royer stated that the land is sandy and covered in dry grass and sagebrush.

Commissioner Williams stated that she feels uncomfortable setting a new standard in the county for easements and believes the matter is best handled directly between the applicant and property owners.

Proponent Testimony: Matt Kenny, Kenny Land Surveying, 63036 Spur Loop Road, Heppner, Oregon. Mr. Kenny stated that he is the surveyor for this project and he agrees with the testimony of Mr. (Chuck) Royer and Mr. (Hoot) Royer. He stated that he is happy to answer any additional questions the Planning Commission may have.

Neutral Testimony: Chad Ayres, 29620 Horizon Lane, Hermiston, Oregon. Mr. Ayres stated that he purchased his property because it did not have through road access. He explained that all eight families living to the north of Horizon Lane at this time have children, and they like the fact that it is not a through road with less traffic. He does not want this to be an access road to Agnew Road, Westland Road and Powerline Road. He feels that it is safe for the kids right now, but he doesn't think it will stay that way if it becomes a through road. He asked the Royer's why they did not consider a cul-de-sac. Chair Danforth stated that the applicant will answer questions when it's time for rebuttal.

Mr. Ayers explained that there is no shared responsibility agreement for the road at this time and he expressed frustration with some owners who benefit from the use of the road but do not

contribute to maintenance and upkeep. He believes a road agreement is a good idea as part of this subdivision request to ensure all property owners are on the same page.

Neutral Testimony: Ramiro Muniz, 29652 Horizon Lane, Hermiston, Oregon. Mr. Muniz stated that he concurs with Mr. Ayers' testimony. He added that he was the first to develop on Horizon Lane and at that time they did sign an agreement to maintain the road which spanned a shorter distance. Since then, it has been extended and this additional extension including a through street and increase in traffic will make it even more difficult for them to properly maintain the road.

Neutral Testimony: Raymond Nygard, 29614 Horizon Lane, Hermiston, Oregon. Mr. Nygard stated that he agrees with what has been said by his neighbors. He is in support if this request, as long as 'I' Avenue does not go all the way through to Horizon Lane. He is concerned about the safety of the children on the street. He also expressed concern about the new lots being developed with mobile homes. Chair Danforth stated that placement of a manufactured dwelling is allowed in this zone. Mr. Nygard stated that he is concerned how that would affect property values in the area.

Commissioner Hinsley asked for additional clarification about Horizon Lane. Chair Danforth stated that it is located on the north end of the proposed subdivision. According to the Commissioner's packets, it's a gravel road and will stop at the southern end of tax lots 1800 and 1802. Mr. Nygard stated that currently, the gravel road stops at proposed lots #1 & #6 on the subdivision map and added that they could prevent the road from connecting to Horizon Lane by dead-ending the road at that location.

Neutral Testimony: Ryan Nicodemus, 29612 Horizon Lane, Hermiston, Oregon. Mr. Nicodemus stated that he lives directly north of proposed Lot #6. He echoes what his neighbors have said and added that he has a good relationship with the Royer's. He expressed that his main concern is the plan for 'I' Avenue to connect to Horizon Lane because the traffic on the gravel road is already a problem. He pointed out that the Royer's own a majority of the properties to the north and he believes connecting through to 'I' Avenue is not necessary.

Mr. Nicodemus asked staff for clarification about 'I' Avenue being designated for public access and asked how they will be expected to maintain a road that has become a thoroughfare.

Mrs. Davchevski stated that the applicant originally submitted a request which included plans for a cul-de-sac. However, upon review Planning Director, Robert Waldher, found the Umatilla County Transportation System Plan (TSP) states that cul-de-sac lengths in excess of 300 feet are prohibited. Keeping open throughways is important for ease of connectivity and access for emergency services. Additionally, to answer Mr. Nicodemus's question, 'I' Avenue is a 'dedicated to the public' roadway which was dedicated back in the 1920's on a subdivision plat. As a result, everyone is authorized to use that section of road.

Mr. Nicodemus stated that he has concerns about the irrigation pipeline that crosses the subdivision property. He has seen issues like this, where the pipelines are not properly maintained, and it causes bigger issues as time goes on. He asked, now that we know it is there, why isn't anyone doing anything about it?

Neutral Testimony: Lawrence Pedro, 78710 Westland Road, Hermiston, Oregon. Mr. Pedro stated that the irrigation pipeline supplies water to his farm located on the east side of Westland Road. In the past, he leased the land from Norma Quick and farmed the ground. Mr. Pedro explained that he now owns the land and the pipeline that crosses the subdivision property supplies water to one of his circles, approximately 125 acres in size. He added that the irrigation pipeline in question is a 10-inch PVC pipe that delivers roughly 1,000 gallons per minute.

Mr. Pedro stated that the property was initially serviced by an irrigation ditch. In the late 1970's or early 1980's they installed a pressurized irrigation system. He explained that they simply laid the pipeline in the bottom of the canal and covered it, so it's not in a direct line to his property. He said he spoke with Mr. (Chuck) Royer and learned that they had not found a recorded easement for the existing irrigation pipeline. Mr. Pedro took that to mean the Royer's didn't plan to avoid the pipeline as they developed. He agreed that there is no recorded easement for the pipeline but insisted that there is likely a recorded easement for the original canal, someone just has to locate it. He stated that he does not want to slow down the Royer's development progress but really hopes they can come to an agreement to work things out.

Public Agency: Curtis Engbretson, District Manager, Westland Irrigation District, 77096 Highway 207, Echo, Oregon. Mr. Engbretson stated that the irrigation pipeline enters the property from the north side of Tax Lot #400 and goes through Lots 1 & 6 of the proposed subdivision.

Chair Danforth asked Mr. Engbretson if he has any idea why the irrigation easement was never recorded. Mr. Engbretson did not have any additional historic information to provide. He stated that he has completed an exhaustive search of all their records and found nothing. He believes the original canal was established sometime in the 1930's or 1940's and added that his records don't go back that far. He also expressed concern about potential development directly over the pipeline.

Commissioner Green asked how deep the pipeline is buried in the ground. Mr. Engbretson guessed that it's approximately 3-4 feet deep. Someone would have to dig it up to be sure.

Commissioner Standley asked who would be responsible for identifying the exact location of the pipeline, to ensure no homes are built on top of it. Mr. Engbretson stated that the Royer's and Mr. Pedro should work together to determine the exact location of the pipeline before developing the land. He explained that the water comes from the Westland Irrigation District's system, but the pipeline itself is a privately-owned line.

Commissioner Timmons asked Mr. Engbretson if he has consulted with Oregon Water Resources (OWRD) about the easement. Mr. Engbretson stated that he had not. He added that OWRD oversees water rights but does not manage irrigation easements.

Commissioner Tucker stated that he understands that easements for old water rights sometimes exist and sometimes don't exist. He acknowledged that water rights established over a hundred years ago were written in a way that generally identified properties and there may not be an answer about whether an easement in writing exists. He feels the bottom line is, the pipeline exists today and a home should not be built on top of it. Development on this land will have to be done in a safe and responsible way to avoid potential issues related to the irrigation pipeline.

Commissioner Williams echoed what Commissioner Tucker said. She added that she feels the pipeline easement is a potential legal issue which needs to be addressed before the Royer's move forward with their proposed project.

Mr. Engbretson explained that the pipeline was laid in the irrigation ditch, which likely had a recorded easement. He advised the Royers and Mr. Pedro to look for an easement for the irrigation ditch/ canal which existed prior to the buried pipeline.

Chair Danforth stated that they will not be able to determine exactly where the pipeline runs at the meeting tonight. Mr. Engbretson agreed and stated that they will keep trying to locate documents associated with the original canal.

Neutral Testimony: Lawrence Pedro, 78710 Westland Road, Hermiston, Oregon. Mr. Pedro stated that the pipeline was laid at the bottom of the existing canal at various depths. Due to bank erosion and other factors, the pipeline could be anywhere from 2-6 feet deep in any given spot. Additionally, he believes locating the line will require bringing in a backhoe to depressurizing the pipe prior to digging, for safety reasons. Therefore, he would like this work to be done in the off season. He does not want anyone to build on top of it, or a certain distance from it. He owns the pipe, and he wanted to know who would be responsible for the cost of making the pipeline a straight line across the property, if they chose to go that route.

Applicant Rebuttal: Hoot Royer, HSG-D, LLC, 9743 Groundhog Road, Gilmer, Texas & Charles "Chuck" Royer, 78668 Powerline Road, Hermiston, Oregon. Mr. (Hoot) Royer stated that he would like this land cared for and used well. He wanted the surrounding land owners to know that he had planned for a cul-de-sac, not a through road, but as Mrs. Davchevski stated the UCDC doesn't allow for that.

Mr. (Hoot) Royer stated that he and his father have made efforts to lay gravel and help maintain the road but acknowledged that many of the other neighbors have helped a great deal as well. He intends to continue to be a good steward of the land and good neighbor. Regarding the pipeline, he assured the planning commission and his neighbors that he is not ignoring that it's there. Although they were unable to find any records of the easement, he still intends to be responsible

and work with Mr. Pedro to find a solution. He stated that his dad, Chuck Royer, farms in that area and they do not want to do anything to negatively impact the pipeline, including placing structures over it. He understands the safety issues associated with building on top of a pressurized pipeline and would never want to put another family in that position.

Mr. (Hoot) Royer concluded that he believes he has been a good neighbor and will continue to be a good neighbor. He and his family have worked hard to invest in the property. They cleaned up a bunch of illegal dumping that occurred on the property, fenced the perimeter to keep trespassers off and mowed the property to reduce the fire hazard. He reminded the group that he plans to build a home and live at the site, as well.

Mr. (Chuck) Royer stated that the speed limit on the road is 15 miles per hour. He doubts many people will choose to come off Agnew Road, which is paved, to drive on a gravel road instead. He explained that he was not aware of the irrigation pipeline on the property until after he already purchased it. He anticipates the lots making a nice neighborhood. He stated that he has invested a lot of money in this project and is looking forward to completing it.

Commissioner Williams asked if there is a way to locate the pipeline easily on the lots. She added that the newly created lots to the south, which will not contain the pipeline should be ok to move forward with development whenever the owners are ready. Mr. (Chuck) Royer stated that it was relatively easy to dig up the pipeline to determine its exact location before they placed a manufactured home at the site last year. He stated it's buried approximately 3-4 feet deep and agrees that it would be best to wait until after the growing season to uncover the pipeline. Mr. (Hoot) Royer agreed and added that he has spent over \$1,000 on equipment in efforts to locate the pipeline because he knows it is important information to consider before developing. He reiterated that he is happy to work with Mr. Pedro to find a solution that meets everybody's needs.

Commissioner Standley suggested the Planning Commission could come up with some language to memorialize the location of the pipeline so 50 years from now, future owners won't unknowingly build on top of it. Mr. Kenney suggested a condition to add language to the face of the plat and include the pipeline location on the final plat map. He stated that the best solution would be to relocate the pipeline into an established easement. However, if that is not possible, adding language to the map will ensure that future owners are aware of the location and can avoid building over the pipeline.

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Chair Danforth stated that she likes the idea of adding language to the face of the plat and include the pipeline location on the final plat map. She believes this will help ensure safe

construction on the lots in the future and protect the pipeline. Commissioners Green and Standley were in agreeance.

Commissioner Williams made a motion to approve Type I Land Division, Royer Ranchettes Subdivision #S-061-22 & Variance #V-360-22 with the removal of Subsequent Conditions #2 & #3 and addition of a Subsequent Condition to show the private irrigation pipeline on the face of the plat to provide protection and access for the maintenance and repairs of the pipeline. Commissioner Green seconded the motion. Motion passed with a vote of 9:0.

NEW HEARING

LAND USE DECISION REQUEST, VERIFICATION OF NON-CONFORMING USE #LUD-285-22: VINCENT VAZZA & JANICE LOHMAN, APPLICANTS/ OWNERS. The applicants are requesting Verification of Non-Conforming Use approval to continue the use of the subject property as an apiary with accessory beekeeping equipment repair and an equipment/automotive repair business. The Land Use Standards applicable to the applicants' request are found in Umatilla County Development Code (UCDC) 152.600, Verification of Non-Conforming Use.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. Commissioner Williams stated that her husband has a bee company and they have done business with Vincent Vazza in the past. She explained that the beekeeping community in the area is tightknit and they often provide support and help each other. For those reasons, she chose to abstain from voting on this matter.

Chair Danforth called for the Staff Report.

STAFF REPORT

Megan Davchevski, Planner, presented the Staff Report. Mrs. Davchevski stated that the request before the Planning Commission tonight is to verify a non-conforming use on Tax Lot 1001 located on Assessor's Map 5N2933. The property is located north of Highway 207 and west of Cabana Road, approximately 3 miles northeast of the City of Hermiston.

Mrs. Davchevski explained that the applicants are requesting verification of two uses: an apiary and repair of associated farm equipment and an automotive/equipment repair business. Beekeeping (apiary) and associated farm equipment repair is considered a farm use. Farm uses are allowed outright in the Rural Residential 4-acre minimum zone (RR-4) and thus do not require permits. The application and applicants' narratives address both the beekeeping operation and the automotive/equipment repair business. However, only the automotive/equipment repair business requires a determination of Verification of Non-Conforming Use.

Mrs. Davchevski pointed out that a supplemental narrative provided by the applicants is included as an attachment in the Commissioner's packet. The narrative provides a timeline of the uses

occurring on the subject property since it was first rented by Vazza Farms in 1981, and later purchased in 1992. The applicants provided a letter of support from their neighbor, Dennis Lovely. After Planning Staff requested further information the applicants provided a narrative which is also included in the Commissioner's packets along with additional documents to support their request.

Mrs. Davchevski stated that the Standards of Approval are found in UCDC 152.600, Verification of Non-Conforming Use. Standards for reviewing a Verification of a Non-Conforming Use generally consist of evaluating evidence to determine when the use was established, if it was lawful in accordance with zoning ordinances at the time it was established, and if the use has continued for the last ten years. The applicant must be able to demonstrate that all of the standards are met. The burden of proof remains on the applicant.

Mrs. Davchevski stated that a public notice of the applicant's request and the public hearing was mailed on June 3, 2022 to the owners of properties located within 250 feet of the perimeter of Tax Lot 1001. Notice also was published in the *East Oregonian* on June 11, 2022 notifying the public of the applicants' request before the Planning Commission on June 23, 2022. Hermiston Irrigation District provided neutral comments. They stated that they did not object to the request and added that the property has 3 acres of water rights.

Mrs. Davchevski explained that Staff compiled the applicants' evidence and presented the criteria with evidence in the Staff Report. As outlined in the Staff Report, unless the applicants provide additional information before the Planning Commission, the automotive/equipment repair business does not satisfy the approval standards for a Verification of Non-Conforming Use. The Planning Commission is tasked with determining that all the following requirements are met for each proposed use; First and foremost an applicant must provide proof that the use of any building, structure or land existed as a "lawful" use at the time the law was applied or changed.

Second, counties may adopt and provide an option for an applicant to establish a "rebuttable presumption" by the submission of proof of the existence, continuity, nature and extent of the use for the 10-year period immediately preceding the date of application. Proof of the use for the 10-year period is sufficient to entitle the applicant to a rebuttable presumption. This presumption may be rebutted by evidence in opposition to the applicant's proof. Proof that a use existed 10 years ago does not mean that the use existed when the zoning or other land use regulation was first applied more than 10 years ago or that the use existed legally at that time. This burden remains on the applicant and must be met.

Finally, applicants cannot be required to provide more than 20 years of proof of existence as an element of continuity of use lawfulness. The applicant must prove; that the use, when initiated, was a legal use allowed in the zone and the applicant complied with the permit requirements (if

any) to establish the use and the use has existed continuously for at least 10 years, but the applicant cannot be required to prove more than 20 years of continual existence.

The decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

Commissioner Tucker asked for more information about the regulation the applicant did not comply with. Mrs. Davchevski stated that the main criteria is determining if the use established on the property was lawful at the time the activity began in 1981. She explained that the County's 1972 Zoning Code applied, and the land was zoned Exclusive Farm Use (F-1). At that time, only equipment repair businesses in conjunction with farm use would have been allowed in the F-1 Zone and the use would have been lawfully established through approval of a Conditional Use Permit (CUP). Commissioner Tucker asked if Mr. Vazza had applied for a CUP when the activity began in the 1980's, would the request have been approved? Mrs. Davchevski stated that they would have had to demonstrate that they met all applicable Standards of Approval at that time which included the requirement that the activity was in conjunction with farm use.

Chair Danforth asked if Mr. Vazza applied for a CUP today, would this activity be an allowed use in the RR-4 Zone? Mrs. Davchevski explained that it is not directly written into the UCDC as an allowed use in this zone. There is an opportunity for a Home Occupation in the RR-4 Zone, but a dwelling is required to be on the property first. She pointed out that this parcel of land does not have a dwelling. Additionally, Home Occupations have restrictions on vehicle traffic, employees, deliveries, parking, direct sales and other actions that could disrupt residential activities.

Chair Danforth asked how this issue was brought to the attention of Planning Staff. Mrs. Davchevski stated that she believed Code Enforcement happened upon the activity at the property while performing patrols in the area.

Applicant Testimony: Vincent Vazza & Janice Lohman, 77225 Colonel Jordan Road, Hermiston, Oregon. Mr. Vazza stated that the business started out as an apiary with maintenance performed onsite. Over time, the apiary was moved to another primary location, but the equipment maintenance activity continued. Eventually, the owner of the auto repair business, Jim Abell, began taking on outside work because Mr. Vazza did not have enough work to sustain his business alone. Mr. Vazza stated that he is not sure why the Code Enforcement complaint came about.

Mrs. Lohman stated that the activity is being portrayed as a business, but she asserts it is not. She described the activity as repairs done in an agriculture shop. She added that Mr. Abell does not have employees and never has. She feels that the activity does not impact the neighborhood. She explained that, in addition to the shop, Mr. Abell currently rents the house on an adjacent tax lot, 80720 N Cabana Road, Hermiston.

Commissioner Standley asked if the business is advertised. Mrs. Lohman replied, no. She explained that there are no signs on the building and the business is operated by word-of-mouth. Most of his customers are farmers in the area but Mr. Abell occasionally repairs automobiles. Mr. Vazza stated that Mr. Abell is a skilled worker and there is demand for the specialized work he does.

Commissioner Hinsley asked, approximately how long Mr. Abell has been taking outside customers? Mr. Vazza stated that he worked for them off and on over the years, but 15 years ago Mr. Abell began renting the house and shop building and started taking on outside work at that time.

Commissioner Timmons asked if there are still bees on the property at this time. Mr. Vazza replied that there are no bees on the property right now. Commissioner Timmons asked how far away is the property to which the bees have been relocated? Mr. Vazza stated the bees are now on the opposite side of town, about 10 miles away.

Chair Danforth asked for the map to be displayed. She explained that the applicant owns both the subject parcel with the shop and an adjacent parcel with the dwelling, and Mr. Abell rents both.

Commissioner Tucker asked how frequently Mr. Abell provides equipment repair services for Mr. Vazza. Mr. Vazza said after 2005, he has only been able to provide about a quarter of his business.

Mrs. Davchevski clarified that the activity in question is the mechanic/ repair shop, not the bee keeping or bee keeping repair activities. Additionally, farm equipment repair is allowed but only when repairing farm equipment that is being used on the subject property. She further explained that, since they also own the property to the west, the two lots together are considered a farm tract, and therefore Mr. Abell can repair machinery which supports the entire farming operation on both lots. However, repair of additional equipment from outside farming operations is considered a commercial activity.

Public Agency: Gina Miller, Program Coordinator, Umatilla County Code Enforcement, 216 SE 4th Street, Pendleton, Oregon. Ms. Miller stated that in March of 2022 she received a complaint from a neighbor regarding operation of an auto repair business in a residential zone. As a result, Ms. Miller conducted several site visits to observe activity at the property. On her third site visit she encountered Mr. Abell and after further discussion regarding the activity occurring on the property, it was confirmed that he was operating an automobile/machine repair business.

Ms. Miller explained that the applicants and Mr. Abell came to the Planning Department to meet with staff right away to discuss possible ways to bring the property into compliance. Because they made contact so quickly, staff agreed to hold off on initiating an official code violation case while they pursue approval of a preexisting/ nonconforming use.

Commissioner Hinsley asked Ms. Miller if she or the neighbor were aware when the complaint was made that vehicles were being repaired on the property unrelated to farming operations occurring on the parcel? Ms. Miller stated that she only received information pertaining to the business from Mr. Abell. She added that, prior to speaking with him, she did not see an abundance of vehicles or other indicators that would lead her to believe an auto/machine repair business was operating on the property.

Applicant Rebuttal: Vincent Vazza & Janice Lohman, 77225 Colonel Jordan Road, Hermiston, Oregon. Ms. Lohman stated that she appreciates Ms. Miller for pointing out the problem. She hopes the Planning Commission will decide that this is an agricultural business and Mr. Abell just supplements his income with additional outside work. She believes activities like this are common practice in the area and if the Planning Department started shutting all those businesses down, it wouldn't be pretty. She said they are doing the best they can to comply and this was the path they were advised to take by Staff. She added that, if there is another way to permit this activity, they are open to exploring that.

Commissioner Wysocki asked if Mr. Abell was not able to supplement his income with outside work and needed to relocate, what position would that leave them in? Mr. Vazza stated that they would be fine, but it would be unfortunate because Mr. Abell is an incredible problem solver and has been a great help to him over the years. He added that Mr. Abell depends on this business for his livelihood and they believe he is invaluable.

Commissioner Timmons asked if Mr. Abell provides assistance and repairs at their other apiary locations. Mr. Vazza said he is sometimes mobile and has helped at other locations when needed but prefers to work on machines in his shop.

Chair Danforth added Hermiston Irrigation Districts comment into the record as Exhibit A and closed the hearing for deliberation.

DELIBERATION & DECISION

Chair Danforth stated that she appreciates Mr. Vazza and Ms. Lohman's plight and would like to approve a preexisting/ nonconforming use. She stated that she believes the two lots could easily be one lot, and they have been there a long time, so it's preexisting activity. Commissioner Standley agreed and asked if the group would entertain a motion to approve the request.

Mrs. Davchevski stated that Staff's Findings determined the applicant does not meet the standards and the mechanic/auto repair shop was not lawfully established. Therefore, Staff did not prepare any Conditions of Approval. As a result, if the Planning Commission feels the applicants do in fact meet the standards, they must create new Findings to demonstrate that, and include Conditions of Approval.

Chair Danforth stated that she is sorry the applicants do not meet the standards, but she thinks not everything is black and white. She believes they could add a Conditions of Approval stating that the activity must cease when the current owners move away. She pointed out that the adjacent property with the dwelling could be combined with the subject parcel. Once that has been achieved, the applicant may qualify for a CUP Home Occupation.

Commissioner Tucker asked staff if combining the two adjacent properties would solve the issue. Mrs. Davchevski stated that matter for this hearing is whether the applicant meets the standards for Verification of Non-Conforming Use. Regarding an application for a Property Line Adjustment to eliminate the lot line between the two parcels, she stated that the applicants could pursue that route. The process would include a survey of the property and new legal description. She added that the Property Line Adjustment would be a different request than the one before the Planning Commission tonight.

Commissioner Tucker stated that he believes staffs analysis of the request is correct, but the opportunity for the applicant to pursue approval via a Home Occupation after a Property Line Adjustment is completed, is another path the applicant can take to accomplish what they want.

Commissioner Wysocki stated that he doesn't want to see the apiary business disadvantaged. He believes Commissioner Tucker's suggestion of the alternative path by obtaining a CUP would be a good resolution.

Commissioner Standley made a motion to deny Land Use Decision Request, #LUD-285-22, Verification of Non-Conforming Use. Commissioner Tucker seconded the motion. Motion passed with a vote of 8:1.

MINUTES

Chair Danforth called for any corrections or additions to the minutes from the May 26, 2022 meeting. There were none. Commissioner Timmons moved to approve the minutes as presented. Commissioner Tucker seconded the motion. Motion carried by consensus.

ADJOURNMENT

Chair Danforth adjourned the meeting at 10:42pm.

Respectfully submitted,

Tierney Cimmiyotti,
Administrative Assistant