WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION / AGENDA WEDNESDAY, MAY 6, 2015
LOCATION: Wasco County Courthouse, Room #302
511 Washington Street, The Dalles, OR 97058

Public Comment: Individuals wishing to address the Commission on items not already listed on the Agenda may do so during the first half-hour and at other times throughout the meeting; please wait for the current speaker to conclude and raise your hand to be recognized by the Chair for direction. Speakers are required to give their name and address. Please limit comments to five minutes, unless extended by the Chair.

Departments: Are encouraged to have their issue added to the Agenda in advance. When that is not possible the Commission will attempt to make time to fit you in during the first half-hour or between listed Agenda items.

NOTE: With the exception of Public Hearings, the Agenda is subject to last minute changes; times are approximate – please arrive early. **Meetings are ADA accessible.** For special accommodations please contact the Commission Office in advance, (541) 506-2520. TDD 1-800-735-2900.

9:00 a.m. **CALL TO ORDER**

Items without a designated appointment may be rearranged to make the best use of time. Other matters may be discussed as deemed appropriate by the Board.

- Corrections or Additions to the Agenda
- Administrative Officer - Tyler Stone: Comments
- Discussion Items (Items of general Commission discussion, not otherwise listed on the Agenda) MCEDD Cities Representative
- Consent Agenda (Items of a routine nature: minutes, documents, items previously discussed.) Minutes: 4.29.2015 BOCC Special Session Minutes, 4.15.2015 Regular Session Minutes

9:30 a.m. **Lane County Ascend Support Contract** – Jill Amery

9:40 a.m. **Road Vacation Report**
Road Vacation Petition – Order for Report
Lone Pine Project
– Arthur Smith

10:10 a.m. **Pine Hollow Boat Docks** – Dan Van Vactor

LUNCH BREAK

1:30 p.m. **Aggregate Quarry Application Hearings** – Wasco County Planning Department

NEW / OLD BUSINESS
COMMISSION CALL / REPORTS
ADJOURN

If necessary, an Executive Session may be held in accordance with: ORS 192.660(2)(a) – Employment of Public Officers, Employees & Agents, ORS 192.660(2)(b) – Discipline of Public Officers & Employees, ORS 192.660(2)(d) – Labor Negotiator Consultations, ORS 192.660(2)(e) – Real Property Transactions, ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection, ORS 192.660(2)(g) – Trade Negotiations, ORS 192.660(2)(h) - Conferring with Legal Counsel regarding litigation, ORS 192.660(2)(i) – Performance Evaluations of Public Officers & Employees, ORS 192.660(2)(j) – Public Investments, ORS 192.660(2)(m) –Security Programs, ORS 192.660(2)(n) – Labor Negotiations

WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
MAY 6, 2015

PRESENT:	Scott Hege, Commission Chair
	Rod Runyon, County Commissioner
	Steve Kramer, County Commissioner
STAFF:	Tyler Stone, Administrative Officer
	Kathy White, Executive Assistant

At 9:00 a.m. Chair Hege opened the Regular Session of the Board of Commissioners with the Pledge of Allegiance. Ms. White asked to add an appointment to the Urban Renewal Advisory Committee and a grant application for the Fort Dalles Museum to the Discussion List.

Discussion List – Fort Dalles Museum

Trish Neal, Fort Dalles Museum Commissioner, brought forward a PUD grant application for funding to replace the Museum's furnace, insulate the floor and ceiling and revamp the wiring. She reported that the furnace operating costs are approximately 15 times that of a new heat pump. The grant is for $17,000. She stated that the PUD did an energy audit and this work is based on their recommendations. She added that they also need a letter certifying that the Museum is owned and operated by the County and as such falls under the County's non-profit government status.

Chair Hege asked if it is possible that the PUD will only grant a portion of the requested funds. Ms. Neal replied that it is possible. Chair Hege asked if the Museum has the funds to make up the difference. Ms. Neal responded that the Museum does

not have the funds but that there are three grants in process and she would hope that those grants could make up any shortfall.

{{{Commissioner Runyon moved to support the Fort Dalles Museum PUD grant application for a heat pump, wiring and insulation and to provide a letter of certification for the Museum's non-profit status. Commissioner Kramer seconded the motion which passed unanimously.}}}

Public Comment – Fire District Request

Wayne Lease, Washington resident, reminded the Board of a request made by the Mosier Fire District at a previous session to be forgiven special election fees. He said that had the District come to the Board on numerous occasions asking for fee waivers, he could understand the Board's position. However, the waiver was for $1,200 and appears to be a one-time request. He implored the Board to reconsider saying that the District had been experiencing upheaval with the recall and resignation of board members leaving them without a quorum.

Public Comment – Legal Costs

Mike Bertrand of The Dalles said that he realizes that the County is in discussions on a variety of issues. He said that he is concerned about the legal fees being incurred – whether or not it is what the County wants.

Discussion – MCEDD Cities Appointment

Ms. White reminded the Board that in January the Board appointed Mayor Steve Lawrence to fill the incomplete term of Dan Spatz who had resigned his appointment. At that time there was discussion as to whether the Board wanted to go out to the other municipalities for nominations; it was decided that since Mr. Spatz was a The Dalles representative, it would be appropriate to appoint a The Dalles representative to complete his term.

Ms. White had returned to the Board asking if they wanted to reappoint Mayor Lawrence when the appointment expires in August or go out to the other municipalities for nominations. The Board asked that Mr. Stone and Chair Hege talk to The Dalles City Manager regarding the City's position on the issue.

Mr. Stone said that City Manager Nolan Young's position is that the City of The Dalles

pays significant dues to MCEDD and has an expectation of representation on their board. Commissioner Kramer noted that other municipalities in the County also pay MCEDD dues. Ms. White suggested that MCEDD might consider amending their bylaws to include a City of The Dalles appointment separate from municipality representation. Commissioner Runyon, Wasco County's representative on the MCEDD Board, said he would bring the matter to the attention of the MCEDD Board.

Consent Agenda – 4.15.2015 Regular Session Minutes & 4.29.2015 Special Session Minutes

Ms. White reported that some corrections has been made to the 4.15.2015 minutes since the publication of the packet: some names had been incorrectly spelled and a comment misattributed. Those errors have been corrected and revised minutes provided to the Board. Chair Hege noted that he had voted against the denial of the Fire District's request for a fee refund however that was not accurately reflected in the minutes.

{{{Commissioner Runyon moved to approve the Consent Agenda with noted corrections. Commissioner Kramer seconded the motion which passed unanimously.}}}

Chair Hege called a recess at 9:26 a.m.

The session reconvened at 9:30 a.m.

Agenda Item – Lane County Ascend Support Contract

County Assessor Jill Amery explained that this renewal contract is for technical support and reporting for the Ascend/Proval software programs. She stated that several of the smaller counties contract with Lane County for this support as it is more cost-effective than each having their own support staff. She reported that not much has changed from the original contract – Lane County does a wide variety of things and has built in a 3% increase in each of the two contract years to compensate for their staff COLA. She said that they also offered to allow the contracting counties to reduce services to pay for the increase.

Chair Hege asked if Lane County tracks their hours. Ms. Amery replied that they do. They forecast the hours each county will need; for instance, Wasco County is set at 1260 hours. She said that she believes Lane County is generous to the contracting counties in their tracking and contact her if they see that Wasco County may exceed those hours. There is a discussion about how to address possible overages – they can do the work on an hourly basis. She stated that their forecasts have been pretty accurate.

Chair Hege asked if they have full access to Wasco County's database and do they submit reports on our behalf. Ms. Amery replied that they do have full access but all reports go through Wasco County before being submitted.

{{{Commissioner Kramer moved to approve the Intergovernmental Agreement for Ascend/Proval Software Support. Commissioner Runyon seconded the motion which passed unanimously.}}}

Agenda Item – Road Vacation Report

Public Works Director Arthur Smith stated that he has submitted his report for the Cedar Street Extension and Cul de Sac road vacation petition. He said that all the landowners are petition signers and there is no impact to the County road department as it is unmaintained. He stated that it will put property back onto the tax roll. He added that Tenneson engineering will do the work to divide the property among the adjacent landowners.

{{{Commissioner Kramer moved to approve Order #15-044 vacating Cedar Street Extension and Cul de Sac laying west of Juniper way within Block 3 of the Juniper Addition Subdivision, Tygh Valley Section 3, T4S, R13E WM. Commissioner Runyon seconded the motion which passed unanimously.}}}

Agenda Item – Road Vacation Petition

Mr. Smith stated that the petitioners have met the statutory requirements and he is here for an order directing him to submit a report. He said that this is a more complicated request than the Cedar Street Extension petition and it will take more research.

Commissioner Kramer reported that he has asked Mr. Smith to track his time for this report to have a better understanding of the County costs in relation to the $500 fee

charged the petitioners.

{{{Commissioner Runyon moved to approve Order #15-047 directing the Public Works Director to prepare his report on the proposed vacation of Unnamed Public Road A in Section 1 of Township 5 South Range 13E beginning at southerly right of way State Hwy 216 traveling south to the southerly right of way of Unnamed Public Road B. Commissioner Kramer seconded the motion which passed unanimously.}}}

Agenda Item – Lone Pine Project

Mr. Smith noted that Wasco County was a signer on the original agreement for the Lone Pine Project. He reported that the new owner, Columbia State Bank, wants to update the agreement and Brad DeHart of ODOT District 9 is asking if the County wants to continue as a signer. He said that the work that involves a County road has been completed, but he would recommend continuing as a signer to secure a seat at the table in case plans change again going forward; this will help to protect County interests. He stated that as of now there is not a draft of the new agreement.

Chair Hege said that it seems as though the new IGA will remove the requirement regarding I-84. Mr. Smith agreed but said there could be future changes that the County will want a say on.

{{{Commissioner Runyon moved to remain a signer on the IGA for the Lone Pine Project. Commissioner Kramer seconded the motion which passed unanimously.}}}

Discussion ensued regarding the status of various Public Works projects and the status of road funding at the State level.

Agenda Item – Pine Hollow Boat Docks

Discussion ensued regarding staffing. Planning Director Angie Brewer reported that they have a handful of good candidates and are hoping for more to fill the senior planner position. She said she will enlist HR and Finance in the hiring process along with asking for work examples, giving written assignments and calling references. Commissioner Runyon suggested that she might ask other department directors or planners from other counties to fill out the interview panel.

Ms. Brewer announced plans to provide the Board with regular Planning updates to keep them aware of current projects as well as long range plans and goals. She pointed out that currently applications are double the historic average, but once more staff is in place she will be able to provide regular updates. Commissioner Runyon suggested she keep the reports simple to include information that will spark questions from the Board.

Dan Van Vactor introduced other members of the Badger Irrigation District along with Keith Mills, Oregon State Dam Safety Engineer. Mr. Van Vactor reported that when Mr. Mills did his report on the reservoir dam he determined that the docks can break loose, block the overflow and create a breach. The report requires action on the part of the Irrigation District which owns the land beneath the reservoir.

Mr. Van Vactor explained that County Ordinance prohibits docks but the District is trying to find a solution that will not require their removal. He said that landowners' structures need to be attached to their own land with setbacks from the lakes – no docks, barriers, etc. are permitted that would inhibit public access. He said that the District wants to find a solution that meets the requirements of the State, County and Irrigation District. He said as far as the breach threat, the District plans to install a floating barrier that will block any docks that break free; the project will cost several thousand dollars. Mr. Mills interjected that it is an acceptable solution. He said that he has concerns about some of the bigger docks.

Mr. Van Vactor stated that Mr. Mills has some concerns about drought which is a much larger issue in the District than the boat docks. He reported that it is already extreme in the Badger Irrigation District where they are going to a 50% allocation for irrigators which will impact their crops. Mr. Mills stated that he had been out to Rock Creek Dam this morning; their inflows are very low and being drawn down significantly.

Mr. Mills said that he is also Chair of the Water Availability Committee which evaluates water conditions in Oregon and forwards recommendations to the Governor for drought declarations. He stated that at the present time all SE Oregon counties have requested declarations and more are coming in from Umitilla, Morrow, Jackson, Josephine, Deschutes and Lane County. He reported that the drought is creeping north.

Mr. Mills said that hoped-for spring rains did not materialize and the snow pack is 10% of what it should be; there are rapidly decreasing flows and precipitation is not forecasted. He said that his office can help provide support for drought applications – he said they are seeing impacts everywhere but NW Oregon.

Commissioner Runyon asked if the request comes from the Districts. Mr. Mills replied that the requests come from County Commissions to the Drought Board and then to the Governor. He said the Board is even considering drought declarations in NW Oregon.

Commissioner Runyon said they have not heard from the irrigation districts. Mr. Van Vactor said that the Badger Creek Irrigation District is here to make that request. He said he thinks he can get a resolution from another county to be used as a template. Once the drought is declared, there will be programs and resources available.

Mr. Mills said that this will allow for expedited actions regarding water rights, wells and emergency ground water permits. He said there are already ground water issues so they will also be looking at conservation measures.

Commissioner Runyon asked if funding has been identified for the floating barrier. Mr. Van Vactor replied that they will be applying for a safety grant from the insurance company. He said that the District has a duty to solve the problem; it will cost between $5,000 and $6,000. He said that Mr. Mills' concern is the dam; the District's concern is unlawful activity on District property which creates liability.

Mr. Mills said that the state is concerned about water usage – Pine Hollow does not have the water their users need by a long way and this is very early in the year for that circumstance. He predicted that it will become more severe fairly quickly.

Chair Hege said that the Board should give this consideration. Mr. Mills said that it is what other counties in this situation are doing. He said that the letter does not need to be complicated – it just needs to declare a drought and request a State declaration. He said that the committee is meeting on May 14th and June 11th and can consider it then. He said the Board can send the letter directly to him or to the Office of Emergency Management.

Mr. Stone asked if there are options around the lake to secure the docks. Mr. Mills said that ideally the floating barrier and securing the docks will both be done. Mr. Van Vactor stated that they do not want to be vigilantes; what they want to do is prevent new construction while permitting and securing old docks. He said there may need to be a modification to the LUDO. He said they do not want to make people take the docks out but want them anchored on the landowners property rather than District property.

Commissioner Runyon said that Pine Hollow is on the Regional Solutions list; he suggested that he could put the District in touch with Kate Sinner who might help them identify State resources. Mr. Van Vactor replied that he would be happy to talk with Ms. Sinner but that the only involvement the District wants to have is to grant necessary easements. He said that if there is a breach, the dam will be designated as a high hazard dam. He said all floating docks should be removed. He reported new landowners are asking about their rights to build a new dock which is what began this conversation.

Chair Hege asked Ms. Brewer for her thoughts. Ms. Brewer said that the letter from 16 years ago does not specifically address the docks but one rule that was not mentioned has to do with the reservoir overlay zone on Pine Hollow for water dependent uses. She said she is ready to have a fresh conversation about options. She said that the District is the underlying land owner and could submit one application for all the docks. Mr. Van Vactor responded that he does not think the District would want to take on that liability.

Chair Hege stated that this is just the beginning of the discussion; this cannot be resolved today. He said that the Board appreciates the District bringing these issues forward. Mr. Van Vactor observed that it might be a good idea to set a goal for returning to the Board to insure progress.

Commissioner Kramer noted that Mr. Van Vactor had offered District help; he stated that the Planning department is currently understaffed. Mr. Van Vactor said he is not a planner but is willing to help in any way he can. Chair Hege suggested that Ms. Brewer could put some thoughts on paper and get the District's response and move forward from there. He said he thinks 60-90 days is a reasonable timeline for this to come back before the Board.

Mr. Stone noted that there is a process in place for complaints and that process should be followed. Mr. Van Vactor said he could take a form today and bring it to the District Board for consideration. Chair Hege said that he is not sure there needs to be a complaint yet; some discussion should occur and then a determination can be made. Ms. Brewer said that a pre-application meeting might be useful; it can help define a direction.

Mr. Van Vactor said that the District would prefer that there be no docks but has not taken any steps to remove them – it is not an easy issue and they are interested in working with both the County and the community.

Commissioner Kramer stated that the impending drought needs to be addressed.

*****The Board was in consensus to send a letter to the State requesting a drought declaration based on recommendations from the Soil and Water District.*****

Chair Hege called a recess at 11:03 a.m.

The session reconvened at 1:30 p.m.

Agenda Items – Aggregate Quarry Applications Hearings

Chair Hege opened the Justesen Aggregate Quarry Application Hearing at 1:30 p.m. He explained the reason for the hearing and the process to be followed (see attached Justesen hearing script).

Chair Hege asked if any Board member wished to disqualify themselves for any personal or financial interest in this matter. There were none.

Chair Hege asked if any Board member wished to report any significant ex parte or pre-hearing contacts. There were none.

Chair Hege asked if any member of the audience wished to challenge the right of any Board member to hear this matter. There were none.

Chair Hege asked if any member of the audience wished to question the jurisdiction of

this body to act on behalf of Wasco County in this matter. There were none.

Chair Hege asked Associate Planner Dawn Baird to present the Staff Report. Ms. Baird reviewed the Staff Report (attached) for the application to expand the site from 21.5 acres to 50 acres. She explained that the Planning Commission has approved the conditional use and standards review and is recommending approval of the comp plan amendment and zoning map amendment.

Ms. Baird explained that the Board can approve the application with the stated conditions, approve the application with amended conditions, deny the application or continue the hearing to a date and time certain.

Chair Hege asked about the change from the 750 foot to 1500 foot buffer zone. Ms. Baird says that research has revealed that the State is going to the 1500 foot buffer zone which is an indication that it will become the standard; the Planning department felt it appropriate to apply the standard now.

Chair Hege asked the applicant if he is aware of the increased buffer zone. Mr. Justesen said he is fine with it.

Chair Hege asked if anyone present wished to speak in favor of the application. Mr. Justesen said he is in favor.

Chair Hege asked if anyone present wished to speak in opposition to the application. There were none.

Chair Hege closed the hearing at 1:46 p.m. and opened deliberations.

{{{Commissioner Runyon moved to approve PLACUP 15 01 0002 to expand an existing 21.5 acre aggregate operation to 50 acres in size to include a Comprehensive Plan Amendment to add a significant aggregate operation to the Comprehensive Plan Mineral and Aggregate Inventory as a Significant Site and a Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation. Commissioner Kramer seconded the motion which passed unanimously.}}}

Chair Hege opened the Bryant-Carver Aggregate Quarry Application Hearing at 1:48 p.m. As no one new had joined the session, Chair Hege briefly reviewed the reason for the hearing and the process to be followed (see attached Bryant-Carver script).

Chair Hege asked if any Board member wished to disqualify themselves for any personal or financial interest in this matter. There were none.

Chair Hege asked if any Board member wished to report any significant ex parte or pre-hearing contacts. There were none.

Chair Hege asked if any member of the audience wished to challenge the right of any Board member to hear this matter. There were none.

Chair Hege asked if any member of the audience wished to question the jurisdiction of this body to act on behalf of Wasco County in this matter. There were none.

Chair Hege asked Associate Planner Dawn Baird to present the Staff Report. Ms. Baird reviewed the Staff Report (attached) for a new 20 acre site located on ta 223 acre parcel south of Hinton Road and east of Bakeoven Road. She explained that the Planning Commission has approved the conditional use and standards review and is recommending approval of the comp plan amendment and zoning map amendment.

Ms. Baird noted that the DOE requires a permit for any work to be done on BPA or BPA right of ways but none exist on this property.

Ms. Baird explained that the Board can approve the application with the stated conditions, approve the application with amended conditions, deny the application or continue the hearing to a date and time certain – she sees no reason to continue the hearing.

Chair Hege asked if anyone present wished to speak in favor of the application. John Bryant said he is in favor and here to answer any questions about the application.

Chair Hege asked if anyone present wished to speak in opposition of the application. There were none.

Chair Hege closed the hearing at 1:55 p.m. and opened deliberations.

{{{Commissioner Runyon moved to approve PLACUP 15 02 0003 to create a 20 acre aggregate operation to include a Comprehensive Plan Amendment to add the site as a significant aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site and a Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed 10 acre aggregate Site. Commissioner Kramer seconded the motion which passed unanimously.}}}

Chair Hege opened the Bryant-Hagens Aggregate Quarry Application Hearing at 1:57 p.m. As no one new had joined the session, Chair Hege briefly reviewed the reason for the hearing and the process to be followed (see attached Bryant-Hagens script).

Chair Hege asked if any Board member wished to disqualify themselves for any personal or financial interest in this matter. There were none.

Chair Hege asked if any Board member wished to report any significant ex parte or pre-hearing contacts. There were none.

Chair Hege asked if any member of the audience wished to challenge the right of any Board member to hear this matter. There were none.

Chair Hege asked if any member of the audience wished to question the jurisdiction of this body to act on behalf of Wasco County in this matter. There were none.

Chair Hege asked Associate Planner Dawn Baird to present the Staff Report. Ms. Baird reviewed the Staff Report (attached) saying that this is a little different as a legal creation could not be located. Part of the application was to do a partition. The Planning Commission found the application to be complete and voted unanimously to approve the partition as well as the conditional use and standards review and is recommending approval of the comp plan amendment and zoning map amendment.

Ms. Baird noted that there are BPA lines in the area but the quarry is for a BPA project. She said that the Board can add that as a condition but the BPA and applicant are already aware. She noted that there are some Scribner's errors to be corrected – on page 28 it says 1500 where it should read 1500 feet, in some places it identifies the

applicant as Bryant-Hagen where is should be Bryant-Hagens, the company is an Inc not an LLC as listed in the application, in one place it lists the site as a 50-acre site, but it is only 20 acres.

Ms. Baird explained that the Board can approve the application with the stated conditions, approve the application with amended conditions, deny the application or continue the hearing to a date and time certain – she sees no reason to continue the hearing.

Chair Hege asked for further detail regarding the BPA permits. Mr. Bryant reported that he has talked to the BPA about their easement. He said that Bryant INC is not within the BPA easement. The subcontracted blaster is within the BPA easement and is the BPA.

Chair Hege asked if anyone present wished to speak in favor of the application. John Bryant said he is in favor and here to answer any questions about the application.

Chair Hege asked if anyone present wished to speak in opposition of the application. There were none.

Chair Hege closed the hearing at 2:08 p.m. and opened deliberations.

{{{Commissioner Runyon moved to approve, with noted corrections, PLACUP 15 01 001 to create a 20 acre aggregate operation subject to Standards Review for a significant Determination for the existing aggregate site; a comprehensive Plan Amendment to add a proposed aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a significant Site. Commissioner Kramer seconded the motion which passed unanimously.}}}

{{{Commissioner Runyon moved to approve, with noted corrections, PLACUP 15 01 001 for a Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed operation; and a Conditional Use Permit to allow an aggregate operation and include drilling, shooting, crushing and stockpiling crushed aggregate. Commissioner Kramer seconded the motion which passed unanimously.}}}

Commissioner Runyon said that as applications are reviewed, when it is discovered that the County is more stringent than the state, the Planning Department should take the time to find out why and if it is still appropriate to be more stringent.

Ms. Brewer agreed. She added that there is another procedure for approving rock quarries that is less time-intensive; they are looking into it as a possible amendment to the County Plan. She said that Ms. Baird has done a great job and found a way to streamline the process for the Board of Commissioners.

Commission Call

Commissioner Runyon reported that he has asked Counsel to review the current agenda format for improvements. He said that she suggested that the Commission Call be made a consistent part of the meeting with brief reports from each Commissioner on their previous two weeks activities; that will help educate the public on all that the Board does.

Commissioner Runyon read a report into the record of his last two weeks activities (attached). One item he reported was a discussion at the Veterans Ad Hoc Committee regarding the possibility of a Veterans Tax District. Chair Hege asked if they knew that part of the tax base can go toward veterans. Commissioner Runyon replied that they did; this is something different.

Commissioner Runyon also reported that what he heard at the Union Pacific meeting is that Union Pacific is as concerned about safety as is the public – it costs them millions of dollars when things go wrong. Chair Hege, who attended the same meeting, noted that the CEO and Board Chair of Union Pacific were at the meeting.

Commissioner Kramer announced that a lone juvenile wolf has been tracked in Wasco County; there has been no depredation. He said that it has bounced around the northeastern part of the state and has crossed two rivers. It is currently in the Cascades crossing back and forth between Hood River and Wasco Counties. The assumption is that it is eating on winter kill among the deer; it has created no issues and ODF is tracking it – they will try some aerial location as ground tracking has been unsuccessful.

Commissioner Kramer reported that the Limmeroth sale in the canyon is still moving

forward with ODFW although there have been some rumblings from landowners and the Farm Bureau – the Bureau does not want the State to own any more land. He said he expects the Board will probably hear from some disgruntled landowners but noted that they too had the opportunity to purchase the property.

Commissioner Kramer said that the Forest Collaborative is making progress; they are working on a charter and have a field trip planned for 5.27.2015. He said that he is looking for the conclusion of the grant process for the Pine Hollow boat ramp; a private landowner came through with $3,000 for the project. He said he believes they have a fair chance of getting the grant money.

Commissioner Kramer stated that the South Wasco Alliance continues to move forward on projects for broadband and the boat ramp. There are other projects that are not yet concrete but have the potential to provide jobs in that part of the County.

Commissioner Runyon suggested that Commission Call be moved to the front of the agenda and each Commissioner provide a report. Chair Hege stated that in terms of priority, if there is public comment that would have to be first. Both Commissioner Runyon and Kramer agreed. Commissioner Kramer pointed out that if there is new business, Ms. White is generally notified prior to the meeting.

Chair Hege adjourned the meeting at 2:34 p.m.

Motions Passed

- **To support the Fort Dalles Museum PUD grant application for a heat pump, wiring and insulation and to provide a letter of certification for the Museum's non-profit status.**
- **To approve the Consent Agenda with noted corrections – 4.15.2015 Regular Session & 4.29.2015 Special Session Minutes.**
- **To approve the Intergovernmental Agreement for Ascend/Proval Software Support.**
- **To approve Order #15-044 vacating Cedar Street Extension and Cul de Sac laying west of Juniper way within Block 3 or the Juniper Addition Subdivision, Tygh Valley Section 3, T4S, R13E WM.**
- **To approve Order #15-047 directing the Public Works Director to prepare his report on the proposed vacation of Unnamed Public Road A in Section 1 of Township 5 South Range 13E beginning at southerly right**

of way State Hwy 216 traveling south to the southerly right of way of Unnamed Public Road B.

- **To remain a signer on the IGA for the Lone Pine Project.**
- **To approve PLACUP 15 01 0002 to expand an existing 21.5 acre aggregate operation to 50 acres in size to include a Comprehensive Plan Amendment to add a significant aggregate operation to the Comprehensive Plan Mineral and Aggregate Inventory as a Significant Site and a Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation.**
- **To approve, with noted corrections, PLACUP 15 01 001 to create a 20 acre aggregate operation subject to Standards Review for a significant Determination for the existing aggregate site; a comprehensive Plan Amendment to add a proposed aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a significant Site.**
- **To approve, with noted corrections, PLACUP 15 01 001 for a Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed operation; and a Conditional Use Permit to allow an aggregate operation and include drilling, shooting, crushing and stockpiling crushed aggregate.**

Consensus

- **To send a letter to the State requesting a drought declaration based on recommendations from the Soil and Water District.**

WASCO COUNTY BOARD
OF COMMISSIONERS

Scott Hege, Commission Chair

Rod Runyon, County Commissioner

Steve Kramer, County Commissioner

WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
MAY 6, 2015

DISCUSSION LIST

ACTION AND DISCUSSION ITEMS:

1. MCEDD Cities Representative

Discussion Item
MCEDD Cities Representative

- No documents have been submitted for this item

– RETURN TO AGENDA

WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
MAY 6, 2015

CONSENT AGENDA

1. 4.15.2015 BOCC Regular Session Minutes

2. 4.29.2015 BOCC Special Session Minutes

WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
APRIL 15, 2015

PRESENT:	Scott Hege, Commission Chair
	Rod Runyon, County Commissioner
	Steve Kramer, County Commissioner
STAFF:	Tyler Stone, Administrative Officer
	Kathy White, Executive Assistant

Chair Hege opened the session at 9:15 a.m. with the Pledge of Allegiance. Ms. White asked to have a QLife Budget appointment added to the Discussion List. Commissioner Kramer asked to add a letter of Support for the South Wasco Alliance and the Public Health questions to the Discussion list.

Public Comment – SRS

Commissioner Runyon announced that yesterday the Senate moved to approve Schools to Roads funding – approximately 4,000 school districts are affected. Payments are to be made within 45 days. Although we do not yet know the amount, it is good news for Wasco County.

Public Comment – Public Health

Midge Johnson of The Dalles stated that she is confused about what is going on with Public Health and so began attending Health District board meetings. She asked why Wasco County is considering splitting from the tri-county group; services are good, the budget was passed and the State seems happy. She said she understands there are some personality issues but after all these years, why are we pulling out?

Commissioner Kramer replied that in his opinion public health is changing and will continue to change but the District is not having those discussions to move forward and proactively respond to and prepare for those changes. He said that he wants to take a hard look at public health; however, the District seems to be fighting over a budget to keep things the way they are.

Chair Hege said that right now we are conducting a study that will look at public health in a very open way; by the end of this year the Board of Commissioners will make a decision about how to move forward – maybe the decision will be to do nothing.

Ms. Johnson asked what prompted the decision to pull out.

Chair Hege stated that the County had gone on the road with public hearings to explore the possibility of a road district. The meetings were well-attended and a pervasive theme in citizen feedback was that the road department had been thoroughly scrutinized and made more efficient – that same process needs to be applied to other departments in the County. He observed that the Public Health District continues to ask for more and more money.

Mr. Stone stated that the current request from the Public Health District is an increase – they requested $314,000 two years ago, $344,000 last year and $394,000 this year. He said that County administration has asked all departments to get their budgets and costs to minimal levels while still maintaining services.

Commissioner Runyon noted that in the Board packet, available on the County website, there is a good memo that really breaks the process down – it explains why and what is being done to move forward.

Chair Hege pointed out that this process will be helpful no matter what the final decision is – it will provide the information and insight to support whatever decision is made.

Victor Johnson of The Dalles asked if the reason the study has been undertaken is the budgetary considerations. Chair Hege replied that that is part of it but it is also to look at services and how they will work with changing health care. Commissioner Kramer stated that it is important to have outcomes. Commissioner Hege said that he will keep Ms. Johnson informed. Mr. Stone invited her to stop by his office any time to talk about the issue.

Public Comment – Google

Mike Bertrand stated that he has heard rumor that there are secret negotiations with Google taking place – he would like to have a copy of the non-disclosure agreement. He said that Wasco County has lost out on $100,000,000 from the first enterprise zone with Google – he hopes that the Board is looking out for Wasco County as Google could just pack up and leave. He reported that he has been investigating this for nine months and believes the County is paying Google to be here. He said that Google was supposed to have 45 jobs with the first enterprise zone and 10 more with the second but no one will really verify that. He observed that Google does not have to pay payroll taxes on 62% of their payroll and the senate has given away more. He cautioned that when the County representatives go into negotiations they need to think about all of the citizens who pay property taxes – Google has subsidies of $360,000,000 in Wasco County alone – if the County is looking for money, there it is.

Chair Hege replied that he had already provided Mr. Bertrand with a copy of the previously executed NDA which would extend to any new negotiations. Mr. Stone advised Mr. Bertrand to stop by his office before leaving the building and write out a request for that information.

Mr. Bertrand asked if County Counsel had reviewed that document – it states that all litigation will take place in New York.

Chair Hege replied that Mr. Nisley had approved the document. He added that if there is a future agreement with Google, it will be made public and with the opportunity for public comment; however, negotiations for agreements are private which is a requirement. He reminded Mr. Bertrand that he had received a redacted listing of all the Google employees at The Dalles site along with their earnings.

Mr. Bertrand acknowledged that he had received the list but noted that the State says that reporting is done on the honor system.

Discussion List – FFA Student Report

Tai Rogers reminded the Board that in March they had asked her to find out about some bills in the State Capitol that will affect Wasco County. She reported that while there are none currently on the floor, there are some in committee. Senate Bill 341 for agricultural tourism is being introduced and will allow providers to not be held liable

for injury or death provided they display warning signs. Another bill will establish parameters for GMO farming.

In the House HB 2674 would establish the same parameters with some differences in the language. HB 2675 would require merchants to provide documentation to the Agriculture Department for GMO agreements.

Public Comment – MCCOG

Wayne Lease, Washington resident, reviewed a worksheet (attached) with facts and figures regarding MCCOG's operation of Building Codes. Chair Hege interrupted him part-way through in order to adhere to the agenda; he advised Mr. Lease that if he could stay there would probably be more time for him later in the session.

Agenda Item - Fee Schedule Hearing

At 9:45 Chair Hege opened a public hearing to consider the adoption of Ordinance 15-001 amending the Wasco County Fee Schedule.

Ms. White reviewed the changes to the Fee Schedule – one modification of a fee in Section H(2) – removing the second line of that item and an addition of charges for legal counsel should it be necessary for the completion of a citizen request. The legal fee includes notification to the citizen of those charges prior to engaging counsel for the work.

Chair Hege asked for public comment; there was none.

Chair Hege closed the hearing for public comment.

Commissioner Kramer asked if there had been a change to section K for the IT hourly service fee. Ms. White referenced the current fee schedule and found that it has not changed.

Commissioner Runyon asked if we are reasonably assured that the legal fee provision is similar to what other Oregon counties are charging. County Counsel Kristen Campbell replied that it is.

Chair Hege closed the public hearing and called for a motion.

{{{Commissioner Kramer read the title of Ordinance 15-001, which amends the Wasco County Fee Schedule, into the record and moved to adopt it.

Commissioner Runyon seconded the motion which passed unanimously.}}}

Agenda Item - Emergency Solutions Grant Work Plan

Jim Slusher, Executive Director of Mid-Columbia Community Action Council said he is here to ask the Board's approval for the Emergency Solutions Grant. He explained that they get this grant funding every year.

Commissioner Kramer asked Commissioner Runyon if he has seen the plan. Commissioner Runyon replied that through his work on the Community Action Committee he has seen it. Commissioner Kramer asked if the Board has a copy of the plan. Mr. Slusher replied that he did not bring the plan. Chair Hege asked if the plan is similar to prior years. Mr. Slusher replied that it is a HUD grant and the plan is similar to prior years.

{{{Commissioner Runyon moved to approve the CAP Emergency Solutions Grant Work Plan. Commissioner Kramer seconded the motion which passed unanimously.}}}

Agenda Item - Certified Veterans Service Officer Quarterly Report

CVSO Russell Jones reviewed the numbers included in the Board packet covering activity at the Veterans Service Office over the past quarter. He said that they have opened 266 new client files since the beginning of the fiscal year and have 3 months to go of the 255-work-day year. The VA estimates there are 3,000 veterans residing in Wasco County – that would mean they will have seen approximately 10% of those veterans as new clients in this fiscal year.

Mr. Jones went on to say that they have about 17 contacts in their office each working day – the volunteer staff handles phone calls and walk-ins, freeing up the CVSO's to work on claims. Volunteers put in 275-300 hours each month.

Mr. Jones noted that although the average wait time for veterans claims through the Portland office is 6.49 months, his office's average wait time through that same processing facility is 5.05 months. Appeals take approximately 2 years. Claims for widows and low-income veterans is 29 days from filing to getting paid.

Commissioner Runyon complimented Mr. Jones on his work saying that Mr. Jones had called into the recent AOC veterans meeting and provided valuable information to the

group. Mr. Stone agreed, saying that Mr. Jones has set the bar across the state.

Public Comment – MCCOG

Mr. Lease continued to review his hand-out. Chair Hege interrupted him part-way through in order to adhere to the agenda; he advised Mr. Lease that if he could stay there would probably be more time for him later in the session.

Agenda Item - Mosier Fire District Request

Mosier Fire Chief Jim Appleton stated that the recent special election to recall two of the Mosier Fire District Board members was an unexpected expense for which the District had not budgeted. He had been instructed by the remaining Board members to hold the bill until the Board had regained a quorum membership. Unfortunately, a mistake was made and the bill was paid. He said that he had contacted County Clerk Linda Brown regarding the invoice, questioning the amortization portion which came to $1,200. Ms. Brown had advised that any adjustments/refunds would have to be decided by the Board of County Commissioners.

Ms. Brown explained that the law allows the amortization of equipment purchases, leases, maintenance and software over the elections held each year. She calculates those costs and spreads them evenly across the expected elections for that year. Because the special election came on the heels of the general election, she was able to adjust that amortization to include both elections in her calculations which actually reduced the costs for both. If the Board were to vote to refund any or all of the amortization fee, they would have to do so from general fund as there is not a way to go back to the other districts to have them pay higher fees for the general election. She noted that had she not adjusted the costs over the two elections, their fees would have been $500 higher. She observed that the District must make adjustments for other unexpected costs, i.e. equipment failure, etc., and this is really no different.

Mr. Appleton said that he is not contesting the bill, but had been instructed by his Board to request a full or partial refund. He said that he believes his Board will understand any decision the County makes in this matter.

Commissioner Runyon stated that he is concerned with the timeline – a lot of time passed between receipt of the bill and the request. Mr. Appleton conceded that it did take a lot of time; they did not have a quorum and that slowed their processes considerably. He said there was also a process of learning how the new Board wanted

to run the District. He noted that he thinks the new board is great and he takes responsibility for the poor procedures in paying the bill.

Commissioner Runyon said he understands the Clerk's dilemma and is concerned about setting precedent. He said he understands that money is limited in the District as it is in the County.

{{{Commissioner Kramer moved to deny the request to forgive all or part of the Mosier Fire District's special election fees. Commissioner Runyon seconded the motion which passed unanimously.}}}

Agenda Item - Sheriff's Deeds

Ms. Brown explained that when a bank does a foreclosure they contract with the Sheriff's Office to do the sale and convey the deed back to the Bank. She stated that the way the Sheriff's Office has been executing the notarizations, it appears that the Office Manager is approving her own signature. While it is not a fatal flaw, the underwriters could reject the documents based on the incorrect notarization.

Ms. Brown went on to say that to re-record the approximately 80 identified deeds would be expensive – while the County could forgive its own fees, the State fees totaling $31 for each deed which will have to be paid out of the Sheriff's budget. She reported that she has spoken with Sheriff Eiesland and Mr. Stone and advised them that all 80 may not need to be re-recorded and should be done as they sporadically come forward; the Sheriff will have a line item in his budget to pay for them – three have already been done. She reported that the Sheriff's Office has corrected their process.

Commissioner Runyon asked if the notary language is on the stamp and if it had changed. Ms. Brown explained that the Sheriff's Civil Technician had attended a conference and received a new manual in 2014 – there was just a terminology error made in the interpretation of the guidelines. She stated that both local title companies are aware of the issue and on-board with this solution.

{{{The Board was in consensus to allow the County Clerk to waive County fees for any deeds needing to be re-recorded as a result of incorrect notarization executed by the Sheriff's Office.}}}

Agenda Item - NORCOR Mapping

Hood River County Commissioner Karen Joplin explained that she has participated in NACO and AOC committees for criminal justice and incarceration. She said it is time for NORCOR to engage in new processes and they are excited to move forward. She observed that we have an obligation to improve this service to our public. The mapping process will identify what we have and don't have in place.

Commissioner Joplin stated that there is a lot of room for improvement – diversion, mental health, drug court, veterans services are all things we have in place. We need to access what is still needed and then focus on funding and committees. She said that the National Institute of Corrections is facilitating the two-part mapping process at no charge. She said she was able to make that connection during a trip to D.C.

Commissioner Joplin announced that NIC would be here in May to help identify outcomes and again in the summer to map out assets and deficits in programs and processes. That information will be put to use in support of funding sources. She stated that the group wants the support and active participation of Wasco County Commissioners. She stated that they are encouraging the participation of sheriffs, district attorneys, judicial partners, the social service community, health care, hospitals and educators – everyone who touches the inmate experience. She said the first meeting will be hosted by CGCC on May 21, 2015.

Commissioner Runyon stated that he is very happy to see this happening; he said the issue of health care costs should be one of the items addressed. He observed that the results of this process could have implications across the State. Commissioner Joplin agreed saying that this is a premiere process for Oregon.

Agenda Item - CAFFA

County Assessor Jill Amery stated that the increases being requested are for staffing as her office moves through their software conversion. She stated that they also need additional appraisers – not only do they need an additional appraiser position, there is an appraiser that will retire soon and need to be replaced. She said that there is limited space in her office and no room for expansion, however, they have consulted with Office Max and identified a configuration that will allow for the additional staff. She said that administrative costs are down and they have hired someone temporarily who will be helping with the conversion – that position will last until June 30, 2015.

Ms. Amery went on to say that forecasts from CAFFA predict a reduction in funding; her office estimates were for $195,000 – it appears it will be $176,000.

{{{Commissioner Kramer moved to approve the CAFFA Grant Resolution to participate in the Department of Revenue's Assessment and Taxation Grant. Commissioner Runyon seconded the motion which passed unanimously.}}}

Discussion List – PERS Resolution

Commissioner Runyon asked Finance Director Monica Morris if she is satisfied with the document. Ms. Morris replied that it cannot be changed and is a document making official the Board's decision to have former AFSCME employees pay their own PERS contribution. Chair Hege observed that the resolution is fairly confusing. Ms. Morris agreed, saying that is typical for PERS.

{{{Chair Hege moved to approve Resolution 15-001 changing the type of employee contributions made to the Oregon Public Employees Retirement System. Commissioner Runyon seconded the motion which passed unanimously.}}}

Discussion List - DA Stipend Resolution

Chair Hege noted that an email had been sent by DA Nisley stating that he does not want the stipend. He said that he thinks they can still pass it as policy – County Counsel has confirmed that and advised that it is good public policy. The District Attorney does not have to accept the money.

Commissioner Runyon said that he does not want the policy to read in such a way as to force the County to pay the stipend and suggested a change in the language to allow the current and future Boards to have that flexibility.

Commissioner Kramer pointed out that the resolution also contains gender-specific language that should be neutralized.

Chair Hege asked that any motion include those changes so as not to have to have this be delayed to future agenda.

{{{Commissioner Kramer moved to approve Resolution #15-002 to pay the District Attorney a monthly stipend for the use of a personal cell phone with the

following changes: modify the language to make the stipend at the discretion of the Board and change gender specific references to be gender neutral. Commissioner Runyon seconded the motion which passed unanimously.}}}

Commissioner Kramer asked The Dalles Chronicle Reporter Derek Wiley how he safe guards notes he makes during Executive Sessions. Mr. Wiley replied that he had really not thought about it but had not written anything down during this morning's executive session. Commissioner Kramer asked that he consider how to handle any notes made during Executive Sessions.

Discussion List – AOC Dues

Brief discussion ensued regarding the increase in dues which pushes the total to a little more than $500 over the budgeted amount. It was decided that that none of the voluntary dues would be eliminated.

*****The Board was in consensus to pay the 2015 AOC dues in full, including any voluntary dues.*****

Commissioner Runyon excused himself from the session to participate in conference call with the National Association of Counties.

Agenda Item - BLM Annual Update

BLM District Manager Carol Benkosky reviewed the briefing paper included in the Board Packet and answered questions.

Commissioner Kramer asked if the numbers for the Lower Deschutes permits are for weekend usage. Chair Hege replied that they are not necessarily just for the weekend. Ms. Benkosky stated that the mechanism for issuing permits is an old program hosted on an old server. She reported that they are in negotiations with rec.gov to manage the permitting process but because of the BLM's complex system of rules, there are some things rec.gov may not be able to do. Having a program customized and written is expensive both in the initial cost and the technical support. She stated that they did that for John Day and it was approximately $400,000.

Chair Hege asked if there is a working group for Macks to Mouth. Ms. Benkosky replied that she believes there is. Chair Hege noted that MCEDD is working on it. Commissioner Kramer reported that Maupin City Councilwoman Sue Knapp is actively

participating. Chair Hege concurred, saying that Councilwoman Knapp will be attending the management meeting next week.

Commissioner Kramer asked for further explanation of the deferred maintenance funds. Ms. Benkosky said that the federal government has two funding streams for maintenance – one is Construction for new projects and one is Deferred for maintenance of existing projects.

Chair Hege observed that the restrooms are extremely expensive and State Parks are testing a less expensive model that will allow them to provide more facilities. Ms. Benkosky said that BLM is phasing out pit toilets by attrition; they have composting toilets where it is difficult to navigate pumps. She noted that boaters are supposed to be carrying their own portable facilities.

Chair Hege stated that the Foreman House guides used to meet with law enforcement and there is an effort to reinstitute that practice; they will be having a meeting in the near future.

Ms. Benkosky reported that recent meetings with Northern Burlington Railroad have been productive and there may a way to construct an above-grade crossing that will meet everyone's needs and allow campers full use of the area. There is a piece of land that would be included for which they have not been able to identify ownership. Chair Hege said he is sure the County can get that information for her.

Ms. Benkosky said that they have many cooperative agreements with local fire departments for mutual aid during the first 24 hours of a fire. She said after the first 24 hours, it becomes a cost sharing arrangement. She noted that there are still many unprotected areas; previously the BLM had the resources to help landowners – keeping fires small keeps them off of BLM land – however funding is tight and that may not be possible in the future. She noted that cost sharing does not always mean money; it can also be services, facilities or equipment.

Mr. Stone asked if Ms. Benkosky could provide a map of unprotected areas in Wasco County. He said the word needs to get out to rural volunteers who are not prepared for a fire that may not get attention from federal agencies. Chair Hege noted that if those areas were to organize a fire district they could enter into an agreement with the BLM. Ms. Benkosky said that she thinks the people who are unprotected are aware of that

circumstance but need to know that the BLM won't be there for free. She said there is some movement to have the State play a bigger role and offer more support. The current conflagration act requires a minimum population for State involvement. She said that she will make sure the County gets a map that outlines current services. She said in areas where there are fire districts, it needs to be district boards – not fire chiefs – that enter into cooperative agreements.

There was brief discussion regarding the upcoming SOAK event. Ms. Benkosky stated that if the organizers want to make use of BLM land next year, they will need to apply for a permit to do so. The current landowner had inquired about purchasing some of the BLM land but it is illegal for the BLM to sell property.

Consent Agenda – 2.13.2015 Special Session Minutes & 4.1.2015 Regular Session Minutes

{{{Commissioner Kramer moved to approve the Consent Agenda. Chair Hege seconded the motion which passed unanimously.}}}

Discussion List – Forest Collaborative Funding

Commissioner Kramer explained that this is an agreement with State Forestry to provide $5,000 in funding for facilitation of three Forest Collaborative meetings which will cost approximately $4,500. The facilitation contract will likely be with Mr. Noonan and Wasco County.

Mr. Stone said he understood that the Soil and Water District would be the fiscal agent for the Collaborative. Commissioner Kramer said that for now it is the County. These will be pass-through funds and the Finance Director believes the facilitator can be a direct appointment. Chair Hege asked for confirmation that this IGA is just for the County to receive the funds. Commissioner Kramer replied that that is correct.

{{{Commissioner Kramer moved to approve the Oregon Department of Forestry IGA to administer a contract for Facilitation for the Mount Hood National Forest Collaborative. Chair Hege seconded the motion which passed unanimously.}}}

Discussion List – Accounting Services Contract

Mr. Stone reminded the Board that they had directed him to move forward to hire someone to come in and catch up work in the Treasurer's office as well as implement

sound policies and procedures in response to the recent audit findings and the recommendations of Pauly Rogers. He said that in addition to these steps, Ms. Morris is looking for a temporary employee to help with the extra work that will come into her office.

Chair Hege asked to confirm that this contract will also cover the implementation of accounting policies and procedures. Mr. Stone replied that it will; once the work is caught up, Ms. Smith-Wagar will work with departments to develop policies and procedures.

{{{Commissioner Kramer moved to declare an emergency and approve the Professional Services Contract for On-Call Accounting Consulting Services with Smith-Wagar Consulting, attaching the Administrative Officer's memo to the contract to in support of the emergency declaration. Chair Hege seconded the motion which passed unanimously.}}}

Discussion List – Letter of Support for Maupin

Commissioner Kramer explained that the Mayor of Maupin is asking the County to support the South Wasco Alliance in their bid to become a recognized non-profit organization. He shared a letter of support from Maupin along with a draft letter of support provided by the SWA for Wasco County (attached). He said he is in support and would like to see the letter go out over all three Board members signatures.

*****The Board was in consensus to provide a letter of support for the South Wasco Alliance's application for non-profit status.*****

Discussion List – QLife Budget Committee Appointment

Ms. White reported that the urgency of this appointment was due to an oversight on her part. She explained that the vacancy for this position had been last summer but had somehow not made it onto her tracking spread sheet. The QLife Budget committee is scheduled to meet next week and an appointment for a Wasco County representative needs to be made before that time.

Chair Hege stated that the applicant, Douglas Quisenberry, works at Google in the second level of management so he is technically savvy. He said that Mr. Quisenberry also serves as the treasurer for a local non-profit organization. He said that Dave Carlson of Google has also served on the QLife Committee but is stepping down.

{{{Commissioner Kramer moved to approve Order 15-042 appointing Douglas Quisenberry as a representative of Wasco County on the QLife Budget Committee. Chair Hege seconded the motion which passed unanimously.}}}

Chair Hege recessed the session at 12:04 p.m.

The Session reconvened at 2:00 p.m.

Agenda Item - Public Health Project Plan

Mr. Stone said the County has started down the path of analyzing the form and function of Public Health. He stated that the three participating counties have been transitioning for six years into a regional model for public health; while we have made it most of the way, there are issues that still need to be addressed. He said this process will help to move the County and public health forward. He said this regional model is unique in the State and as with any new venture, it begs regular review and evaluation to make sure goals are being achieved. He then reviewed the memo included in the Board packet.

He said the actual costs of public health services needs to be identified to determine the most effective approach. With the introduction of CCO's and the Affordable Care Act, health services are changing – there may be better models in light of these changes. What should the benchmarks be? What services should be offered? What needs to happen with the governance model for this to be a viable solution and what kinds of communication is needed from the District?

He said that a group sat down and tried to work on developing a project plan for the analysis requested by the Board of County Commissioners. Kathy Schwartz has volunteered her time to help with the process. She has extensive knowledge in this area. He said still outstanding in the conversion:

- An analysis of in-kind services from Wasco County and the value of those services – that process has stalled due to disagreements and needs to move forward.
- A formal business plan has not been completed.
- A fiscal analysis of the cost of services – the model was built on the premise that better services could be provided for less cost; however, it seems to be costing

more for the same or similar services. Through the process we may find that services are dropping and costs increasing.

He stated that the model is in need of thoughtful, objective analysis which has been difficult to do in the midst of conversion – we need to understand what we did and validate that decision. We also need to address the governance process as it is obviously not working under the current circumstances. He said he hopes that it can be addressed through this process. He added that they will need to look at efficiency and effectiveness of programs and make sure we are simply not just doing what we have always done. In addition, transparency needs to be consistent and there needs to be targeted results.

Ms. Schwartz said that she was asked to help move the group out of the stall and help them understand public health services as well as work with Public Health Director Teri Thalhofer to communicate with the Board of Commissioners. She stated that she is in favor of the district public health model – it is a discussion that began prior to her departure from her position as Public Health Director. She said she wants to help everyone get to yes.

She said the next deliverance on the timeline is about governance. She stated that it is not unexpected to have these issues when starting a district – you make an agreement and then the unforeseen issues come up later. She said that she hopes a new governance agreement could be crafted with which Wasco County would be comfortable. She reported that they are in touch with the State to help with that and hopes to have something in place by October.

She said that from May to November they will be doing a more comprehensive analysis of Public Health programs – what are the targets and results for the quarter as well as evaluating trends and making projections. She said the changes that are occurring in public health need to be evaluated. She said another meeting in December will provide an opportunity to look at what direction the Board wants to take based on the new information.

Chair Hege noted that there will need to be cost controls, efficiencies and effectiveness. He asked how they will look at the changes in health care and how they will forecast fees. Ms. Schwartz replied that they will look at trending data and use that to project costs and fees. Chair Hege said that if they look at the population and a lot more

people are covered by the Oregon Health Plan it seems that the need for public health services will be reduced. Mr. Stone said that it is not only an external look but also an internal look.

Ms. Thalhofer said that she has parameters that are required by federal law – she has to slide to zero, the grant requires the scale to slide. She said she will get down to whatever level of detail the Board needs to hear.

Chair Hege noted that on the time chart it lists the public health leadership team and the Commissioners. He asked who comprises the public health leadership team. Ms. Scharwtz replied that it is the same team working on the issue. He asked if they can actually meet the May 1st goal. Ms. Schwartz stated that the talks began in April and the Board will get a detailed report in November.

Chair Hege asked what will happen between now and October and if they would report to the Board during the process. Ms. Schwartz said that they would be happy to provide updates whenever the Board would like. Chair Hege said that he would like to hear from them in the interim as a lot can happen in a 5 month span of time. He said that the goal today is to hear the plan and be able to ask questions about the plan.

Mr. Stone stated that a lot of this will depend upon the cooperation of Public Health. Commissioner Kramer said that it will take everyone's cooperation in order to move forward. Mr. Stone agreed, saying that if the plan meets with the Board's approval, they will take it back to the Public Health Board for discussion on how to move forward.

Ms. Johnson asked if there are resources to do this work. Ms. Schwartz said that this is a report she would ordinarily have given to the Board on an annual basis. She said that she would expect that the information is available and just needs to be gathered. She said that she would offer her assistance if desired; she really wants to get to "yes."

Chair Hege said that it had been mentioned that they were getting assistance from the State. Commissioner Kramer reported that he had had conversations with Oregon Public Health Division's Community Liaison Manager Jan Kaplan and would be bringing this plan to his attention next week. Chair Hege said that a lot of time has been spent on the governance. Ms. Schwartz said that she does not find that to be unexpected. Chair Hege said he thinks there will need to be a number of discussions. Ms. Schwartz said she will add regular updates to the timeline.

Ms. Johnson pointed out that under roles it identifies a budget coordinator and asked who that would be. Ms. Schwartz said that will be Mr. Stone. Ms. Johnson asked who would serve as the public health investigator. Ms. Schwartz said she would fill that role but thinks a more appropriate identifier would be consultant.

Ms. Johnson asked how it could be done at no cost. Mr. Stone replied that Public Health is costing a lot now as it is; this process will be an investment of time to figure out the issue. Other than staff time, he said he does not anticipate any costs. He said that they may not have an in-house financial analyst and will look for another volunteer to fill that role.

Victor Johnson of The Dalles said he had been reading through minutes and found mention of engaging the community. He asked how much of that has been done and what is the plan to continue that throughout the process. Mr. Stone said this is the first step in the process and there is a lot of internal work to be done. He said there will be milestones along the way and there will be reports made at public meetings. He said once there is a final report it will come before the board at a public meeting where they will determine how they want to proceed.

Chair Hege agreed that the team should come back to the Board throughout the process. Mr. Johnson said that there are a lot of ways for notices to slip through the cracks. Commissioner Runyon noted that anything that comes before the Board at a public meeting is available on the County website – the Board wants the information to be out there.

Bridget Bailey of The Dalles asked if the Board has a list of names of people unhappy with public health services.

Chair Hege replied that there is no such list; that is not where the issue came from. It is mainly governance issues, not services.

Ms. Bailey said that she was at yesterday's Public Health District's Board meeting and felt it was not a good representation of Wasco County. She said that she is concerned about Wasco County's relationship with the other counties. She asked where the complaints have come from.

Chair Hege reiterated that this is basically a governance issue and has never been an issue of end users. Ms. Bailey said that she would encourage Chair Hege to attend the

Public Health Board meetings. Chair Hege replied that Commissioner Kramer is Wasco County's representative on that Board.

Chair Hege said that he thinks Mr. Johnson's point is well-taken and the Board wants the process to be transparent.

Public Health Officer Dr. McDonald said that she has concerns about the staff time this will take within Public Health. She said that while some of the information is available, some of the more abstract cost analysis is harder and will be time consuming.

Chair Hege responded that they will look to Ms. Schwartz to help with that – determining what is needed and not needed. Ms. Schwartz said that the term cost/benefits analysis might be intimidating but what it actually is, is comparing benchmarks – how do you meet those, what does it cost, where does the funding come from? Dr. McDonald stated that she thinks some of that is outside their scope. Ms. Schwartz replied that it is part of what public health should already be doing and that the information will be beneficial to them.

Ms. Thalhofer said that the Board has seen all this information before; it has been presented before – this will just be a different format.

Chair Hege said that it is not the Board's intention to overwhelm Public Health with work but the data is necessary in order to make an informed decision.

Ken Farner said that as a citizen he is interested but personally removed from Public Health and therefore knows very little. He said he thinks this can be a win-win by getting the citizenry informed about what we do and can do to have a healthy community. He said that he realizes that controversy sells papers, but he encouraged the media to help educate the citizenry.

Ms. Schwartz said the group will talk about the development of a communication plan.

Commissioner Kramer said that Dr. McDonald has been appointed as the Medical Examiner and is very busy. He stated that there is a need to raise the ME fees as we are grossly behind the market. He said that the Board of Health is considering raising it from $100 to $300. Ms. Thalhofer said that they are proposing to recover the cost of the ME and staff time – 3 hours of Health Officer time, 2 hours of Program Secretary time and a 5% admin fee.

Chair Hege asked when those services are used. Dr. McDonald replied that the ME is called in to clarify the cause of death when a death is unexpected or unintended. She added that the ME is on call 24/7 and is sometimes called to the scene. She said that some cases take just a little time while others take a significant amount of time. She said it makes sense to do actual cost billing. Ms. Thalhofer noted that statute states that if there is not an ME available if falls to the Health Officer.

Commissioner Kramer said that there are approximately 10 cases per quarter in Wasco County and it sits in the District Attorney's budget.

Ms. White stated that the public can sign up for emails that will deliver the agenda, a link to Board Packets and a link to Board Session minutes by going to the front page of the County website where there is a link to a sign-up form.

Ms. White explained that during the recess she had shown Commissioner Runyon the proposed letters of support for the South Wasco County Alliance.

*****Commissioner Runyon said that he is also in consensus to provide the letter of support for the SWA's application for non-profit status.*****

Chair Hege adjourned the meeting at 3:10 p.m.

Motions Passed

- **To adopt Ordinance 15-001 amending the Wasco County Fee Schedule.**
- **To approve the CAP Emergency Solutions Grant Work Plan.**
- **To deny the request to forgive all or part of the Mosier Fire District's special election fees.**
- **To approve the CAFFA Grant Resolution to participate in the Department of Revenue's Assessment and Taxation Grant.**
- **To approve Resolution 15-001 changing the type of employee contributions made to the Oregon Public Employees Retirement System.**
- **To approve Resolution #15-002 to pay the District Attorney a monthly stipend for the use of a personal cell phone with the following changes: modify the language to make the stipend at the discretion of the Board and change gender specific references to be gender neutral.**
- **To approve the Consent Agenda – 2.13.2015 Special Session Minutes & 4.1.2015 Regular Session Minutes.**

- **To approve the Oregon Department of Forestry IGA to administer a contract for Facilitation for the Mount Hood National Forest Collaborative.**
- **To declare an emergency and approve the Professional Services Contract for On-Call Accounting Consulting Services with Smith-Wagar Consulting, attaching the Administrative Officer's memo to the contract to in support of the emergency declaration.**
- **to approve Order 15-042 appointing Douglas Quisenberry as a representative of Wasco County on the QLife Budget Committee**

Consensus

- **To allow the County Clerk to waive County fees for any deeds needing to be re-recorded as a result of incorrect notarizations executed by the Sheriff's Office.**
- **To provide a letter of support for the South Wasco Alliance's application for non-profit status.**

WASCO COUNTY BOARD
OF COMMISSIONERS

_____
Scott Hege, Commission Chair

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Rod Runyon, County Commissioner

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Steve Kramer, County Commissioner

WASCO COUNTY BOARD OF COMMISSIONERS
SPECIAL SESSION
APRIL 29, 2015

PRESENT:	Scott Hege, Commission Chair
	Rod Runyon, County Commissioner
	Steve Kramer, County Commissioner
STAFF:	Tyler Stone, Administrative Officer
	Kathy White, Executive Assistant

Chair Hege opened the session at 4:30 p.m. with the Pledge of Allegiance.

Agenda Item – Fee Waiver Request

County Counsel Kristen Campbell reported that there has been a request for a fee waiver related to a public records request filed by John Wood. She stated that experience with prior records requests has made it possible to calculate a fair estimate of the costs that will be incurred to fulfill the request; that estimate has been supplied to Mr. Wood. Ms. Campbell explained that the standard for waiving the fee is that it be in the public's interest. She said that Mr. Wood is present and she would invite him to speak to that.

John Wood of The Dalles said he believes the estimates are overstated especially based on what happened with John McHenry. He said fulfilling the request will take less than two hours of IT time. He said that the cost estimate is exorbitant which is not in the public interest.

Chair Hege asked Ms. Campbell what the request is based upon. Ms. Campbell responded that this was made pursuant to discovery for litigation. She said that the

County felt the discovery request was overbroad and filed a motion for a protective order. Following the filing of the motion, Mr. Wood submitted the records request which spans from 2013 to present for the entire County. The request was then revised to any and all correspondence, texts, phone records and emails – even deleted items – for specific County employees. She stated that it will take a significant amount of time to complete, particularly the phone records. She said they have worked with IT to get some indication of the volume; it appears it will be in the thousands. She went on to say that there are no subject parameters and all documents will need to be reviewed for confidentiality. She noted that there are approximately 100 exemptions that will apply. She stated that statutes pass that cost on to the requestor unless it is deemed to be in the public interest.

Chair Hege asked Ms. Campbell to confirm that initial request came in pursuant to a suit filed by Mr. Wood. Ms. Campbell replied that the initial request for the information was for discovery. The County filed a motion for a protective order in response to the request for discovery; following the filing the same request was made as a public records request.

Chair Hege asked how that is different than the first request – is this an attempt to get around that? Ms. Campbell replied that that is her assumption as it circumvents the process.

Mr. Wood stated that although he has requested records since 2013, the County can only go back one year on their server. Chair Hege replied that he is pretty sure that is not true. Commissioner Kramer asked if that is the information Mr. Wood received from the County IT department. Mr. Wood replied that it is.

Chair Hege noted that Mr. Wood is not just asking for one year of information. He asked Ms. Campbell if the decision to be made today is whether or not the request is in the public interest. Ms. Campbell replied that it is.

Chair Hege stated that it seems that this is part of the law suit. Ms. Campbell said that the caption of the public records request is identical to the lawsuit – the public request sites the lawsuit. That lends evidence to the conclusion that it is actually part of the lawsuit.

Chair Hege asked Ms. Campbell if there was something in the request that she believes

the Board should consider to support the requestor's conclusion that this is in the public interest. Ms. Campbell replied that she has not seen any evidence or information that supports the conclusion that this is in the public interest.

Chair Hege observed that the lion's share of the cost will be for legal review. He said that while he would be willing to donate his own time, he would not be willing to pass along attorney fees to the public. Ms. Campbell pointed out that some fees have already been waived during this ongoing process. Chair Hege stated that he is not inclined to grant a fee waiver except any of his own time that is required.

Mr. Wood asked how much it cost for Ms. Campbell to shadow him to Salem and back on Monday. He said that he had gone to testify on an ethics bill and Ms. Campbell was there to say that everything he said was false and misleading. Chair Hege replied that that doesn't have anything to do with this discussion.

Commissioner Kramer said he too refuses to use any more taxpayers dollars to proceed with a frivolous and irresponsible fishing trip.

{{{Commissioner Kramer moved to deny Mr. Wood's request for a fee waiver for his public records request. Commissioner Runyon seconded the motion.

Discussion

Commissioner Runyon said that he too would waive his own time but that is not where the costs are and the actions are ludicrous.

The motion passed unanimously.}}}

At 4:48 p.m. Chair Hege opened an Executive Session pursuant to ORS 192.660(2)(h) to confer with legal counsel regarding litigation.

The regular session reconvened at 5:01 p.m.

Agenda Item – Duties for Finance/Treasury

Mr. Stone reminded the Board that the County has had some significant audit findings regarding several issues, some surrounding the Treasurer's Office. He noted that in response to those findings, the County has brought in a consultant to help address the issues – specifically, to catch up the work and get in place some policies and procedures

that will keep the County on track. He introduced Debbie Smith-Wagar, County Consultant, who has met with all departments to review processes and procedures.

Ms. Smith-Wagar said she has audited government entities and is a licensed municipal auditor. She said she has also implemented processes for government entities. She said she has seen a lot and Wasco County is unique.

Ms. Smith-Wagar stated that the Wasco County Finance Department is responsible for the annual financial report and for the budget which are public documents. She noted that the way things are set up now, the Finance Department does not have control of all of the information necessary to create those documents. She stated that the County is asking the Finance Department to attest to financial statements that they cannot verify. She said this has happened over the last year as communication has broken down, adding that the Treasurer is difficult to find during regular business hours.

Chair Hege noted that staff has faced that same issue.

Ms. Smith-Wagar said that to be fair to the Finance Department, they need to have control of the information so they can go forward with confidence when verifying documents. She said that she has been able to get the necessary information and reconciliations now appear to be up-to-date. However, the information is not being volunteered by the Treasurer – you have to ask for it. It does appear to be entered into the system.

Commissioner Runyon asked if there are duties beyond the statutory duties. Ms. Smith-Wagar replied that there are and it seems as though the elected officials' duties and the FTE duties have been combined and should be pulled apart.

Commissioner Kramer asked if everything is reconciled through 3.31.2015. Ms. Smith-Wagar replied that it appears so; she said that she has not looked at every line and there are some slight discrepancies that need to be cleaned up, but it is information that can be relied upon.

Mr. Stone stated that since the regular and secondary audits, things have been getting caught up – that does not change our ability to manage the finances and be able to understand what is happening. He said that he believes it is important to gather those Treasury tasks and move them into the finance office, getting processes in place so that this circumstance cannot happen again. He pointed out that there are some challenges

as some of the duties are statutory but the work can be done in the Finance Department and the Treasurer in his/her statutory capacity can review that. Ms. Smith-Wagar noted that just having the information in Eden is not the entire picture. For instance, there are landfill fees – if there is an anomaly, the Finance Director needs to know if it is a one-time occurrence or an annual occurrence. Currently the Treasurer is keeping that in his office and she has no way of knowing if there is an error that needs to be reviewed.

Mr. Stone stated that it is his opinion that the County has to get control of this process. He pointed out that the Pauly Rogers report stated that "It appears the Treasurer does not have the accounting education or training to complete the accounting functions accurately. This prohibits timely financial reporting, reconciliation and documentation of internal controls working properly. Non-statutory work of the Treasurer should be reallocated to the Finance department to ensure timely and accurate completion."

Chair Hege asked that if the Board does that will there be resources allocated to the Finance Department to do that work. Mr. Stone replied that there is an additional employee in Finance now who is working with Ms. Smith-Wagar.

Commissioner Runyon asked Mr. Stone that for the areas that Ms. Smith-Wagar has jump-started, what does he see going forward – is this temporary or long-term.

Mr. Stone replied that it is immediate – we need to get this done to be ready for the upcoming audit. However, in the long-term those avenues need to be in the department that prepares the budget with the necessary controls in place.

Commissioner Runyon stated that going forward, in addition to columns of numbers, he would like to see regular reports from Finance on how this is working. He said he does not want to be in the daily business of any County department, but would like some reporting on how the new arrangement is working.

Mr. Stone replied that they will have a report as part of Ms. Smith-Wagar's work; going forward there will be policies and procedures – part of that will be regular reporting to the Board of Commissioners.

Commissioner Runyon said that he would think the Treasurer would welcome the help in getting caught up and opening avenues of communication.

Chair Hege said that what he is hearing is that it is positive that things are caught up and are better. He said he feels positive about that but concerned about the upcoming audit. The County wants to have a good audit. Ms. Smith-Wagar said that the information is being caught up but is not being shared.

Mr. Stone said that he does not see that the situation will get better.

Chair Hege asked how the Finance Director will get that information. Ms. Smith-Wagar responded that if the duties are moved, the Finance Director will have that information.

Mr. Stone said that he asked legal counsel to draft a resolution that would move the duties. He provided it to the Board for review and consideration.

Chair Hege reiterated that he wants to make sure that if the duties are moved, there are resources to support that. Finance Director Monica Morris said that what she has now is a temporary employee; she will need to find a permanent full-time employee.

Commissioner Runyon asked Ms. Morris for her perspective – is this a good path? He noted that the County has an exemplary Finance Department. Ms. Morris replied that her department's stance is that it is their role to protect public funds, be transparent and help the departments. She said that under the current circumstances they have not been able to do that. She said that she sees this as an avenue for her department to be more informed and better prepared to serve the public.

Chair Hege asked for confirmation that policies and procedures will be developed and put into place for this new distribution of work. Ms. Smith-Wagar replied that they have already been talking about the internal controls that should be reviewed regularly to insure that duties are appropriately divided. She said that the auditor will also review those processes and procedures and weigh in.

County Counsel Bradley Timmons stated that the proposed resolution would implement policies and it has been reviewed by Counsel. He said if they see any changes they would like to make, they can refine it here and proceed with it.

Commissioner Runyon read the Resolution 15-002 (attached) into the record.

Chair Hege asked for any comments.

County Assessor/Tax Collector Jill Amery said that she sees this as a positive move forward.

Chair Hege asked for a definition of "Custodial Officer" under ORS 294.004. Ms. White read the definition from the ORS: "Custodial officer means the officer having custody of the funds of any county, municipality, political subdivision or school district." Ms. Campbell characterized it as a catch-all position.

Chair Hege noted that the resolution states that it will stay in effect until another resolution is passed that changes it. Mr. Stone confirmed that the Board can review and change those duties at any time.

Chair Hege asked if it is Mr. Stone's and legal counsel's recommendation to adopt this resolution so the County can move forward. Mr. Stone replied that he believes the County had a fiduciary duty to do so.

{{{Commissioner Kramer moved to approve Resolution 15-002 establishing duties and responsibilities regarding revenue, accounting, investing and other financial and administrative matters. Commissioner Runyon seconded the motion.

Discussion:

Mr. Timmons pointed out that this is not an ordinance that needs to be codified – it is a policy under resolution. He stated that the Treasurer receives notices of these meetings and had an opportunity to attend. He reported that the Treasurer has put County administration on notice that he is not going to communicate with them or their attorneys. The communication from the Treasurer through this process has been none. He said that he thinks time is of the essence – the County's legal obligation is to put this in place. He pointed out that the County has received recommendations and the Treasurer has had ample time to weigh in – this has been a lot of work and has not happened overnight. He stated that there have been two audits; this has been well-documented and the documents have been publicly available.

Commissioner Kramer said that he has attended 30 Board sessions and has seen the Treasurer there maybe twice.

Chair Hege restated that he wants to make sure that if they move forward with this, resources are put in place to support that work in the Finance Department.

Chair Hege called for a vote; the motion passed unanimously.}}}

News reporter Rodger Nichols said that looking at the noticed agenda it does not say anything about massive changes. Commissioner Kramer pointed out that this is not the first session at which this topic has been discussed at length. Mr. Nichols stated that he has not heard about this before. Commissioner Runyon replied that when Pauly Rogers presented their report they made the recommendation for this action.

Mr. Timmons said that this is a public meeting and the Board is acting on legal advice.

Chair Hege adjourned the session at 5:41 p.m.

Motions Passed

- **To deny Mr. Wood's request for a fee waiver for his public records request.**
- **To approve Resolution 15-002 establishing duties and responsibilities regarding revenue, accounting, investing and other financial and administrative matters.**

WASCO COUNTY BOARD
OF COMMISSIONERS

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Scott Hege, Commission Chair

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Rod Runyon, County Commissioner

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Steve Kramer, County Commissioner

Agenda Item
Lane County Ascend Support Contract

- Intergovernmental Agreement for Ascend/Proval Software Support

INTERGOVERNMENTAL AGREEMENT
FOR ASCEND/PROVAL SOFTWARE SUPPORT

A. Purpose:
This Agreement is entered into between Lane County and five other Oregon counties, Crook County, Gilliam County, Lake County, Wasco County, and Wheeler County. Collectively, Crook, Gilliam, Lake, Wasco, and Wheeler counties constitute the "Partners". Lane County and the Partners (collectively, the "Parties") are each political subdivisions of the State of Oregon and units of local government as defined by ORS 190.003. Lane County and the Partners have entered into this Agreement for the purpose of collaborating in the support and development of the Partners' automated assessment and taxation systems.

B. Recitals:
WHEREAS, ORS 190.010 and the Lane County Home Rule Charter provide that units of local governments may enter into agreements for the performance of any or all functions and activities that a party to the agreements, its officers or agents, have authority to perform, and

WHEREAS, Lane County and all the Partners have the authority to perform the functions and activities set forth in the Agreement, and

WHEREAS, the Partners have developed their agency business practices around the Ascend/ProVal Software system functions and data, and

WHEREAS, there is a need to examine, plan and cooperate in business and governance changes that make sense to all in the context of using shared, standardized systems and support, and

WHEREAS, the shared, standardized support of the Partners' automated taxation systems will deliver significant operational and cost efficiencies, and

WHEREAS, Lane County has experience providing shared, standardized support and has experience supporting Ascend/ProVal Software,

C. Now therefore, the Partners and Lane County agree as follows:

- An Ascend/ProVal Executive Steering Committee (Ascend/ProVal ESC) formed by this Agreement and sustained for the duration of the Agreement will be responsible for the high level direction of Lane County resources provided by this Agreement for the purpose described. The Ascend/ProVal ESC must include at least the following individuals or their designees: Assessor of each Partner county and Taxation Collector of each Partner county.

The Ascend/ProVal ESC.will be responsible for:

- High level direction of the Lane County resources committed by this Agreement
- Providing agreed upon personnel and resources of the Partners
- Policy decisions related to the Project
- Major functionality decisions

The Ascend/ProVal ESC shall establish a regular meeting schedule that the Partners agree is suitable to provide direction for the Project.

Ascend/ProVal ESC decisions require consent of all committee members.

1. The Partners will provide funding and other resources in accordance with the attached Statement of Work (SOW).

2. Lane County will provide services in accordance with the attached SOW.

3. The Partners agree to provide all computing infrastructure and software licenses required to operate the Ascend/ProVal software. The Partners also agree to provide remote connectivity to this infrastructure for Lane County staff in a manner mutually agreeable to Lane County and the Partners.

4. Lane County Information Services will be responsible for:
   - Development and management of this Agreement.
   - Development and management of a Service Level Agreement between the Partners and Lane County defining the specific responsibilities of each.
   - Providing agreed upon Lane County personnel and resources.

D. Term & Termination:
This Agreement is effective July 1, 2015 and expires on June 30, 2017 unless extended by written mutual agreement.

This Agreement may be terminated, for any reason, by Lane County or by any Partner with respect to that Partner's rights and duties by written notice given to the other Partners by December 31st of each year, to begin on July 1st of the next fiscal year.

In the event of termination, and during the period of notice, the Ascend/ProVal ESC will develop a termination plan to accomplish the removal of each terminating Partner's interest, if any, in Ascend/ProVal Software ongoing support. The Ascend/ProVal ESC will also define plans for ongoing Ascend/ProVal support which may or may not result in a new agreement between any two or more remaining Partners.

E. Dispute Resolution:
The Parties are required to exert every effort to cooperatively resolve any disagreements that may arise under this Contract. This may be done at any management level, including at a level higher than the persons directly responsible for administration of the Contract. In the event that the Parties alone are unable to resolve any conflict under this Contract, they are encouraged to resolve their differences through mediation or arbitration, using such process as they may choose at the time.

F. Indemnification:
Each of the Partners and Lane County is responsible for its own acts, and the acts of its employees, agents, officers, and elected officials. Each of the Partners is responsible, on a proportional basis, for Ascend/ProVal ESC decisions and actions implementing those decisions, subject to applicable legal limitations.

In taking this responsibility and providing the services specified in this Agreement (and any associated services) all Parties are public bodies and maintain their public body status as specified in ORS 30.260. All Parties understand and acknowledge that each retains all immunities and privileges granted them by the Oregon Tort Claims Act (ORS 30.260 through 30.300) and any and all other statutory rights granted as a result of their status as local public bodies.

G. No Warranty:
Data and programs supplied by Lane County to Partners are provided on an "as is" basis. Lane County expressly disclaims any warranty or responsibility, express or implied, as to the accuracy, currency, or completeness of any data or programs supplied. Lane County has no responsibility to Partners for any failure of any hardware or software acquired by the Partners, or for future incompatibility in any such hardware or software resulting from any hardware or software change or redesign undertaken by Lane County.

H. Amendments:
This Agreement may be modified or extended by written agreement signed by all Parties. Such an amendment is effective when signed by all Parties.

I. Waiver:
The failure of any party to enforce any provision of this Agreement does not waive that or any other provision.

J. Force Majeure:
Neither the Partners nor Lane County are responsible for delay or default caused in part or in full by reasons beyond the party's reasonable control, including without limitation, strikes or other labor difficulties, inability to obtain necessary governmental permits and approvals (including building permits or certificates of occupancy), unavailability or scarcity of materials, war, riot, civil insurrection, accidents, acts of God or nature, and governmental preemption in connection with a national emergency. The Parties shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default, and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

K. Merger
This Agreement constitutes the entire agreement between the Parties. No waiver, consent, modification, or change of terms of this Agreement binds any party unless in writing and signed by all Parties. Such waiver, consent, modification, or change, if made, is effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The Parties, by signature of their authorized representatives, hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Lane County

_____ _____
Steve Mokrohisky, County Administrator Date

APPROVED AS TO FORM
Date_____ Lane County

_____
OFFICE OF LEGAL COUNSEL

Crook County

_____Date_____ _____Date_____
Mike McCabe, Chairman Ken Fahlgren, Commissioner
Crook County Board of Commissioners Crook County Board of Commissioners

_____Date_____
Seth Crawford, Commissioner
Crook County Board of Commissioners

Gilliam County

_____Date_____ _____Date_____
Steve Shaffer, Judge Michael Weimar, Commissioner
Gilliam County Board of Commissioners Gilliam County Board of Commissioners

_____Date_____
Dennis Gronquist, Commissioner
Gilliam County Board of Commissioners

Lake County

_____Date_____ _____Date_____
Bradley J. Winters, Chairman Ken Kestner, Vice-Chairman
Lake County Board of Commissioners Lake County Board of Commissioners

_____Date_____
Dan Shoun, Commissioner
Lake County Board of Commissioners

Wasco County

_____ Date: 5.6.2015
Scott Hege, Commission Chair
Wasco County Board of Commissioners

_____ Date: 5.6.2015
Rod Runyon, Commissioner
Wasco County Board of Commissioners

_____ Date: 5.6.2015
Steve Kramer, Commissioner
Wasco County Board of Commissioners

APPROVED AS TO FORM:

_____
Kristen Campbell
Wasco County Counsel

Wheeler County

_____ Date: _____
Patrick C. Perry, Judge
Wheeler County Court

_____ Date: _____
Rod Ordway, Commissioner
Wheeler County Court

_____ Date: _____
Lynn Morley, Commissioner
Wheeler County Court

Attachment A

Statement of Work

1. Payment:

The Partners agree to pay to Lane County the following amounts in exchange for the services described in this Statement of Work (SOW):

	TOTAL	Crook	Gilliam	Lake	Wasco	Wheeler
For services in FY15/16	$103,320	$20,664	$20,664	$20,664	$20,664	$20,664

	TOTAL	Crook	Gilliam	Lake	Wasco	Wheeler
For services in FY16/17	$106,420	$21,284	$21,284	$21,284	$21,284	$21,284

Payment will be due in twelve monthly installments beginning in July, 2015.

Funding for services will be arranged by each Partner in accordance with the policies and procedures of that Partner and independently of the other Partners.

2. Services:

Lane County agrees to provide services to the Partners as follows:

Ascend/ProVal Core Services:

Tax Certification & State Mandated Deliverables

- June 30th Report
  - Complex Scripting
  - Generate Documents
  - Balancing
- Tax Roll Processing
  - Pre-Checks
  - Balancing (Before and After)
- Tax Statements
  - Pre-Checks
  - Balancing
  - Tax Statement Generation
  - Overall Troubleshooting
- SAL Reports
  - Pre-Checks

- Extensive Balancing
- SAL Reports Generation
- Overall Troubleshooting

Software Support
- Install Ascend & ProVal on workstations
- Ascend & ProVal Troubleshooting
- Minor Patching and Updates of Ascend & ProVal

Database Administration
- Daily Monitoring of Disk Space, Log Files, SQL Server/Services, Issues, Failed Logins, etc.
- Database Backups
  - Certified and Fiscal Year End
  - Daily backups to each county's servers
- Refresh of Production Data to Test System

Reporting
- Modify Custom Reports
- Generate New Reports as Requested

Miscellaneous
- Basic Support of Assessment & Taxation Processes
- Custom SQL Statements

In no event will services be provided that require more than 1260 hours during the fiscal year, including overhead hours such as vacation and sick time. Overhead hours will be applied to worked hours at a rate equal to the average Lane County Applications Division overhead rate.

Services Available for Additional Fee:

The following services are not included in the core Ascend/ProVal support services listed above, but are available for an additional fee. The fees listed below are valid for fiscal year 2015/2016. There will be a 3% increase in the fees for fiscal year 2016/2017.

Server Hosting:
Lane County will procure a server from Microsoft Azure or similar vendor, install SQL Server and Ascend/ProVal, and provide ongoing server support not covered by the support provided by Microsoft Azure or selected vendor.

1. Microsoft Azure server and related server support: **$550 per month or $6,600 annually** (We may be able to get government pricing. Pricing is subject to change and is based on Microsoft's current pricing model.)
2. Server setup by Lane County Staff to install SQL Server, Ascend, ProVal, etc.: **one time cost of $3,600**
3. Monthly Lane County server support: **$330 per month or $3,960 annually**

Hosted Workstations:
Lane County will setup and maintain virtual workstations on a hosted server for **$82 per month or $984 per year per workstation.**

Database Backups and Disaster Recovery Preparation:
Lane County will back up your databases to Lane County servers daily and complete Disaster Recovery Preparation tasks outlined below. Please note that this service does not include actual disaster recovery activities. The cost for database backups and disaster recovery preparation is **$415 per month or $4,980 annually**.

Disaster Recovery Preparation Tasks Include:

- Scripted (Daily) SQL Server database backups stored locally on the server, with at least two days kept resident locally at all times.
- Perform annual database consistency checks on all system and user database backups and verify their ability to be restored.
- Disk storage monitoring to prevent unexpected system shutdowns caused by running out of space.
- Compress and verify these backup files and send them to a separate storage location (not in the same server or SAN - in case of a SAN system failure) for longer term storage with at least two weeks of availability on hand. If that is not available or undesirable then allow us to copy those backups to our storage location and manage them in a similar fashion.
- Make copies of the Tax Year "Certified" backups and permanently keep them locally on the SQL Server and another storage location as discussed in the previous item.
- Script out all of the SQL Server configuration items and security settings and manage them in the same way as the backups are described above.
- Keep all passwords used by the system and the support staff in a password safe on our site that is also backed up to tape regularly.
- Keep all network configurations for our support VPN access documented and also backed up to tape regularly.
- Monitor daily all security and database changes made and update the affected parties so all documentation is kept current.

Miscellaneous Services:
Disaster recovery activities (i.e. database and SQL Server recovery) and all other activities not included as core IGA services, server hosting, or database backups and disaster recovery preparation will be billed out at the hourly rate of **$82 per hour**. Miscellaneous services other than disaster recovery activities are subject to Lane County resource availability.

Attachment B

Service Level Agreement

Purpose:

The purpose of this Service Level Agreement is to describe Lane County's and the Partners' respective responsibilities for Ascend/ProVal software support.

1. Service Level Essentials

1.1 Product/Systems Supported

- Services described in Attachment A of this Agreement.

1.2 Customer Locations

- Crook County
  200 NE 2nd Street, Suite 200
  Prineville, Oregon 97754

- Gilliam County
  PO Box 484
  Condon, Oregon 97823-0484

- Lake County
  513 Center St
  Lakeview Oregon 97630-1578

- Wasco County
  511 Washington Street, Suite 208
  The Dalles, Oregon 97058-2237

- Wheeler County
  PO Box 447
  Fossil, Oregon 97830

1.3 Hours of Support

Describes the standard hours of support Customer can expect from Lane County Information Services (LCIS)

- Support will be provided by LCIS during Standard Business Hours; Monday through Friday – 8:00 am to 5:00 pm.
- Support will be provided by LCIS during other hours on request. LCIS reserves the right to require 10 days' notice for changes in schedule that are non-emergency.
- It is anticipated that Customer and LCIS will work collaboratively during any critical periods to schedule needed coverage.

1.4 Scheduled Maintenance Windows

Software and hardware maintenance may require periodic system downtime to correct problems or install new versions. The window during which this maintenance will be performed is described below

- Anytime outside of standard business hours with two business days advance notice.
- Downtime to correct critical security and/or virus issues will occur "on demand" as determined by LCIS or Customer.
- Any other time that is mutually agreed upon.

1.5 Problem Reporting Process

Describes the customer's process for reporting problems

1. Contact and review issue with local "Super User" (see below for list of Super Users) who will determine whether LCIS should be contacted.
2. If LCIS is to be contacted, Super User contacts the appropriate LCIS Analyst first and if not available, contacts LCIS Management (see below for list of LCIS Analysts and Management).
3. Contact LCIS Service Desk when analyst and manager are not available and issue cannot wait. Service Desk will locate analysts or contact LCIS management in the event of an immediate problem.

1.6 Contact Information

- LCIS Service Desk:
  - Staffed 8:00 to 5:00; Monday through Friday; (541) 682-6789

- Customer Super User(s):
  - Crook County: Brian Huber & Rebecca Ott
  - Gilliam County: Dave Messenger & Jamie Aamodt
  - Lake County: Larry Reeder & Walt Lawton
  - Wasco County: Jill Amery & Marci Beebe
  - Wheeler County: Don Cossitt & Myrna O'Leary

- Customer Management:
  - Crook County Assessor: Brian Huber.....(541) 447-4133
  - Crook County Treasurer: Kathy Gray.....(541) 447-6554
  - Gilliam County Assessor: Dave Messenger.....(541) 384-3781
  - Gilliam County Treasurer: Nathan Hammer.....(541) 384-6321
  - Lake County Assessor / Tax Collector: Larry Reeder.....(541) 947-6923
  - Wasco County Assessor / Tax Collector: Jill Amery.....(541) 506-2512
  - Wheeler County Assessor: Don Cossitt.....(541) 763-4266
  - Wheeler County Treasurer: Sandra Speer.....(541) 763-2078

- LCIS Analysts:
  - Ascend/ProVal Support: John Logan, (541) 682-3843, LCISATAS@co.lane.or.us
  - Database Support: Brad Carpenter, (541) 682-4293, LCISDBA@co.lane.or.us

- LCIS Management:
    - Contract Support:
      Melissa Crane, GIS Manager, (541) 682-6950
      Melissa.Crane@co.lane.or.us
    - Assessment & Taxation Programming Support:
      Brad Welch, Business Applications Manager, (541) 682-4117
      Brad.Welch@co.lane.or.us
    - Database Administration:
      Lorren Blythe, Enterprise Applications Manager, (541) 682-6717
      Lorren.Blythe@co.lane.or.us

2. LCIS Responsibilities

2.1 Business Responsibilities

Describes the responsibilities that LCIS has for the day-to-day operation of the product/system listed under 1.1, Service Level Essentials

- Provide a single point of contact for emergency issues, the LCIS Service Desk.
- Provide support analysts.
- Provide Ascend/ProVal software support as described in Attachment A.
- Provide advance notice to customer of any software or hardware maintenance in accordance with section 1.4, Scheduled Maintenance Windows.
- Represent information technology issues to appropriate software vendors and obtain technical support from vendors as needed.

2.2 Problem Resolution

Describes the assistance provided by LCIS to resolve Customer Issues

- Analyst support, by telephone, for issues related to Ascend/ProVal support.
- Service Desk assistance, by telephone, during standard business hours for any emergency Customer questions/issues where the appropriate analyst can't be reached.

2.3 Database Administration and Backup/Recovery

Describes LCIS' responsibilities for infrastructure, application, and data backup

- LCIS will be responsible for maintaining server hardware, bandwidth, software, and other related infrastructure needed to provide services listed in Attachment A.
- LCIS will backup any files stored on Lane County servers, but Customer is responsible for maintaining all original, source, and copies of data unless LCIS is contracted to provide backup services for an additional fee.
- LCIS is not responsible for restoring SQL Server and its associated database backups unless the Database Backups and Disaster Recovery Preparation service is purchased for an additional fee. If LCIS is not providing Disaster Recovery Preparation services, Lane County cannot be held responsible for disaster recovery activities conducted outside of LCIS.

2.4 Training

Describes any training to be provided by LCIS for the product/system described under 1.1, Service Level Essentials

- Lane County will not provide any training under this agreement.

2.5 Documentation

Describes the types of documentation to be provided by LCIS

- Creation & maintenance of basic support documents, such as Ascend data dictionary and table definitions, responsibility matrix, issues log, etc.

3. Customer Responsibilities

3.1 Business Responsibilities

Describes the responsibilities that the Customer has for the day-to-day operation of the product/system described in section 1.1

- Access to up-to-date data via remote VPN connection.
- Maintenance of end-user hardware and infrastructure as well as related software licensing.
- Prompt reporting of problems and concerns and provision of supporting information. Collaboration with LCIS to resolve issues.

3.2 Problem Resolution

Describes the processes followed by the customer to resolve issues

- "Super User(s)" serve as first line of defense for any issues associated with services outlined in Attachment A.
    - "Super User" will try and resolve issue before calling LCIS Analyst or Management.
    - "Super User" will assist LCIS staff as needed for resolution of technical problems.

3.3 Backup/Restores

Describes Customer's responsibilities for data backup and recovery; describes related processes.

- Responsible for all backups/restores necessary to preserve source data in the event of system failure or site disaster unless jurisdiction contracts with LCIS for Database Backups and Disaster Recovery Preparation services purchased for an additional fee.

3.4 Training

Describes Customer responsibility for training related to Ascend/ProVal support described under 1.1, Service Level Essentials

- All end-user and public training on the use of Ascend/ProVal and related products.
- Creation & maintenance of all training documents other than base documents provided by LCIS described under 2.4 above.

3.5 Documentation

Describes the customers responsibility for documentation

- Creation of any documentation needed for jurisdiction specific processes or any other documents not provided by LCIS described under 2.5 above.

Agenda Item
Road Vacation Report

- Petition to Vacate Cedar Street Extension
- Road Vacation Report
- Order 15-044 Vacating Cedar Street Extension and Cul de Sac

PETITION

TO THE WASCO COUNTY BOARD OF COMMISSIONERS TO
511 WASHINGTON STREET
THE DALLES, OR 97058

LADIES/GENTLEMEN:

We, the following undersigned property owners of Wasco County, hereby petition you to vacate the following described portion of:

DESCRIPTION (
(Cedar Street extension and cul de sac lying west
(of Juniper Way within Block 3 of the Juniper Addition
(Subdivision, Tygh Valley
(Section 3, T4S, R13E WM

Attached hereto and by this reference made a part hereof is a map marked Exhibit "A", which shows in detail the above described road or street.

REASON TO VACATE (
(This right-of-way has never been developed as a public
(road and is not necessary to allow effective access to the
(adjoining properties
(

LIST OF ALL ABUTTING LANDOWNERS	ADDRESS
Teresa L. DiBartolo	P.O. Box 265, Tygh Valley, Oregon 97063
Joseph J. Cholick Family Trust	7620 SW Wilson Avenue Beaverton, Oregon 97008

All petitioners must be owners of property abutting the road sought to be vacated. Each petitioner must attach a signature page signed before a Notary. If 100% of the abutting landowners sign the petition, the road may be vacated without Public Hearing.

PETITIONED ROAD: Cedar Street, east of Juniper Way in Block 3, Juniper Addition Subdivision

NAME OF PETITIONER/ADDRESS Teresa L. Di Bartolo
P.O. Box 265, Tygh Valley, Oregon 97063

Jerome Cholick, Trustee of the Joseph J. Cholick Family Trust
7620 SW Wilson Avenue, Beaverton, Oregon 97008

Teresa L DiBartolo
Teresa Di Bartolo

Jerome J. Cholick TTE
Jerome Cholick, Trustee

STATE OF OREGON)
)
COUNTY OF WASCO) DATE 2/20, 2015

Personally appeared the above named Teresa Di Bartolo acknowledged the foregoing instrument to be a voluntary act and deed. Before me:

OFFICIAL SEAL
BENJAMIN BRIAN BESEDA
NOTARY PUBLIC-OREGON
COMMISSION NO. 468291
MY COMMISSION EXPIRES JUNE 04, 2016

Notary Public for OREGON (State)

My Commission Expires: JUNE 4, 2016

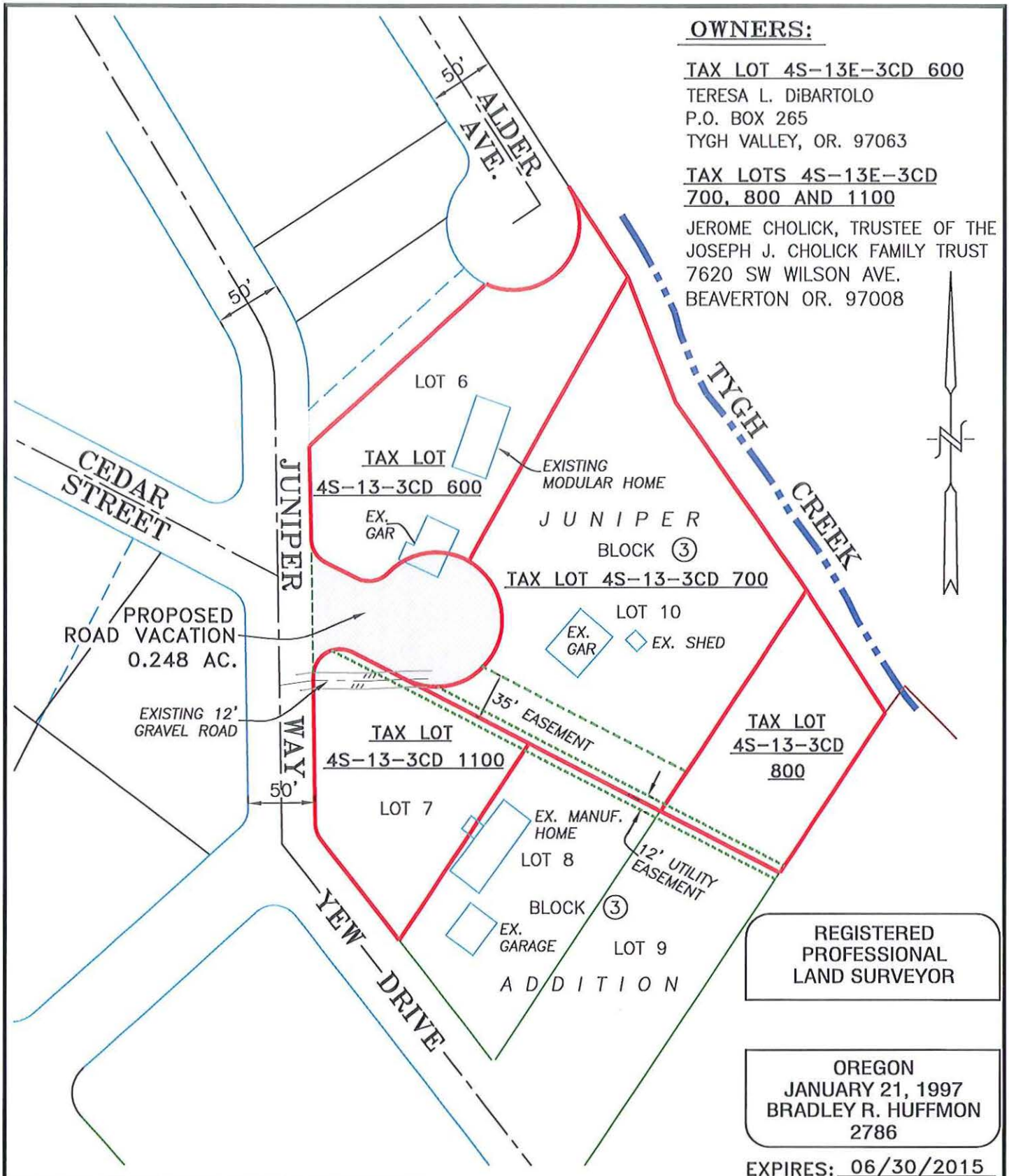
STATE OF OREGON)
)
COUNTY OF WASCO) DATE FEBRUARY 24, 2015

Personally appeared the above named Jerome Cholick, Trustee, acknowledged the foregoing instrument to be a voluntary act and deed. Before me:

OFFICIAL SEAL
BENJAMIN BRIAN BESEDA
NOTARY PUBLIC-OREGON
COMMISSION NO. 468291
MY COMMISSION EXPIRES JUNE 04, 2016

Notary Public for OREGON (State)

My Commission Expires: JUNE 4, 2016



Survey	Calc.	App.	Dwg. No.	Work Order No.	Drawn	Date	Scale	Sheet
T.E.C.	B.B.B.	B.B.B.	14485_RP(Exhibit)	14485	S.D.H.	2/18/2015	1"=100'	1 of 1

TENNESON ENGINEERING CORP.
CONSULTING ENGINEERS
3775 CRATES WAY
THE DALLES, OREGON 97058
PH. 541-296-9177 FAX 541-296-6657

EXHIBIT "A"
PROPOSED ROAD VACATION

PORTION OF CEDAR STREET IN BLOCK 3, JUNIPER ADDITION IN THE SE1/4 OF THE SW1/4, SECTION 3, TWP.4S, RANGE 13 E. W.M. TYGH VALLEY, WASCO COUNTY, OREGON

IN THE BOARD OF COMMISSIONERS

OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE PROPOSED VACATION OF CEDAR STREET EXTENSION AND CUL DE SAC LYING WEST OF JUNIPER WAY WITHIN BLOCK 3 OF THE JUNIPER ADDITION SUBDIVISION, TYGH VALLEY SECTION 3, T4S, R13E, W.M.	)))))))	REPORT OF PUBLIC WORKS DIRECTOR

TO THE HONORABLE BOARD OF COMMISSIONERS OF WASCO COUNTY, OREGON:

In compliance with the Order of the Board of Commissioners dated March 18, 2015, I have investigated the Public Road as follows:

CEDAR STREET EXTENSION AND CUL DE SAC

LEGAL DESCRIPTION

Cedar Street extension and cul de sac lying west of juniper Way within block 3 of the Juniper Addition Subdivision, Tygh Valley, Oregon, Section 3, T4S, R13E, W.M.

Attached hereto, and by this reference made a part hereof, is a map with photos marked as Exhibit “A” showing the location of the above described road.

Background

The petitioners, who own all the land on both sides of the right-of-way, wish to vacate because this right-of-way has never been developed as a public road and is not necessary to allow effective access to the adjoining properties.

If the road is vacated, the petitioners intend to file a partition plat in order to combine the four lots into three parcels. A private easement will be created by the plat and this easement will guarantee continued access to all properties. A copy of the proposed partition plat is attached as Exhibit “B”.

Facts and Findings

The right-of-way proposed for vacation is not developed and the topography is quite rocky and would require significant work to develop. The County has no current or future road needs for this right-of-way. There are some utilities located in the right-of-way proposed for vacation and those would remain within the existing utility easement.

Fiscal Impact

The right-of-way would revert to private ownership and onto the tax rolls. The County does not maintain this right-of-way now, so vacation would have no fiscal impact to the Public Works Department.

Recommendation

100% of the adjacent landowners have petitioned, so no public hearing is required. There is no public benefit to retaining this right-of-way. *It is my recommendation that the Board of Commissioners grant the vacation request.*

Dated this _____ day of _____, 2015

Arthur Smith
Director, Wasco County Public Works

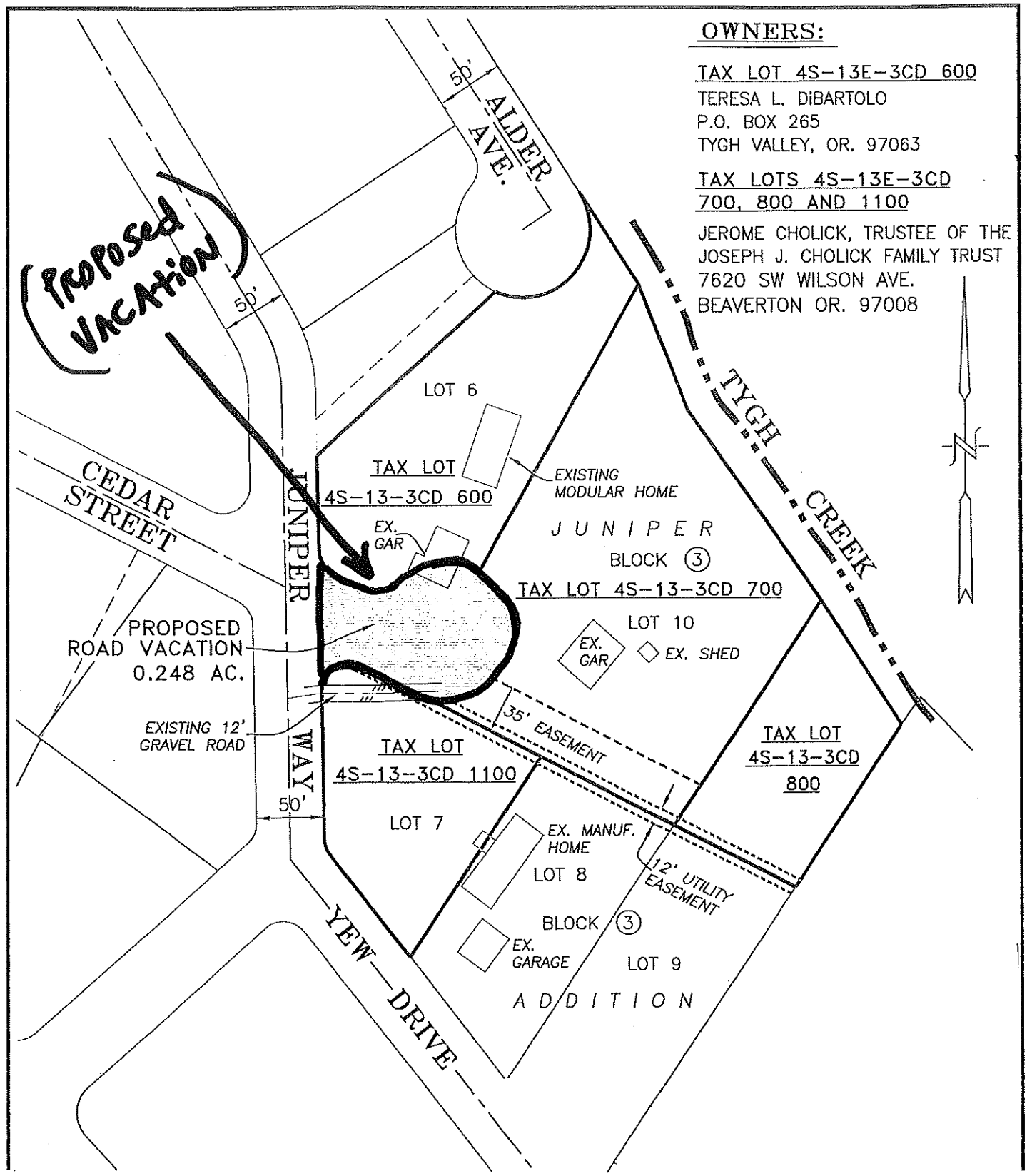

OWNERS:
TAX LOT 4S-13E-3CD 600
TERESA L. DiBARTOLO
P.O. BOX 265
TYGH VALLEY, OR. 97063
TAX LOTS 4S-13E-3CD 700, 800 AND 1100
JEROME CHOLICK, TRUSTEE OF THE JOSEPH J. CHOLICK FAMILY TRUST
7620 SW WILSON AVE.
BEAVERTON OR. 97008
(PROPOSED VACATION)
50'
ALDER AVE.
50'
TYGH CREEK
LOT 6
TAX LOT 4S-13-3CD 600
EXISTING MODULAR HOME
EX. GAR
CEDAR STREET
JUNIPER
JUNIPER BLOCK (3)
TAX LOT 4S-13-3CD 700
LOT 10
EX. GAR
EX. SHED
PROPOSED ROAD VACATION 0.248 AC.
EXISTING 12' GRAVEL ROAD
35' EASEMENT
TAX LOT 4S-13-3CD 1100
TAX LOT 4S-13-3CD 800
WAY
50'
LOT 7
EX. MANUF. HOME
LOT 8
12' UTILITY EASEMENT
BLOCK (3)
EX. GARAGE
LOT 9
YEW DRIVE
ADDITION

EXHIBIT "A"


EXHIBIT "A"

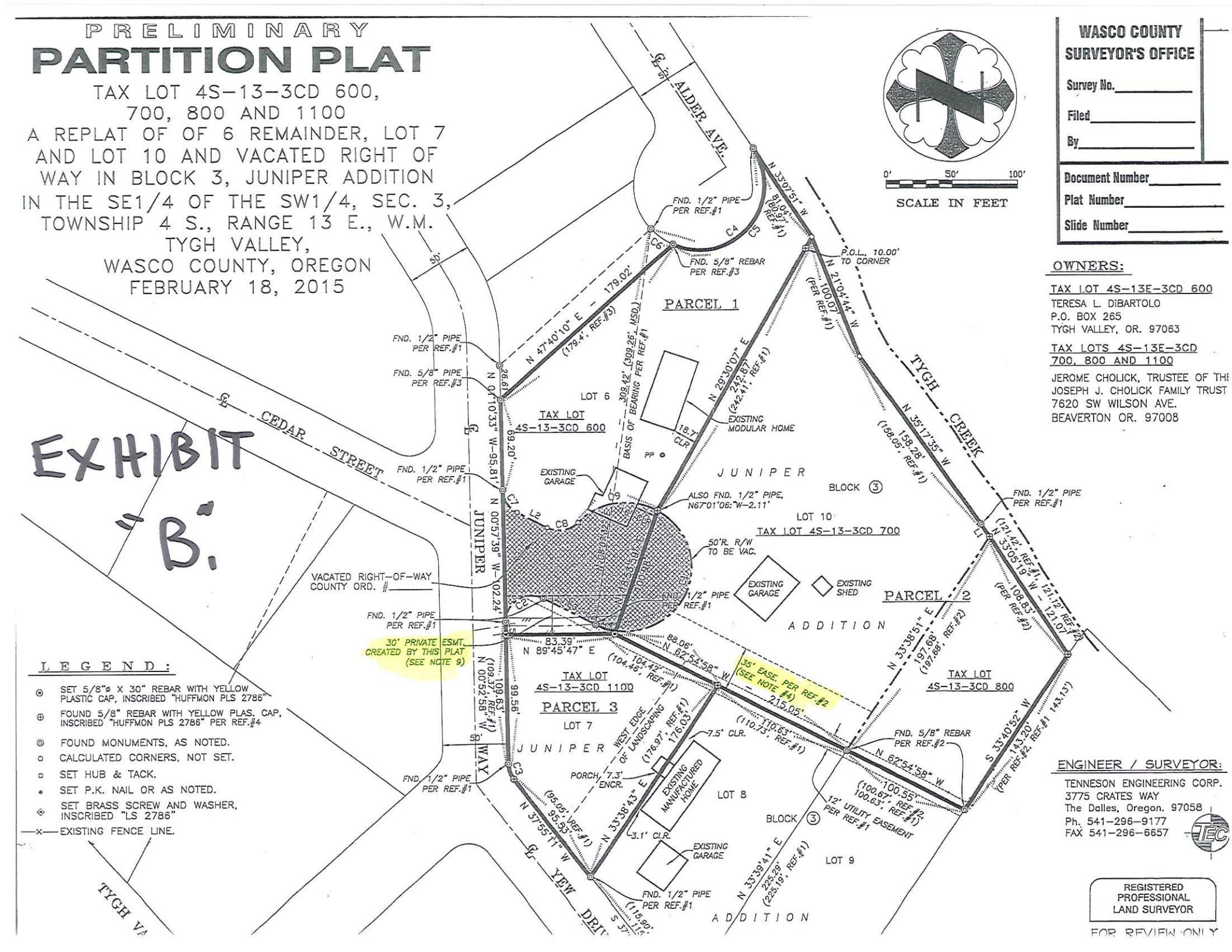

EXHIBIT "A"

PRELIMINARY

PARTITION PLAT

TAX LOT 4S-13-3CD 600,
700, 800 AND 1100
A REPLAT OF OF 6 REMAINDER, LOT 7
AND LOT 10 AND VACATED RIGHT OF
WAY IN BLOCK 3, JUNIPER ADDITION
IN THE SE1/4 OF THE SW1/4, SEC. 3,
TOWNSHIP 4 S., RANGE 13 E., W.M.
TYGH VALLEY,
WASCO COUNTY, OREGON
FEBRUARY 18, 2015

EXHIBIT "B"



0' 50' 100'

SCALE IN FEET

LEGEND:

- ⊙ SET 5/8"ø X 30" REBAR WITH YELLOW PLASTIC CAP, INSCRIBED "HUFFMON PLS 2786"
- ⊕ FOUND 5/8" REBAR WITH YELLOW PLAS. CAP, INSCRIBED "HUFFMON PLS 2786" PER REF.#4
- ◎ FOUND MONUMENTS, AS NOTED.
- ○ CALCULATED CORNERS, NOT SET.
- ▫ SET HUB & TACK.
- • SET P.K. NAIL OR AS NOTED.
- ◈ SET BRASS SCREW AND WASHER, INSCRIBED "LS 2786"
- —x— EXISTING FENCE LINE.

WASCO COUNTY SURVEYOR'S OFFICE

Survey No._____

Filed_____

By_____

Document Number_____

Plat Number_____

Slide Number_____

OWNERS:

TAX LOT 4S-13E-3CD 600
TERESA L. DiBARTOLO
P.O. BOX 265
TYGH VALLEY, OR. 97063

TAX LOTS 4S-13E-3CD 700, 800 AND 1100
JEROME CHOLICK, TRUSTEE OF THE
JOSEPH J. CHOLICK FAMILY TRUST
7620 SW WILSON AVE.
BEAVERTON OR. 97008

ENGINEER / SURVEYOR:

TENNESON ENGINEERING CORP.
3775 CRATES WAY
The Dalles, Oregon. 97058
Ph. 541-296-9177
FAX 541-296-6657

REGISTERED PROFESSIONAL LAND SURVEYOR

FOR REVIEW ONLY

PRELIMINARY

PARTITION PLAT

TAX LOT 4S-13-3CD 600, 700, 800 AND 1100
A REPLAT OF OF 6 REMAINDER, LOT 7 AND LOT 10 AND VACATED RIGHT OF WAY IN BLOCK 3, JUNIPER ADDITION
IN THE SE1/4 OF THE SW1/4, SECTION 3,
TOWNSHIP 4 S., RANGE 13 E., W.M.
WASCO COUNTY, OREGON
FEBRUARY 18, 2015

	CURVE	DELTA	RADIUS	ARC LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
	C1	177°43'10"	50.00'	155.09'	2511.92'	N 28°13'19" E	99.98'
		(177°34'17")		(154.96')		(N 28°17'15" E)	
	C2	117°58'00"	20.00'	41.18'	33.26'	S 58°06'02" W	34.28'
		(118°03'11")		(41.20')	(33.32')	(S 58°03'18" W)	(34.30')
REF.#1	C3	36°56'54"	19.04'	12.28'	6.36'	S 19°26'44" E	12.07'
		(37°00'00")	(20.00')	(12.92')	(6.69')	(S 19°28'17" E)	(12.68')
	C4	171°20'39"	50.00'	149.53'	660.68'	N 52°15'52" E	99.71'
		(170°57'42")		(149.19')		(N 52°16'09" E)	
	C5	147°44'57"	50.00'	128.94'	172.94'	N 40°28'00" E	96.07'
REF.#3		(147°19'17")		(128.56')		(N 40°26'49" E)	(95.96')
	C6	23°35'42"	50.00'	20.59'	10.44'	S 53°51'40" E	20.45'
		(23°38'25")		(20.63')		(S 54°08'36" E)	(20.47')
	C7	61°56'49"	20.00'	21.62'	12.00'	S 32°08'58" E	20.59'
REF.#1	C8	72°49'27"	20.00'	25.42'	14.75'	N 80°27'55" E	23.74'
	C9	75°18'33"	50.00'	65.72'	38.58'	S 81°42'28" W	61.09'

TAX LOT/MAP	ACCT. No.	CURRENT LOT #	EXITING AREA (AC.)	NEW PARCEL #	NEW AREA (AC.)
4S-13E-3CD 600	10613	REM. LOT 6	0.695 AC.	#1	0.910 AC.
4S-13E-3CD 700	10612	POR. LOT 10	1.263 AC.	#2	1.724 AC.
4S-13E-3CD 800	13340	POR. LOT 10	0.391 AC.	N/A	0.000 AC.
4S-13E-3CD 1100	10611	LOT 7	0.466 AC.	#3	0.429 AC.
RIGHT OF WAY	N/A	N/A	0.248 AC.	N/A	0.000 AC.
		TOTAL =	3.063 AC.		3.063 AC.

SURVEYOR'S CERTIFICATE:

EXHBIT "B"

FINAL PLAT

WASCO COUNTY SURVEYOR'S OFFICE

Survey No._____

Filed_____

By_____

RECORDING INFORMATION

Document Number_____

Plat Number_____

Slide Number_____

LEGEND:

- ⊙ SET 5/8"ø X 30" REBAR WITH YELLOW PLASTIC CAP, INSCRIBED "HUFFMON PLS 2786"
- ⊕ FOUND 5/8" REBAR WITH YELLOW PLAS. CAP, INSCRIBED "HUFFMON PLS 2786" PER REF.#4
- ◎ FOUND MONUMENTS, AS NOTED.
- ○ CALCULATED CORNERS, NOT SET.
- ▫ SET HUB & TACK.
- • SET P.K. NAIL OR AS NOTED.
- ◈ SET BRASS SCREW AND WASHER, INSCRIBED "LS 2786"
- —x— EXISTING FENCE LINE.

OWNERS:

TAX LOT 4S-13E-3CD 600
TERESA L. DiBARTOLO
P.O. BOX 265
TYGH VALLEY, OR. 97063

TAX LOTS 4S-13E-3CD 700, 800 AND 1100
JEROME CHOLICK, TRUSTEE OF THE JOSEPH J. CHOLICK FAMILY TRUST
7620 SW WILSON AVE.
BEAVERTON OR. 97008

NOTES:

1. BEARINGS BASED ON THE PLAT OF JUNIPER ADDITION BETWEEN THE FOUND MONUMENTS AS SHOWN ON THE SURVEY.
2. MONUMENTS SHOWN HEREON WERE RECOVERED OR SET ON _____ __, 2015.
3. THE SURVEYED PROPERTIES ARE VESTED IN JEROME J. CHOLICK TRUSTEE OF THE JOSEPH J. CHOLICK FAMILY TRUST BY DOCUMENT #2011-008340 FOR TAX LOTS 4S-13E-3CD 700, 800 AND 1100 AND IN TERESA L. DiBARTOLO BY DOCUMENT #2006-002008 FOR TAX LOT 4S-13E-3CD 600.
4. THE 35' ACCESS EASEMENT IS SHOWN AS PER REFERENCE No. 2. NO INVESTIGATION WAS MADE TO SEE IF THIS EASEMENT WAS ACTUALLY CREATED HOWEVER BEING AS TAX LOT 800 IN NOT A LEGAL LOT THIS EASEMENT IS NOT NEEDED AND IS EXTINGUISHED BY THIS PLAT.
5. TAX LOT 4S-13E-3CD 800 IS NOT A LEGAL PARCEL IT WAS NEVER FORMALLY PARTITIONED AS A LEGAL LOT. TAX LOTS 4S-13E-3CD 700 AND 800 ARE CONSIDERED AS ONE LEGAL LOT (LOT 10, BLOCK 3) FOR THIS REPLAT.
6. COMPREHENSIVE PLAN AND ZONING DESIGNATIONS: THE PROPERTIES ARE ZONED "TV-R", TYGH VALLEY RESIDENTIAL THE COMPREHENSIVE PLAN DESIGNATION IS RESIDENTIAL.
7. DOMESTIC WATER SUPPLY BY TYGH VALLEY WATER DISTRICT.
8. SANITARY SEWER BY PRIVATE ON-SITE DISPOSAL SYSTEMS. PARCELS 1 AND 2 CONTAIN APPROVED EXISTING SYSTEMS. PARCEL 3 WAS NOT INVESTIGATED.
9. THIS PRIVATE EASEMENT IS 30 FEET IN WIDTH AND FOR INGRESS, EGRESS AND UTILITIES ACROSS PARCEL 1 FOR THE BENEFIT OF PARCEL 2.

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF VACATING CEDAR STREET EXTENSION AND CUL DE SAC LYING WEST OF JUNIPER WAY WITHIN BLOCK 3 OF THE JUNIPER ADDITION SUBSIVISION, TYGH VALLEY SECTION 3, T4S, R13E WM	)))))	ORDER #15-044

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Board being present; and

IT APPEARING TO THE BOARD: That a petition, attached and by this reference incorporated herein, has been duly filed with this Board seeking the vacation of the below described Road; That upon initiation of these proceedings by said petition the County Road Official was directed by this Board to prepare and file with this Board a written report describing the ownership and uses of the Road and a determination of whether the vacation would be in the public interest; that said report, attached and by this reference incorporated herein, has been received by this Board; and

IT FURHTER APPEARING TO THE COURT: That as provided in ORS 368.351 because the report indicates that the County Road Official assessment is that

the vacation is in the public interest and these proceedings were initiated by a petition under ORS 368.341 that contained the acknowledged signatures of owners of 100% of any private property proposed to be vacated and acknowledged signatures of owners of 100% of property abutting any public property proposed to be vacated approving the proposed vacation hearing in this matter may be dispensed with and vacation of the subject road ordered.

NOW, THEREFORE, IT IS HEREBY ORDERED: That the following described Road located in Wasco County, Oregon, be and is hereby declared vacated:

CEDAR STREET EXTENSION AND CUL DE SAC

LEGAL DESCRIPTION

Cedar Street extension and cul de sac lying west of Juniper Way within Block 3 of the Juinper Addition Subdivision, Tygh Valley Section 3, T4S, R13E WM

DATED this 6th day of May, 2015.

WASCO COUNTY
BOARD OF COMMISSIONERS

APPROVED AS TO FORM:

Scott C. Hege, Commission Chair

Kristen Campbell
Wasco County Counsel

Rod L. Runyon, County Commissioner

Steve D. Kramer, County Commissioner

Public Works
Road Vacation Petition – Order for Report

- Road Vacation Petition
- Public Works Memo
- Order #15-047 Directing Road Master Report

PETITION

TO THE WASCO COUNTY BOARD OF COMMISSIONERS
511 WASHINGTON STREET
THE DALLES, OR 97058

LADIES/GENTLEMEN:

We the following undersigned property owners of Wasco County, hereby petition you to vacate the following described portion of:

DESCRIPTION (SEE ATTACHED

Attached hereto and by this reference made a part hereof is a map marked Exhibit "A", which shows in detail the above described road or street.

REASON TO VACATE (SEE ATTACHED

LIST OF ALL ABUTTING LANDOWNERS	ADDRESS
BELOZER JON	P.O. BOX 428, MAUPIN, OR 97037
PARKS LOREN E TRUST	PO BOX 5669, ALOHA, OR 97006

All petitioners must be owners of property abutting the road sought to be vacated. Each petitioner must attaché a signature page signed before a Notary. If 100% of the abutting landowners sign the petition, the road may be vacated without Public Hearing.

PETITIONED ROAD: (SEE MAP) UNNAMED PUBLIC ROAD A in SECTION 1 of TOWNSHIP 5 SOUTH RANGE 13 E. beginning at SOUTHERLY right of way STATE HWY 216 TRAVELING SOUTHERLY TO THE SOUTHERLY Right of way of UNNAMED PUBLIC ROAD B.

NAME OF PETITIONER/ADDRESS JON BELOZER
P.O. BOX 428
MAUPIN, OR 97037

Signature

STATE OF Oregon)
)
COUNTY OF Wasco) DATE 3/31, MW 2015

Personally appeared the above named Jonathan Perry Belozer
and acknowledged the foregoing instrument to be a voluntary act and deed. Before me: Melisa Walter

OFFICIAL SEAL
MELISA ANN WALTER
NOTARY PUBLIC-OREGON
COMMISSION NO. 478934
MY COMMISSION EXPIRES JULY 10, 2017

Notary Public for Oregon (State)
My Commission Expires: 7/10/2017

Note: If ownership is jointly held, simply add another signature line.

PETITIONED ROAD: (SEE MAP) Unnamed public ROAD A; in Section 1 of Township 5 South Range 13E. beginning at southerly right of way state hwy 215, traveling southerly to the southerly right of way of unnamed public Road B.

NAME OF PETITIONER/ADDRESS LOREN Ernest PARKS

Loren Ernest Parks.

Signature

STATE OF Nevada)

)

COUNTY OF Clark) DATE 3/18, 19 2015

Personally appeared the above named Loren Ernest Parks ~~*****~~

and acknowledged the foregoing instrument to be a voluntary act and deed. Before me:

L Bittner

Notary Public for Nevada (State)

My Commission Expires: 08/20/2018

Note: If ownership is jointly held, simply add another signature line.

LORENA BITTNER
NOTARY PUBLIC
STATE OF NEVADA
My Commission Expires: 08-20-18
Certificate No: 14-14638-1

State of Nevada
County of Clark

This instrument was acknowledged before me on 3/18/15
by Loren E. Parks ~~*****~~

L Bittner
(Signature of notarial officer)

February 18, 2015

Description:

Unnamed public Road A in Section 1 of TS 5S R13E beginning at southerly right of way of state Hwy 216, traveling southerly to the southerly right of way of unnamed public Road B.

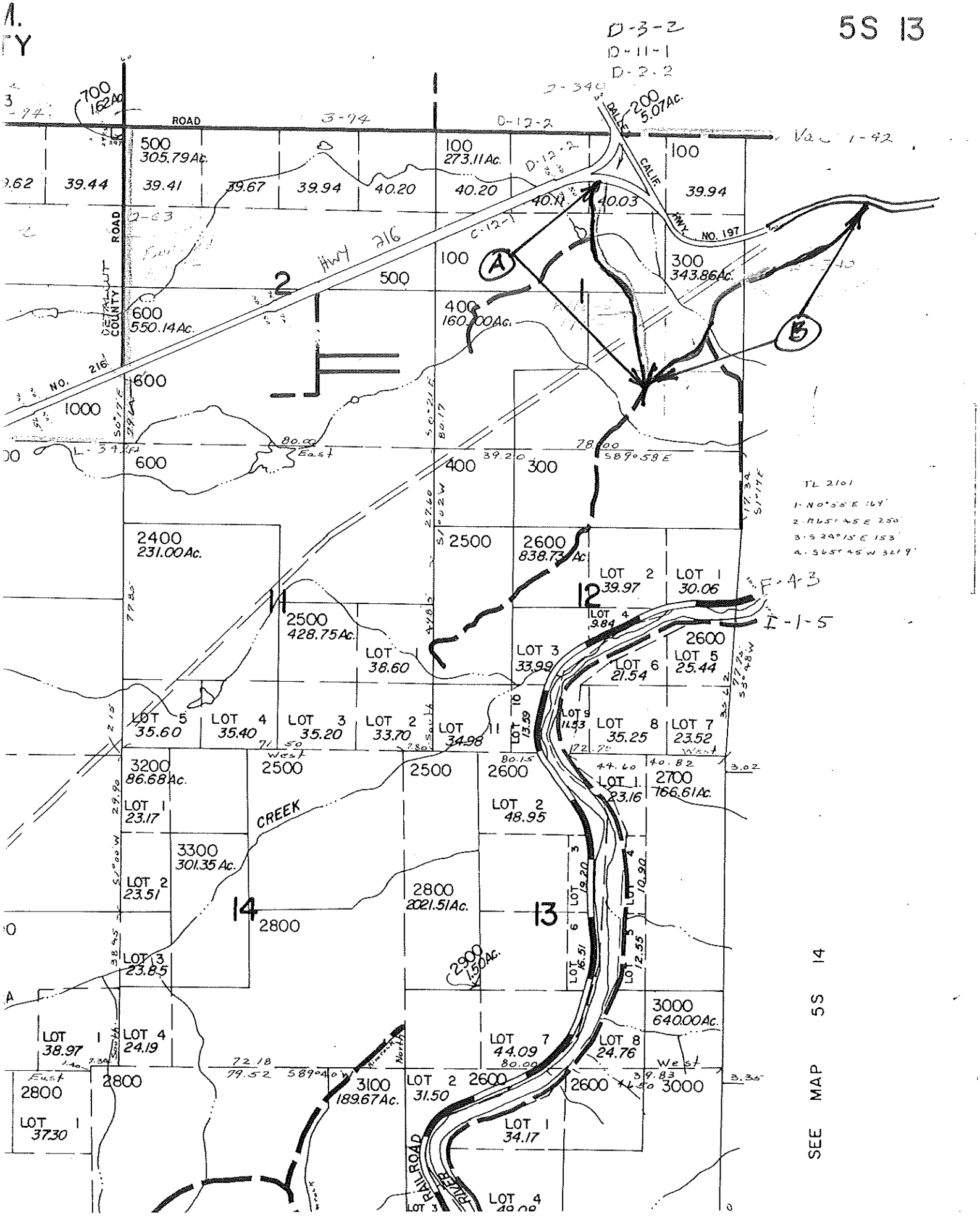
Reason to vacate:

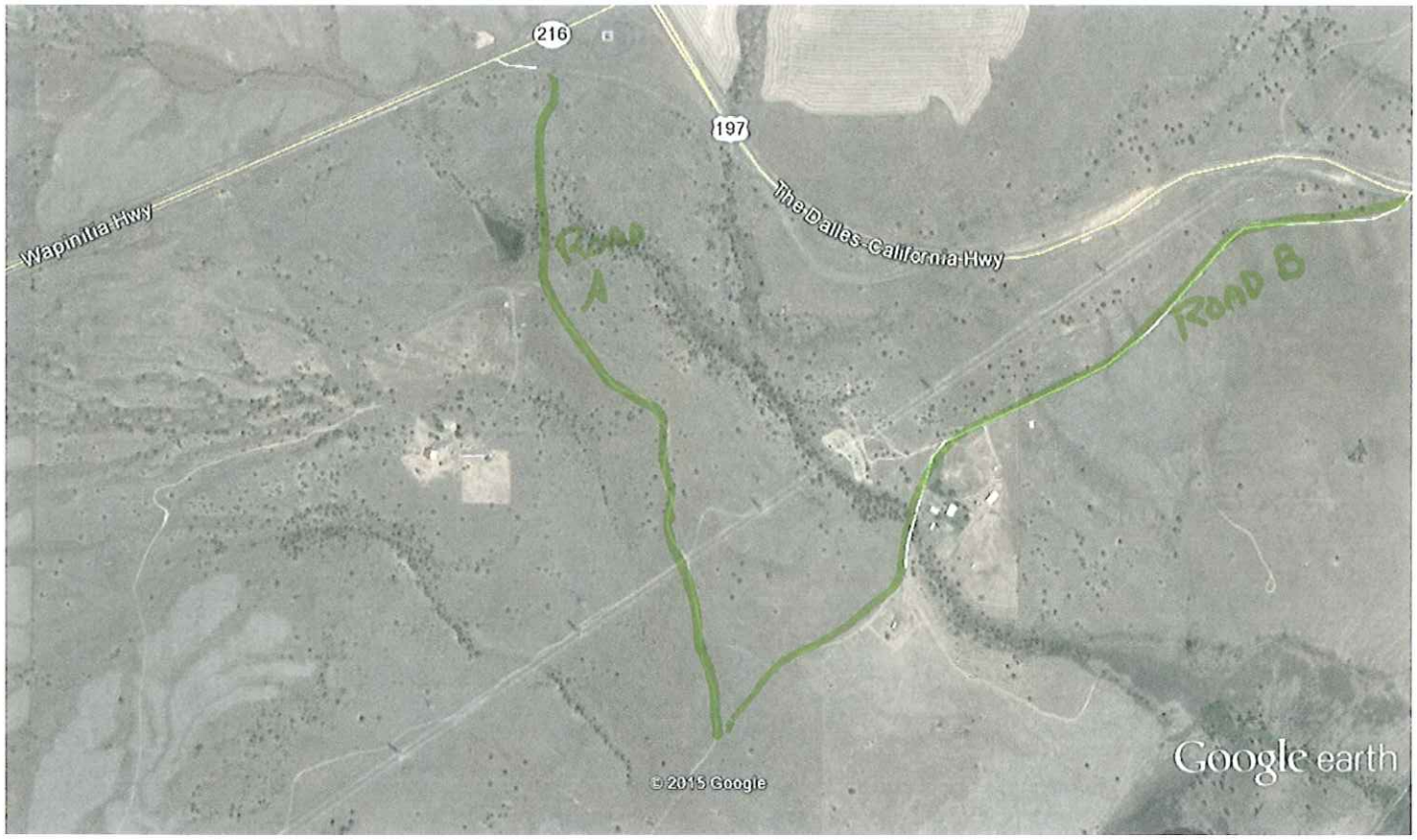
Public pull-out at the intersection of Hwy 197 and Hwy 216 is heavily used as a stopping point for the general public. We have owned our properties since 1998. Improving this road and making it an improved public access road could cause problems for both property owners with land adjacent to Road A.

Road A has not been utilized as an access to other properties since we retained ownership of our properties (Parks and Belozer). Road A only abutts Parks and Belozer properties. There are no other landowners with property connected to Road A.

Road A travels through a very wet section of land where a pond drainage runs across this road into a canyon. It is impassible in all but the driest months of the summer. In addition, Road A drops below the rim and is a rutted, boulder strewn road and requires 4-wheel drive to travel on it in good weather. Road A starts at the pull-out off of Hwy 216 and Hwy 197 intersection at 1665 feet elevation and ends connecting to Road B and 1494 feet elevation. A drop of 171 feet in elevation in .6 miles.

Unnamed public Road B can be used to access the same properties that road A would access. It has little to no gradient, is a drier route and is a shorter route to access properties beyond the Belozer and Parks properties. Road B starts at an elevation of 1450 feet and over the distance of .92 miles gains 44 feet in elevation to the intersection with Road A


5S 13
D-3-2
D-11-1
D-2-2
ROAD
3-94
D-12-2
DALLE
CALIF.
HWY NO. 197
HWY 216
DETAWUT COUNTY
CREEK
RAIL ROAD
RIVER
SEE MAP 5S 14
TL 2101
1. N0°55'E 164'
2. N65°45'E 250'
3. S 24°15'E 153'
4. S65°45'W 321.9'
700 162Ac.
500 305.79Ac.
100 273.11Ac.
200 5.07Ac.
100
300 343.86Ac.
400 160.00Ac.
600 550.14Ac.
1000
2400 231.00Ac.
2500 428.75Ac.
2600 838.73Ac.
3200 86.68Ac.
3300 301.35Ac.
2800 2021.51Ac.
2900 1.50Ac.
3100 189.67Ac.
3000 640.00Ac.
2700 166.61Ac.
LOT 1 30.06
LOT 2 39.97
LOT 3 33.99
LOT 4 9.84
LOT 5 25.44
LOT 6 21.54
LOT 7 23.52
LOT 8 35.25
LOT 9 11.53
LOT 10 13.59
LOT 11 34.98
LOT 1 23.16
LOT 2 48.95
LOT 3 23.85
LOT 4 24.19
LOT 1 38.97
LOT 2 31.50
LOT 7 44.09
LOT 8 24.76
LOT 1 37.30
LOT 1 34.17
LOT 4 48.09
LOT 1 23.17
LOT 2 23.51
LOT 1 35.60
LOT 2 33.70
LOT 3 35.20
LOT 4 35.40
LOT 5 35.60
LOT 38.60
12
11
13
14
A
B
1
2



Google earth

feet 4000
km 1

MEMO

WASCO COUNTY
PUBLIC WORKS

To: Wasco County Board of Commissioners

From: Arthur Smith, Public Works Director

Date: April 28, 2015

Subject: Petition to Vacate an un-named public road, lying South of Hwy 216

The Wasco County Public Works has received a properly prepared petition by landowners to vacate an un-named public road, located in Township 5 South, Range 13 East, Section 1, beginning at the southerly right-of-way of State Highway 216.

The petition included the required information:

1. A legal description of the road proposed to be vacated.
2. A statement of the reason for requesting the vacation of the road.
3. Names and addresses of all persons affected by the road proposed to be vacated.
4. Notarized signatures of either owners of 60 percent of the land abutting the road proposed to be vacated or 60 percent of the owners of land abutting the road to be vacated.

The petitioners also deposited with the Public Works Department a check in the amount of $500.00 which is the correct fee for initiating a petition for vacation of a road or public right-of-way.

To move forward with this request, the Wasco County Board of Commissioners would need to direct the County Road Official to prepare a written report on the proposed vacation.

The report must contain:

1. A description of the ownership of the road proposed to be vacated.
2. A description of the present use of the road proposed to be vacated.
3. An assessment of whether the vacation would be in the public interest.

IN THE COUNTY BOARD OF COMMISSIONERS

OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF DIRECTING THE PUBLIC WORKS DIRECTOR TO PREPARE HIS REPORT ON THE PROPOSED VACATION OF UNNAMED PUBLIC ROAD A IN SECTION 1 OF TOWNSHIP 5 SOUTH RANGE 13E BEGINNING AT SOUTHERLY RIGHT OF WAY STATE HWY 216 TRAVELING SOUTH TO THE SOUTHERLY RIGHT OF WAY OF UNNAMED PUBLIC ROAD B	ORDER #15-047

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Commissioners being present; and

IT APPEARING TO THE BOARD OF COMMISSIONERS: That a Petition, a copy of which is attached hereto and by this reference made a part hereof, has been duly filed seeking the vacation of Unnamed Public Road A located in Wasco County, Oregon described as follows:

UNNAMED PUBLIC ROAD A

LEGAL
DESCRIPTION

Unnamed Public Road A in Section 1 or Township 5 South Range 13E beginning at southerly right of way State Hwy 216 traveling southerly to the southerly right-of-way of Unnamed Public Road B.

Attached hereto and by this reference made a part hereof are maps marked Exhibit "A" and Exhibit "B" showing the location of the above described road.

IT FURTHER APPEARING TO THE BOARD OF COMMISSIONERS:

That pursuant to ORS 368.346 when a vacation proceeding has been initiated by Petition the Wasco County Board of Commissioners shall direct the County Road Official to prepare and file with the County Board of Commissioners a written report pursuant to ORS 368.346(1).

NOW, THEREFORE, IT IS HEREBY ORDERED: That the County Director of Public Works examine the above-described road and file a written report pursuant to ORS 368.346(1).

DATED this 6th day of May, 2015.

WASCO COUNTY
BOARD OF COMMISSIONERS

_____
Scott C. Hege, Commission Chair

APPROVED AS TO
FORM:

_____
Kristen Campbell
Wasco County Counsel

_____
Rod L. Runyon, County Commissioner

_____
Steven D. Kramer, County Commissioner

Public Works
Lone Pine Project

- ODOT Email
- Original IGA
- Public Works Director's Memo

WASCO COUNTY

Kathy White <kathyw@co.wasco.or.us>

Lone Pine Development Intergovernmental Agreement

DEHART Brad <Bradley.K.DEHART@odot.state.or.us> Tue, Apr 14, 2015 at 5:12 PM
To: "TylerS@co.wasco.or.us" <TylerS@co.wasco.or.us>, "KathyW@co.wasco.or.us" <KathyW@co.wasco.or.us>

Tyler and Kathy,
I'm sending this email to ask for your assistance in determining the process or participation that the Board of Commissioners will wish to have in approval of an Addendum to the Intergovernmental Agreement (IGA) for the Lone Pine Development. As you will see in the attached copy of the original IGA, parties to the agreement include the Developer (ICON), ODOT, The City of The Dalles and Wasco County. The primary reason for Wasco County involvement was due to the obligations of the developer to make improvements to the intersection of US197 and Bret Clodfelter Way (a county road). Those improvements were constructed several years ago in conjunction with the relocation of the intersection to Lone Pine Blvd, and will continue to function as intended with the future construction of the roundabout. As you may be aware, much of the Lone Pine area has changed ownership and we (ODOT) have been recently working with the new owners (Columbia State Bank) to develop an amendment to the original agreement that will bring everything up to current status. The new owners have proposed some revisions to the obligations in the original IGA that ODOT is receptive to granting, and which would be covered in the Amendment. Construction of the roundabout at US197 and Lone Pine Blvd is still planned to remain as an obligation of the developer/owner but we are discussing the likely elimination of the obligation to make improvements to the I84 eastbound off ramp. As mentioned above, the obligation that basically brought the County into the agreement has already been met.

If you could review the agreement which was originally signed by Dan Erickson and discuss with the BOC, I would sure appreciate hearing back from you or any of the Commissioners on this matter. Please feel free to reply or give me a call if you wish to discuss further.
Thanks

Brad DeHart, PE

Oregon Department of Transportation

Transportation Engineer

3313 Bret Clodfelter Way

The Dalles, OR 97058

(541) 296-2215 (ph)

(541) 296-1671 (fax)

bradley.k.dehart@odot.state.or.us

IGA #23174.pdf
2007K

COOPERATIVE IMPROVEMENT AGREEMENT
Icon West Developments, Inc.
Lone Pine Village Planned Unit Development (PUD 12-05)

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT;" City of the Dalles, acting by and through its elected officials, hereinafter referred to as CITY; Wasco County, acting by and through its elected officials, hereinafter referred to as COUNTY; and Icon West Developments, Inc., an Oregon corporation, hereinafter referred to as "ICON," collectively referred to as Parties.

RECITALS

1. US 197 and I-84 are a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission. Lone Pine Drive is a part of The Dalles city street system under the jurisdiction and control of City. Bret Clodfelter Way is a part of the Wasco County road system and under the jurisdiction and control of County.

2. Icon filed a Planned Unit Development (PUD) application for the approval of a conceptual plan for a mixed use development including commercial and residential (the "Application") with City on December 20, 2005. The proposed PUD and subdivision would create approximately 175,000 square feet of mixed use commercial space and 248 dwelling units. The property has a combination of CG and CR zoning with an existing PUD (PUD 9-94). This application seeks to significantly modify the existing PUD 9-94 for Lone Pine Village with additional development of both commercial and residential uses and has been assigned a new number: PUD 12-05. The location of the planned development is depicted on Exhibit A, attached hereto and by this reference made a part hereof.

3. City considers the PUD approval process a quasi-judicial action under the provisions of The Dalles Land Use & Development Ordinance, Section 9.050.030 and Section 3.020.050 A.3. ICON has requested conceptual approval for the overall development with subsequent detailed plans for the subdivision and individual developments to be approved administratively so long as they are consistent with the conceptual plan. Planned development regulations provide for flexibility in design, thus the existing regulations are a starting point for analysis, not the final resolution. ICON has requested several modifications of existing regulations.

4. On April 6. 2006, the City adopted Resolution No. 06-012, approving the conditional use permit for PUD 12-05 for ICON including several conditions of approval with regard to impacts to the transportation system under The Dalles Land Use and Development Ordinance Section 3.050.040 (c) (6).

5. In connection with its application and to help in the determination of its transportation impact obligations, ICON retained DKS Associates (DKS) to prepare a Transportation Impact Study for the proposed Lone Pine mixed use development.

6. As contemplated in the Transportation Impact Study prepared by DKS, the development potentially impacts the state highway system at: (1) the eastbound I-84 off ramp; (2) the proposed new intersection of Lone Pine Drive and US Highway 197; and, (3) the intersection of Bret Clodfelter Way and US Highway 197.

7. By the authority granted in ORS 810.210, ODOT is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where ODOT deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than ODOT, except with its written approval.

8. ICON is required as a condition of approval of the PUD to obtain approval from ODOT for the design and construction of certain improvements to the state highway system.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, the Parties agree that ICON shall design and construct, at ICON's expense, certain improvements to the state highway, city street and county road systems, collectively hereinafter referred to as "Project" in accordance with the terms of this Agreement. Project will consist of: 1) improvement to the US 197-Lone Pine Drive intersection by moving it north approximately 335 feet and building a roundabout (with traffic calming elements) as a traffic control device for the intersection; 2) construction of a right turn lane within the existing right of way on Bret Clodfelter Way; and 3) construction of a left turn lane at the I-84 eastbound off ramp at its intersection with US 197. As set forth below, the need and timing for each of the above elements of the Project will determined by ODOT.

2. The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A-1, and by this reference made a part hereof. The scope of the Project, including estimate, specific construction details, right of way improvements and other related elements of the Project as it relates to Lone Pine Drive Roundabout as described in ICON Obligation No. 2 are set forth on Exhibit A-2, attached hereto and by this reference made a part hereof. Additionally, estimates, specific construction details, right of way improvements and other related elements of the Project shall be developed and provided to ODOT for future improvements to Bret Clodfelter Way as described in ICON Obligations No. 3 and improvements to the Eastbound I-84 Off-Ramp as described in ICON Obligations No. 4 at a future

date when improvement thresholds are met as described below in this Agreement (See Icon Obligations).

3. Subject to the terms and conditions of this Agreement, ICON shall pay all Project costs. The estimated cost for the Project as it relates to ICON Obligation No. 2: Lone Pine Drive Roundabout is set forth on Exhibit A-2 and subject to change. The estimate for the total Project cost has not yet been determined

4. Notwithstanding any provision to the contrary in this Agreement, ICON shall have no responsibility to obtain right of way outside of its control in connection with any of its obligations under this Agreement.

5. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project, or 15 calendar years following the date all required signatures are obtained or on the date upon which the Agreement is otherwise terminated whichever is sooner. This Agreement can only be altered by mutual consent of the parties through a written, fully executed amendment.

ICON OBLIGATIONS

1. ICON shall pay for all project costs associated with the design and construction of the Project incurred after the effective date of this Agreement. ICON costs shall not include ODOT's costs for design review and approval of construction.

2. ICON shall construct the Lone Pine Drive Roundabout after the approval of any portion of the Lone Pine Planned Unit Development project that generates a cumulative total of 67 peak hour trips. Once this level has been reached, no further development of the Lone Pine Planned Unit Development project will be permitted until the roundabout is in place and operational. If prior to the approval of any portion of the Lone Pine Planned Unit Development project that generates a cumulative total of 67 peak hour trips, safety or operational issues arise from the continued use of the existing Lone Pine intersection such that ODOT determines that the roundabout solution needs to be constructed, ODOT, after giving prior notice to ICON and the right to construct such improvements, may construct the roundabout at its own expense. Such action by ODOT does not relieve ICON of its funding obligation. Prior to construction, ODOT shall provide ICON with ODOT's estimated costs to construct such improvements and should ICON decline to make such improvements, ODOT shall regularly update ICON with respect to ODOT's costs. ICON shall reimburse ODOT for the cost of the roundabout prior to any development of the Lone Pine project beyond the development of 67 peak hour trips.

3. ICON shall construct the right turn lane on Bret Clodfelter Way at the time the Lone Pine Drive Roundabout is constructed. If prior to the development of the third phase of the Lone Pine project, safety or operational issues arise from the continued use

of the existing Lone Pine intersection such that ODOT determines that the right turn lane on Bret Clodfelter needs to be constructed, ODOT, after giving prior notice to ICON and the right to construct such improvements, may construct the right-turn lane at its own expense. Such action by ODOT does not relieve ICON of its funding obligation. Prior to construction, ODOT shall provide ICON with ODOT's estimated costs to construct such improvements and should ICON decline to make such improvements, ODOT shall regularly update ICON with respect to ODOT's costs. ICON shall reimburse ODOT for the cost of the right turn lane prior to any development of the Lone Pine project beyond the third phase (67 peak hour trips).

4. ICON shall construct a left turn lane to the Eastbound I-84 Off-Ramp when the Lone Pine Planned Unit Development project reaches 378 cumulative peak hour trips. If safety or operational issues develop at the off-ramp such that ODOT determines that the left-turn lane needs to be constructed prior to the Lone Pine project reaching the 378 cumulative trip threshold, ODOT, after giving prior notice to ICON and the right to construct such improvements, may construct the left-turn lane at its own expense. Such action by ODOT does not relieve ICON of its funding obligation. Prior to construction, ODOT shall provide ICON with ODOT's estimated costs to construct such improvements and should ICON decline to make such improvements, ODOT shall regularly update ICON with respect to ODOT's costs. ICON shall reimburse ODOT for the cost of the left-turn lane prior to any development of the Lone Pine project beyond the 378 cumulative trip threshold.

5. All employers, including ICON, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage unless such employers are exempt under ORS 656.126. ICON shall ensure that each of its subcontractors complies with these requirements.

6. ICON acknowledges and agrees that ODOT, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of ICON which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after completion of Project. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT. ICON shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work performed by ICON under this Agreement, including, without limitation, the applicable provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof; Without limiting the generality of the foregoing, ICON expressly agrees to comply with the applicable provisions of (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

7. ICON, or its consultant, shall conduct the necessary field surveys, environmental studies, traffic investigations, preliminary engineering and design work required to produce and provide final plans, specifications and cost estimates for the Project; identify and obtain all required permits including a Permit to Construct from the ODOT District 9 Office; perform all construction engineering, including all required materials testing and quality documentation; prepare all bid and contract documents; advertise for construction bid proposals; award all contracts; pay all contractor costs, provide technical inspection, project management services and other necessary functions for sole administration of the construction contract entered into for this Project.

8. ICON shall provide an updated Traffic analysis during the summer of 2008 for the eastbound I-84 off ramp, and if the threshold of 378 cumulative trips has not been met, ICON shall update the Traffic Impact Study annually thereafter, until such time as the 378 trip threshold has been met.

9. ICON shall construct Project in accordance with the requirements of ORS 276.071 including the public contracting laws within ORS Chapters 279A, 279B and 279C.

10. If ICON chooses to assign its contracting responsibilities to a consultant or contractor, ICON shall inform the consultant or contractor of the requirements of ORS 276.071 and ensure that the public contracting laws within ORS Chapters 279A, 279B and 279C are followed.

11. ICON shall require its contractor to indemnify the State Of Oregon and name the State Of Oregon as a third party beneficiary of the resulting contract. ICON shall require contractor to obtain and keep in effect during the term of the contract Comprehensive or Commercial General Liability Insurance covering bodily injury and property damage, including personal injury coverage, contractual liability coverage for the indemnity provided under this Agreement, and products/completed operations liability. Combined single limit per occurrence shall not be less than $1,000,000 or the equivalent for all claims arising out of a single accident or occurrence. Contractor shall also provide an additional $1,000,000 excess insurance coverage over the basic $1,000,000 coverage. Each annual aggregate limit shall not be less than $2,000,000 when applicable. Contractor shall include ICON and the State Of Oregon as named insured on policies issued for this Project, or shall furnish an additional insured endorsement naming the same as additional insured to the contractor's existing public liability and property damage insurance. The certificate of insurance shall include the State of Oregon, the Oregon Transportation Commission and its members, the Department of Transportation, its officers and employees as additional insured. ICON shall provide a copy of the certificate to ODOT prior to construction of the Project. The insurance coverage shall not be amended, altered, modified or cancelled insofar as the coverage contemplated herein is concerned without at least thirty (30) days' prior written notice.

12. ICON shall require its contractor to name ODOT an obligee under all performance and payment bonds. ICON shall provide copies of all performance and payment bonds to ODOT prior to construction of the Project.

13. ICON shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation, its officers and employees from any and all claims, suits, and liabilities arising out of or relating to the acts or omissions of ICON, or its officers, employees, contractors or subcontractors, or agents in performance of this Project under this Agreement. ICON shall not be required to indemnify ODOT for any liability arising out of wrongful acts of ODOT, its officers or employees in ODOT's performance of this Project under this Agreement.

14. Notwithstanding the foregoing defense obligations under Paragraph 13 above, neither ICON nor any attorney engaged by ICON shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that ICON is prohibited from defending the State of Oregon, or that ICON is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against ICON if the State of Oregon elects to assume its own defense.

15. ICON's Project Manager for this project is Scott Keillor, ICON West Developments, Inc., 700 E. Port Marine Drive, Suite 200, Hood River, OR 97031.

ODOT OBLIGATIONS

1. ODOT shall be responsible for the timely review and approval of Project design and construction. ODOT's costs associated with the review and approval of design and construction plans shall be borne by ODOT.

2. ODOT hereby permits the actual construction, and may enforce ICON's commitment of construction, of the Lone Pine Drive Roundabout to occur after the third phase of the project (defined as 67 peak hour trips) is developed. Once this level has been reached, no further development of the Lone Pine Planned Unit Development project will be permitted until the roundabout is in place and operational.

3. ODOT hereby permits the actual construction, and may enforce ICON's commitment of construction, of the right turn lane on Bret Clodfelter Way to occur at the time the Lone Pine Drive Roundabout is constructed.

4. ODOT hereby permits the actual construction, and may enforce ICON's commitment of construction, of the left turn lane to the Eastbound I-84 Off-Ramp to occur when the Lone Pine Planned Unit Development project reaches 378 cumulative trips.

5. ODOT's Project Manager for this Project is Brad DeHart, District 9 Project and Operations Engineer, Oregon Department of Transportation, Region 4, 3313 Bret Clodfelter Way, The Dalles, OR 97058 (541) 297-2215, or assigned designee upon individual's absence.

CITY OBLIGATIONS

1. City hereby grants ICON and its contractor the right to enter onto and occupy City right of way within the Project limits for equipment, the performance of field work and Project construction.

2. The City shall cooperate with ICON in connection with ICON's obligations under this Agreement, including, but not limited to, joining with ICON on any application or request necessary to effectuate the terms and intent of this Agreement.

COUNTY OBLIGATIONS

1. County hereby grants ICON and its contractor the right to enter onto and occupy County right of way within the Project limits for equipment, the performance of field work and Project construction.

2. The County shall cooperate with ICON in connection with ICON's obligations under this Agreement, including, but not limited to, joining with ICON on any application or request necessary to effectuate the terms and intent of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of all of the Parties.

2. ODOT may terminate this Agreement effective upon delivery of written notice to ICON, or at such later date as may be established by ODOT, under any of the following conditions:

   a. If ICON fails to provide services called for by this Agreement within the time specified herein or any extension thereof.

   b. If ICON fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from ODOT fails to initiate and diligently pursue correction of such failures within 10 days or such longer period as ODOT may authorize.

c. If ICON fails to provide payment of its share of the cost of the Project.

d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that the work under this Agreement is prohibited.

3. ICON shall have the right to terminate this Agreement should ICON elect not to proceed with the development of the PUD. Upon such termination, however, ICON shall be responsible for any costs or payments then due and payable under this Agreement. ICON acknowledges that any such termination may affect its ability to develop the PUD.

4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

5. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

6. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

Signature Page to Follow

The Oregon Transportation Commission approved this Project on April 25, 2007 and delegated authority to the Deputy Director, Highways to approve and sign agreements relating to this project.

Icon West Developments, Inc, by and through its senior officers

By Scott Kentton

Title Chief Operations Officer

Date March 15, 2007

APPROVED AS TO FORM

By _____
Counsel for Icon

Date _____

CITY OF THE DALLES, by and through its elected officials

By _____

Title _____

Date _____

WASCO COUNTY, by and through its elected officials

By _____

Title _____

Date _____

STATE OF OREGON, by and through its Department of Transportation

By _____
Deputy Director, Highways

Date 5/24/07

APPROVAL RECOMMENDED

By _____
State Traffic Engineer

Date 5/22/07

By _____ 05-11-07
Region 4 Manager

Date _____

By _____
Region 4 Technical Svcs Mgr/Chief Engineer

Date _____

By _____
Region 4 Program and Planning Manager

Date 5/8/07

By _____
District 9 Manager

Date 5-1-07

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General

Date 5/15/07

F:\Agreements\Developer s\23174 Icon West Developmts Lone Pine PUD\23174 Icon (Lone Pine PUD) Final approved 2-1-07 revised 3.9.07.doc

The Oregon Transportation Commission approved this Project on April 25, 2007 and delegated authority to the Deputy Director, Highways to approve and sign agreements relating to this project.

Icon West Developments, Inc, by and through its senior officers

By _____

Title _____

Date _____

APPROVED AS TO FORM

By _____
Counsel for Icon

Date _____

CITY OF THE DALLES, by and through its elected officials

By James T. Brock

Title Council President

Date March 12, 2007

WASCO COUNTY, by and through its elected officials

By _____

Title _____

Date _____

STATE OF OREGON, by and through its Department of Transportation

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
State Traffic Engineer

Date _____

By _____
Region 4 Manager

Date John W. Hancock

By 5-7-07
Region 4 Technical Svcs Mgr/Chief Engineer

Date _____

By _____
Region 4 Program and Planning Manager

Date _____

By Sam F. Wilkins, Jr.
District 9 Manager

Date 5-1-07

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General

Date _____

The Oregon Transportation Commission approved this Project on April 25, 2007 and delegated authority to the Deputy Director, Highways to approve and sign agreements relating to this project.

Icon West Developments, Inc, by and through its senior officers

By _____

Title _____

Date _____

APPROVED AS TO FORM

By _____
Counsel for Icon

Date _____

CITY OF THE DALLES, by and through its elected officials

By _____

Title _____

Date _____

WASCO COUNTY, by and through its elected officials

By Dan Creekson

Title Judge

Date 3/21/07

STATE OF OREGON, by and through its Department of Transportation

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
State Traffic Engineer

Date _____

By _____
Region 4 Manager

Date Jon W. Heacock 5-7-07

By _____
Region 4 Technical Svcs Mgr/Chief Engineer

Date _____

By _____
Region 4 Program and Planning Manager

Date _____

By Sam F. Wilkins, Jr.
District 9 Manager

Date 5-1-07

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General

Date _____

EXHIBIT A-1

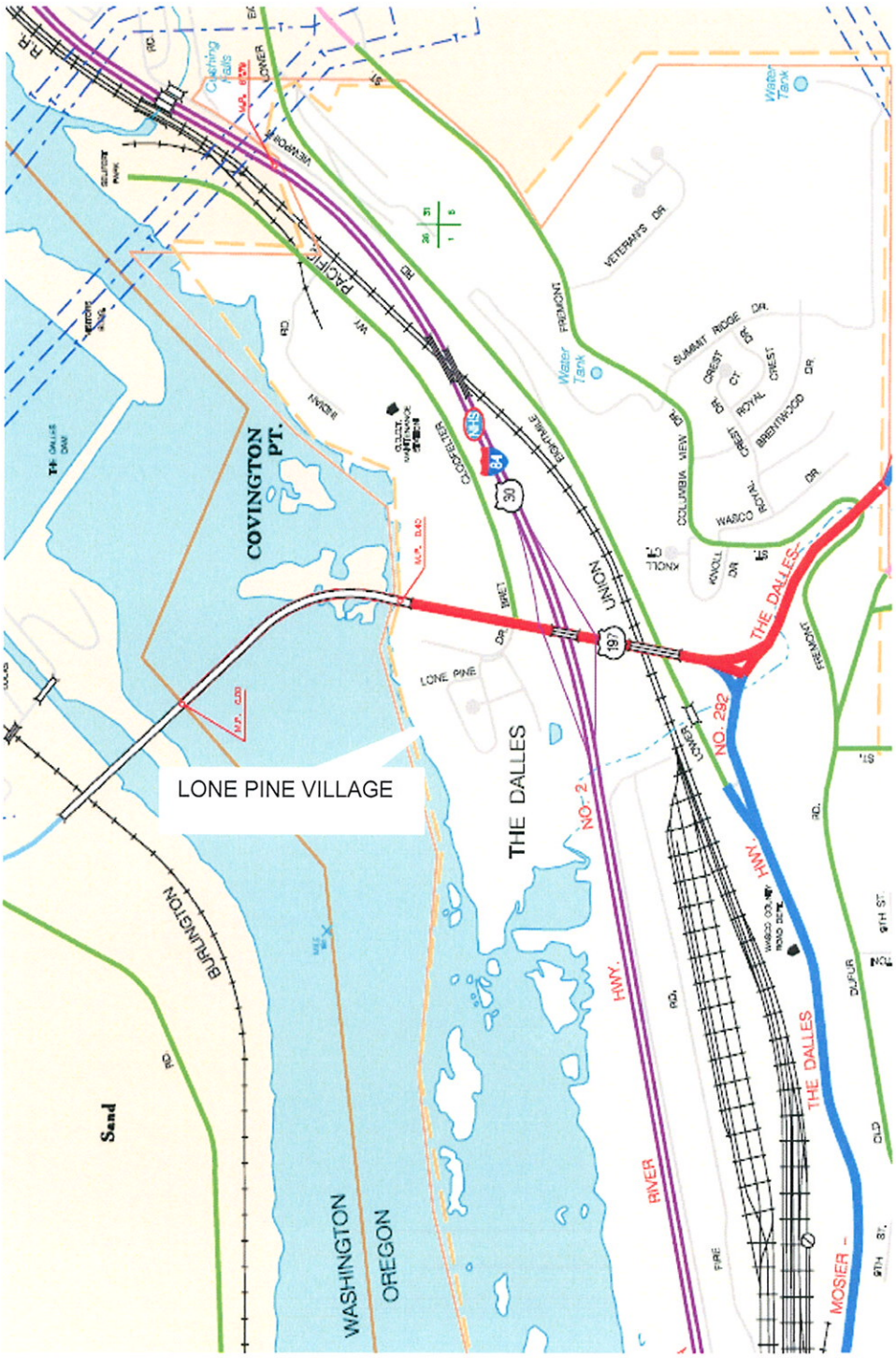

LONE PINE VILLAGE
COVINGTON PT.
THE DALLES
NO. 2
HWY.
RIVER
NO. 282
THE DALLES
MOSIER
WASHINGTON
OREGON
Sand
BLALINGTON
LONE PINE
UNION
Water Tank
Water Tank
VETERANS DR
SUMMIT RIDGE DR
CREST CT
CREST DR
ROYAL
BRENTWOOD DR
COLUMBIA VIEW RD
WASCO
KNOLL CT
KNOLL DR
FREMONT
Clatching Falls
PACIFIC
84
30
197

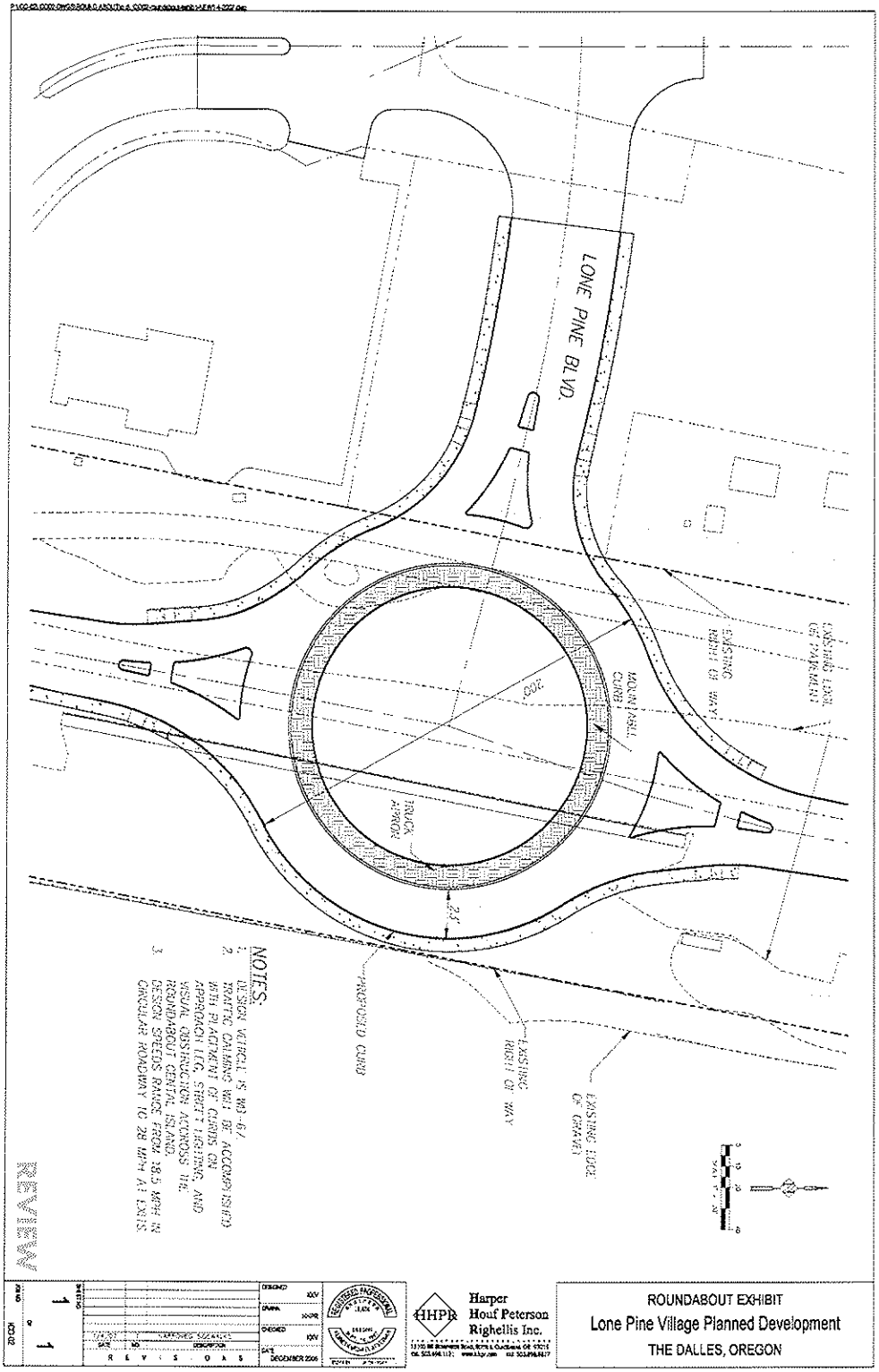
EXHIBIT A-2 PG. 1 of 2

ROUNDABOUT 30% DESIGN
200' ICD
3-LEGGED
HWY 197 & LONE PINE DR
THE DALLES, OREGON

Description	Quantity	Unit	Unit Price	Total
MOBILIZATION (10% OF BID ITEMS)	1	LS	$ 67,800.00	$ 71,435
TP&DT (9% OF BID ITEMS)	1	LS	$ 56,000.00	$ 56,000
NEW PAVEMENT	28250	SF	$ 4.25	$ 120,063
OVERLAY PAVEMENT	19500	SF	$ 1.05	$ 20,475
SIDEWALK	6250	SF	$ 4.00	$ 25,000
CURB	3000	LF	$ 15.00	$ 45,000
TRUCK APRON	4500	SF	$ 10.00	$ 45,000
SPLITTER ISLANDS	2650	SF	$ 7.50	$ 19,875
SHORT RETAINING WALLS	1900	SF	$ 25.00	$ 47,500
DRAINAGE (PIPE, MHs, INLETS)	1700	LF	$ 95.00	$ 161,500
DETENTION/TREATMENT	1	LS	$ 40,000	$ 35,000
LANDSCAPING (CENTER ISLAND)	13500	SF	$ 5	$ 67,500
STREET LIGHTING	10	EA	$ 3,500	$ 35,000

Subtotal		$ 749,347
E&C	30%	$ 224,804
	TOTAL	**$ 974,000**

EXHIBIT A-2 PG. 2 of 2



WASCO COUNTY
PUBLIC WORKS

MEMO

To: Wasco County Board of Commissioners
Tyler Stone, County Administrator

From: Arthur Smith, Public Works Director

Date: May 6, 2015

Subject: Staff position on an Amendment to existing Lone Pine development IGA

Brad Dehart, Transportation Engineer with ODOT notified us that much of the Lone Pine area has changed ownership and that ODOT had been working with the new owners (Columbia State Bank) to develop an amendment to the original agreement that will bring everything up to current status.

The new owners have proposed some revisions to the obligations in the original IGA which would be covered in that Amendment. They have specifically asked to remove the condition of improving the I 84 east bound off-ramp and ODOT is receptive to granting that request. The condition of constructing a roundabout at US 197 and Lone Pine Blvd will remain in the IGA.

The question is what level of participation does Wasco County want to have with regards to approving an Amendment to the Intergovernmental Agreement (IGA) for the Lone Pine Development?

The original IGA is attached to this memo. The original agreement had Wasco County as a signer because of the obligations of the developer to make improvements to the intersection of US 197 and Bret Clodfelter Way, which is a County road.

Those improvements were completed several years ago in conjunction with the relocation of the intersection to Lone Pine Blvd, and will continue to function as intended with the future construction of the proposed roundabout. Those improvements were inspected and approved by the County. Construction of the roundabout at US 197 and Lone Pine Blvd is still planned and will remain as an obligation of the new owner, but the road improvements that brought the County into the original agreement have already been completed.

Any construction work for the proposed round-about should not impact Bret Clodfelter Way. However, because the County still has jurisdiction over that road, we might want the opportunity to make comments and/or impose conditions on any future construction work to ensure our interests and the county road is protected.

Since the construction of the round-about will remain as an obligation of the new owner and developer, *I would recommend that the BOC be a signer on the Amendment to the Lone Pine development IGA.*

Arthur Smith
Public Works Director

Agenda Item
Pine Hollow Boat Docks

- Email Request
- 1999 Planning Memo
- 2009 Miller-Nash Communication

WASCO COUNTY

Kathy White <kathyw@co.wasco.or.us>

Fwd: Pine Hollow Reservoir - boat docks

1 message

Dan Van Vactor [redacted]> Thu, Apr 9, 2015 at 12:26 PM
To: "KathyW@co.wasco.or.us RodR@co.wasco.or.us, KathyW@co.wasco.or.us" <RodR@co.wasco.or.us,>

Sent from my iPad

Begin forwarded message:

From: Dan Van Vactor [redacted]>
Date: April 9, 2015 at 7:27:07 AM PDT
To: "RodR@co.wasco.or.us,KathyW@wasco.or.us" <RodR@co.wasco.or.us,KathyW@wasco.or.us>
Subject: Fwd: Pine Hollow Reservoir - boat docks

Hi Rod and Kathy - the attached e-mail addresses Docks at Pine Hollow - my original to Rod was not delivered. Please review. Thanks, Dan Van Vactor Pres. BID

Sent from my iPad

Begin forwarded message:

From: Dan Van Vactor <[redacted]>
Date: April 9, 2015 at 7:18:47 AM PDT
To: "stevek@co.wasco.or.us" <stevek@co.wasco.or.us>, Scott Hege <scotth@co.wasco.or.us>, "rodrunyon@co.wasco.or.us" <rodrunyon@co.wasco.or.us>
Cc: Dane [redacted]t>, Jim Bussard <jim@bussardengineering.com>, Eric and Emily Nordquist [redacted]>, MILLS Keith A <keith.a.mills@state.or.us>
Subject: Pine Hollow Reservoir - boat docks

Hi Steve, Scott and Rod - an issue has come up for the BADGER IMPROVEMENT DISTRICT (BID) at Pine Hollow Reservoir. We are on the Court agenda for May 6, 2015.
The WCLUDO requires a 50 foot setback from a property owners boundary with the lake. BID owns the land under the reservoir and the Dam. There is a 10 foot strip of land above the high water mark reserved for the public that cannot be obstructed. Each year the State of Oregon inspects the Reservoir and Dam for Safety. This years report requires the District to insure docks located at Pine Hollow Reservoir cannot break free and block the overflow and potentially cause a breach of the Dam.

Over the years Pine hollow Residents appear to have placed docks at the reservoir w/o Land use approval or permission from BID. Presently there are approximately 100 + or - docks and other obstructions (fences, walls, and material) that have been placed on or in the reservoir w/o authorization.
The District requests the Court assist the District to insure that the Dam can be safely maintained.

I will call Keith Mills, the State Dam Inspector and request he attend the May 6 Court Meeting so he can address the Safety Issue he has raised in the 2014 Dam Safety inspection at Pine Hollow Reservoir. The BID Board and Keith are being copied on this E-MAIL.
Please call me with any Questions at 541 980 7803. I look forward to working with the Court and the State to address this issue on behalf of BID and the residents at Pine Hollow Reservoir.
Yours Truly,
Dan Van Vactor
President, BID

Sent from my iPad

PLANNING AND ECONOMIC DEVELOPMENT OFFICE
WASCO COUNTY

DOTTY DeVANEY, Director
2705 EAST SECOND STREET
THE DALLES, OREGON 97058

PHONE: (541) 298-5169
FAX: (541) 296-2691
email: wasco@gorge.net

TO: **Pine Hollow Residents**

FROM: **Wasco County Planning Department**

DATE: **1 April 1999**

During the past several months there have been inquiries regarding the selling of parcels adjacent to Pine Hollow Lake, lake access, lake setbacks and placing fill on properties adjacent to the lake. The intent of this letter is to clarify exactly what the issues are and provide Wasco County's view of them. The issues can be broken down into two categories. The first category is non land use. Issues within this category are out of the jurisdiction of Wasco County and must be addressed through civil proceedings. The second category is land use. Land use issues are within the jurisdiction of the Wasco County Planning Department and must be addressed by the Wasco County Comprehensive Plan and Land Use Development Ordinance.

Please refer to the attached maps and parcel list for further explanation of all issues.

NON LAND USE ISSUES

Selling of publicly dedicated easements: The buying or selling of lands which have public dedications give the owner title to the land but no rights to develop or obstruct access. All public easements within the Pine Hollow subdivisions are publicly dedicated and the right to access them cannot be rescinded without a public process. Private access ways or easements are governed by the deeds that created them and existing Oregon law. Consult the Wasco County Planning Department if the locations of the public and non-public easements remain unclear.

Access easements around Pine Hollow Lake: Warranty Deed 681728 filed on the 23rd of September 1968 transferred ownership of Pine Hollow Lake to Pine Hollow Cooperative Incorporated, the water/irrigation district. The deed states the property description of the lake is "approximate and it is the intention of this instrument to grant to the grantee, its successors and assigns, that portion of the grantor's land **up to the high water elevation mark** computed to be 1857.3 feet, more or less, above mean sea level plus the reservoir structure"(emphasis added). In other words, it appears that the water/irrigation district owns the land up to the high water mark of the lake. Access to the land below the high water mark when the water level is low is therefore at the discretion of the water/irrigation district.

2 16 15 01

Warranty Deed 681728 also states "grantors grant to grantee, its officers, agents and employees, and to grantee's successors and assigns, for the use and benefit of the public, a perpetual easement right for foot traffic along the shore of the lake to be created on a strip of land ten feet in width beyond the land above described (that is, a strip of land ten feet in width beyond the high water line encircling the lake to be created) said right to be perpetual, unrestricted trespass right for the public and for the Pine Hollow Cooperative Inc., its officers, agents and employees". This deed appears to create an easement starting at the high water mark of the lake extending ten feet onto the property on the lake front. This easement appears to incorporate private property and is not subject to recession through the public process. The only exception is Camp Morrow where the 10' easement does not apply.

LAND USE ISSUES

Legal Lots: The primary land use issues presenting themselves are those regarding legal lot creation.

Remnant Parcels adjacent to Pine Hollow Lake: When the Pine Hollow subdivisions were created there appears to have been a discrepancy between them and the legal description of Pine Hollow Lake. The Oregon State Department of Revenue mapped this apparent discrepancy and these resulting parcels are the remnant parcels which have been a source of concern to many people. As stated above, the legal description of Pine Hollow Lake was intended to be approximate and the actual property boundary appears to be the high water mark of the lake. This means that the current Oregon State Department of Revenue Maps and the legal descriptions on the deeds of these remnant parcels may be inaccurate. Based on the high water mark these parcels may be substantially reduced in size or may not exist at all. The only way to determine whether these remnant parcels exist is for the owner to have a survey done by a professional land surveyor registered with the State of Oregon.

If the remnant parcels, or portions of them, do exist there is still the question of legality. None appear to have been legally created. To make these parcels legal the property owners must go through a replat or property line adjustment process. The end result of a replat or property line adjustment could be to connect these remnant parcels with adjoining legally platted parcels or with Pine Hollow Lake. If the owner decides not to go through one of these processes they will still have title to the land but the parcel will be considered for planning purposes as illegal with no buildible potential. It should be noted however, that neither Wasco County nor the Wasco County Planning Department is making a legal determination as to the existence or non-existence of these remnant parcels. Only the Circuit Court of Oregon can make such a determination. The comments made here only reflect the position that is likely to be taken if an individual undertakes to develop one of these parcels.

Remnant parcels not adjacent to Pine Hollow Lake: Research indicates that several parcels which are not adjacent to the lake and not part of any of the legally platted Pine Hollow subdivisions appear to be illegally created. To find out how to make these

parcels legal the owners must contact the Wasco County Planning Department. Possible remedies include allowing a parcel to become legal "after the fact" based on its buildibility and/or combining a parcel with an adjacent parcel. Again, the use of the term "legal" is restricted to planning department purposes and is not meant to substitute the judgement of any court.

Public Facility Parcels: There are two parcels that appear to be illegally created with public facilities located on them serving the Pine Hollow platted subdivisions. These parcels are 4S 12-4AC: 5200, Pine Hollow Water Cooperative and 4S 12-3: 700, Pine Hollow Airport Association. Wasco County is willing to accept these two parcels in their current configurations for their current uses only. Any change of use will be subject to Wasco County Planning Department review.

Legal Parcels: Research into the legality of questionable parcels in Pine Hollow have determined several to be legal based on their creation dates or subsequent land use approvals.

Other Land Use Issues:

Filling in of the Lake Bed: Cutting or filling of the lake bed is permitted only with a Division of State Lands review.

Pine Hollow Lake Setback: In the "A-R" Agricultural-Recreation zone, the zone within which Pine Hollow is located, the setback to the Pine Hollow Lake is different from the Rear Yard setback of 7 feet. Wasco County Land Use Development Ordinance (WCLUDO) 3.230D.5, Stream Setbacks, states "all structures, or similar permanent fixtures (except hydroelectric facilities) shall be set back from the high water line or mark along all streams or lakes a minimum distance of fifty (50) feet when measured horizontally at a right angle". In WCLUDO 1.090 structure is defined as "anything constructed, erected or air inflated, permanent or temporary, which requires location on the ground". "Among other things, structures includes buildings, walls, fences, billboards, poster panels and parking lots."

PINE HOLLOW PARCEL STATUS
KEY TO MAP

	Acres	Current Tax Lot #
Legal Parcels		
	0.85	4S 12 3DC:2500
	0.48	4S 12 3CD:700
	1.2	4S 12 3CA:1300
	0.052	4S 12 3CA:1400
	4.25	4S 12 10BA:200
		4S 12 9AA:1500
	3.03	4S 12 4AD:200
Public Facility Parcels		
	0.9	4S12 4AC:5200
	8.8	4S 12 3:700
Remnant Parcels Adjacent to Lake		
	9.3	4S 12 4A:300
	0.044	4S 12 3CA:1200
	1.73	4S 12 3CA:1000
	5	4S 12 3BD:2000
	0.09	4S 12 4AD:1800
	0.12	4S 12 3BC:2100
	0.019	4S 12 3CA:1100
	4.29	4S 12 3DC:2300
	0.02	4S 12 3DC:2400
	0.03	4S 12 4DD:600
	11.47	4S 12 10BA:300
	4.14	4S 12 4D:100
Remnant Parcels Not Adjacent to Lake		
	1	4S 12 4AD:400
	1.01	4S 12 4AD:300
	1.79	4S 12 4A:200
	0.67	4S 12 4A:100
	1.5	4S 12 10BA:400
	1.15	4S 12 10BC:1500

Pine Hollow Parcel Status



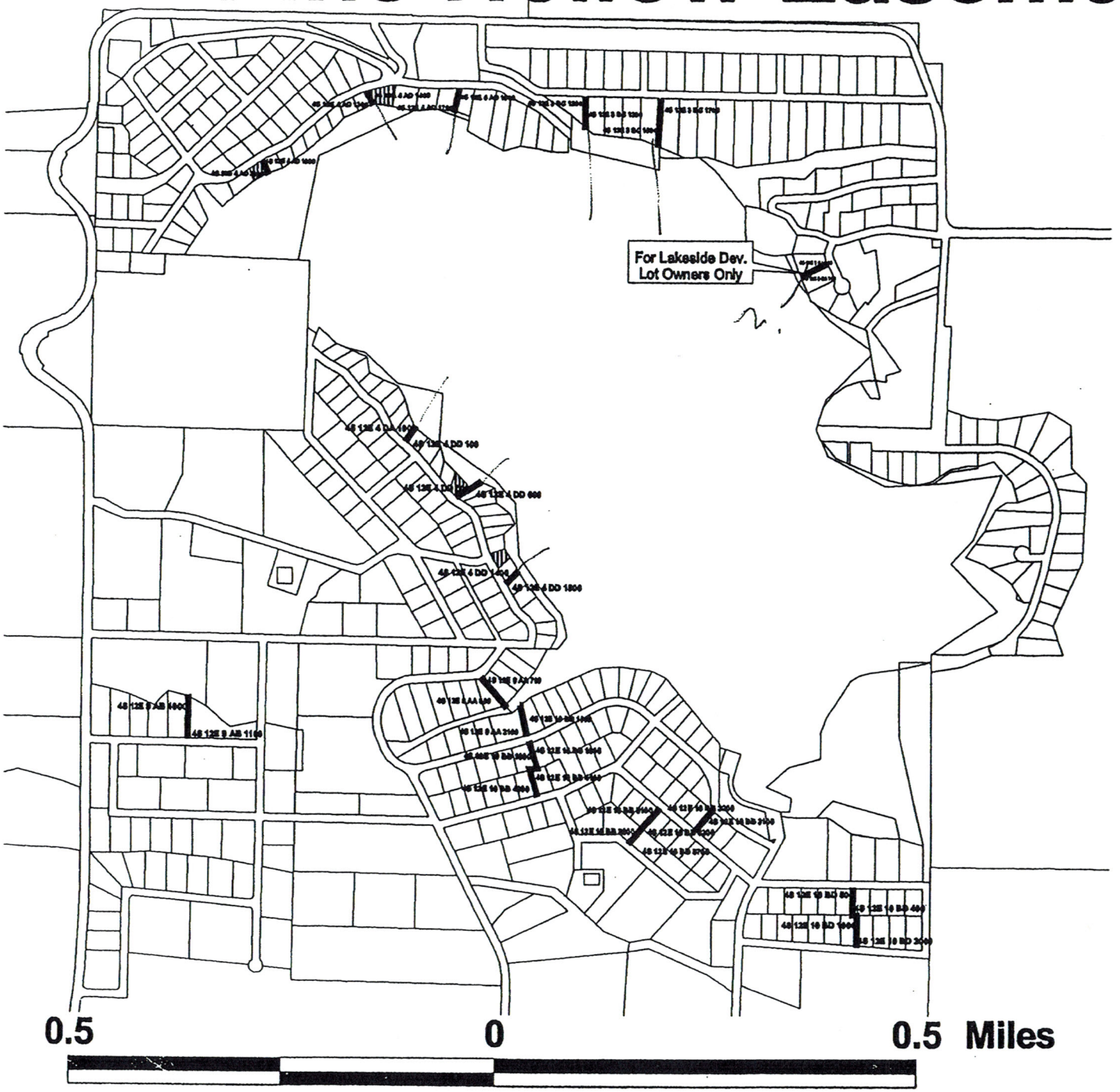
Legal Parcels
Public Service Parcels
Remnant Parcels Adjacent To Lake
Remnant Parcels Not Adjacent To Lake
Unresearched Parcels

N
W E
S

0.3 0 0.3 0.6 0.9 Miles

Wasco County GIS
April 1999
T.C.

Pine Hollow Easements



Publicly Dedicated Easements

Parcels With Private Easements

Parcels With No Easements

N

W E

S

Wasco County GIS
April 1999
T.C.

MILLER NASH LLP
ATTORNEYS AT LAW

PORTLAND, OREGON
SEATTLE, WASHINGTON
VANCOUVER, WASHINGTON
CENTRAL OREGON
WWW.MILLERNASH.COM

446 N.W. Third Street
Prineville, Oregon 97754-1757
OFFICE 541.447.5777
FAX 541.447.5755

William A. Van Vactor
will.vanvactor@millernash.com
(541) 447-5777 direct line

October 26, 2009

Tracy Hunt, President
Barlow Water Improvement District
11 South County Rd, #B
Wamic OR 97063-9749

Subject: Letter regarding rock barriers

Dear Tracy:

Enclosed is the original letter for you to distribute to BWID members regarding rock barriers. You should already have received a copy via e-mail. Please let me know if there is anything else I can help you with in regards to this matter.

Let me know if you have any questions.

Best regards,

William A. Van Vactor

Enclosure

CORDOCS:60011363.1

MILLER NASH LLP
ATTORNEYS AT LAW

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SEATTLE, WASHINGTON
VANCOUVER, WASHINGTON
CENTRAL OREGON
WWW.MILLERNASH.COM

446 N.W. Third Street
Prineville, Oregon 97754-1757
OFFICE 541.447.5777
FAX 541.447.5755

William A. Van Vactor
will.vanvactor@millernash.com
(541) 447-5777 direct line

October 26, 2009

Barlow Water Improvement
District Member

Subject: Barlow Water Improvement District / Rock Barriers

Dear BWID Member:

This office represents the Barlow Water Improvement District. The purpose of this letter is to clarify the Board of Director's actions with regards to certain rock barriers placed on lots owned by the District. The barriers were placed on the District lots with intent of limiting vehicle access to these lots. As you may be aware, at the annual meeting the Board and the members present discussed the issue of the rock barriers at length. At the conclusion of that discussion, some of the members voted to remove the barriers. By the numbers, the meeting attendees did not represent a majority of BWID members. Nonetheless, upon further research and information gathering, the Board has decided the barriers should remain in place for the reasons stated in this letter. The Board's position reflects the prudent course of action, as it protects the interests of both the District and its members.

As a preliminary matter, it should be noted that the Board intends to continue to maintain these District lots for BWID members and the public. The Board's decision should not be considered as a prohibition on access, just a reasonable limit on vehicular access to these lots. BWID members will still have pedestrian access to these lots for purposes of day use, including fishing and picnicking.

The first reason the Board decided to leave the barriers in place is the increased risk of liability. District members, and possibly members of the public, have used these lots in the past for launching boats. The risk of injury to a child swimming or playing on or around BWID lots is great during such times. Further, people have accessed these lots via vehicle for purposes of setting up overnight camps. BWID members have witnessed unauthorized alcohol use during such occurrences. Thus, the

Board is worried about someone being injured on BWID property as the result of unauthorized boat launching or alcohol use, or a combination thereof.

The Board has concluded that the risk of potential liability outweighs any benefit gained by permitting vehicle access. Oregon law imposes liability on property owners for injuries caused by willful or wanton acts and for gross negligence to licensees. Since BWID members are permitted to access the lots owned by the District, they will be considered licensees under the law. While this standard for liability is higher than it would be for a trespasser, it is not an impossible standard for an injured party to over come. For instance, someone injured by a vehicle being driven by a drunk driver on a BWID lot could argue that the District was grossly negligent in permitting vehicle access when it knew that people were using the lots to use alcohol and launch boats. Thus, the prudent course of action is to limit vehicle access. The District could consider retaining security or otherwise enforcing its no alcohol and drug policies, as well as enforcing a no boat launching policy, but that would come at a high cost to the District (and its members).

Next, the Pine Hollow Irrigation District informed the Board that vehicle use on the lake is prohibited. Since it is not possible to launch a boat from a vehicle and/or trailer without interfering with the lake bed, the Irrigation District will not allow continued use of BWID lots for boat launching. Since Pine Hollow Reservoir has other designated boat launches, BWID members are not harmed by this decision.

In sum, there is very little benefit to permitting continued vehicular access. District members are free to use the public boat launches around the lake. Further, BWID members can still access these lots for day use. On the other hand, continued vehicular access poses the threat of increased insurance premiums and the risk of being sued for personal injury. Such costs would ultimately be passed down to BWID members.

Thus, leaving the vehicle barriers in place is the logical conclusion for purposes of limiting liability, risk of injury to BWID members as well as the public, and cost to the District.

Best regards,

William A. Van Vactor

Agenda Item
Aggregate Hearings

- Staff Memo
- Summary Memo
- Planning Commission Hearing Minutes
- Justesen Summary Packet
- Bryant-Carver Packet
- Bryant-Hagens Packet

MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS

FROM: KATHY WHITE

SUBJECT: AGGREGATE HEARINGS

DATE: 4/29/2015

BACKGROUND INFORMATION

On April 7, 2015, the Planning Commission held hearings on all three applications coming before you today. In your packet you will find the minutes from those hearings along with recommendations from the Planning Commission. For more in-depth information you can find all the documents presented to the Planning Commission at their hearings on the Planning Department Website.

Wasco County Planning Department

"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058
(541) 506-2560 • wcplanning@co.wasco.or.us
www.co.wasco.or.us/planning

Memo

TO: Wasco County Planning Commissioners
Angie Brewer, Planning Director

FROM: Dawn Baird, Associate Planner

DATE: March 31, 2015 for the April 7, 2015 Planning Commission Meeting

SUBJECT: High-level Summary for Hearings

On April 7, 2015 the Planning Commission is holding three quasi-judicial public hearings to either establish new aggregate quarries, or renew and expand existing aggregate quarries. Applications were received from the following:

1. Jon Justesen
2. J. Arlie Bryant on behalf of Blaine Carver
3. J. Arlie Bryant on behalf of Hagen Bar 50 Ranches

The proposals are similar with two exceptions: (1) the Justesen proposal includes a batch plant in addition to the aggregate extraction activities, and (2) the Bryant/Hagen proposal requires an after-the-fact parcel partition to legalize the subject property using House Bill 2723, adopted by the Oregon Legislature in 2007. House Bill 2723 allows a property owner to legalize a property "after the fact", if the property met all property development standards in effect at the time it was improperly created. A decision on the proposed Partition will be made by the Planning Commission.

All three proposals will occur on lands zoned Exclusive Farm Use. In this zone, the Wasco County Land Use and Development Ordinance (LUDO) requires all new or expanded quarries occur in areas that are listed in the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site. Only sites that contain both a high quality of rock and a large volume of rock qualify to be included in the inventory as a Significant Site. All three applications seek to add their new and expanded sites to the inventory through the Subject to Standards Review process. If through this process the Planning Commission finds the site to be "significant", then the three additional processes outlined below will follow to review the proposed quarry uses. If the Planning Commission finds the sites are not significant sources of aggregate resources, then no further action will be taken. If any of the applications required in this review are denied, the quarry cannot be established on the proposed site.

If a site is determined to be significant, three other applications must be approved to complete the process for each application:

- Comprehensive Plan Amendment to add the quarry to the Aggregate Inventory as a Significant Site (Planning Commission recommendation to the Board of County Commissioners).

- Zone Change to add the EPD-5, Mineral & Aggregate Overlay Zone to the proposed quarry, and an identified impact area (Planning Commission recommendation to the Board of County Commissioners).

- Conditional Use Permit to authorize the drilling, blasting, extraction, crushing, screening and stockpiling of rock, and a batch plant (Planning Commission decision).

In summary, the Planning Commission will make final decisions on the Subject to Standards Review and the Conditional Use Permit, and will provide recommendations to the Board of Commissioners on the Comprehensive Plan Amendment and Zone Change requests. A public hearing before the Board of Commissioners is tentatively scheduled for May 6, 2015.

DRAFT MINUTES
Wasco COUNTY PLANNING COMMISSION
April 7, 2015
Hearing begins at 3:00 p.m.
Columbia Gorge Discovery Center
Basalt Rock Cafe
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Vicki Ashley
Brad DeHart
Kenneth McBain
Russell Hargrave
Mike Davis
Jeff Handley
Andrew Myers

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Taner Elliott

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Interim Planning Director
Brenda Jenkins, Planning Coordinator
Dawn Baird, Associate Planner

Chair Hargrave recognized Commissioner Mike Davis as a voting member for today's hearings.

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda*.

None

III. APPROVAL OF PAST MINUTES:

January 6, 2015
Vice Chair Ashley moved to approve the January 6, 2015 minutes with one correction, replacement of Past Chair Don Hoffman's name with Current Chair Russell Hargrave at the signature line.
Commissioner Davis seconded
Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

DRAFT

February 3, 2015
Commissioner McBain moved to approve the February 3, 2015 minutes as submitted.
Commissioner Davis seconded
Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

March 3, 2015
Commissioner Davis moved to approve the March 3, 2015 minutes as submitted.
Vice Chair Ashley seconded
Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 6 to 0, 1 abstained (Commissioner McBain), 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – abstain
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

IV. QUASI JUDICIAL HEARING: File PLACUP-15-01-0002 Justesen

request by Jon Justesen to expand an existing 21.5 acre rock quarry to 50 acres in size. The request requires approval of four applications. The four applications are: a) Subject to Standards Review, b) Comprehensive Plan Amendment, c) Zoning Map Amendment; and d) Conditional Use Permit. Per Section 2.060 of the LUDO, the Commission will make a final decision on the Subject to Standards and Conditional Use Permit requests, and will make a recommendation to the Board of Commissioners for the Comprehensive Plan Amendment and Zone Change.

Opening the Hearing: Chair Hargrave opened the public hearing on agenda item PLACUP-15-01-0002, a request by Jon Justesen to renew approval of an existing 21.5 acre aggregate extraction operation, and expand it to 50 acres in size. This request requires 4 separate applications and a 2-part process. Staff provided a general overview of the process required for an aggregate operation prior to this hearing, and will further explain it during the presentation of the staff recommendation.

DRAFT

The four applications include:

a. Subject to Standards Review for a Significance Determination of the aggregate site.

b. Comprehensive Plan Amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site

c. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the aggregate operation

d. Conditional Use Permit to expand the existing aggregate operation in area and to include drilling, shooting, crushing, stockpiling crushed aggregate, and a batch plant.

The property is described as 6S 17E 0, tax lots 2200 and 2400; Accts. 12710, 12707). The aggregate site is located on tax lot 2400.

The criteria for approval of the four applications include: Review Authority: Chapter 2, Section 2.060.B.1., 2., and 14 of the Wasco County Land Use and Development Ordinance. Review Criteria: Chapter 2 – Physical Characteristics (G., Mineral & Aggregate Resources), Chapter 14 – Findings & Recommendations (G., Goal 5 Issues), and Chapter 15 – Goals and Policies (E., Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources) of the Wasco County Comprehensive Plan; Chapter 2 (Procedures); Chapter 3 (Basic Provisions), Section 3.210 (Exclusive Farm Use zone), Section 3.210.E.12. (Aggregate Operations), H. (Agricultural Protection), J.9. (Additional Standards), Section 3.800 (Mineral & Aggregate Overlay Zone), Chapter 5 (Conditional Use Review), Chapter 20 (Site Plan Review), Chapter 10 (Fire Safety Standards).

The procedure today is:

a. Disclosure of Interest, Ex Parte Contact or Potential Conflicts
b. Reading of the Rules of Evidence
c. Planning department will present their report
d. Those who wish to speak in favor of the proposal
e. Those who wish to speak in opposition of the proposal
f. Rebuttal
g. Close the hearing and record and begin deliberation
h. If enough information is available the Planning Commission will make a decision today.

Chair Hargrave asked if any Commission member wished to disqualify themselves for any personal or financial interest in this matter?
None.
Chair Hargrave asked if any member of the audience wished to challenge the right of any Commission member to hear this matter?
None.
Chair Hargrave asked if any member of the audience wished to question the jurisdiction of this body to act on behalf of Wasco County in this matter?
None.
Chair Hargrave explained the Rules of Evidence which will be followed.

Chair Hargrave called for the staff report.

Dawn Baird, Associate Planner, presented the following staff report.

For the record my name is Dawn Baird and I am an Associate Planner for the Wasco County Planning Department. I am going to present the background information in this case.

Request: The record for this request begins on Page P3 of the record. A location map for this request is on page P9. As the Chair indicated, today we will be discussing a request by Jon Justesen to expand an existing 21.5 acre rock quarry to 50 acres in size. The request requires approval of four applications. The four applications are: a) Subject to Standards Review, b)

Comprehensive Plan Amendment, c) Zoning Map Amendment; and d) Conditional Use Permit. Per Section 2.060 of the LUDO, the Commission will make a final decision on the Subject to Standards and Conditional Use Permit requests, and will make a recommendation to the Board of Commissioners for the Comprehensive Plan Amendment and Zone Change.

Location: The aggregate site is located east of Highway 97, approximately 3.4 miles northeast of Shaniko, Oregon; 6S 17E 0 2400 and 2200; Accounts 12707/12710. The subject parcel is approximately 3,208.37 acres in size.

Staff Recommendation: The full Staff Recommendation was mailed in the Planning Commission's agenda packets. It was available for review at the counter one week prior to this hearing, and it is considered a part of the record.

Let's discuss why the request is before the Planning Commission…

On January 29, 2015, a representative for Jon Justesen submitted applications for a Subject to Standards Review, a Comprehensive Plan Amendment, a Zone Change, and a Conditional Use Permit. **I will discuss all of the applications in my presentation, but the Planning Commission should make a separate motion and vote on each application.**

In the Exclusive Farm Use Zone, an aggregate extraction site must be listed in the Comprehensive Plan Aggregate Inventory as a Significant Site. The Justesen site is listed in the Aggregate inventory as a Potentially Significant Site.

Two of the four required applications, the Subject to Standards Review and Conditional Use Permit, can be processed administratively by staff, however, the Comprehensive Plan Amendment & Zone Change require a public hearing before both the Planning Commission and Board of Commissioners. In an effort to expedite the process, all administrative applications have been "bumped up" to the PC.

Part 1 of the hearing is for a Subject to Standards Review. The Planning Commission must determine whether the aggregate operation meets the "significant" criteria in the Mineral & Aggregate Overlay Zone. If it meets the criteria, the site can approved as a Significant Site. State law requires all new or expanded sites in the Exclusive Farm Use Zone to be "significant".

Part 2 of the hearing involves the remaining three applications.

- Comprehensive Plan application – This review evaluates all pertinent Comprehensive Plan criteria related to upgrading the aggregate site and its expanded Permit Boundary, from "Potentially Significant Site" to "Significant Site on the Comprehensive Plan Aggregate Inventory.

- Zone Change/Zoning Map Amendment application – This review evaluates criteria and standards in Chapter 9 – Zone Change, and Chapter 3 – Basic Provisions, Section 3.800, Mineral & Aggregate Overlay Zone. Chapter 9 ensures that any zone change is suitable to the area, that there has been consideration of public health, safety and welfare, as well as transportation concerns related to traffic quantity, road improvements, etc., and their impact on the local transportation system.

- Conditional Use Permit application – This section specifically allows approval of an aggregate extraction site and batch plant as conditional uses in the Exclusive Farm Use Zone. The use must comply with property development standards, and the Agricultural Protection Standards that require recording of a Farm Management Deed, and provides the property owner with information regarding the mediation process in case of any disputes. The proposed aggregate operation must meet all criteria in Chapter 5 – Conditional Use Permit. Criteria include but are not limited to requiring compatibility with surrounding uses, especially resource uses, protection of historic/cultural resources, wildlife sites, stream/water bodies, wildlife species, availability of public services, etc.

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Stage in the Process: As previously stated, the application was received by the Planning Department on January 29, 2015. The request was found to be complete on February 26, 2015, and was scheduled for a public hearing on today's date. All required public notice has been given. The Staff Recommendation, with findings, conditions and conclusions, was issued on March 31, 2015. The Staff Recommendation and Summary were provided to the Planning Commission. If the Planning Commission feels they have all the necessary information to make a **decision**, they will vote to do so today.

Criteria: The applicable standards used to evaluate each request include:

Wasco County Land Use & Development Ordinance (LUDO)

a. Subject to Standards Review (P15)

1) Chapter 2 – Development Approval Procedures

- Section 2.060.B.14., Matters which the Director elects not to review
- Section 2.080.A., Notice
- Section 2.090., Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

2) Chapter 3 – Basic Provisions, Section 3.800, Division 5 – Mineral & Aggregate Overlay

- Section 3.810, Application of Overlay Zone
- Section 3.815, Procedure for Applying the Overlay Zone

In addition to hearing and noticing requirements, these criteria require testing of the rock at the aggregate site. Rock must meet two of the three requirements in 3.815.A.2.: Abrasion, loss of not more than 35% by weight; Oregon Air Degradation, loss of not more than 35% by weight; and Sodium Sulphate Soundness, not more than 17% by weight. In addition, the quantity of rock must be in excess of 69,000 cubic yards (100,000 tons). The Justesen request meets these standards (P18). The STS Review establishes a Permit Boundary where all aggregate operations must occur, and identifies an Impact Area – that area that could be negatively affected by the proposed use. This includes an ESEE Analysis where the economic, social, environmental and energy consequences of allowing the aggregate operation in the proposed location and its impact on sensitive uses such as dwellings. For instance, an aggregate operation would create noise and dust and would not be suitable in a residential area, but the impacts of the use in a rural farm area are much different. As identified in the ESEE analysis, there are no sensitive uses within 2.3 miles of the proposed aggregate site. The request complies with all of the STS Review requirements and should be determined a "Significant Site".

b. Comprehensive Plan Amendment (P23)

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

- Section 2.060.B.2., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
- Section 2.080.A., Notice
- Section 2.090, Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

Wasco County Comprehensive Plan

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- Chapter 2 – Physical Characteristics, *G., Mineral & Aggregate Resources*
- Chapter 11 – Revisions Process
- Chapter 14 – Findings and Recommendations
- Chapter 15 – Goals and Policies

In addition to hearing and noticing requirements, this application requires compliance with the Statewide Planning Goals, and requires demonstration that the proposed change will not be detrimental to the spirit and intent of the goals, requires consideration of the public need for healthful, safe and aesthetic surroundings and conditions. It also requires demonstration that a change in originally developed inventory occurred, and that transportation facilities will not be harmed. Adding the proposed site to the Aggregate Inventory also protects the aggregate operation from conflicting uses such as dwellings. Staff's recommendation finds that the Comprehensive Plan Amendment is consistent with all of the pertinent criteria and standards.

c. <u>Zoning Map Amendment (P34)</u>

Wasco County Land Use & Development Ordinance

1) Chapter 2 – Development Approval Procedures
   - Section 2.060.B.1., Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)
   - Section 2.080.A., Notice
   - Section 2.090, Contents of Notice
   - Section 2.140, Hearing Procedure
   - Section 2.150, Official Notice
   - Section 2.190, General Conduct of Hearings

2) Chapter 9 – Zone Change and Ordinance Amendment

   - Section 9.010, Application for Zone Change
   - Section 9.020, Criteria for Decision
   - Section 9.030, Transportation Planning Rule Compliance
   - Section 9.040, Conditions Relative to the Approval of a Zone Change
   - Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance
   - Section 9.070, Notice of Planning Commission Recommendation
   - Section 9.080, Action by County Governing Body

3) Chapter 3 – Basic Provisions
   - Section 3.800, EPD-5, Mineral & Aggregate Overlay
   - Section 3.835, Development Standards - Extraction Area
   - Section 3.840, Application Process
   - Section 3.845, Impact Area - Uses and Standards
   - Section 3.855, Termination of Mineral and Aggregate Overlay Zone

Applicable criteria for a Zoning Map Amendment require ensuring the rezone will comply with the Comprehensive Plan, that the site is suitable for the proposed zone and that there has been consideration of the public health, safety and welfare in applying the regulations. In addition, it considers impacts on transportation facilities. Criteria also establish uses permitted in the Mineral & Aggregate Overlay Zone, identifies visual screening requirements, equipment removal, and insurance requirements for the aggregate operator. They require on-site roads to meet minimum standards and may include road improvements to public roads. Criteria regulate hours of operation and blasting, as well as implementing DEQ air quality and DOGAMI reclamation requirements. It is also these criteria that protect the aggregate site from new conflicting uses within the Impact Area.

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Staff's recommendation finds that the Zoning Map Amendment is consistent with all of the pertinent criteria and standards.

d. <u>Conditional Use Permit (P48)</u>

1) **Chapter 2 – Development Approval Procedures**

- ***Section 2.060, Application/Completeness, Section B.14., Matters which the Director elects not to review***
- ***Section 2.080.A., Notice***
- ***Section 2.090, Contents of Notice***
- ***Section 2.140, Hearing Procedure***
- ***Section 2.150, Official Notice***
- ***Section 2.190, General Conduct of Hearings***

2) **Chapter 3 – Basic Provisions**

Section 3.210, Exclusive Farm Use Zone

- E. Uses Permitted Subject to Conditional Use Review/Type II or Type III

4. <u>Aggregate</u>: Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources subject to Section J(9) - Additional Standards below, Section 3.800, Mineral & Aggregate Overlay.

5. <u>Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement</u>, except that asphalt production shall not be permitted within two miles of a producing orchard or vineyard, which is planted as of the date that the application for asphalt production is filed, and subject to WCLUDO Section 3.800, Mineral and Aggregate Overlay.

- Section 3.210.F., Property Development Standards
- Section 3.210.H., Agricultural Protection
- Section 3.210.J.9., Additional Standards – Aggregate

3) **Chapter 5 – Conditional Use Review**

- Section 5.020, Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used)
- Section 5.030, Conditions

4) **Chapter 10 – Fire Safety Standards**

- Section 10.110, Siting Standards – Locating Structures
- Section 10.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break
- Section 10.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a More Fire-Safe Structure
- Section 10.140, Access Standards – Providing Safe Access to and Escape From Your Home
- Section 10.150, Fire Protection or On-Site Water Required

The Conditional Use Permit portion of this review requires the aggregate operation to be consistent with the Exclusive Farm Use Zone, specifically maintenance of water resource buffers, lighting standards and agricultural protection standards. Conditional Use standards in Chapter 5 are analyzed beginning on page P51. Section 5.020 requires the consideration of many things: the location, size, design and operation characteristics of the operation, analysis of existing public facilities, including police and fire protection, sewer and water facilities, telephone and electrical service and solid waste disposal facilities, impacts on transportation and its facilities, dust, noise & odor, sensitive wildlife habitat, riparian vegetation along streambanks and soil erosion. The proposed use should not affect air, water and land resource quality of the area, significantly detract from

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the visual character of the area, or harm areas of historic value, natural or cultural significance. A big part of this section is ensuring the proposed use will not significantly increase the cost or significantly change farm or forest practices on adjacent properties. Chapter 20 ensures there will be no traffic congestion and minimal adverse effects on surrounding properties. Chapter 10 ensures the owners are aware of the County fire safety standards. Staff notes that there are few quarry fires, and definitely very few spread onto surrounding lands due to lack of available burning material.

Staff's recommendation finds that the Conditional Use Permit is consistent with all of the pertinent criteria and standards.

Findings:

Findings of fact for each of the four applications are listed separately in the staff recommendation. Based on these findings, it appears to staff that the requests, with recommended conditions, are each consistent with the Wasco County LUDO and Wasco County Comprehensive Plan. If any additional findings, or corrections to recommended findings, or new or amended conditions are proposed by the Planning Commission, staff will add them the final Planning Commission report and they will be contained in the report that will be forwarded to the Board of Commissioners.

Planning Commission Decision Options: The Planning Commission should make a motion and vote on each application separately, therefore, there are four sets of options.

a. SUBJECT TO STANDARDS REVIEW:

1) Approve the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with the recommended findings and conditions provided by staff; or

2) Approve the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with amended findings and conditions provided by the Planning Commission; or

3) Deny the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with amended findings provided by the Planning Commission; or

4) Continue this hearing to a date and time certain.

Staff recommends Option A, for The Subject to Standards Review, approve the request to designate the proposed 20 acre quarry as a Significant Site, with the recommended findings and conditions provided by staff.

b. COMPREHENSIVE PLAN AMENDMENT:

1) Recommend approval of the Comprehensive Plan Amendment to the Board of Commissioners, to add the 50 acre expanded aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with the proposed findings and conditions recommended by staff; or

2) Recommend approval of the Comprehensive Plan Amendment to the Board of Commissioners, to add the 50 acre expanded aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with amended findings and conditions provided by the Planning Commission; or

3) Recommend denial of the Comprehensive Plan Amendment to the Board of Commissioners, to add the 50 acre expanded aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with amended findings provided by the Planning Commission; or

DRAFT

4) Continue this hearing to a date and time certain.

Staff recommends Option A, recommend approval to the Board of Commissioners, of the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, with the recommended findings and conditions provided by staff.

c. ZONING MAP AMENDMENT:

1) Recommend approval of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with the proposed findings and conditions recommended by staff; or

2) Recommend approval of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with the amended findings and conditions provided by the Planning Commission; or

3) Recommend denial of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with amended findings provided by the Planning Commission; or

4) Continue this hearing to a date and time certain.

Staff recommends Option A, recommend approval to the Board of Commissioners, of the Zone Change to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with the recommended findings and conditions provided by staff.

d. CONDITIONAL USE PERMIT:

1) Approve the Conditional Use Permit to allow aggregate extraction within the proposed 50 acre Permit Boundary, with staff's proposed findings and conditions.

2) Approve the Conditional Use Permit to allow aggregate extraction within the 50 acre Permit Boundary, with amended findings and conditions provided by the Planning Commission.

3) Deny the Conditional Use Permit to allow aggregate extraction within the 50 acre Permit Boundary, with amended findings provided by the Planning Commission.

4) Continue this hearing to a date and time certain.

Staff recommends Option A, for the Conditional Use Permit to allow aggregate extraction within the proposed 50 acre Permit Boundary, with the recommended findings and conditions provided by staff.

Staff is not aware of any reason to continue this public hearing and believes the Planning Commission has sufficient information to make a decision on this request.

Chair Hargrave called for questions from the Commission.
Chair DeHart asked whether staff had discussed the increase of the buffer from 750' to 1500' as recommended by the State. **Associate Planner Baird** stated that she did indeed discuss it with the applicants and explained it was the current standard used by the State. There was a discussion between Staff and the Commission on whether it would cause future problems by requiring 1500' now and 750' at some point in the future.

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Chair Hargrave called for comments from the applicant.
Nick Kramer, Representative for applicant
Mr. Kramer stated that the applicant did not have concerns over the 1500' buffer. He further stated that he had no other comments but wanted to be available for questions from the Commission.
Chair Hargrave called for questions from the Commission.
None.
Chair Hargrave called for additional testimony in support of the request.
None.
Chair Hargrave called for testimony in opposition of the request.
None.
Chair Hargrave called for any additional questions from the Commission.
None.

Chair Hargrave closed the hearing for deliberation.

Vice Chair Ashley moved to approve the request for the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with the recommended findings and conditions provided by staff.
Commissioner McBain seconded.
Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

Commissioner McBain moved to recommend approval of the Comprehensive Plan Amendment to the Board of Commissioners, to add the 50 acre expanded aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with the proposed findings and conditions recommended by staff.
Commissioner Davis seconded.

Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes

DRAFT

Alternate Position #2 - Vacant

Commissioner Davis moved to recommend approval of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with the proposed findings and conditions recommended by staff.
Commissioner McBain seconded.

Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

Vice Chair Ashley moved to approve the request for a Conditional Use Permit to allow aggregate extraction within the proposed 50 acre Permit Boundary, with staff's proposed findings and conditions.
Commissioner Myers seconded.

Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

IV. <u>QUASIJUDICIAL HEARING: FILE #PLACUP-15-01-0003 Bryant/Carver</u>

Request for: 1) Subject to Standards Review for a Significance Determination for a 20 acre aggregate site; 2) Comprehensive Plan amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; 3) Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed aggregate operation; and 4) Conditional Use Permit for an aggregate extraction site, including drilling, shooting, crushing, screening, and stockpiling of rock. The aggregate site is located south of Hinton Road,

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approximately 0.6 mile east of Bakeoven Road, approximately 7 miles northwest of Shaniko, Oregon; more specifically described as 5S 16E 0 3600, Account 12549.

Opening the Hearing: Chair Hargrave opened the public hearing on agenda item PLACUP-15-02-0003, a request by J. Arlie Bryant, Inc. to create a 20 acre aggregate operation. The aggregate operation requires 4 separate applications and a 2-part process. Staff provided a general overview of the process required for an aggregate operation prior to this hearing, and will further explain it during the presentation of the staff recommendation.

The four applications include:

a. Subject to Standards Review for a Significance Determination of the aggregate site.

b. Comprehensive Plan Amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site

c. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the aggregate operation

d. Conditional Use Permit to expand the existing aggregate operation in area and to include drilling, shooting, crushing, stockpiling crushed aggregate, and a batch plant.

The property is described as 5S 16E 0, tax lot 3600; Acct. 12549.

The criteria for approval of the four applications include: Review Authority: Chapter 2, Section 2.060.B.1., 2., and 14 of the Wasco County Land Use and Development Ordinance. Review Criteria: Wasco County Comprehensive Plan Chapter 2 – Physical Characteristics (G., Mineral & Aggregate Resources), Chapter 14 – Findings & Recommendations (G., Goal 5 Issues), and Chapter 15 – Goals and Policies (E., Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources); Wasco County Land Use & Development Ordinance (LUDO), Chapter 2 (Procedures); Chapter 3 (Basic Provisions), Section 3.210 (Exclusive Farm Use zone), Section 3.210.E.12. (Aggregate Operations), H. (Agricultural Protection), J.9. (Additional Standards), Section 3.800 (Mineral & Aggregate Overlay Zone), Chapter 5 (Conditional Use Review), and Chapter 20 (Site Plan Review), Chapter 10 (Fire Safety Standards).

The procedure today is:

a. Disclosure of Interest, Ex Parte Contact or Potential Conflicts
b. Reading of the Rules of Evidence
c. Planning department will present their report
d. Those who wish to speak in favor of the proposal
e. Those who wish to speak in opposition of the proposal
f. Rebuttal
g. Close the hearing and record and begin deliberation
h. If enough information is available the Planning Commission will make a decision today.

Chair Hargrave asked if any Commission member wished to disqualify themselves for any personal or financial interest in this matter?
None.
Chair Hargrave asked if any member of the audience wished to challenge the right of any Commission member to hear this matter?
None.
Chair Hargrave asked if any member of the audience wished to question the jurisdiction of this body to act on behalf of Wasco County in this matter?
None.
Chair Hargrave explained the Rules of Evidence which will be followed.

Chair Hargrave called for the staff report.

DRAFT

Dawn Baird, Associate Planner, presented the following report:
For the record my name is Dawn Baird and I am an Associate Planner for the Wasco County Planning Department. I am going to present the background information in this case.

Request: The record for this request begins on Page P109 of the record. A location map for this request is on page P115. As the Chair indicated, today we will be discussing a request by J. Arlie Bryant, Inc. on property owned by Blaine Carver to create a 20 acre rock quarry. The request requires approval of four applications. The four applications are: a) Subject to Standards Review, b) Comprehensive Plan Amendment, c) Zoning Map Amendment; and d) Conditional Use Permit. Per Section 2.060 of the LUDO, the Commission will make a final decision on the Subject to Standards and Conditional Use Permit requests, and will make a recommendation to the Board of Commissioners for the Comprehensive Plan Amendment and Zone Change.

Location: The aggregate site is located south of Hinton Road, approximately 0.6 mile east of Bakeoven Road, approximately 7 miles northwest of Shaniko, Oregon; 5S 16E 0 3600; Account 12549. The subject parcel is approximately 223.20 acres in size.

Staff Recommendation: The full Staff Recommendation was mailed in the Planning Commission's agenda packets. It was available for review at the counter one week prior to this hearing, and it is considered a part of the record.

Let's discuss why the request is before the Planning Commission…
On February 9, 2015, John Bryant, J. Arlie Bryant, Inc., submitted applications for a Subject to Standards Review, a Comprehensive Plan Amendment, a Zone Change, and a Conditional Use Permit.

In the Exclusive Farm Use Zone, an aggregate extraction site must be listed in the Comprehensive Plan Aggregate Inventory as a Significant Site. The proposed site is not currently listed in the Comprehensive Plan Aggregate Inventory.

Two of the four required applications, the Subject to Standards Review and Conditional Use Permit, can be processed administratively by staff, however, the Comprehensive Plan Amendment & Zone Change require a public hearing before both the Planning Commission and Board of Commissioners. In an effort to expedite the process, all administrative applications have been "bumped up" to the PC.

Part 1 of the hearing is for a Subject to Standards Review. The Planning Commission must determine whether the aggregate operation meets the "significant" criteria in the Mineral & Aggregate Overlay Zone. If it meets the criteria, the site can approved as a Significant Site. State law requires all new or expanded sites in the Exclusive Farm Use Zone to be "significant".

Part 2 of the hearing involves the remaining three applications.

- Comprehensive Plan application – This review evaluates all pertinent Comprehensive Plan criteria related to adding the aggregate site/Permit Boundary, as a "Significant Site on the Comprehensive Plan Aggregate Inventory.

- Zone Change/Zoning Map Amendment application – This review evaluates criteria and standards in Chapter 9 – Zone Change, and Chapter 3 – Basic Provisions, Section 3.800, Mineral & Aggregate Overlay Zone. Chapter 9 ensures that any zone change is suitable to the area, that there has been consideration of public health, safety and welfare, as well as transportation concerns related to traffic quantity, road improvements, etc., and their impact on the local transportation system.

- Conditional Use Permit application – This section specifically allows approval of an aggregate extraction sites as conditional uses in the Exclusive Farm Use Zone. The use must comply with property development standards, and the Agricultural Protection Standards that require recording of a Farm Management Deed, and provides the

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property owner with information regarding the mediation process in case of any disputes. The proposed aggregate operation must meet all criteria in Chapter 5 – Conditional Use Permit. Criteria include but are not limited to requiring compatibility with surrounding uses, especially resource uses, protection of historic/cultural resources, wildlife sites, stream/water bodies, wildlife species, availability of public services, etc.

Stage in the Process: As previously stated, the application was received by the Planning Department on February 9, 2015. The request was found to be complete on February 26, 2015, and was scheduled for a public hearing on today's date. All required public notice has been given. The Staff Recommendation, with findings, conditions and conclusions, was issued on March 31, 2015. The Staff Recommendation and Summary were provided to the Planning Commission. If the Planning Commission feels they have all the necessary information to make a **decision**, they will vote to do so today.

1. Criteria: The applicable standards used to evaluate each request include:

Wasco County Land Use & Development Ordinance (LUDO)

a. Subject to Standards Review (P122)

1) Chapter 2 – Development Approval Procedures

- Section 2.060.B.14., Matters which the Director elects not to review
- Section 2.080.A., Notice
- Section 2.090., Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

2) Chapter 3 – Basic Provisions, Section 3.800, Division 5 – Mineral & Aggregate Overlay

- Section 3.810, Application of Overlay Zone
- Section 3.815, Procedure for Applying the Overlay Zone

In addition to hearing and noticing requirements, these criteria require testing of the rock at the aggregate site. Rock must meet two of the three requirements in 3.815.A.2.: Abrasion, loss of not more than 35% by weight; Oregon Air Degradation, loss of not more than 35% by weight; and Sodium Sulphate Soundness, not more than 17% by weight. In addition, the quantity of rock must be in excess of 69,000 cubic yards (100,000 tons). The Bryant request meets these standards (P125). The STS Review establishes a Permit Boundary where all aggregate operations must occur, and identifies an Impact Area – that area that could be negatively affected by the proposed use. This includes an ESEE Analysis where the economic, social, environmental and energy consequences of allowing the aggregate operation in the proposed location and its impact on sensitive uses such as dwellings. For instance, an aggregate operation would create noise and dust and would not be suitable in a residential area, but the impacts of the use in a rural farm area are much different. As identified in the ESEE analysis, there are no sensitive uses within 0.5 miles of the proposed aggregate site. The request complies with all of the STS Review requirements and should be determined a "Significant Site".

b. Comprehensive Plan Amendment (P130)

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

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- Section 2.060.B.2., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
- Section 2.080.A., Notice
- Section 2.090, Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

Wasco County Comprehensive Plan

- Chapter 2 – Physical Characteristics, *G., Mineral & Aggregate Resources*
- Chapter 11 – Revisions Process
- Chapter 14 – Findings and Recommendations
- Chapter 15 – Goals and Policies

In addition to hearing and noticing requirements, this application requires compliance with the Statewide Planning Goals, and requires demonstration that the proposed change will not be detrimental to the spirit and intent of the goals, requires consideration of the public need for healthful, safe and aesthetic surroundings and conditions. It also requires demonstration that a change in originally developed inventory occurred, and that transportation facilities will not be harmed. Adding the proposed site to the Aggregate Inventory also protects the aggregate operation from conflicting uses such as dwellings. Staff's recommendation finds that the Comprehensive Plan Amendment is consistent with all of the pertinent criteria and standards.

c. <u>Zoning Map Amendment (P141)</u>

Wasco County Land Use & Development Ordinance

1) Chapter 2 – Development Approval Procedures

   - Section 2.060.B.1., Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)
   - Section 2.080.A., Notice
   - Section 2.090, Contents of Notice
   - Section 2.140, Hearing Procedure
   - Section 2.150, Official Notice
   - Section 2.190, General Conduct of Hearings

2) Chapter 9 – Zone Change and Ordinance Amendment

   - Section 9.010, Application for Zone Change
   - Section 9.020, Criteria for Decision
   - Section 9.030, Transportation Planning Rule Compliance
   - Section 9.040, Conditions Relative to the Approval of a Zone Change
   - Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance
   - Section 9.070, Notice of Planning Commission Recommendation
   - Section 9.080, Action by County Governing Body

3) Chapter 3 – Basic Provisions

   - Section 3.800, EPD-5, Mineral & Aggregate Overlay
   - Section 3.835, Development Standards - Extraction Area
   - Section 3.840, Application Process
   - Section 3.845, Impact Area - Uses and Standards
   - Section 3.855, Termination of Mineral and Aggregate Overlay Zone

Applicable criteria for a Zoning Map Amendment require ensuring the rezone will comply with the Comprehensive Plan, that the site is suitable for the proposed zone and that

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there has been consideration of the public health, safety and welfare in applying the regulations. In addition, it considers impacts on transportation facilities. Criteria also establish uses permitted in the Mineral & Aggregate Overlay Zone, identifies visual screening requirements, equipment removal, and insurance requirements for the aggregate operator. They require on-site roads to meet minimum standards and may include road improvements to public roads. Criteria regulate hours of operation and blasting, as well as implementing DEQ air quality and DOGAMI reclamation requirements. It is also these criteria that protect the aggregate site from new conflicting uses within the Impact Area.

Staff's recommendation finds that the Zoning Map Amendment is consistent with all of the pertinent criteria and standards.

d. Conditional Use Permit (P156)

1) **Chapter 2 – Development Approval Procedures**

- Section 2.060, Application/Completeness, Section B.14., Matters which the Director elects not to review
- Section 2.080.A., Notice
- Section 2.090, Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

2) **Chapter 3 – Basic Provisions**

Section 3.210, Exclusive Farm Use Zone

- E. Uses Permitted Subject to Conditional Use Review/Type II or Type III

    1. Aggregate: Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources subject to Section J(9) - Additional Standards below, Section 3.800, Mineral & Aggregate Overlay.

- Section 3.210.F., Property Development Standards
- Section 3.210.H., Agricultural Protection
- Section 3.210.J.9., Additional Standards – Aggregate

3) **Chapter 5 – Conditional Use Review**

- Section 5.020, Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used)
- Section 5.030, Conditions

4) **Chapter 10 – Fire Safety Standards**

- Section 10.110, Siting Standards – Locating Structures
- Section 10.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break
- Section 10.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a More Fire-Safe Structure
- Section 10.140, Access Standards – Providing Safe Access to and Escape From Your Home
- Section 10.150, Fire Protection or On-Site Water Required

The Conditional Use Permit portion of this review requires the aggregate operation to be consistent with the Exclusive Farm Use Zone, specifically maintenance of water

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resource buffers, lighting standards and agricultural protection standards. Conditional Use standards in Chapter 5 are analyzed beginning on page P156. Section 5.020 requires the consideration of many things: the location, size, design and operation characteristics of the operation, analysis of existing public facilities, including police and fire protection, sewer and water facilities, telephone and electrical service and solid waste disposal facilities, impacts on transportation and its facilities, dust, noise & odor, sensitive wildlife habitat, riparian vegetation along streambanks and soil erosion. The proposed use should not affect air, water and land resource quality of the area, significantly detract from the visual character of the area, or harm areas of historic value, natural or cultural significance. A big part of this section is ensuring the proposed use will not significantly increase the cost or significantly change farm or forest practices on adjacent properties. Chapter 20 ensures there will be no traffic congestion and minimal adverse effects on surrounding properties. Chapter 10 ensures the owners are aware of the County fire safety standards. Staff notes that there are few quarry fires, and definitely very few spread onto surrounding lands due to lack of available burning material.

Staff's recommendation finds that the Conditional Use Permit is consistent with all of the pertinent criteria and standards.

Findings:

Findings of fact for each of the four applications are listed separately in the staff recommendation. Based on these findings, it appears to staff that the requests, with recommended conditions, are each consistent with the Wasco County LUDO and Wasco County Comprehensive Plan. If any additional findings, or corrections to recommended findings, or new or amended conditions are proposed by the Planning Commission, staff will add them the final Planning Commission report and they will be contained in the report that will be forwarded to the Board of Commissioners.

Planning Commission Decision Options: The Planning Commission should make a motion and vote on each application separately, therefore, there are four sets of options.

a. SUBJECT TO STANDARDS REVIEW:

1) Approve the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with the recommended findings and conditions provided by staff; or

2) Approve the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with amended findings and conditions provided by the Planning Commission; or

3) Deny the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with amended findings provided by the Planning Commission; or

4) Continue this hearing to a date and time certain.

Staff recommends Option A, for The Subject to Standards Review, approve the request to designate the proposed 20 acre quarry as a Significant Site, with the recommended findings and conditions provided by staff.

b. COMPREHENSIVE PLAN AMENDMENT:

1) Recommend approval of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, to the Board of Commissioners, with the proposed findings and conditions recommended by staff; or

DRAFT

2) Recommend approval of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, to the Board of Commissioners, with amended findings and conditions provided by the Planning Commission; or

3) Recommend denial of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, to the Board of Commissioners, with amended findings provided by the Planning Commission; or

4) Continue this hearing to a date and time certain.

Staff recommends Option 1, recommend approval to the Board of Commissioners of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, with the recommended findings and conditions provided by staff.

c. ZONING MAP AMENDMENT:

1) Recommend approval of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the proposed findings and conditions recommended by staff; or

2) Recommend approval of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the amended findings and conditions provided by the Planning Commission; or

3) Recommend denial of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with amended findings provided by the Planning Commission; or

4) Continue this hearing to a date and time certain.

Staff recommends Option 1, recommend approval to the Board of Commissioners, of the Zone Change to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the recommended findings and conditions provided by staff.

d. CONDITIONAL USE PERMIT:

1) Approve the Conditional Use Permit to allow aggregate extraction within the proposed 20 acre Permit Boundary, with staff's proposed findings and conditions.

2) Approve the Conditional Use Permit to allow aggregate extraction within the 20 acre Permit Boundary, with amended findings and conditions provided by the Planning Commission.

3) Deny the Conditional Use Permit to allow aggregate extraction within the 20 acre Permit Boundary, with amended findings provided by the Planning Commission.

4) Continue this hearing to a date and time certain.

DRAFT

Staff recommends Option 1, for the Conditional Use Permit to allow aggregate extraction within the proposed 20 acre Permit Boundary, with the recommended findings and conditions provided by staff.

Staff is not aware of any reason to continue this public hearing and believes the Planning Commission has sufficient information to make a decision on this request.

That concludes my presentation and I would be glad to answer any questions the Commission may have.

Chair Hargrave called for questions from the Commission.
None.

Chair Hargrave called for comments from the applicant.

John Bryant, J Arlie Bryant
Mr. Bryant stated that he felt Staff had done a thorough job and he had not addition statements for the Commission, but was available for questions.

Chair Hargrave called for questions from the Commission.
Commissioner DeHart asked for clarification from the applicant on whether they had an issue with increasing the buffer from 750' to 1500'. **Mr. Bryant** stated that they did not have a strong issue with the increase.

Chair Hargrave called for additional questions from the Commission.
None.
Chair Hargrave called for additional testimony in support of the request.
None.
Chair Hargrave called for testimony in opposition of the request.
None.
Chair Hargrave called for any additional questions from the Commission.
None.

Chair Hargrave closed the hearing for deliberation.

Commissioner McBain moved to approve the request for the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with the recommended findings and conditions provided by staff.
Commissioner Myers seconded.
Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

Commissioner McBain moved to recommend approval of the Comprehensive Plan Amendment to the Board of Commissioners, to add the 50 acre expanded aggregate site

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to the Wasco County Aggregate Inventory as a Significant Site, with the proposed findings and conditions recommended by staff.
Vice Chair Ashley seconded.

Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

Vice Chair Ashley moved to recommend approval of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with the proposed findings and conditions recommended by staff.
Commissioner McBain seconded.

Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

Commissioner Myers moved to approve the request for a Conditional Use Permit to allow aggregate extraction within the proposed 50 acre Permit Boundary, with staff's proposed findings and conditions.
Commissioner Davis seconded.

Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

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Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

V. **QUASIJUDICIAL HEARING: FILE #PLACUP-15-01-0001 Bryant/Hagen**

Request for: 1) 1) Partition to legalize an existing improperly created tax lot; 2) Subject to Standards Review for a Significance Determination for a 20 acre aggregate site; 3) Comprehensive Plan amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; 4) Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation; and 5) Conditional Use Permit for an aggregate extraction site, including drilling, shooting, crushing, screening, and stockpiling of rock. The proposed aggregate site is located approximately 2 miles east of Highway 197 on an easement road, approximately 3½ miles north of its intersection with Highway 97, approximately 9½ miles southwest of Shaniko, Oregon; more specifically described as 7S 15E 0, tax lot 600, Account 12795.

Opening the Hearing: Chair Hargrave opened the public hearing hearing on agenda item PLACUP-15-01-0001, a request by J. Arlie Bryant, Inc. for:

a. Partition to legalize an improperly created property (House Bill 2723); and

b. Creation of a 20 acre aggregate operation. The aggregate operation requires 4 separate applications and a 2-part process. Staff provided a general overview of the process required for an aggregate operation prior to this hearing, and will further explain it during the presentation of the staff recommendation.

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The four applications include:

1. Subject to Standards Review for a Significance Determination of the aggregate site.

2. Comprehensive Plan Amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site

3. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the aggregate operation

4. Conditional Use Permit to expand the existing aggregate operation in area and to include drilling, shooting, crushing, and stockpiling crushed aggregate.

The property is described as 7S 15E 0, tax lot 600; Acct. 12795.

The criteria for approval of the applications include: Review Authority: Chapter 2, Section 2.060.B.1., 2., and 14 of the Wasco County Land Use and Development Ordinance. Review Criteria: Wasco County Comprehensive Plan Chapter 2 – Physical Characteristics (G., Mineral & Aggregate Resources), Chapter 14 – Findings & Recommendations (G., Goal 5 Issues), and Chapter 15 – Goals and Policies (E., Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources); Wasco County Land Use & Development Ordinance (LUDO), Chapter 2 (Procedures); Chapter 3 (Basic Provisions), Section 3.210 (Exclusive Farm Use zone), Section 3.210.E.12. (Aggregate Operations), G. (Property Size Standards), H. (Agricultural Protection), J.9. (Additional Standards), Section 3.800 (Mineral & Aggregate Overlay Zone), Chapter 5 (Conditional Use Review), Chapter 20 (Site Plan Review), Chapter 10 (Fire Safety Standards); and Chapter 21 – Land Divisions).

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The procedure today is:

a. Disclosure of Interest, Ex Parte Contact or Potential Conflicts
b. Reading of the Rules of Evidence
c. Planning department will present their report
d. Those who wish to speak in favor of the proposal
e. Those who wish to speak in opposition of the proposal
f. Rebuttal
g. Close the hearing and record and begin deliberation
h. If enough information is available the Planning Commission will make a decision today.

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Chair Hargrave asked if any Commission member wished to disqualify themselves for any personal or financial interest in this matter?
None.
Chair Hargrave asked if any member of the audience wished to challenge the right of any Commission member to hear this matter?
None.
Chair Hargrave asked if any member of the audience wished to question the jurisdiction of this body to act on behalf of Wasco County in this matter?
None.
Chair Hargrave explained the Rules of Evidence which will be followed.

Chair Hargrave called for the staff report.

For the record my name is Dawn Baird and I am an Associate Planner for the Wasco County Planning Department. I am going to present the background information in this case.

Request: The record for this request begins on Page P217 of the record. A location map for this request is on page P225. As the Chair indicated, today we will be discussing a request by J. Arlie Bryant, Inc. on property owned by Hagen Bar 50 Ranches to create a 20 acre rock quarry. The request requires approval of four applications. The four applications are: a) Subject to Standards Review, b) Comprehensive Plan Amendment, c) Zoning Map Amendment; and d) Conditional Use Permit. Per Section 2.060 of the LUDO, the Commission will make a final decision on the Subject to Standards and Conditional Use Permit requests, and will make a recommendation to the Board of Commissioners for the Comprehensive Plan Amendment and Zone Change.

During the completeness review, staff discovered that this tax lot appeared to be created improperly by deed prior to September 4, 1974. All land divisions occurring after September 4, 1974, were required to receive land use approval through a partition or subdivision process. The difference is that a subdivision creates four or more parcels and a partition creates three or fewer parcels. This improper creation of tax lot 600 can be remedied by House Bill 2723, approved by the Legislature in 2007. This allows an owner to do an "after the fact" partition if the unit of land would have been permitted at the time it was first created. The owner has requested approval of a Partition./

Location: The aggregate site is located east of Highway 197, approximately 3½ miles north of its intersection with Highway 97, approximately 9½ miles southeast of Shaniko, Oregon; 7S 15E 0 600; Account 12795. The subject property is approximately 3,706.82 acres in size.

Staff Recommendation: The full Staff Recommendation was mailed in the Planning Commission's agenda packets. It was available for review at the counter one week prior to this hearing, and it is considered a part of the record.

Let's discuss why the request is before the Planning Commission…

On January 16, 2015, John Bryant, J. Arlie Bryant, Inc., submitted applications for a Subject to Standards Review, a Comprehensive Plan Amendment, a Zone Change, and a Conditional Use Permit. He submitted the Partition application around the first of February. The application was determined to be complete and was scheduled for a public hearing before the Planning Commission. **I will discuss all of the applications in my presentation, but the Planning Commission should make a separate motion and vote on each application separately.**

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In the Exclusive Farm Use Zone, an aggregate extraction site must be listed in the Comprehensive Plan Aggregate Inventory as a Significant Site. The proposed site is not currently listed in the Comprehensive Plan Aggregate Inventory.

Three of the five applications, the Partition, the Subject to Standards Review, and the Conditional Use Permit, can be processed administratively by staff, however, the Comprehensive Plan Amendment & Zone Change require a public hearing before both the Planning Commission and Board of Commissioners. In an effort to expedite the process, all administrative applications have been "bumped up" to the PC.

The first application that will be reviewed by the Commission is the Partition application. According to Chapter 15 – Administration & Enforcement, Section 15.020, Zoning Approval, states:
A. The Director, the Director's designee or other Approving Authority shall not give zoning approval on any development or use of land, including land divisions and property line adjustments on a property that is not in full compliance with all applicable provisions of this Ordinance, regardless of whether the applicant(s) or current owner(s) created the violation.

By first clearing up the legal parcel status through a House Bill 2723 partition, the County can then consider the aggregate request. As previously discussed, the aggregate request requires a 2-Part hearing process:

Part 1 of the aggregate request is for a Subject to Standards Review. The Planning Commission must determine whether the aggregate operation meets the "significant" criteria in the Mineral & Aggregate Overlay Zone. If it meets the criteria, the site can approved as a Significant Site. State law requires all new or expanded sites in the Exclusive Farm Use Zone to be "significant".

Part 2 of the hearing involves the remaining three applications.

- Comprehensive Plan application – This review evaluates all pertinent Comprehensive Plan criteria related to adding the aggregate site/Permit Boundary, as a "Significant Site on the Comprehensive Plan Aggregate Inventory.

- Zone Change/Zoning Map Amendment application – This review evaluates criteria and standards in Chapter 9 – Zone Change, and Chapter 3 – Basic Provisions, Section 3.800, Mineral & Aggregate Overlay Zone. Chapter 9 ensures that any zone change is suitable to the area, that there has been consideration of public health, safety and welfare, as well as transportation concerns related to traffic quantity, road improvements, etc., and their impact on the local transportation system.

- Conditional Use Permit application – This section specifically allows approval of an aggregate extraction site as conditional uses in the Exclusive Farm Use Zone. The use must comply with property development standards, and the Agricultural Protection Standards that require recording of a Farm Management Deed, and provides the property owner with information regarding the mediation process in case of any disputes. The proposed aggregate operation must meet all criteria in Chapter 5 – Conditional Use Permit. Criteria include but are not limited to requiring compatibility with surrounding uses, especially resource uses, protection of historic/cultural resources, wildlife sites, stream/water bodies, wildlife species, availability of public services, etc.

Stage in the Process: As previously stated, the application was received by the Planning Department on January 16, 2015. The request was found to be complete in late February, 2015, and was scheduled for a public hearing on today's date. All required public notice has been given. The Staff Recommendation, with findings, conditions and conclusions, was issued on March 31, 2015. The Staff Recommendation and Summary were provided to the

Planning Commission. If the Planning Commission feels they have all the necessary information to make a **decision**, they will vote to do so today.

Criteria: The applicable standards used to evaluate each request include:

Partition (P233)

House Bill (HB) 2723 – Adopted in 2007

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures
Section 2.060.B.14., Matters which the Director elects not to review
Section 2.080.A., Notice
Section 2.090, Contents of Notice
Section 2.140, Hearing Procedure
Section 2.150, Official Notice
Section 2.190, General Conduct of Hearings

Chapter 3 – Basic Provisions, Section 3.210, A-1, Exclusive Farm Use Zone
Section 3.210.F., Property Development Standards

Chapter 21 – Land Divisions
Section 21.100, Land Partitioning Approval

Subject to Standards Review (P241)

Chapter 2 – Development Approval Procedures

- Section 2.060.B.14., Matters which the Director elects not to review
- Section 2.080.A., Notice
- Section 2.090., Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

Chapter 3 – Basic Provisions, Section 3.800, Division 5 – Mineral & Aggregate Overlay

- Section 3.810, Application of Overlay Zone
- Section 3.815, Procedure for Applying the Overlay Zone

In addition to hearing and noticing requirements, these criteria require testing of the rock at the aggregate site. Rock must meet two of the three requirements in 3.815.A.2.: Abrasion, loss of not more than 35% by weight; Oregon Air Degradation, loss of not more than 35% by weight; and Sodium Sulphate Soundness, not more than 17% by weight. In addition, the quantity of rock must be in excess of 69,000 cubic yards (100,000 tons). The Bryant request meets these standards (P316). The STS Review establishes a Permit Boundary where all aggregate operations must occur, and identifies an Impact Area – that area that could be negatively affected by the proposed use. This includes an ESEE Analysis where the economic, social, environmental and energy consequences of allowing the aggregate operation in the proposed location and its impact on sensitive uses such as dwellings. For instance, an aggregate operation would create noise and dust and would not be suitable in a residential area, but the impacts of the use in a rural farm area are much different. As identified in the ESEE analysis, there are no sensitive uses within 1 mile of the proposed aggregate site. The request complies with all of the STS Review requirements and should be determined a “Significant Site”.

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Comprehensive Plan Amendment (P249)

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

- Section 2.060.B.2., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
- Section 2.080.A., Notice
- Section 2.090, Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

Wasco County Comprehensive Plan

- Chapter 2 – Physical Characteristics, *G., Mineral & Aggregate Resources*
- Chapter 11 – Revisions Process
- Chapter 14 – Findings and Recommendations
- Chapter 15 – Goals and Policies

In addition to hearing and noticing requirements, this application requires compliance with the Statewide Planning Goals, and requires demonstration that the proposed change will not be detrimental to the spirit and intent of the goals, requires consideration of the public need for healthful, safe and aesthetic surroundings and conditions. It also requires demonstration that a change in originally developed inventory occurred, and that transportation facilities will not be harmed. Adding the proposed site to the Aggregate Inventory also protects the aggregate operation from conflicting uses such as dwellings. Staff's recommendation finds that the Comprehensive Plan Amendment is consistent with all of the pertinent criteria and standards.

Zoning Map Amendment (P260)

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

- Section 2.060.B.1., Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)
- Section 2.080.A., Notice
- Section 2.090, Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

Chapter 9 – Zone Change and Ordinance Amendment

- Section 9.010, Application for Zone Change
- Section 9.020, Criteria for Decision
- Section 9.030, Transportation Planning Rule Compliance
- Section 9.040, Conditions Relative to the Approval of a Zone Change
- Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance
- Section 9.070, Notice of Planning Commission Recommendation
- Section 9.080, Action by County Governing Body

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Chapter 3 – Basic Provisions

- Section 3.800, EPD-5, Mineral & Aggregate Overlay
- Section 3.835, Development Standards - Extraction Area
- Section 3.840, Application Process
- Section 3.845, Impact Area - Uses and Standards
- Section 3.855, Termination of Mineral and Aggregate Overlay Zone

Applicable criteria for a Zoning Map Amendment require ensuring the rezone will comply with the Comprehensive Plan, that the site is suitable for the proposed zone and that there has been consideration of the public health, safety and welfare in applying the regulations. In addition, it considers impacts on transportation facilities. Criteria also establish uses permitted in the Mineral & Aggregate Overlay Zone, identifies visual screening requirements, equipment removal, and insurance requirements for the aggregate operator. They require on-site roads to meet minimum standards and may include road improvements to public roads. Criteria regulate hours of operation and blasting, as well as implementing DEQ air quality and DOGAMI reclamation requirements. It is also these criteria that protect the aggregate site from new conflicting uses within the Impact Area.

Staff's recommendation finds that the Zoning Map Amendment is consistent with all of the pertinent criteria and standards.

Conditional Use Permit (P274)

Chapter 2 – Development Approval Procedures

- Section 2.060, Application/Completeness, Section B.14., Matters which the Director elects not to review
- Section 2.080.A., Notice
- Section 2.090, Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

Chapter 3 – Basic Provisions

Section 3.210, Exclusive Farm Use Zone

- E. Uses Permitted Subject to Conditional Use Review/Type II or Type III

Aggregate: Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources subject to Section J(9) - Additional Standards below, Section 3.800, Mineral & Aggregate Overlay.

- Section 3.210.F., Property Development Standards
- Section 3.210.H., Agricultural Protection
- Section 3.210.J.9., Additional Standards – Aggregate

Chapter 5 – Conditional Use Review

- Section 5.020, Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used)
- Section 5.030, Conditions

Chapter 10 – Fire Safety Standards

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- Section 10.110, Siting Standards – Locating Structures
- Section 10.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break
- Section 10.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a More Fire-Safe Structure
- Section 10.140, Access Standards – Providing Safe Access to and Escape From Your Home
- Section 10.150, Fire Protection or On-Site Water Required

The Conditional Use Permit portion of this review requires the aggregate operation to be consistent with the Exclusive Farm Use Zone, specifically maintenance of water resource buffers, lighting standards and agricultural protection standards. Conditional Use standards in Chapter 5 are analyzed beginning on page P274. Section 5.020 requires the consideration of many things: the location, size, design and operation characteristics of the operation, analysis of existing public facilities, including police and fire protection, sewer and water facilities, telephone and electrical service and solid waste disposal facilities, impacts on transportation and its facilities, dust, noise & odor, sensitive wildlife habitat, riparian vegetation along streambanks and soil erosion. The proposed use should not affect air, water and land resource quality of the area, significantly detract from the visual character of the area, or harm areas of historic value, natural or cultural significance. A big part of this section is ensuring the proposed use will not significantly increase the cost or significantly change farm or forest practices on adjacent properties. Chapter 20 ensures there will be no traffic congestion and minimal adverse effects on surrounding properties. Chapter 10 ensures the owners are aware of the County fire safety standards. Staff notes that there are few quarry fires, and definitely very few spread onto surrounding lands due to lack of available burning material.

Staff's recommendation finds that the Conditional Use Permit is consistent with all of the pertinent criteria and standards.

Findings:

Findings of fact for each of the four applications are listed separately in the staff recommendation. Based on these findings, it appears to staff that the requests, with recommended conditions, are each consistent with the Wasco County LUDO and Wasco County Comprehensive Plan. If any additional findings, corrections to recommended findings, or new or amended conditions are proposed by the Planning Commission, staff will add them the final Planning Commission report and they will be contained in the report that will be forwarded to the Board of Commissioners.

Planning Commission Decision Options: The Planning Commission should make a motion and vote on each application separately, therefore, there are four sets of options.

a. PARTITION:

1) Approve the Partition with the proposed findings and conditions recommended by staff; or

2) Approve the Partition with amended findings and conditions provided by the Planning Commission; or

3) Deny the Partition with amended findings provided by the Planning Commission; or

4) Continue this hearing to a date and time certain.

b. SUBJECT TO STANDARDS REVIEW:

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1) Approve the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with the recommended findings and conditions provided by staff; or

2) Approve the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with amended findings and conditions provided by the Planning Commission; or

3) Deny the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with amended findings provided by the Planning Commission; or

4) Continue this hearing to a date and time certain.

Staff recommends Option A, for The Subject to Standards Review, approve the request to designate the proposed 20 acre quarry as a Significant Site, with the recommended findings and conditions provided by staff.

c. COMPREHENSIVE PLAN AMENDMENT:

1) Recommend approval of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, to the Board of Commissioners, with the proposed findings and conditions recommended by staff; or

2) Recommend approval of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, to the Board of Commissioners, with amended findings and conditions provided by the Planning Commission; or

3) Recommend denial of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, to the Board of Commissioners, with amended findings provided by the Planning Commission; or

4) Continue this hearing to a date and time certain.

Staff recommends Option A, recommend approval to the Board of Commissioners of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, with the recommended findings and conditions provided by staff.

d. ZONING MAP AMENDMENT:

1) Recommend approval of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the proposed findings and conditions recommended by staff; or

2) Recommend approval of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the amended findings and conditions provided by the Planning Commission; or

DRAFT

3) Recommend denial of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with amended findings provided by the Planning Commission; or

4) Continue this hearing to a date and time certain.

Staff recommends Option A, recommend approval to the Board of Commissioners, of the Zone Change to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the recommended findings and conditions provided by staff.

e. CONDITIONAL USE PERMIT:

1) Approve the Conditional Use Permit to allow aggregate extraction within the proposed 20 acre Permit Boundary, with staff's proposed findings and conditions.

2) Approve the Conditional Use Permit to allow aggregate extraction within the 20 acre Permit Boundary, with amended findings and conditions provided by the Planning Commission.

3) Deny the Conditional Use Permit to allow aggregate extraction within the 20 acre Permit Boundary, with amended findings provided by the Planning Commission.

4) Continue this hearing to a date and time certain.

Staff recommends Option A, for the Conditional Use Permit to allow aggregate extraction within the proposed 20 acre Permit Boundary, with the recommended findings and conditions provided by staff.

Staff is not aware of any reason to continue this public hearing and believes the Planning Commission has sufficient information to make a decision on this request.

That concludes my presentation and I would be glad to answer any questions the Commission may have.

Chair Hargrave called for comments from the applicant.

John Bryant, J Arlie Bryant
Mr. Bryant stated that he felt Staff had done a thorough job and he had not addition statements for the Commission, but was available for questions.

Vice Chair Ashley clarified that the property is a rock outcropping with little or no dirt. **Mr. Bryant** responded that was correct.

Chair Hargrave called for additional questions from the Commission.
None.

Chair Hargrave called for additional testimony in support of the request.
None.
Chair Hargrave called for testimony in opposition of the request.
None.
Chair Hargrave called for any additional questions from the Commission.
None.

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Chair Hargrave closed the hearing for deliberation.

The Commission agreed there were no issues which were not discussed earlier in the other hearings.

Commissioner Davis moved to approve the Partition with the proposed findings and conditions recommended by staff.
Commissioner Myers seconded.
Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

Commissioner McBain moved to approve the request for the Subject to Standards Review to designate the proposed 20 acre quarry as a Significant Site, with the recommended findings and conditions provided by staff.
Commissioner Ashley seconded.
Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

Commissioner Myers moved to recommend approval of the Comprehensive Plan Amendment to the Board of Commissioners, to add the 50 acre expanded aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with the proposed findings and conditions recommended by staff.
Commissioner Davis seconded.

Chair Hargrave called for discussion

DRAFT

None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

Vice Chair Ashley moved to recommend approval of the Zone Change to the Board of Commissioners to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with the proposed findings and conditions recommended by staff.
Commissioner McBain seconded.

Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes
Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

Commissioner Davis moved to approve the request for a Conditional Use Permit to allow aggregate extraction within the proposed 50 acre Permit Boundary, with staff's proposed findings and conditions.
Commissioner Myers seconded.

Chair Hargrave called for discussion
None.
Chair Hargrave called for the vote

The motion was unanimously approved 7 to 0, 1 absent (Commissioner Elliott), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hargrave – yes

DRAFT

Vice-Chair Ashley – yes
Commissioner Myers – yes
Commissioner Handley - yes
Commissioner Elliott – absent
Commissioner DeHart – yes
Commissioner McBain – yes
Alternate Commissioner Davis – yes
Alternate Position #2 - Vacant

DRAFT

Aggregate Hearings
Justesen Packet

- Summary
- Attachment A – BOC Options
- Attachment B – Recommended Conditions of Approval
- Attachment C – Maps
- Attachment E – Planning Commission Recommendation
- Attachment F – Lighting Standards
- Attachment G – Farm Management Easement

Wasco County Planning Department

"Service, Sustainability & Solutions"

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www.co.wasco.or.us/planning

Planning Commission Recommendation for the Wasco County Board of Commissioners

FILE # PLACUP-15-01-0002

HEARING DATE: May 6, 2015
NOTIFICATION DATE: April 21, 2015

REQUESTS: Expand an existing 21.5 acre aggregate operation (rock quarry) to 50 acres in size. Applications include:

1. Comprehensive Plan Amendment to add a significant aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and

2. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation.

APPLICANT:
Jon Justesen
59720 Twin Lakes Road
Grass Valley, OR 97029

OWNER:
Jonnie L. Justesen, et. al.
Same

PROPERTY INFORMATION:

Zoning: A-1(160), Exclusive Farm Use Zone in Wasco County

Location: The aggregate site is located east of Highway 97, approximately 3.4 miles northeast of Shaniko, Oregon; more specifically described as:

Existing Tax Lot	Previous	Acct#	Acres
6S 17E 0 2200	None	12710	714.74
6S 17E 0 2400	6S 17E 0 1901	12707	2,493.63

ATTACHMENTS:

Prepared by Dawn Baird, Associate Planner

A. Recommended Conditions of Approval
B. Maps
C. Planning Commission Report
D. Lighting Standards
E. Farm Management Easement

The full Planning Commission recommendation with all proposed findings of fact is enclosed as **Attachment C** and was available at the Wasco County Planning Department and Wasco County Board of Commissioners Office for review one week prior to the May 6, 2015, hearing. The full Planning Commission recommendation is made a part of the record. This summary does not supersede or alter any of the findings or conclusions in the staff report, but summarizes the results of the Planning Commission's review and recommendation.

Aggregate Sites in the Exclusive Farm Use Zone

To establish a new aggregate site, renew an existing aggregate site, or expand an aggregate site in the Exclusive Farm Use Zone in Wasco County, up to **four** applications may be required to be submitted. They include:

A. Subject to Standards Review: The existing or proposed rock source must be determined to be a "Significant Site." This involves applying for, and receiving approval, of a Subject to Standards Review and submittal of information showing compliance with specific criteria (involves meeting specific aggregate testing, requires long-term lease or ownership of the property, and requires a significant quantity of rock to be available).

B. Comprehensive Plan Amendment: Once a rock quarry is determined to be a "Significant Site" it needs to be added to the Wasco County Comprehensive Plan Aggregate Inventory as a "Significant Site." This requires submittal of, and approval of a Comprehensive Plan Amendment to add the "Significant Site" to the Aggregate Inventory.

C. Zoning Map Amendment: If a rock quarry meets all of the significance criteria, it is necessary to protect the rock source by the application of the EPD-5, Mineral & Aggregate Overlay Zone to the quarry boundary, and all land within a minimum of 750 feet of the boundary.

D. Conditional Use Permit: LUDO Chapter 3, Section 3.210, A-1, Exclusive Farm Use Zone, subsection E.4. and 5. Allows extraction, drilling, blasting, crushing, screening and stockpiling of rock, and a batch plant, subject to compliance with Conditional Use

Of these four applications, the Planning Commission can make decisions on the Subject to Standards Review and Conditional Use Permit, and can make a recommendation to the Board of Commissioners on a Comprehensive Plan Amendment and Zoning Map Amendment.

Jon Justesen made application to expand an existing aggregate extraction site (rock quarry) from 21.5 acres to 50 acres in size. His applications included a Subject to Standards Review to determine whether the site is a significant rock source; a Comprehensive Plan Amendment to update the Aggregate Inventory to identify this site (County site 233) as a Significant Site, a Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay to the aggregate site's Permit Boundary, and all land within a distance of the Permit Boundary, and a Conditional Use Permit to allow drilling, shooting, crushing and stockpiling and batching of crushed aggregate.

ATTACHMENT A

BOARD OF COMMISSIONERS OPTIONS AND PLANNING COMMISSION DECISIONS & RECOMMENDATIONS

On April 7, 2015, the Wasco County Planning Commission met to hold a quasi-judicial public hearing to consider all four applications.

PLANNING COMMISSION DECISIONS:

A. With a vote of 6-0, with conditions, the Planning Commission voted to approve the Subject to Standards Review and designate the 50 acre aggregate site as a significant rock source.

B. With a vote of 6-0, with conditions, the Planning Commission voted to approve the Conditional Use Permit to allow an aggregate operation and include drilling, shooting, crushing, stockpiling crushed aggregate, and a batch plant.

PLANNING COMMISSION RECOMMENDATIONS:

A. With a vote of 6-0, with conditions in Attachment A, the Planning Commission voted to recommend approval of a Comprehensive Plan Amendment to add the proposed 50 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a "Significant Site."

B. On a vote of 6-0, with conditions in Attachment A, the Planning Commission voted to recommend approval of a Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 50 acre Permit Boundary and all land within 1,500 feet.

BOARD OF COMMISSIONERS OPTIONS:

A. Comprehensive Plan Amendment:

1. Approve the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with the Planning Commission's proposed findings and conditions.

2. Approve the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with amended findings and conditions provided by the Board.

3. Deny the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory,with amended findings provided by the Board.

4. Continue the hearing to a date and time certain.

B. Zoning Map Amendment

1. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with the Planning Commission's proposed findings and conditions.

2. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings and conditions provided by the Board.

3. Deny the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings provided by the Board.

4. Continue the hearing to a date and time certain.

ATTACHMENT B

RECOMMENDED CONDITIONS OF APPROVAL

A. Comprehensive Plan Amendment:

1. The owners shall submit a map identifying the 50 acre Permit Boundary and the 1,500 foot Impact Area to the Planning Department prior to any excavation into the expansion area.

2. All operations, including but not limited to, aggregate extraction, crushing, screening, batching, stockpiling, equipment storage, etc., shall only occur within the Permit Boundary.

3. The Impact Area for the proposed quarry includes all land within 1,500 feet of the 50 acre boundary of the aggregate site.

B. Zoning Map Amendment:

1. Prior to any excavation, the following conditions shall be met:

   a. The 5' tall earthen berm shall be constructed and seeded with natural grasses.

   b. The owner shall submit a copy of an approved DEQ permit showing conformance with air quality and emissions standards.

   c. The owner shall submit a copy of a DOGAMI operating permit or exemption certificate, and a DOGAMI-approved Reclamation Plan.

   d. County approval and DOGAMI approval are both required prior to any mining activity.

   e. Check dams shall be installed to control prevent sedimentation into Buck Hollow Creek.

2. Miscellaneous Conditions:

   a. All processing equipment and equipment stored on the site shall be screened from view of Highway 97.

   b. Hours of drilling and blasting are limited to 9 a.m. to 5 p.m., Monday – Friday. No blasting or drilling shall occur on Saturdays, Sundays, or recognized legal holidays.

   c. Hours of operation for extraction are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

   d. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

   e. The aggregate site operator shall maintain applicable DOGAMI permits or exemption certificates in effect.

   f. Any mining operator shall carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least $1 million.

g. All vegetation within 100' of Buck Hollow Creek shall be retained.

h. The Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate site will release all restrictions, easements or waivers of remonstrance and Indemnity.

i. The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

    a. The owner of the mineral and aggregate resource site submits evidence showing a significant resource no longer exists on the site; and

    b. The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and

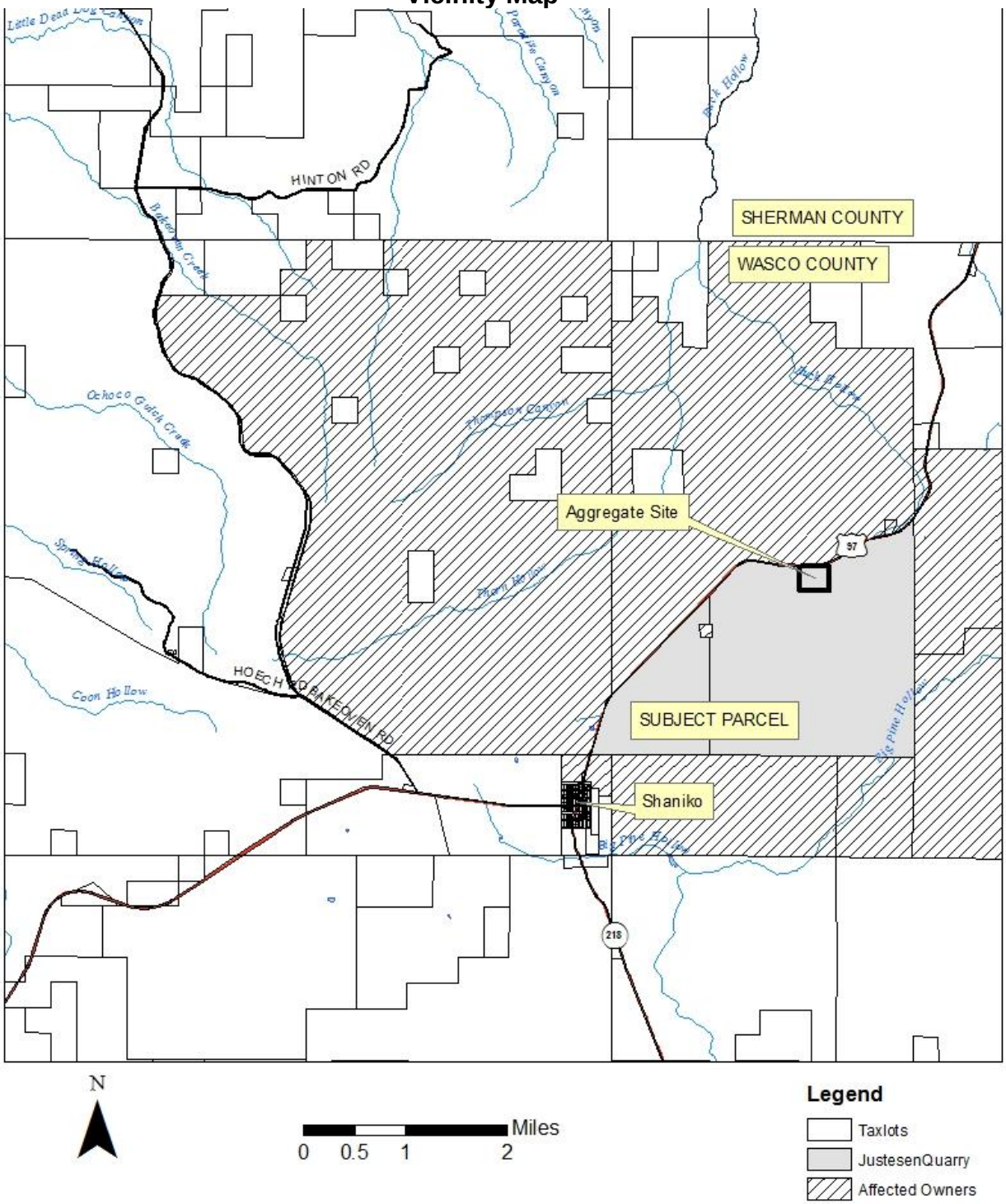
    c. The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

ATTACHMENT C – MAPS

Property Owner: Jonnie L. Justesen, et. al.

6S 17E 0, Tax Lots 2200 and 2400

Vicinity Map

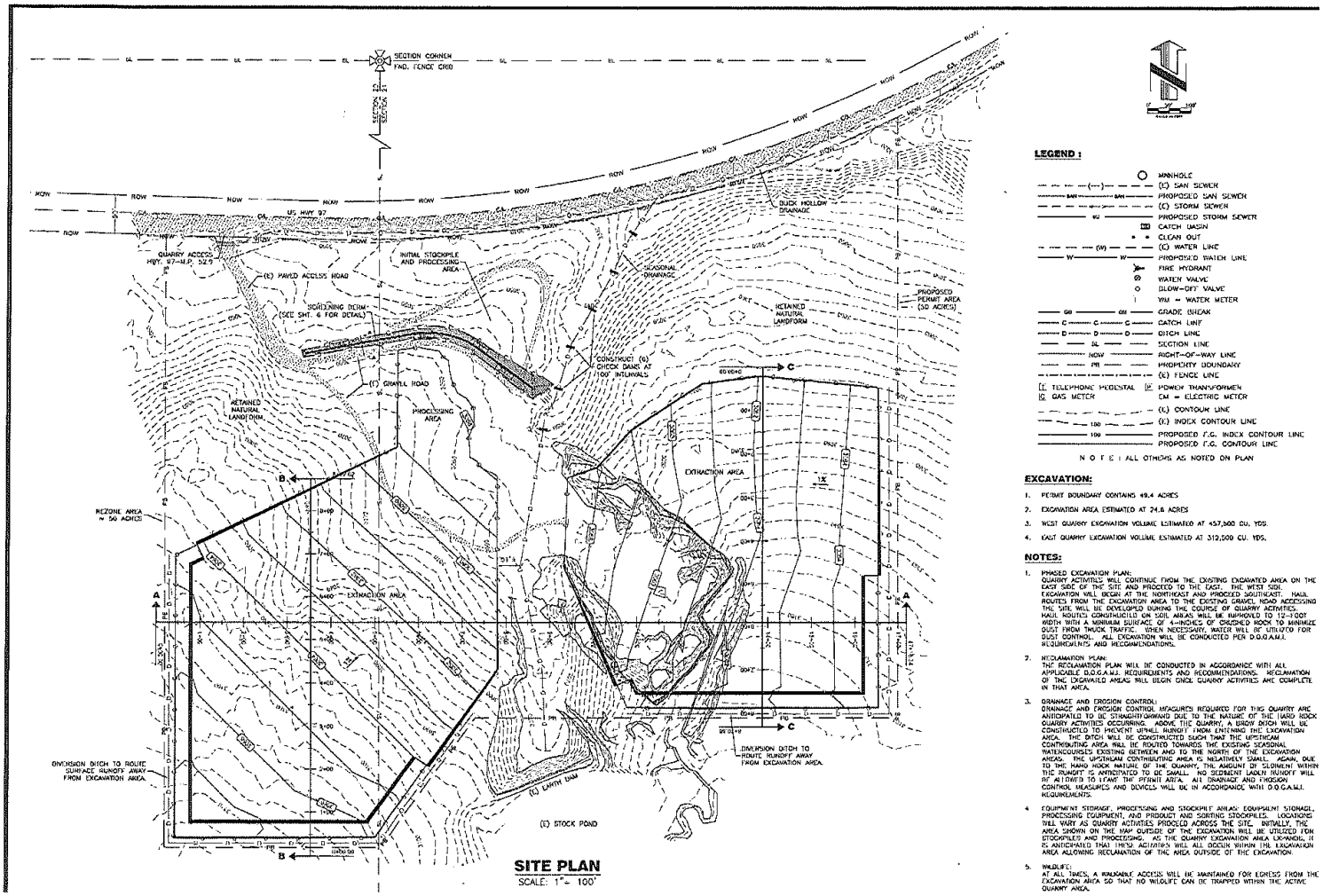


ATTACHMENT C – MAPS

Property Owner: Jonnie L. Justesen, et. al.

6S 17E 0, Tax Lots 2200 and 2400

Site Plan



LEGEND :

- MANHOLE
- (E) SAN SEWER
- PROPOSED SAN SEWER
- (E) STORM SEWER
- PROPOSED STORM SEWER
- CATCH BASIN
- CLEAN OUT
- (E) WATER LINE
- PROPOSED WATER LINE
- FIRE HYDRANT
- WATER VALVE
- BLOW-OFF VALVE
- WM = WATER METER
- GRADE BREAK
- CATCH LINE
- DITCH LINE
- SECTION LINE
- RIGHT-OF-WAY LINE
- PROPERTY BOUNDARY
- (E) FENCE LINE
- TELEPHONE PEDESTAL
- POWER TRANSFORMER
- GAS METER
- EM = ELECTRIC METER
- (E) CONTOUR LINE
- (E) INDEX CONTOUR LINE
- PROPOSED F.G. INDEX CONTOUR LINE
- PROPOSED F.G. CONTOUR LINE

N O T E : ALL OTHERS AS NOTED ON PLAN

EXCAVATION:

1. PERMIT BOUNDARY CONTAINS 49.4 ACRES
2. EXCAVATION AREA ESTIMATED AT 24.6 ACRES
3. WEST QUARRY EXCAVATION VOLUME ESTIMATED AT 457,500 CU. YDS
4. EAST QUARRY EXCAVATION VOLUME ESTIMATED AT 312,500 CU. YDS.

NOTES:

1. PHASED EXCAVATION PLAN:
   QUARRY ACTIVITIES WILL CONTINUE FROM THE EXISTING EXCAVATED AREA ON THE EAST SIDE OF THE SITE AND PROCEED TO THE EAST. THE WEST SIDE EXCAVATION WILL BEGIN AT THE NORTHEAST AND PROCEED SOUTHEAST. HAUL ROUTES FROM THE EXCAVATION AREA TO THE EXISTING GRAVEL ROAD ACCESSING THE SITE WILL BE DEVELOPED DURING THE COURSE OF QUARRY ACTIVITIES. HAUL ROUTES CONSTRUCTED ON SOIL AREAS WILL BE IMPROVED TO 12'-30' WIDTH WITH A MINIMUM SURFACE OF 4-INCHES OF CRUSHED ROCK TO MINIMIZE DUST FROM TRUCK TRAFFIC. WHEN NECESSARY, WATER WILL BE UTILIZED FOR DUST CONTROL. ALL EXCAVATION WILL BE CONDUCTED PER D.O.G.A.M.I. REQUIREMENTS AND RECOMMENDATIONS.
2. RECLAMATION PLAN:
   THE RECLAMATION PLAN WILL BE CONDUCTED IN ACCORDANCE WITH ALL APPLICABLE D.O.G.A.M.I. REQUIREMENTS AND RECOMMENDATIONS. RECLAMATION OF THE EXCAVATED AREAS WILL BEGIN ONCE QUARRY ACTIVITIES ARE COMPLETE IN THAT AREA.
3. DRAINAGE AND EROSION CONTROL:
   DRAINAGE AND EROSION CONTROL MEASURES REQUIRED FOR THIS QUARRY ARE ANTICIPATED TO BE STRAIGHTFORWARD DUE TO THE NATURE OF THE HARD ROCK QUARRY ACTIVITIES OCCURRING. ABOVE THE QUARRY, A BROW DITCH WILL BE CONSTRUCTED TO PREVENT UPHILL RUNOFF FROM ENTERING THE EXCAVATION AREA. THE DITCH WILL BE CONSTRUCTED SUCH THAT THE UPSTREAM CONTRIBUTING AREA WILL BE ROUTED TOWARDS THE EXISTING SEASONAL WATERCOURSES EXISTING BETWEEN AND TO THE NORTH OF THE EXCAVATION AREAS. THE UPSTREAM CONTRIBUTING AREA IS RELATIVELY SMALL. AGAIN, DUE TO THE HARD ROCK NATURE OF THE QUARRY, THE AMOUNT OF SEDIMENT WITHIN THE RUNOFF IS ANTICIPATED TO BE SMALL. NO SEDIMENT LADEN RUNOFF WILL BE ALLOWED TO LEAVE THE PERMIT AREA. ALL DRAINAGE AND EROSION CONTROL MEASURES AND DEVICES WILL BE IN ACCORDANCE WITH D.O.G.A.M.I. REQUIREMENTS.
4. EQUIPMENT STORAGE, PROCESSING AND STOCKPILE AREAS: EQUIPMENT STORAGE, PROCESSING EQUIPMENT, AND PRODUCT AND SORTING STOCKPILES. LOCATIONS WILL VARY AS QUARRY ACTIVITIES PROCEED ACROSS THE SITE. INITIALLY, THE AREA SHOWN ON THE MAP OUTSIDE OF THE EXCAVATION WILL BE UTILIZED FOR STOCKPILES AND PROCESSING. AS THE QUARRY EXCAVATION AREA EXPANDS, IT IS ANTICIPATED THAT THESE ACTIVITIES WILL ALL OCCUR WITHIN THE EXCAVATION AREA ALLOWING RECLAMATION OF THE AREA OUTSIDE OF THE EXCAVATION.
5. WILDLIFE:
   AT ALL TIMES, A WALKABLE ACCESS WILL BE MAINTAINED FOR EGRESS FROM THE EXCAVATION AREA SO THAT NO WILDLIFE CAN BE TRAPPED WITHIN THE ACTIVE QUARRY AREA.

ATTACHMENT E

PLANNING COMMISSION RECOMMENDATION

File Number: PLACUP-15-01-0002

Requests: Expand an existing 21.5 acre rock quarry to 50 acres in size. Applications before the Board of Commissioners include:

1. Comprehensive Plan Amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and

2. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the aggregate operation.

Prepared For: Wasco County Board of Commissioners

Procedure Type: Quasi-Judicial Hearing

Hearing Date: May 6, 2015

Applicant: Jon Justesen

Owners: Jonnie L. Justesen, et al.

Location: The aggregate site is located east of Highway 97, approximately 3.4 miles northeast of Shaniko, Oregon; more specifically described as:

Existing Tax Lot	Previous	Acct#	Acres
6S 17E 0 2200	None	12710	714.74
6S 17E 0 2400	6S 17E 0 1901	12707	2,493.63

Zoning: A-1(160), Exclusive Farm Use Zone

Past Actions: 6S 17E 0, tax lot 2200: None
6S 17E 0, tax lot 2400: PLAMNN-10-06-0015, MIN-07-165, LOC-02-WAA11-LUCS-A, CUP-00-124-WAA11-P, CUP-00-120-WAA11-A, CPA-99-104-WAA1-P, CUP-99-105-WAA1-P, PLA-99-111-WAA16-A, PLA-97-105-WAA1-A, LOC-96-WAA18-WR, MIP-80-114-WAA1, CUP-79-114-WAA1-H.

Prepared by: Dawn Baird, Associate Planner

I. APPLICABLE STANDARDS

A. Comprehensive Plan Amendment

1. Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.060.B.1.	(Recommendation to County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
Section 2.080.A.	(Notice)
Section 2.090	(Contents of Notice)
Section 2.140	(Hearing Procedure)
Section 2.150	(Official Notice)
Section 2.190	(General Conduct of Hearings)

2. Wasco County Comprehensive Plan

a. Chapter 2 – Physical Characteristics

Section G.	(Mineral & Aggregate Resources)

b. Chapter 11 – Revisions Process

Section B.	(A Comprehensive Plan may take the following forms)
Section C.	(Who may apply for a plan revision)
Section E.	(Quasi-Judicial Revisions)
Section H.	(General Criteria)
Section I.	(Transportation Planning Rule Compliance)
Section J.	(Procedure for the Amendment Process)

c. Chapter 14 – Findings and Recommendations

Section B.	(Goal 5 Issues)

d. Chapter 15 – Goals and Policies

Section E.	(Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources)

B. Zoning Map Amendment

Wasco County Land Use & Development Ordinance

1. Chapter 2 – Development Approval Procedures

Section 2.060.B.2.	(Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment - Chapter 9)
Section 2.080.A.	(Notice)
Section 2.090	(Contents of Notice)
Section 2.140	(Hearing Procedure)
Section 2.150	(Official Notice)
Section 2.190	(General Conduct of Hearings)

2. Chapter 9 – Zone Change and Ordinance Amendment

Section 9.010	(Application for Zone Change)
Section 9.020	(Criteria for Decision)
Section 9.030	(Transportation Planning Rule Compliance)

Section 9.040	(Conditions Relative to the Approval of a Zone Change)
Section 9.060	(Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance)
Section 9.070	(Notice of Planning Commission Recommendation)
Section 9.080	(Action by County Governing Body)

3. Chapter 3 – Basic Provisions

Section 3.800	(Division 5 – Mineral and Aggregate Overlay)
Section 3.830	(Permitted Uses - Extraction Areas)
Section 3.835	(Development Standards - Extraction Area)
Section 3.845	(Impact Area - Uses and Standards)
Section 3.850	(Designation of Overlay Zone)
Section 3.855	(Termination of Mineral and Aggregate Overlay Zone)

II. BACKGROUND

A. Legal Parcel: The subject parcel was legally created by Property Line Adjustment 99-111-WAA16-A, recorded with the Wasco County Clerk on September 6, 2000. It is consistent with the definition of Legal Parcel in LUDO Chapter 1, Section 1.090, Definitions because it was created by a duly recorded property line adjustment.

B. Site Description: Staff made a site inspection of the subject parcel on February 19, 2015. The existing 21.5 acre proposed aggregate site contains 2-20% western facing slopes with sage brush vegetation and scattered juniper trees. Approximately 3 acres of the site have been excavated in a horseshoe shaped fashion, open to the north. Stockpiles from the Oregon Dept. of Transportation's prior road project remain between the south wall and U.S. Highway 97. The previously excavated portion of the site has vertical walls 20-25 feet in height. At the southwestern edge of the site is a pond with a man-made dam approximately 14 feet in height. The natural drainage of this pond, an intermittent draw, runs along the entirety of the western border of the development site.

The remaining 2,490.7 acres of the subject parcel consist of rolling terrain with predominantly 2-20% slopes, scattered Juniper trees, sage brush vegetation and 406 acres of dry crop fields (oat and barley), registered with Farm Services Agency. The parcel is principally used for livestock grazing (200 mother cows/200 calves) from late fall through late spring.

C. Surrounding Land Use: Surrounding properties are used for cattle grazing. Property to the east contains some planted fields (hay). These properties contain similar slopes as the subject parcel. Properties contain scattered juniper trees, sage brush, and natural grasses. The closest residence is 2.3 miles to the northwest.

III. SUMMARY OF PLANNING COMMISSION HEARING (APRIL 7, 2015)

An aggregate site in the Exclusive Farm Use Zone generally requires four applications:

- Subject to Standards Review
- Comprehensive Plan Amendment
- Zoning Map Amendment
- Conditional Use Permit

In the Exclusive Farm Use Zone, creation of a new aggregate site, renewal of a permit for an existing aggregate site, or expansion of an existing aggregate site, can only occur if the rock source has been determined to be a "Significant Site". This determination is done through a Subject to Standards Review. If a site is determined to be significant, the three remaining applications will be processed:

A Comprehensive Plan Amendment is required to add the "Significant Site" to the Wasco County Comprehensive Plan Aggregate Inventory.

A Zoning Map Amendment is required to protect the significant rock source by placing the EPD-5, Mineral & Aggregate Overlay Zone on the aggregate site and a specific area around the boundary of the aggregate site.

The remaining application is a Conditional Use Permit. Aggregate operations and batch plants are regulated by the Conditional Use Review requirements to ensure there are no conflicts with surrounding farm or forest uses, for the protection of fish & wildlife habitat, cultural and historic resources, public facilities including roads, fire, electricity, sewer, water, etc.

The Planning Director has the authority to make a decision on the Subject to Standards request, and the Conditional Use Permit request, however, to expedite the process, the Director chose to have to the Planning Commission make a decision on these two applications, as well as a recommendation to the Board of Commissioners for a Comprehensive Plan Amendment and Zoning Map Amendment.

The results of the Planning Commission hearing were:

- Subject to Standards Review: Approval, with conditions, to determine the Justesen rock source to be a Significant Site.

- Comprehensive Plan Amendment: Recommendation of approval, with conditions, to add the Justesen rock source to the Comprehensive Plan Aggregate Inventory as a Significant Site.

- Zoning Map Amendment: Recommendation of approval, with conditions, to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 50 acre Permit Boundary and all land within 1,500 feet.

- Conditional Use Permit: Approval, with conditions, to allow an aggregate operation and include drilling, shooting, crushing, stockpiling crushed aggregate, and a batch plant.

The Board of Commissioners May 6, 2015, public hearing will consider the Comprehensive Plan Amendment and Zoning Map Amendment. All applicable standards are addressed in IV.

IV. FINDINGS:

A. Comprehensive Plan Amendment

1. Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.060.B.2., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)

FINDING: The request is for a Comprehensive Plan Amendment to add the 50 acre aggregate site to the Aggregate Inventory as a "Significant Site". A proposed or expansion site in the Exclusive Farm Use Zone, must be determined to be a significant site before it can be added to the Aggregate Inventory as a Significant Site. The Planning Commission approved the quarry as a Significant Site on April 7, 2015. Upon completion of the Comprehensive Plan Amendment portion of the hearing on April 7th, the Planning Commission voted unanimously to forward a recommendation of approval, with conditions, to the Board of Commissioners for the Comprehensive Plan Amendment application.

Section 2.080.A., Notice
Section 2.090, Contents of Notice
Section 2.140, Hearing Procedure
Section 2.150, Official Notice
Section 2.190, General Conduct of Hearings

FINDING: The above sections establish the requirements for providing notice of public hearings and the general conduct of hearings. A ten day pre-notice is required for a second quasi-judicial hearing. This hearing is being held on May 6, 2015. The public hearing notice was published in The Dalles Chronicle on April 21, 2015, and notice was provided to agencies and property owners within 750' of the subject parcel, on April 21, 2015, fifteen days before the hearing. Posting of the hearing notice in public places occurred more than fifteen days before the hearing.

2. Wasco County Comprehensive Plan

Chapter 2 – Physical Characteristics

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G., Mineral & Aggregate Resources

FINDING: The request is consistent with the requirements of Chapter 2, Section G., which provides general information about rock sources in Wasco County, instructions on how to apply for the Mineral & Aggregate Overlay zone, the requirements of an ESEE (Economic, Social, Environmental & Energy) Analysis, as well as Table 8, Wasco County Aggregate Inventory.

Prior to the Planning Commission hearing, the existing site was identified as Wasco County Aggregate Inventory #233, a "Potential Site", not a "Significant Site." Upon expiration of the Planning Commission appeal period on Tuesday, April 21, 2015, the site is identified as a "Significant Site."

Requirements in OAR 660-16-005 and 660-16-010 direct local jurisdictions to analyze the ESEE consequences of (a) allowing mining on a significant site, and (b) allowing conflicting uses to displace mining on a significant site. The owners submitted an ESEE analysis with the Subject to Standards Review. The ESEE analysis identified conflicting uses in the area and discussed impacts of the aggregate site.

If the request is approved, staff will update Table 8, Wasco County Aggregate Inventory.

Chapter 11 – Revisions Process

The Comprehensive Plan for Wasco County is the primary document which guides and controls land use within Wasco County excluding incorporated areas. The plan is intended to reflect the community's current thoughts on land use planning and to be responsive to the needs and desires of citizens. In order to achieve this, the plan must respond to changing community attitudes and needs and to unforeseen circumstances which may affect the use of land in the future. It is, therefore, the intent of this section to permit the amendments of the Comprehensive Plan on a periodic basis and to describe the procedure for the amendment process.

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B. A Comprehensive Plan Amendment May Take the Following Forms:

1. Amendment of one or more policies of the plan.(Legislative)

2. Amendment to the text, inventories, maps or figures of the plan. (Legislative or Quasi-Judicial)

3. Amendment of a portion of the Comprehensive Plan Land Use Designation map. (Legislative or Quasi-Judicial)

4. Amendment to the urban growth boundary. (Legislative or Quasi-Judicial)

5. A combination plan change/zone amendment. (Legislative or Quasi-Judicial)

FINDING: The request is for a quasi-judicial amendment to the Comprehensive Plan Mineral and Aggregate Inventory, as permitted by B.2.

C. Who May Apply For a Plan Revision
A Comprehensive Plan Revision may be initiated by:

1. Wasco County Governing Body. (Legislative)

2. Planning Commission by majority vote confirmed by the Wasco County Governing Body. (Legislative)

3. Property owner or his authorized representative. (Quasi-Judicial)

FINDING: A request for a revision to the Wasco County Aggregate Inventory to amend the proposed quarry designation from "Potentially Significant Site" to "Significant Site." The request was made for the property owners by their engineer (authorized representative).

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E. Quasi-Judicial Revisions

Section E. states that quasi-judicial revisions are those which do not have significant effect beyond the immediate area of the change, i.e., narrow in scope and focusing on specific situations.

Each plan change or revision will first be heard by the Planning Commission on a first-come, first-serve basis. Such hearing shall be conducted in accordance with the Wasco County Planning Commission "Rules and Regulations".

FINDING: The request is consistent with criterion c. The proposed amendment focuses on an existing aggregate operation. The proposed amendment will not affect any other quarry in Wasco County except the quarry on the subject parcel.

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H. Section H. establishes general criteria which must be considered before approval of an amendment to the Comprehensive Plan is given.

1. Compliance with the statewide land use goal as provided by Chapter 15 or further amended by the Land Conservation and Development Commission, where applicable.

FINDING: Chapter 15 lists the goals and policies for each Statewide Planning Goal. Goal 5, Policy 1 – Mineral and Aggregate Resources, helps to protect and utilize appropriately the mineral and aggregate resources in Wasco County, and minimize conflict between aggregate uses and surrounding land uses. The request is consistent with Statewide Land Use Goal 5 and implementing policies in Chapter 15, as discussed below.

2. Substantial proof that such change shall not be detrimental to the spirit and intent of such goals.

FINDING: As discussed below in Chapter 15 (page 12 of 30 of the Planning Commission Recommendation), the request complies with the goals and policies related to aggregate operations.

3. A mistake in the original comprehensive plan or change in the character of the neighborhood can be demonstrated.

FINDING: A change in the character of southern Wasco County has resulted in the request for the Comprehensive Plan Amendment.

The character of southeastern Wasco County has evolved significantly resulting in the request for a Comprehensive Plan Amendment. The County Comprehensive Plan inventories were compiled in the late 1970's and early 1980's. Since the inventories were compiled, many things have happened and the character of the county has changed. Items include the Rajneesh era in Antelope, declining timber harvest due to Spotted Owl concerns, and the closure of area lumber mills and aluminum plants. Stimulus money has been made available from the federal government for transportation system projects. This has resulted in an increased need for aggregate resources. New methods for generating electricity have been found to be cost effective resulting in placement of many wind turbines in adjacent Oregon and Washington counties. Wasco County hopes to be the next location of wind turbines, additionally there is future potential for solar power generation. These projects will also require considerable aggregate resources. There are no active private quarries in this vicinity of Wasco County.

4. *Factors which relate to the public need for healthful, safe and aesthetic surroundings and conditions.*

FINDING: These factors were addressed in the Planning Commission hearing, primarily through the Conditional Use Review which requires compliance with criteria that require: maintenance of wildlife areas, riparian habitat, cultural and historic areas, the protection of farm and forest uses, the ability to maintain or provide public services, including but not limited to police protection, fire protection, road maintenance and safety, pedestrian safety, and protection of water, land and air resource quality. With proposed conditions in the Conditional Use Permit approval, the request provides healthful, safe and aesthetic surroundings and conditions for the public.

5. *Proof of change in the inventories originally developed.*

FINDING: Proof of change in the originally developed Aggregate Inventory was addressed above in H.3.

6. *Revisions shall be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change must be established.*

FINDING: The request complies with H.6.. The request is to amend the existing quarry from "Potentially Significant Site" to "Significant Site."

Wasco County and Oregon Department of Transportation (ODOT) have quarries 0.9 mile and 1.2 mile, respectively, from the proposed aggregate site, however, they are not extraction sites, but only stockpile sites, and they do not sell rock to private individuals or companies. There is no privately owned quarry within 17 miles of the subject parcel that contains a rock source identified as "Significant." Though it does not sound like a long distance to haul rock, considering the terrain consisting of steep hills and extreme curves, it is slow going and the trucks must use a lot of fuel to transport the rock. If quality rock is needed in this part of the County, the cost will not be economically feasible due to transportation costs.

Based on distance to existing available private rock sources, the public need and justification for the quarry expansion has been established.

The owners submitted results from six separate tests conducted by ODOT in 1999 for the rock in the quarry. It was determined the rock quality is very good; these reports serve as the factual basis to support the change.

I. *Transportation Planning Rule Compliance*

1. *Review of Applications for Effect on Transportation Facilities - A proposed plan amendment, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR"). "Significant" means the proposal would:*

   a. *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

b. Change standards implementing a functional classification system; or

c. As measured at the end of the planning period identified in the adopted transportation system plan:

1) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

2) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or

3) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

FINDING: OAR-660-012-0005(30), Definitions, states: "Transportation Facilities" means any physical facility that moves or assist in the movement of people or goods including facilities identified in OAR 660-012-0020 but excluding electricity, sewage and water systems.

An e-mail dated February 5, 2015, from Scott Peters, ODOT Permit Specialist, states that "this site has been used for aggregate extraction for over 16 years. The existing and expanded area is located in a rural location. The driveway accessing the aggregate site has good site distance onto Highway 97. If the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., the proposed use will not unduly impair traffic flow or safety in the area." A **condition** requiring this is recommended.

A **condition** is recommended requiring the owner to ensure all trucks hauling aggregate from the site be properly contained to avoid the spillage of rock and debris onto public roads. The owner shall keep Highway 97 and adjoining routes of travel clear of rock spillage.

Other conditions related to roads, such as maintenance of on-site roads, providing water to reduce dust, etc., were applied in the review of the Conditional Use Permit, and are included as conditions of approval.

2. Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:

a. Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.

b. Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section -0060 of the TPR.

c. *Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.*

d. *Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*

FINDING: According to Scott Peters, ODOT Permit Specialist, the request will not significantly affect Highway 97 because the aggregate site has been in operation periodically for the past 20+ years and has not produced any additional wear and tear on the road. There are no alternate methods of transporting rock in this area because there are no railroad lines.

3. *Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a plan amendment application pursuant to Section 4.140 Traffic Impact Analysis (TIA)) of the Land Use and Development Ordinance.*

FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system from a Comprehensive Plan Amendment. The mineral extraction operation is an existing use. If the expansion is approved, the use will continue as it has for the past 16+ years, and no change to the use will occur. According an e-mail dated February 5, 2015, Scott Peters, ODOT Permit Specialist, there will be no impact on Highway 97 if the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., therefore, no Traffic Impact Analysis is required.

J. *Procedure for the Amendment Process*

1. *A petition must be filed with the Planning Offices on forms prescribed by the Director of Planning.*

FINDING: The owners' engineer made application to the Planning Department for a Comprehensive Plan Amendment to amend the Aggregate Inventory to identify the proposed quarry as a Significant Site.

2. *Notice of a proposed revision within, or to, the urban growth boundary will be given to the appropriate city at least thirty (30) days before the County public hearing.*

FINDING: The proposed amendment is not within or adjacent to an urban growth boundary, therefore, 2. does not apply.

3. *Notification of Hearing:*

a. *Notices of public hearings shall summarize the issues in an understandable and meaningful manner.*

b. *Notice of a legislative or judicial public hearing shall be given as prescribed in ORS 215.503. In any event, notice shall be given by publishing notice in newspapers of general circulation at least twenty (20) days, but not more than forty (40) days, prior to the date of the hearing.*

FINDING: Public notice summarizing the proposed request was published in The Dalles Chronicle and was provided to all property owners on April 21, 2015, 15 days prior to the May 6, 2015, Board of Commissioners hearing.

c. A quorum of the Planning Commission must be present before a public hearing can be held. If the majority of the County Planning Commission present cannot agree on a proposed change, the Commission will hold another public hearing in an attempt to resolve the difference or send the proposed change to the County Governing Body with no recommendation.

FINDING: Six members of the Planning Commission were present at their April 7, 2015, hearing. The Commissioners unanimously (6-0) voted to recommend approval of the Comprehensive Plan Amendment, with conditions, to the Board of Commissioners.

d. After the public hearing, the Planning Commission shall recommend to the County Governing Body that the revision be granted or denied, and the facts and reasons supporting their decision. In all cases the Planning Commission shall enter findings based on the record before it to justify the decision. If the Planning Commission sends the proposed change with no recommendation, the findings shall reflect those items agreed upon and those items not agreed upon that resulted in no recommendation.

FINDING: The Planning Commission recommendation and report are part of the Board of Commissioners record and is attached to this report. The Planning Commission, on April 7, 2015, voted 6-0 to forward a recommendation of approval, with conditions to the Board of Commissioners.

e. Upon receiving the Planning Commission's recommendation, the County Governing Body shall take such action as they deem appropriate. The County Governing Body may or may not hold a public hearing. In no event shall the County Governing Body approve the amendment until at least twenty (20) days have passed since the mailing of the recommendation to parties.

FINDING: The Planning Commission notice of decision and recommendation was sent to owners, agencies, and affected property owners, on April 9, 2015, 27 days prior to the Board of Commissioners hearing. This is consistent with e., which requires a minimum of 20 days between the Planning Commission notice of decision and the Board of Commissioners notice of hearing.

Chapter 14 – Findings and Recommendations

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B.2., Goal 5 Issues – Mineral and Aggregate Resources

As stated in the Goals and Policies under Goal #5, rock and aggregate resources will be identified and protected by placement of the Environmental Protection District zone.

Extraction of these resources is a conditional use in the agricultural and forestry zones and a permitted use in the manufacturing zones.

Generally, residential uses are the uses which come into conflict with the extraction of aggregate and mineral resources. The provisions of the Environmental Protection District Division 5 overlay zone provide the protection necessary for all aggregate sites.

FINDING: The request complies with Chapter 14 of the Comprehensive Plan.

The property owners have made application to expand an existing aggregate operation, and have requested that the EPD-5, Mineral & Aggregate Overlay zone be applied to the expanded Permit Boundary, and all land (Impact Area) within 750 feet of the Permit Area, to protect the aggregate resource. Through discussions with Amanda Punton, Goal 5 Specialist, Department of Land Conservation & Development, staff learned that the state of Oregon uses 1,500 feet as their standard protection area. Though the County LUDO requires a minimum of 750 feet, the County can decide to use a larger distance. The Planning Commission concurred that if the State is using 1,500 feet as their distance to protect aggregate sites, and it may become the State requirement in the future, therefore, it is appropriate to use 1,500 feet in this request.

Most of the 1,500 foot Impact Area lies on the Justesen parcel, however, a small portion of the 5,175 acre property to the north will be limited in the placement of future sensitive uses, but will not render the property unusual.. The placement of the EPD-5 Overlay on this property will not prohibit any existing uses or proposed uses in the future because the land is large enough to easily find an alternate building site.

Findings in this report show that there are no existing Sensitive Uses within 1,500 feet of the proposed expansion boundary. The EPD-5 zone will protect the aggregate resource from future Sensitive Uses within the Impact Area.

Chapter 15 – Goals and Policies
Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources

Policy 1 – Mineral Resources
Protect and utilize appropriately the mineral and aggregate resources of Wasco County, and minimize conflict between surface mining and surrounding land uses.

Implementation

A. The development of new rock and aggregate resource sites shall be consistent with the State Planning Goal 5 and Oregon Administrative Rules Chapter 660, Division 16 process to balance conflicts between mining operations and new and existing surrounding conflicting uses.

FINDING: The request is consistent with Policy A.

Wasco County updated all sections of the Wasco County Comprehensive Plan relating to Goal 5 – Mineral and Aggregate Resources, during its 1994 Periodic Review project.

Conflicts between mining operations and existing surrounding uses was evaluated in the ESEE Analysis submitted by the owners. Considering existing farm uses in the area, and the distance from existing Sensitive Uses, no conflicting uses were identified in the Impact Area.

Application of the Mineral & Aggregate Overlay zone will protect the significant aggregate site and its Impact Area from future potential conflicting uses.

> *B. Sites identified as significant aggregate resource sites shall not support interim or permanent uses which may jeopardize the future availability of the resource.*

FINDING: The request complies with criterion B. The request is to expand an existing aggregate resource. No other interim or permanent uses are proposed or considered as part of this request.

> *C. Mining and processing of gravel and mineral materials may only be allowed at sites included on the "Other Site" inventory or "Significant Sites" inventory.*
>
> *1. Mining at sites on the "Other Sites" inventory may be allowed by a conditional use permit.*
>
> *2. Mining at sites on the "Significant Sites" inventory may only be permitted in accordance with the Mineral Resources Overlay.*

FINDING: Current State law allows new or expanded aggregate sites in an Exclusive Farm Use Zone on sites designated as "Significant Sites." The owners submitted an ESEE analysis which evaluated the quality and quantity of rock in the proposed Permit Area. Based on the findings of the staff analysis, a determination was made by the Planning Commission (April 7, 2015) that the quarry is a Significant Site. The appeal period for this significance determination expired at 4 p.m., April 21, 2015. No appeal was submitted to the Planning Department, therefore, the aggregate site has been determined to be a Significant Site.

> *D. For each site determined to be significant, the County shall complete the remainder of the County Goal 5 process identifying conflicting uses, analyzing the ESEE consequences of the conflicting use(s), and designating a level of protection from conflicting uses. If the final decision concerning the site is to preserve fully or partially protect the resource from conflicting uses, the County shall zone the site with the Mineral Resources Overlay.*

FINDING: The quarry was found to be a Significant Site during the Subject to Standards Review at the April 7, 2015, Planning Commission hearing. An ESEE analysis was submitted for the aggregate site. This analysis identified the closest Sensitive Site, a residence, as being 2.3 miles northwest of the aggregate operation. Currently the aggregate operation is not protected from future potential conflicting uses, however, the site has been determined to be significant, and will nowbe protected through application of the Mineral & Aggregate Overlay Zone. The Planning Commission recommends this in IV.B., Zoning Map Amendment.

> *Policy 2 – Mineral Resources*
> *The County shall maintain an inventory of mineral and aggregate resource sites. The comprehensive plan inventory shall consist of three parts:*
> - *An inventory of "Significant Sites" identified through the Goal 5 process as important resources that will be protected from conflicting uses;*
> - *An inventory of "Potential Sites" for which sufficient information concerning the location, quality, and quantity of a resource site is not adequate to allow the County to make a determination of significance;*

- *An inventory of "Other Sites" for which available information demonstrates that the site is not a significant resource to be protected.*

Implementation

A. The significance of non-aggregate mineral resources shall be judged on a case-by-case basis, taking into account information concerning the commercial or industrial use of the resource, as well as the relative quality and relative abundance of the resource within at least the County.

FINDING: An Aggregate Inventory is maintained as part of the Comprehensive Plan. An ESEE analysis was submitted by the owners evaluating the quality and quantity of rock on this specific parcel. Additional on-site information for the subject parcel was submitted by the owners' engineer. The proposed quarry has been evaluated according to the significance criteria, and was found to be significant.

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D. For sites on the "Potential Sites" inventory, the County shall review available information about mineral and aggregate resources, and if the information is sufficient, determine the site to be significant when one of the following conditions exist:

1. As part of the next scheduled Periodic Review;

2. When a landowner or operator submits information concerning the potential significance of a resource site and requests a Comprehensive Plan amendment;

3. When resolution of the status of a potential resource site is necessary to advance another planning objective.

FINDING: The landowner and his representative requested approval of a Comprehensive Plan Amendment to add the expanded quarry to the Comprehensive Plan Aggregate Inventory as a Significant Site. On April 7, 2015, the Planning Commission reviewed a Subject to Standards Review to determine if the site was a significant rock source. The Commission, on a vote of 6-0, voted to determine that the Justesen rock source was a Significant Site, and recommended approval of the Comprehensive Plan Amendment to the Board of Commissioners.

E. In order to approve surface mining at a site zoned for exclusive farm or forestry use, the County shall find, as part of the ESEE analysis, that the proposed activity will not: 1) force a significant change in, or significantly increase the cost of, accepted farming or forestry practices on surrounding lands, and 2) will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

FINDING: There is no forest use identified on surrounding lands. Existing farm use on surrounding lands consists primarily of grazing. Planted fields on property to the east are approximately 1.4 miles from the quarry operation. Due to distance and intensity of farm uses on surrounding lands, the expanded quarry will not increase the cost of accepted farm practices on surrounding lands, nor will it change how surrounding owners farm their land.

The County initially approved this quarry operation in 1999, but it was used by the owner prior to that time. The Planning Department has never received any complaints from farm operators in the area about impacts of the quarry on their farm use.

To minimize potential conflicts between the proposed expanded Permit Area and surrounding farm uses, a **condition** is recommended requiring the owners to sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 prior to receiving zoning approval on a building permit.

F. The County may establish and impose conditions on operation of a surface mine when deemed necessary as a result of a site-specific Goal 5 analysis. Where such conditions conflict with criteria and standards in the Mineral and Aggregate Resources Overlay, the conditions developed through the Goal 5 analysis shall control.

FINDING: It is noted that if any conditions of approval imposed as a result of the Comprehensive Plan Amendment are in conflict with conditions in the Zoning Map Amendment (Section IV.B.), the conditions in the Comprehensive Plan Amendment section shall control.

G. No surface mining or processing activity, as defined by the zoning ordinance, shall commence without land use approval from the County, and approval of a reclamation plan and issuance of an operating permit by DOGAMI.

FINDING: The applicant submitted a request for an Operating Permit and a proposed Reclamation Plan to the Oregon Department of Geology & Mineral Industries (DOGAMI). During the Planning Commission hearing it was pointed out that permits are required by Wasco County and the state of Oregon (DOGAMI). A **condition** in IV.B. specifically requires DOGAMI approval prior to any excavation.

H. Aggregate sites shall be subordinate to the landscape setting as seen from travel corridors when such travel corridors have been determined to be significant by the ESEE analysis.

FINDING: Highway 97 is located along the western side of the aggregate site. This site has been in operation for over 20 years. The landscape setting in the area is large open fields with many rock outcrops east of the highway. There is a large Oregon Department of Transportation stockpile site located approximately 1 mile southwest of the Justesen quarry. The current extraction site left a strip of land intact between the quarry and Highway 97 to screen the majority of the operation from the road. The view from Highway 97 of the proposed expanded extraction site south of the existing site will be similar to the existing view. However, processing equipment could be visible from the highway. The applicant has proposed to establish a 5' tall seeded, earthen berm to screen processing areas and eliminate any direct view into the extraction area. This condition is required in IV.B. With the proposed condition, the expanded aggregate site will be subordinate to the landscape setting as seen from Highway 97.

B. Zone Change Request

Wasco County Land Use & Development Ordinance

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.060, Application/Completeness, Section B.

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1. Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)

FINDING: The request is for a Zone Change to add the Mineral & Aggregate Overlay to the 50 acre Permit Boundary, and its Impact Area. On April 7, 2015, the Planning Commission voted 6-0 to forward a recommendation of approval, with conditions, to the Board of Commissioners, who will make the final decision on the Zone Change.

Section 2.080.A., Notice
Section 2.090, Contents of Notice
Section 2.140, Hearing Procedure
Section 2.150, Official Notice
Section 2.190, General Conduct of Hearings

FINDING: The above sections establish the requirements for providing notice of public hearings and the general conduct of hearings. The first evidentiary hearing provided a twenty day pre-notice before the Planning Commission held their April 7, 2015, quasi-judicial public hearing. A ten day pre-notice is required for a second quasi-judicial hearing. This hearing is being held on May 6, 2015. The public hearing notice was published in The Dalles Chronicle on April 21, 2015, and notice was provided to agencies and property owners within 750' of the subject parcel, on April 21, 2015, fifteen days before the hearing. Posting of the hearing notice in public places occurred more than fifteen days before the hearing.

Chapter 9 – Zone Change and Ordinance Amendment

Section 9.010, Application for Zone Change
Section 9.010.C. states that an application for a zone change may be initiated by an application being filed with the Director of Planning on the appropriate forms, containing information required to establish the criteria for the change (quasi-judicial only).

FINDING: Jon Justesen's engineer applied for a quasi-judicial zone change to apply the EPD-5, Mineral & Aggregate Overlay to the proposed expanded quarry and Impact Area, as required by Section 9.010.C. Application of the EPD-5 Overlay will not change the underlying Exclusive Farm Use zoning.

Section 9.020, Criteria for Decision
The Approving Authority may grant a zone change only if specific circumstances are found to exist:

A. The original zoning was the product of a mistake; or

FINDING: The original zoning was not the product of a mistake.

B. It is established that:

1. The rezoning will conform with the Comprehensive Plan; and,

FINDING: The request is consistent with B.1. The applicant provided an analysis of the Statewide Planning Goals in the ESEE analysis on page P72 of staff's report and recommendation to the Planning Commissiona. The Statewide Goals are the basis for the Comprehensive Plan, which was determined to be consistent with these goals on August 25, 1983. The analysis provided by the applicant shows that the application of the Mineral & Aggregate Overlay will conform to the Comprehensive Plan.

2. The site is suitable to the proposed zone; and

FINDING: The request complies with B.2. The owners have requested application of the EPD-5, Mineral & Aggregate Overlay zone to an aggregate site determined to be significant by the Planning Commission on April 7, 2015. The site has been listed as a Potential Site in the Aggregate Inventory in the Comprehensive Plan. The site is suitable for the proposed use because it lacks top soil, is composed entirely of agricultural capability class VII soils (considered unsuitable by the State of Oregon for commercial farm use in eastern Oregon), there is an abundance of high quality aggregate material, and there is sufficient distance between the aggregate site and sensitive uses such as residences.

3. There has been a conscious consideration of the public health, safety and welfare in applying the specific zoning regulations.

FINDING: The request is consistent with B.3. The quarry site is located in a manner which blends with the surrounding land uses and retains natural landforms to shield the operation from surrounding ownerships and passing traffic. The quarry will operate in compliance with all applicable regulations for noise, dust, odor, and hours of operation. The site is remote from any existing residential improvements. The quarry has operated in the past, and is anticipated to operate harmoniously with surrounding land uses.

Section 9.030, Transportation Planning Rule Compliance

A. Review of Applications for Effect on Transportation Facilities - A proposed zone change or land use regulation change, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR").

FINDING: Staff contacted Scott Peters, Permit Specialist, Oregon Department of Transportation on February 5, 2015, to seek his input regarding effect of the request on transportation facilities. Mr. Peters stated that the quarry has been in operation for many years, and the continuation of the quarry will not result in any significant impact to Highway 97.

Trucks hauling aggregate must follow weight, length and height requirements. If they are hauling legally, the road should wear normally, therefore, there will not significantly affect a transportation facility. A **condition** requiring compliance with these requirements was included in the Planning Commission's Conditional Use Permit approval. Another **condition** requires truck drivers to comply with normal traffic laws.

B. Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP.

FINDING: Application of the Mineral & Aggregate Overlay zone to the subject property will not affect any transportation facility. According to ODOT, Highway 97 can handle the additional 10 +/- trips per day that the quarry will generate.

> *C. Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a zone change application pursuant to Section 4.140 Traffic Impact Analysis (TIA))*

FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system from a Zone Change. The mineral extraction operation is an existing use. If the expansion is approved, the use will continue as it has for the past 16+ years, and no change to the use will occur (no additional vehicular traffic). In an e-mail dated February 5, 2015, Scott Peters, ODOT Permit Specialist, said that the current request is a continuation of an existing use, and there will be no impact on Highway 97 if the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., therefore, no Traffic Impact Analysis is required.

> ***Section 9.040, Conditions Relative to the Approval of a Zone Change***
> *Reasonable conditions may be imposed, pursuant to Section 2.110(D) as are necessary to insure the compatibility of a zone change to surrounding uses and as are necessary to fulfill the general and specific purposes of this Ordinance.*

FINDING: **Conditions** have been recommended throughout this report to insure the compatibility of the aggregate area with surrounding uses.

> (***)

> ***Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance***
> *After hearing information presented at the hearing, the Approving Authority shall recommend that the proposed zone change or amendment to the Zoning Ordinance be granted or denied. The Director of Planning or his assistants shall reduce to writing the Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based.*

FINDING: With **conditions** throughout this report, the request is consistent with all of the requirements of the LUDO. The Planning Commission's recommendation to the Board of Commissioners is to recommend approval of the Zone Change to add the EPD-5 Overlay Zone to the 50 acre Permit Boundary, and all land within 1,500 feet of the boundary (as explained under Chapter 14 on page 12 of 30).

> ***Section 9.070, Notice of Planning Commission Recommendation***
> *Within ten (10) days of the final Planning Commission hearing, the Director of Planning or his assistants shall give notice thereof to any persons who signed in and testified at the hearing and to such other persons as may have requested the same in writing.*

FINDING: Notice was provided on April 9, 2015, as required by Section 9.070.

> ***Section 9.080, Action by County Governing Body***
> *Upon receipt of the Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Governing Body act until at least twenty (20) days after the Notice of Planning Commission Recommendation has been mailed.*

FINDING: The Planning Commission held a public hearing on April 7, 2015, and provided notice of their decision/recommendation to all affected parties on April 9, 2015. The decision became final 12 days later, at 4 p.m., April 21, 2015. The Board of Commissioners hearing, held on May 6, 2015, is 27 days after the Planning Commission decision/recommendation was mailed.

Chapter 3 – Basic Provisions

Section 3.800, EPD-5, Mineral & Aggregate Overlay

Section 3.830, Permitted Uses - Extraction Areas
The following uses may be permitted in the Extraction Area subject to Site Plan approval in accordance with Section 3.840:

A. Any permitted use allowed in the underlying zone, may be allowed subject to the underlying zone criteria and as otherwise authorized through the ESEE analysis.

B. Conditional uses shall be reviewed against the approval criteria of Section 3.845.

C. Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.

D. Stockpiling and storage of mineral and aggregate materials.

E. Processing of:

1. Materials, including crushing, washing, milling, screening, sizing, or batching of portland cement; and

2. Batching or blending of mineral and aggregate into asphaltic concrete, except within 2 miles of a planted commercial vineyard.

F. Buildings (not including residences), structures and equipment directly related to the above permitted aggregate uses.

G. Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.

H. Sale of products extracted and processed on-site from a mineral and aggregate operation.

FINDING: Section 3.840 is addressed below. The owner proposes to process the aggregate material, including extraction, crushing, washing, milling, screening, sizing, and batching, which are all uses permitted in the approved Extraction Area.

Section 3.835, Development Standards - Extraction Area
A development plan shall be submitted to the Wasco County Planning Department for any permitted activity allowed in Section 3.830. The following requirements apply to mining and processing unless other standards are adopted in the County process. Such standards shall be clearly identified in the ESEE analysis. The applicant shall demonstrate that the following standards or site specific replacement standards adopted in the County process, are met or can be met by a specified date.

A. Screening

1. *Mining Activities to be Screened.*

    a. *All excavated areas except areas where reclamation is being performed, internal on-site roads existing of the effective date of this ordinance, new roads approved as part of the site plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation which provides natural screening;*

    b. *All processing equipment;*

    c. *All equipment stored on the site.*

2. *Types of Screening.*

    a. *Natural Screening. Existing vegetation or other landscape features which are located within 50 feet of the boundary of the site, and which screen the view of mining activities from screened uses, shall be preserved and maintained.*

    b. *Supplied Screening. Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied screening shall not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.*

FINDING: With **conditions**, the request complies with Section 3.835.A. The owner amended his original site plan to include a 5' tall earth berm for screening purposes. Overburden (topsoil) from the aggregate site will be moved to a location east of the existing driveway, approximately 150-200' south of Highway 97 and Buck Hollow Creek. The addition of the berm will minimize visibility into the expanded extraction area. With the proposed amendment adding an earthen berm, seeded with natural grasses, processing equipment, and equipment stored on the site will be screened from view of Highway 97. Criterion 2.b. above, allows earthen screening consisting of berms covered with earth and stabilized with ground cover (generally seeded with grass). A **condition** is recommended requiring construction of the berm, as proposed, a minimum of 5' tall, seeded with natural grasses prior to any extraction on the site. In addition, a **condition** is recommended requiring the owner to screen all processing equipment and equipment stored on the site. This can be accomplished by the proposed berm.

B. *Access*

1. *On-site roads used in mining, and access from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards.*

    a. *All access roads intersecting a paved county road or state highway shall be paved thirty feet from the paved county road or state highway unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;*

FINDING: The request is consistent with 1.a. There is existing pavement over 30' long on the western end of the access road approaching Highway 97. The on-site road was constructed

approximately 15 years ago, and has accommodated mining vehicles and equipment for over 20 years.

b. All on-site roads within the Extraction Area, and access roads, shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date;

FINDING: The request complies with 1.b. The proposed quarry was previously used as an extraction site (1999, 2000-2010) and internal access roads are constructed with rock from the quarry, with little dust created by trucks. There are no buildings or structures within 2.3 miles of the quarry, and the noise created by trucks on-site is similar to noise created by trucks going along Highway 97 at 55 m.p.h. An on-site 2,500 gallon water truck will be available for dust control.

c. All on-site roads within the Extraction Area, and access roads, shall be paved at all points within 250 feet of a noise or dust sensitive use existing on the effective date of this ordinance.

FINDING: No noise or dust sensitive uses exist within 2.3 miles of the aggregate site, therefore, it is consistent with 1.c.

2. Improvements to substandard public roads outside of the Extraction Area may only be required as necessary to comply with a road improvement program adopted as part of transportation element of the Comprehensive Plan. Payment for public road improvements shall not be a condition of approval for mining at significant sites.

FINDING: The subject parcel has direct access to Highway 97, a State-maintained road. No improvements to public roads are required.

3. Improvement fees in lieu of improvements of public roads, county roads and state highways may be required when the Planning Director or hearings body, in consultation with the appropriate road authority, determines that the increased traffic on the roads resulting from the surface mining activity will damage the road sufficiently to warrant off-site improvement. If the fee in lieu of improvements is required, the amount of the fee shall reflect the applicant's pro-rata share of the actual total cost of the capital expenditure of the road construction or reconstruction project necessitated by and benefiting the surface mining operation. Discounts for taxes and fees already paid for such improvements, such as road taxes for vehicles and for property already dedicated or improved, shall be applied.

FINDING: According to Scott Peters, Permit Specialist, Oregon Department of Transportation (ODOT), in an e-mail dated February 5, 2015, stated that the owner met ODOT standards in his prior request for an aggregate site. No additional permits or improvements are required by ODOT.

4. An effective vehicular barrier or gate shall be required at all access points to the site.

FINDING: There is an existing gate across the driveway which provides access to the site.

C. Hours of Operation

1. *Drilling and blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday.*

FINDING: With a recommended **condition**, the request is consistent with C.1. A **condition** is recommended limiting the hours of drilling and blasting to 9 a.m. to 5 p.m., Monday-Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any recognized legal holiday.

2. *Mineral and aggregate extraction, processing and equipment operation within 750' or as established by the ESEE analysis of any Sensitive Use existing of the effective date of this ordinance is restricted to the hours of 7:00 am to 6:00 pm, Monday through Friday. All other sites are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.*

FINDING: The Impact Area was identified by the Planning Commission as all land within 1,500 feet of the Permit Boundary. There are no sensitive uses within 1,500 feet (as established by the ESEE analysis) of the quarry site. The Planning Commission recommends requiring a **condition** limiting the hours of operation to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

D. *Environmental Standards*

1. *DEQ Standards. Mineral and aggregate extraction, processing and other operations shall conform to all the applicable environmental standards of the County and applicable DEQ air quality and emissions standards. The applicant shall provide a copy of an approved DEQ permit(s) prior to commencement of the operation.*

FINDING: A **condition** is recommended requiring the owner to submit a copy of an approved DEQ permit prior to commencement of operation.

E. *Equipment Removal. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.*

FINDING: The Planning Commission recommends requiring equipment removal as stated in E., as a **condition** of approval.

F. *Performance Agreement*

1. *The operator of a mineral and aggregate site shall keep applicable DOGAMI permits or exemption certificates in effect.*

FINDING: A **condition** is recommended requiring the aggregate site operator to keep applicable DOGAMI permits or exemption certificates in effect.

2. *The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least $1,000,000.00.*

FINDING: A **condition** is recommended requiring any mining operator to carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least $1 million.

G. Significant Resource Area Protection. Conflicts between inventoried mineral and aggregate resource sites and significant fish and wildlife habitat, riparian areas and wetlands, significant scenic viewpoints or vistas, and ecologically and scientifically significant natural areas protected by the Significant Resource Areas Overlay Zone in accordance with Section 3.910 (Natural Areas Overlay) and 3.770 (Cultural, Historical and Archeological Overlay) of this Ordinance and identified on the Significant Resource Areas Map, shall be balanced as determined by the program and as determined by the County process.

FINDING: Buck Hollow Creek is located approximately 450 feet north of the extraction area. It is not a fish-bearing stream. Though it provides some wildlife habitat and riparian areas, it is not located in an identified natural area and does not contain cultural, historical, or archaeological features. A **condition** is recommended requiring the maintenance of all vegetation within 100 feet of Buck Hollow Creek.

H. Site Reclamation.

1. No mining shall commence without providing the County a copy of a DOGAMI operating permit, approved reclamation plan, or exemption certificate.

FINDING: A **condition** is recommended requiring the owner to provide a copy of a DOGAMI operating permit/exemption certificate, and approved reclamation plan to the Planning Department prior to the commencement of mining.

2. A reclamation plan shall be submitted concurrently with the development plan required in Section 3.835. The reclamation plan shall include a schedule showing the planned order and sequence of reclamation, shall assure that the site will be restored or rehabilitated for the land uses specified in the underlying zone including subsequent beneficial uses identified through the County process.

FINDING: The owner has provided a draft reclamation plan, however, it has not yet been approved by DOGAMI. A **condition** is recommended requiring the owner to submit a DOGAMI-approved reclamation plan prior to commencement of mining.

3. The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County. When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.

a. If site plan approval is required, the County shall require that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.

FINDING: In order to operate an aggregate extraction site, the owner must satisfy the requirements of Wasco County and DOGAMI. The Planning Commission recommends a **condition** advising the owner that County approval and DOGAMI approval are both required prior to any new mining activity.

I. Water Management

1. All surface water shall be managed to provide protection against sediment discharge into streams, rivers and lakes. Existing natural drainage on the site shall not be changed in a manner which interferes with drainage patterns on adjoining property, or which drains waste materials or waste water onto adjoining property or perennial streams. Where the mineral and aggregate operation abuts a lake, river, or perennial stream, all existing vegetation within 100 feet of the mean high water mark shall be retained unless otherwise authorized in accordance with the ESEE analysis and the development plan.

FINDING: The natural drainage of the northern portion of the subject parcel is south to north, and water drains into Buck Hollow Creek. All mining and processing areas are over 150' from the creek. The owner proposes a series of 5 check dams in the natural south-north drainage way. These dams allow any sediment from the aggregate operation to be caught in a basin, which will spill over to the next check dam when it is full. The dams allow sediment to be caught while allowing water to move along to Buck Hollow Creek. Existing vegetation within 150' of Buck Hollow Creek will be retained. A **condition** is recommended requiring the installation of the proposed check dams, and retention of all vegetation within 100' of Buck Hollow Creek.

2. All water required for the mineral and aggregate operation, including dust control, landscaping and processing of material, shall be managed: (a) in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements, or (b) shall be legally available and appropriated for such use. The applicant shall provide written documentation of water rights from the State Department of Water Resources and/or local water district prior to the commencement of any site operation.

FINDING: The owner's plan includes placement of a 2,500 gallon water truck on-site. The availability of this water will allow the request to meet all DEQ and DOGAMI requirements. No water right is required for an on-site water truck.

J. Flood Plain. Any extraction Area located wholly or in part in a Flood Hazard Area shall receive approval in accordance with Chapter 22 of this Ordinance prior to any site operation.

FINDING: The Extraction Area is not in a Flood Hazard Area.

K. Compliance with Special Conditions. The applicant shall demonstrate that all special conditions or requirements adopted as part of the County process have been satisfied or will be satisfied by a specified date.

FINDING: This report recommends many conditions of approval to ensure all applicable requirements have been met. Some conditions must be met after expiration of the appeal period, but prior to operation. Some conditions do not require any action, and some actions must be met after the aggregate operation ceases.

L. Security. Fencing of site boundaries shall be required on the boundary between a significant site and a parcel zoned to allow dwellings as an outright permitted use. Fencing shall be a cyclone type fence, shall be earth tone color, and shall be a minimum of six feet high.

FINDING: A dwelling is not an outright permitted use in the Exclusive Farm Use zone, therefore, L. is not applicable to this request.

Section 3.840, Application Process

Final development plan approval is required prior to the beginning of any mineral and aggregate activity listed in Section 3.825 (A), and before any expansion of a pre-existing or nonconforming site. The applicant shall provide the following at the time of application:

A. A site plan demonstrating that the development standards required in Section 3.835 can be met, and any requirements adopted as part of the County process, including:

1. *Screening and Fencing;*
2. *Access;*
3. *Hours of Operation;*
4. *Environmental Standards;*
5. *Equipment Removal;*
6. *Performance Agreement;*
7. *Significant Resource Area Protection;*
8. *Site Reclamation;*
9. *Water Management; and*
10. *Flood Plain.*

B. A map or diagram showing the location and setbacks of all proposed mineral and aggregate activities and operations and the location and distance to all Sensitive Uses within the Impact Area.

FINDING: A site plan containing this information was provided by the applicant at the time of application.

C. The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.835 and any other requirements adopted as part of the County process.

FINDING: The Planning Commission recommends approval of the request to the Board of Commissioners, with recommended conditions.

Section 3.845, Impact Area - Uses and Standards

A. Any <u>permitted use allowed</u> in the underlying zone may be allowed in the Impact Area subject to the underlying zone criteria and as otherwise authorized by the County process.

FINDING: The subject parcel is zoned Exclusive Farm Use, A-1(160). This zone allows farm and forest use as an outright permitted use, so grazing of the land can continue, as well as the establishment of other uses allowed in the underlying zone.

B. <u>Uses allowed Conditionally</u>.

1. *Any conditional use in the underlying zone(s) which are not noise sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the underlying zone criteria.*

FINDING: Section 3.815C.3.b) lists noise sensitive uses and uses that conflict with aggregate extraction operations. Uses that are listed as conditional uses in the Exclusive Farm Use Zone that are not noise sensitive/conflicting uses shall be reviewed as a conditional use subject to the underlying zone criteria.

2. *Noise sensitive uses and conflicting uses shall be reviewed as conditional uses subject to criteria D, Approval Criteria.*

FINDING: In the future, noise sensitive/conflicting uses shall be reviewed as a conditional subject to Section 3.815.D.

C. *Prohibited Uses. Uses identified through the County process as incompatible with mining shall not be permitted within the Impact Area.*

FINDING: Uses listed below are considered to be incompatible with mining, and shall not be permitted in the Impact Area.

1. An outdoor gathering
2. Dwellings
3. Winery
4. Model Aircraft take-off and landing sites
5. Churches and cemeteries
6. Propagation, cultivation, maintenance, and harvesting of aquatic or insect species
7. Farm ranch recreation
8. Commercial utility facilities (Wind, Hydroelectric or Other)
9. A site for disposal of solid waste
10. Personal use airports
11. Fire service facilities, and community centers owned by a government agency or nonprofit organization
12. Parks and playgrounds
13. Public or private schools for kindergarten through grade 12
14. Home Occupation
15. Dog Kennels
16. Private parks, playgrounds, and campgrounds
17. Golf courses
18. Commercial activities such as roadside stands that are in conjunction with farm use.

D. *Review Criteria. To approve uses allowed conditionally in the Impact Area the applicant must demonstrate compliance with the following criteria…*

FINDING: All of the uses proposed in the Impact Area (drilling, shooting, extraction, crushing and stockpiling crushed aggregate) are permitted in the Mineral & Aggregate Overlay Zone. No other uses are requested, therefore, D. is not applicable to this request.

(***)

F. *Waiver of Remonstrance and Indemnity.*

1. *The owner of a proposed new Sensitive Use shall sign and record in the County Deed Records an Aggregate Operation Easement, Waiver of Remonstrance*

and Indemnity which shall declare that the applicant and his successors or heirs will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site.

FINDING: If a new Sensitive Use is proposed within the EPD-5 Overlay, the affected owner shall record documents listed in F.1.

2. *The Aggregate Operations Easement and Waiver of Remonstrance and Indemnity shall run with the land, until such time as the site is exhausted and the site is reclaimed in accordance with the approved reclamation plan or the operator releases these restrictions, easements or waivers or remonstrance and indemnity.*

3. *It shall be a requirement of the mineral and aggregate operator to release any restrictions, easements or waivers of remonstrance and indemnity.*

FINDING: A **condition** is recommended advising the owner that the Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate owner will release all restrictions, easements or waivers of remonstrance and indemnity.

Section 3.850, Designation of Overlay Zone
The Mineral and Aggregate Overlay Zone may be applied through the plan update process, or through individual application for an Aggregate Overlay zone/ Comprehensive Plan amendment pursuant to Section 2.060 (B)(15) of this Ordinance. The approving authority shall approve the overlay zone designation if the provisions of Chapter 3, Section 3.800 - 3.850 of this Ordinance have been met. (Amended 9-93)

The boundary of the Overlay Zone shall be all property contained in the Mineral and Aggregate Extraction Area and Mineral and Aggregate Impact Area.

FINDING: The application of the Mineral & Aggregate Overlay Zone has been requested by the applicant through Section 2.060.B.2. The overlay zone shall be applied to all land within the 50 acre boundary, and all land within 1,500 feet of the Permit Boundary.

Section 3.855, Termination of Mineral and Aggregate Overlay Zone
The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

A. *The owner of the Mineral and Aggregate resource site submits evidence showing a significant resource no longer exists on the site; and*

B. *The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and*

C. *The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.*

FINDING: A **condition** is recommended advising the owner that the termination of the Mineral & Aggregate Overlay zone shall occur when one of the above criteria has been met.

V. BOARD OF COMMISSIONERS DECISION OPTIONS

A. Comprehensive Plan Amendment

1. Approve the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with the findings and conditions recommended by the Planning Commission.

2. Approve the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with amended findings and conditions provided by the Board of Commissioners.

3. Deny the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with amended findings provided by the Board of Commissioners.

4. Continue the hearing to a date and time certain.

B. Zoning Map Amendment

1. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with the Planning Commission's proposed findings and conditions.

2. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings and conditions provided by the Board.

3. Deny the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings provided by the Board.

4. Continue the hearing to a date and time certain.

VI. PLANNING COMMISSION RECOMMENDATION:

A. Recommend approval of the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site, with conditions of approval described in VII.; and

B. Recommend approval of the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 feet of the aggregate site, with conditions of approval described in VII.

VII. RECOMMENDED CONDITIONS OF APPROVAL: The Planning Commission recommends the Board of Commissioners apply the following conditions of approval:

A. Comprehensive Plan Amendment:

1. The owners shall submit a map identifying the 50 acre Permit Boundary and the 1,500 foot Impact Area to the Planning Department prior to any excavation into the expansion area.

2. All operations, including but not limited to, aggregate extraction, crushing, screening, batching, stockpiling, equipment storage, etc., shall only occur within the Permit Boundary.

3. The Impact Area for the proposed quarry includes all land within 1,500 feet of the 50 acre boundary of the aggregate site.

B. Zoning Map Amendment

1. Prior to any excavation, the following conditions shall be met:

   a. The 5' tall earthen berm shall be constructed and seeded with natural grasses.

   b. The owner shall submit a copy of an approved DEQ permit showing conformance with air quality and emissions standards.

   c. The owner shall submit a copy of a DOGAMI operating permit or exemption certificate, and a DOGAMI-approved Reclamation Plan.

   d. County approval and DOGAMI approval are both required prior to any mining activity.

   e. Check dams shall be installed to control prevent sedimentation into Buck Hollow Creek.

   2. Miscellaneous Conditions:

      a. All processing equipment and equipment stored on the site shall be screened from view of Highway 97.

      b. Hours of drilling and blasting are limited to 9 a.m. to 5 p.m., Monday – Friday. No blasting or drilling shall occur on Saturdays, Sundays, or recognized legal holidays.

      c. Hours of operation for extraction are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

      d. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

      e. The aggregate site operator shall maintain applicable DOGAMI permits or exemption certificates in effect.

      f. Any mining operator shall carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least $1 million.

      g. All vegetation within 100' of Buck Hollow Creek shall be retained.

h. The Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate site will release all restrictions, easements or waivers of remonstrance and Indemnity.

i. The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

   1) The owner of the mineral and aggregate resource site submits evidence showing a significant resource no longer exists on the site; and

   2) The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and

   3) The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND *SKY & TELESCOPE*.

What is good lighting?

Good outdoor lights improve visibility, safety, and a sense of security, while minimizing energy use, operating costs, and ugly, dazzling glare.

Why should we be concerned?

Many outdoor lights are poorly designed or improperly aimed. Such lights are costly, wasteful, and distractingly glary. They harm the nighttime environment and neighbors' property values. Light directed uselessly above the horizon creates murky skyglow — the "light pollution" that washes out our view of the stars.

Glare Here's the basic rule of thumb: If you can see the bright bulb from a distance, it's a bad light. With a good light, you see lit ground instead of the dazzling bulb. "Glare" is light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers.

Light Trespass Poor outdoor lighting shines onto neighbors' properties and into bedroom windows, reducing privacy, hindering sleep, and giving the area an unattractive, trashy look.

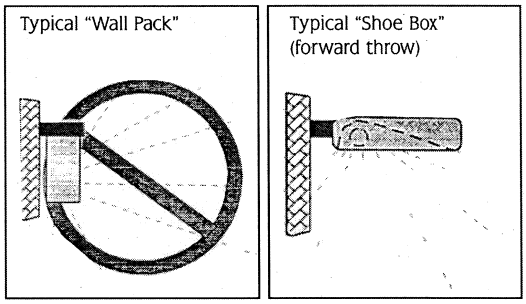
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. Each year we waste more than a billion dollars in the United States needlessly lighting the night sky.

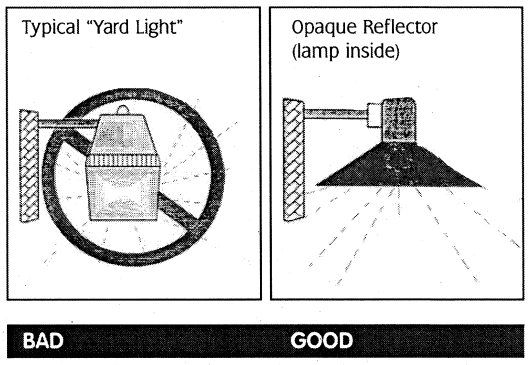
Excess Lighting Some homes and businesses are flooded with much stronger light than is necessary for safety or security.

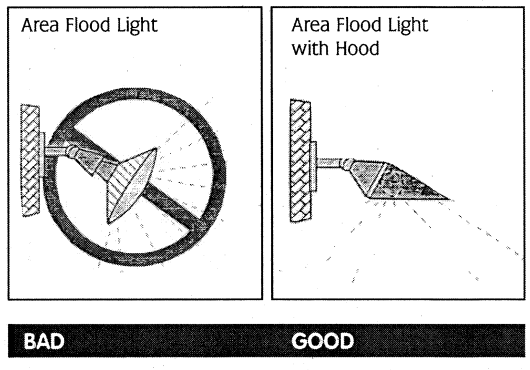
How do I switch to good lighting?

1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate

Some Good and Bad Light Fixtures







areas 100 times more brightly than the full Moon! More importantly, by choosing properly shielded lights, you can meet your needs without bothering neighbors or polluting the sky.

2. Aim lights down. Choose "full-cutoff shielded" fixtures that keep light from going uselessly up or sideways. Full-cutoff fixtures produce minimum glare. They create a pleasant-looking environment. They increase safety because you see illuminated people, cars, and terrain, not dazzling bulbs.

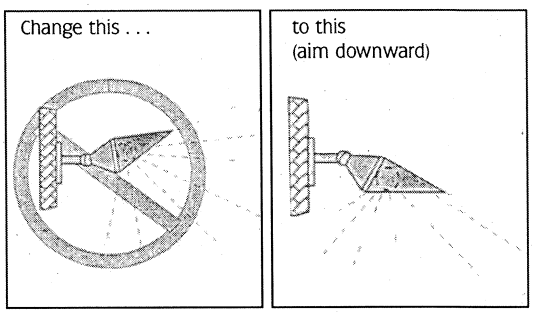
3. Install fixtures carefully to maximize their effectiveness on the targeted area and minimize their impact elsewhere. Proper aiming of fixtures is crucial. Most are aimed too high. Try to install them at night, when you can see where all the rays actually go. Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as well as a wasteful light does with a high-wattage bulb.

4. If color discrimination is not important, choose energy-efficient fixtures utilizing yellowish high-pressure sodium (HPS) bulbs. If "white" light is needed, fixtures using compact flourescent or metal-halide (MH) bulbs are more energy-efficient than those using incandescent, halogen, or mercury-vapor bulbs.

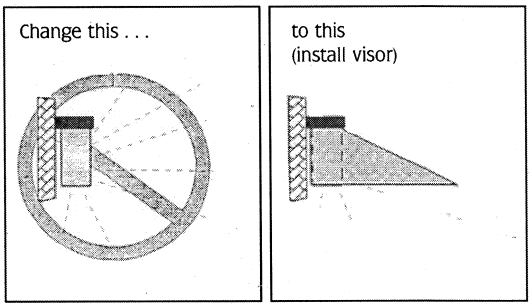
5. Where feasible, put lights on timers to turn them off each night after they are no longer needed. Put home security lights on a motion-detector switch, which turns them on only when someone enters the area; this provides a great deterrent effect!

Replace bad lights with good lights. You'll save energy and money. You'll be a good neighbor. And you'll help preserve our view of the stars.

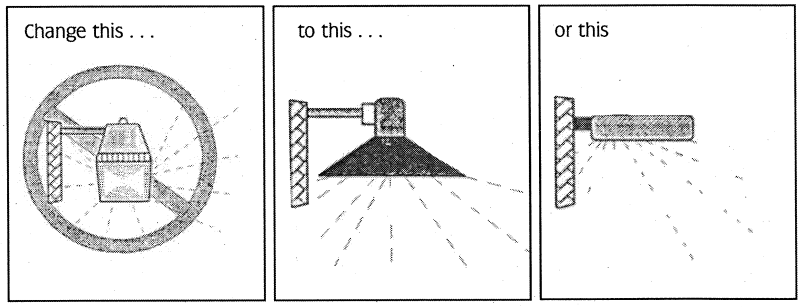
What You Can Do To Modify Existing Fixtures



FLOOD LIGHT



WALL PACK



YARD LIGHT | OPAQUE REFLECTOR | SHOE BOX

Presented by the **New England Light Pollution Advisory Group** (NELPAG) (http://cfa-www.harvard.edu/cfa/ps/nelpag.html)

and ***Sky & Telescope*** (http://SkyandTelescope.com/).

NELPAG and *Sky & Telescope* support the International Dark-Sky Association (IDA) (http://www.darksky.org/).

We urge all individuals and groups interested in the problems of light pollution and obtrusive lighting to support the IDA and subscribe to its newsletter. IDA membership costs $30 per year; send your check to IDA, 3225 N. First Avenue, Tucson, AZ 85719, U.S.A.

GNF01

SKY & TELESCOPE

Sky Publishing Corp.
49 Bay State Road
Cambridge, MA 02138
SkyandTelescope.com

Owner Name: _____ _____
Mailing Address: _____ _____
_____ _____

Jonnie L. Justesen, et. al., herein called the Grantor, is the owner of real property described as follows:

Township 6 South, Range 17 East W.M., Tax Lots 2200 and 2400; Accounts 12710, 12707

In accordance with the conditions set forth in the decision of Wasco County Board of Commissioners, dated _____, approving aggregate operation (File PLACUP-15-01-0002), Grantor hereby grants to the Owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

---

1. The Grantors, their heirs, successors, and assigns hereby acknowledge by granting of this easement that the above described property is situated in an Exclusive Farm Use zone in Wasco County, Oregon, and may be subjected to conditions resulting from farm or forest operations on adjacent lands. Farm operations include, but are not limited to, the raising, harvesting and selling of crops or the feeding, breeding, management and sale of livestock or poultry, application of chemicals, road construction and maintenance, and other accepted and customary farm management activities conducted in accordance with Federal and State laws. Forest operations include, but are not limited to reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals and disposal of slash, and other accepted and customary forest management activities conducted in accordance

After recording, please return original to:
Wasco County Planning Department

with Federal and State laws. Said farm or forest management activities ordinarily and necessarily produce noise, dust, odor, and other conditions, which may conflict with Grantors' use of Grantor's property for residential purposes. Grantor hereby waives all common law rights to object to normal and necessary farm or forest management activities legally conducted on adjacent lands which may conflict with grantors' use of grantor's property for residential purposes and grantor hereby gives an easement to adjacent property owners for such activities.

2. Grantors shall comply with all restrictions and conditions for maintaining residences in the Exclusive Farm Use zone that may be required by State and local land use laws and regulations.

This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors and assigns.

IN WITNESS WHEREOF, the Grantor has executed this easement on _____, 201___.

_____
Titleholders Signature

_____
Titleholders Signature

STATE OF OREGON)
COUNTY OF WASCO)

Personally appeared the above named _____, and acknowledged the above easement to be his voluntary act and deed.

_____
Notary Public for Oregon

Aggregate Hearings
Bryant-Carver Packet

- Planning Commission Summary
- Attachment A – Planning Commission Decisions & Recommendations
- Attachment B – Board of Commissioners Options
- Attachment C – Recommended Conditions of Approval
- Attachment D – Maps
- Attachment E – Planning Commission Report
- Attachment F – Lighting Standards
- Attachment G – Farm Management Easement

Wasco County Planning Department

"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058
(541) 506-2560 • wcplanning@co.wasco.or.us
www.co.wasco.or.us/planning

PLANNING COMMISSION RECOMMENDATION to the Wasco County Board of Commissioners

FILE # PLACUP-15-02-0003

HEARING DATE: May 6, 2015
NOTIFICATION DATE: April 21, 2015

REQUESTS: Create a 20 acre aggregate operation (rock quarry). Applications include:

1. Comprehensive Plan Amendment to add the site as a significant aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and

2. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed 20 acre aggregate site.

APPLICANT:
J. Arlie Bryant, Inc.
2000 W 6th Street
The Dalles, OR 97058

OWNER:
Blaine D. Carver
91443 Hinton Road
Maupin, OR 97037

PROPERTY INFORMATION:

Zoning: A-1(160), Exclusive Farm Use Zone in Wasco County

Location: The aggregate site is located south of Hinton Road, approximately 0.6 mile east of Bakeoven Road, approximately 7 miles northwest of Shaniko, Oregon; more specifically described as:

Existing Tax Lot	Previous	Acct#	Acres
5S 16E 0 3600	5S 16E 0 3400	12549	223.20

ATTACHMENTS:

Prepared by Dawn Baird, Associate Planner

A. Planning Commission Decisions & Recommendations
B. Board of Commissioner Options
C. Recommended Conditions of Approval
D. Maps
E. Planning Commission Report
F. Lighting Standards
G. Farm Management Easement

The full Planning Commission recommendation with all proposed findings of fact is enclosed as **Attachment C** and was available at the Wasco County Planning Department and Wasco County Board of Commissioners Office for review one week prior to the May 6, 2015, hearing. The full Planning Commission recommendation is made a part of the record. This summary does not supersede or alter any of the findings or conclusions in the staff report, but summarizes the results of the Planning Commission's review and recommendation.

Aggregate Sites in the Exclusive Farm Use Zone

To establish a new aggregate site, renew an existing aggregate site, or expand an aggregate site in the Exclusive Farm Use Zone in Wasco County, up to **four** applications may be required to be submitted. They include:

A. Subject to Standards Review: The existing or proposed rock source must be determined to be a "Significant Site." This involves applying for, and receiving approval, of a Subject to Standards Review and submittal of information showing compliance with specific criteria (involves meeting specific aggregate testing, requires long-term lease or ownership of the property, and requires a significant quantity of rock to be available).

B. Comprehensive Plan Amendment: Once a rock quarry is determined to be a "Significant Site" it needs to be added to the Wasco County Comprehensive Plan Aggregate Inventory as a "Significant Site." This requires submittal of, and approval of a Comprehensive Plan Amendment to add the "Significant Site" to the Aggregate Inventory.

C. Zoning Map Amendment: If a rock quarry meets all of the significance criteria, it is necessary to protect the rock source by the application of the EPD-5, Mineral & Aggregate Overlay Zone to the quarry boundary, and all land within a minimum of 750 feet of the boundary.

D. Conditional Use Permit: LUDO Chapter 3, Section 3.210, A-1, Exclusive Farm Use Zone, subsection E.4. and 5. Allows extraction, drilling, blasting, crushing, screening and stockpiling of rock, and a batch plant, subject to compliance with Conditional Use

Of these four applications, the Planning Commission can make decisions on the Subject to Standards Review and Conditional Use Permit, and can make a recommendation to the Board of Commissioners on a Comprehensive Plan Amendment and Zoning Map Amendment.

John Bryant, J. Arlie Bryant, LLC, on behalf of property owner Blaine Carver, made application on February 9, 2015, to the Planning Department, to create a 20 acre aggregate site. His applications included a Subject to Standards Review to determine whether the site is a significant rock source; a Comprehensive Plan Amendment to update the Aggregate Inventory to add this site as a Significant Site, a Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay to the aggregate site's Permit Boundary, and all land within a distance of the Permit Boundary, and a Conditional Use Permit to allow drilling, shooting, crushing, and stockpiling of crushed aggregate.

ATTACHMENT A
PLANNING COMMISSION DECISIONS & RECOMMENDATIONS

On April 7, 2015, the Wasco County Planning Commission met to hold a quasi-judicial public hearing to consider all four applications.

PLANNING COMMISSION DECISIONS:

A. With a vote of 6-0, with conditions, the Planning Commission voted to approve the Subject to Standards Review and designate the 20 acre proposed aggregate site as a significant rock source.

B. With a vote of 6-0, with conditions, the Planning Commission voted to approve the Conditional Use Permit to allow an aggregate operation and include drilling, shooting, crushing, and stockpiling crushed aggregate.

PLANNING COMMISSION RECOMMENDATIONS:

A. With a vote of 6-0, with conditions in Attachment A, the Planning Commission voted to recommend approval of a Comprehensive Plan Amendment to add the proposed 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a "Significant Site."

B. On a vote of 6-0, with conditions in Attachment A, the Planning Commission voted to recommend approval of a Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 20 acre Permit Boundary and all land within 1,500 feet.

ATTACHMENT B

BOARD OF COMMISSIONER OPTIONS

BOARD OF COMMISSIONERS DECISION OPTIONS:

A. Comprehensive Plan Amendment:

1. Approve the Comprehensive Plan Amendment to add the proposed 20 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with the Planning Commission's proposed findings and conditions.

2. Approve the Comprehensive Plan Amendment to add the proposed 20 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with amended findings and conditions provided by the Board.

3. Deny the Comprehensive Plan Amendment to add the proposed 20 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with amended findings provided by the Board.

4. Continue the hearing to a date and time certain.

B. Zoning Map Amendment

1. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 20 acre aggregate site, and all land within 1,500 of the aggregate boundary, with the Planning Commission's proposed findings and conditions.

2. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 20 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings and conditions provided by the Board.

3. Deny the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 20 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings provided by the Board.

4. Continue the hearing to a date and time certain.

ATTACHMENT A

RECOMMENDED CONDITIONS OF APPROVAL

A. Comprehensive Plan Amendment:

1. The applicant shall submit approval from the Wasco County Public Works Department for the driveway approach on the south side of Hinton Road to the quarry site.

2. The applicant shall submit copies of the DOGAMI-approved Operating Permit and Reclamation Plan prior to excavation in the expansion area.

B. Zoning Map Amendment:

1. Prior to any excavation, the following conditions shall be met:

   a. Place an effective barrier or gate across the access road to prevent general access to the proposed quarry.

   b. Submit a copy of an approved DEQ permit.

      1) Submit a copy of a DOGAMI operating permit or exemption certificate, and a DOGAMI-approved Reclamation Plan.

      2) Create rock/gravel road surfaces to the Permit Boundary prior to or within 30 days that extraction begins. On-site roads must be constructed and maintained in a manner that vehicular noise and dust is minimized.

      a. County approval and DOGAMI approval are both required prior to any mining activity.

      b. Create a minimum 6' tall berm, approximately 350 feet in length as shown on the site plan within 90 days of beginning operation of the aggregate site. The berm shall be planted with grass that is natural to the surrounding area.

      c. Hours of drilling and blasting are limited to 9 a.m. to 5 p.m., Monday – Friday. No blasting or drilling shall occur on Saturdays, Sundays, or recognized legal holidays.

      d. Hours of operation for extraction are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

      e. Screen all processing equipment and equipment stored on the site.

      f. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

      g. The aggregate site operator shall keep applicable DOGAMI permits or exemption certificates in effect.

h. Any mining operator shall carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least $1 million.

i. All vegetation between the Permit Boundary and Little Dead Dog Canyon Creek shall be maintained.

j. The Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate site will release all restrictions, easements or waivers of remonstrance and Indemnity.

k. The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

    a. The owner of the mineral and aggregate resource site submits evidence showing a significant resource no longer exists on the site; and

    b. The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and

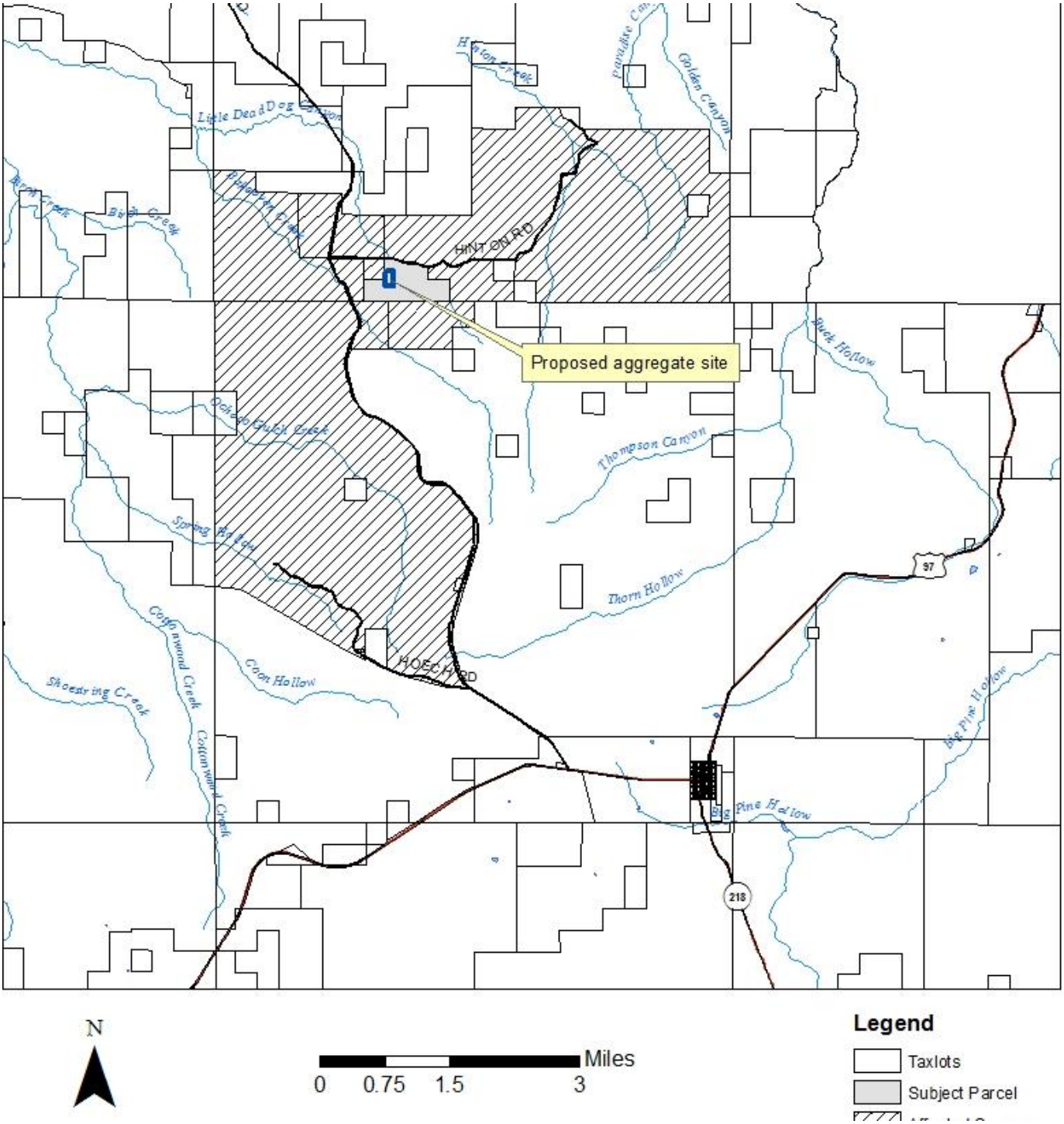
    c. The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

ATTACHMENT D – MAPS

Applicant: J. Arlie Bryant, LLC
Property Owner:Blaine Carver

5S 16E 0, Tax Lot 3600

Vicinity Map

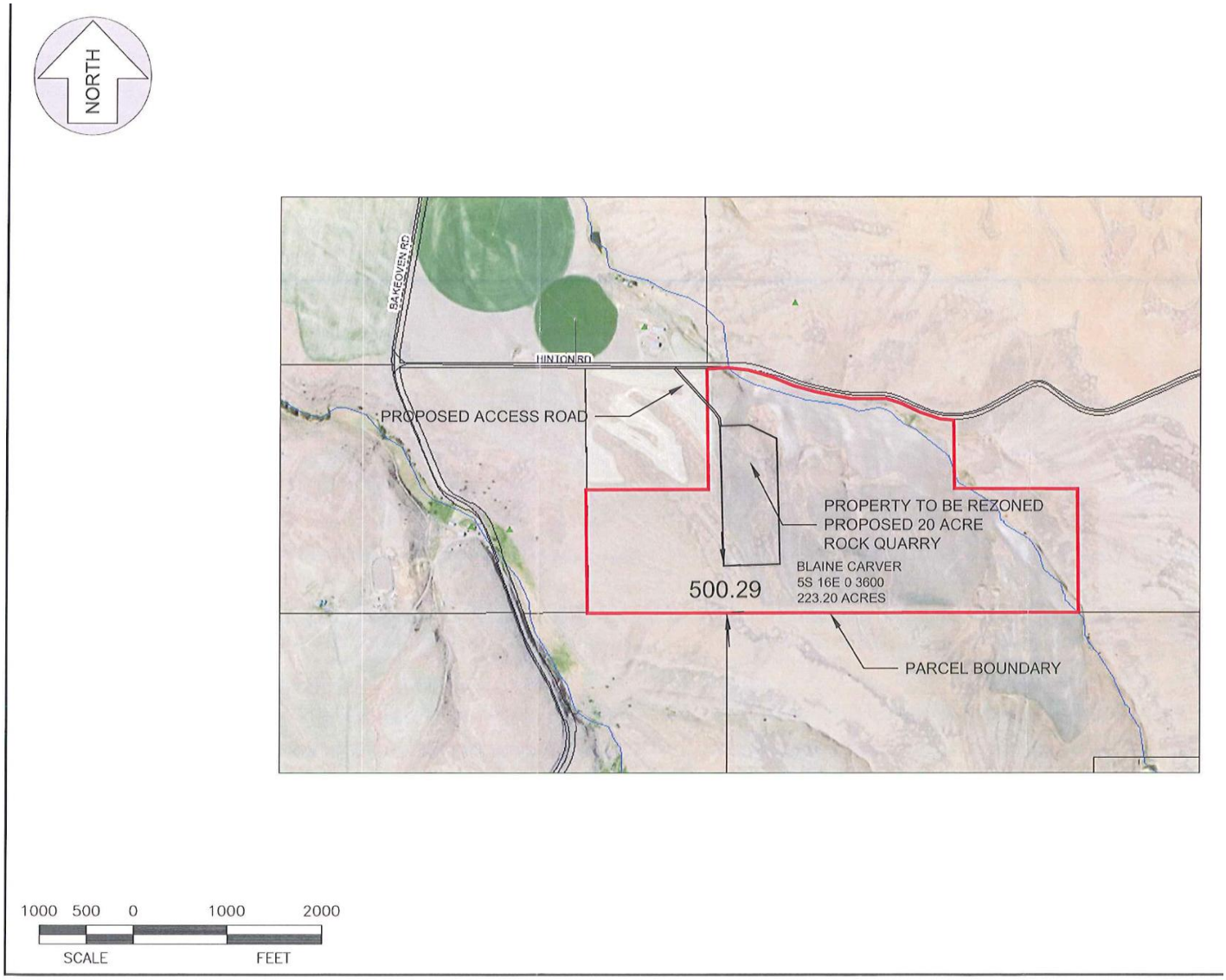


ATTACHMENT D – MAPS

Applicant: J. Arlie Bryant, LLC
Property Owner:Blaine Carver

5S 16E 0, Tax Lot 3600

Site Plan



ATTACHMENT E

PLANNING COMMISSION RECOMMENDATION

File Number: PLACUP-15-02-0003

Requests: Create a 20 acre aggregate operation.
Applications before the Board of Commissioners include:

1. Comprehensive Plan Amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and

2. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the aggregate operation.

Prepared For: Wasco County Board of Commissioners

Procedure Type: Quasi-Judicial Hearing

Hearing Date: May 6, 2015

Applicant: J. Arlie Bryant, Inc.

Owner: Blaine D. Carver

Location: The proposed aggregate site is located south of Hinton Road, approximately 0.6 mile east of Bakeoven Road, approximately 7 miles northwest of Shaniko, Oregon; more specifically described as:

Existing Tax Lot	Previous	Acct#	Acres
5S 16E 0 3600	5S 16E 0 3400	12549	223.20

Zoning: A-1(160), Exclusive Farm Use Zone

Past Actions: None

Prepared by: Dawn Baird, Associate Planner

I. APPLICABLE STANDARDS

A. Comprehensive Plan Amendment

1. Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.060.B.1.	(Recommendation to County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
Section 2.080.A.	(Notice)
Section 2.090	(Contents of Notice)
Section 2.140	(Hearing Procedure)
Section 2.150	(Official Notice)
Section 2.190	(General Conduct of Hearings)

2. Wasco County Comprehensive Plan

a. Chapter 2 – Physical Characteristics

Section G.	(Mineral & Aggregate Resources)

b. Chapter 11 – Revisions Process

Section B.	(A Comprehensive Plan may take the following forms)
Section C.	(Who may apply for a plan revision)
Section E.	(Quasi-Judicial Revisions)
Section H.	(General Criteria)
Section I.	(Transportation Planning Rule Compliance)
Section J.	(Procedure for the Amendment Process)

c. Chapter 14 – Findings and Recommendations

Section B.	(Goal 5 Issues)

d. Chapter 15 – Goals and Policies

Section E.	(Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources)

B. Zoning Map Amendment

Wasco County Land Use & Development Ordinance

1. Chapter 2 – Development Approval Procedures

Section 2.060.B.2.	(Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment - Chapter 9)
Section 2.080.A.	(Notice)
Section 2.090	(Contents of Notice)
Section 2.140	(Hearing Procedure)
Section 2.150	(Official Notice)
Section 2.190	(General Conduct of Hearings)

2. Chapter 9 – Zone Change and Ordinance Amendment

Section 9.010	(Application for Zone Change)
Section 9.020	(Criteria for Decision)
Section 9.030	(Transportation Planning Rule Compliance)

Section 9.040	(Conditions Relative to the Approval of a Zone Change)
Section 9.060	(Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance)
Section 9.070	(Notice of Planning Commission Recommendation)
Section 9.080	(Action by County Governing Body)

3. Chapter 3 – Basic Provisions

Section 3.800	(Division 5 – Mineral and Aggregate Overlay)
Section 3.830	(Permitted Uses - Extraction Areas)
Section 3.835	(Development Standards - Extraction Area)
Section 3.845	(Impact Area - Uses and Standards)
Section 3.850	(Designation of Overlay Zone)
Section 3.855	(Termination of Mineral and Aggregate Overlay Zone)

II. BACKGROUND

A. Legal Parcel: The subject parcel, which includes 5S 16E 0 3600 (Acct #12549) and 6S 16E 0 800 (Acct #12691) was legally created by Warranty Deed Volume 142, Page 468, recorded with the Wasco County Clerk on November 15, 1960. It is consistent with the definition of Legal Parcel in LUDO Chapter 1, Section 1.090, Definitions because it was created by Deed prior to the existence of partition and subdivision regulations in Wasco County (9/4/1974).

B. Site Description: Staff made a site inspection of the subject parcel on February 18, 2015. The 20 acre proposed aggregate site contains an average of 5-10% northwest-facing slopes. The remainder of the property contains 5-20% northwest-facing slopes with sage brush vegetation. Little Dead Dog Canyon runs through the northern and eastern portion of the property. The land is primarily used for grazing. There is a history of dryland crops on the northern portion of the property, however, due to the rockiness of the soil, production rates are poor. Soils are predominantly class VII, which is considered unsuitable for commercial farm use in eastern Oregon, and a complex soil combining class IV and class VII. Though the complex soil has some good soil, the mixture of class VII soils throughout it makes it difficult to farm, and produces poor crops.

C. Surrounding Land Use: Surrounding properties to the north, east and west contain similar slopes as the subject parcel. Slopes to the south are generally steeper, up to 30%. All slopes are northwest-facing. Properties to the east and south are primarily used for cattle grazing, while land to the north and west is a mixture of cattle grazing and planted fields (wheat and hay). There is little natural vegetation, however, there are trees along Little Dead Dog Canyon Creek, and Bakeoven Creek to the south. The closest residence is approximately 0.5 mile west of the proposed 20 acre Permit Boundary.

III. SUMMARY OF PLANNING COMMISSION HEARING (APRIL 7, 2015)

An aggregate site in the Exclusive Farm Use Zone generally requires four applications:

- Subject to Standards Review
- Comprehensive Plan Amendment
- Zoning Map Amendment
- Conditional Use Permit

In the Exclusive Farm Use Zone, creation of a new aggregate site, renewal of a permit for an existing aggregate site, or expansion of an existing aggregate site, can only occur if the rock source has been determined to be a "Significant Site". This determination is done through a Subject to Standards Review. If a site is determined to be significant, the three remaining applications will be processed:

A Comprehensive Plan Amendment is required to add the "Significant Site" to the Wasco County Comprehensive Plan Aggregate Inventory.

A Zoning Map Amendment is required to protect the significant rock source by placing the EPD-5, Mineral & Aggregate Overlay Zone on the aggregate site and a specific area around the boundary of the aggregate site.

The remaining application is a Conditional Use Permit. Aggregate operations and batch plants are regulated by the Conditional Use Review requirements to ensure there are no conflicts with surrounding farm or forest uses, for the protection of fish & wildlife habitat, cultural and historic resources, public facilities including roads, fire, electricity, sewer, water, etc.

The Planning Director has the authority to make a decision on the Subject to Standards request, and the Conditional Use Permit request, however, to expedite the process, the Director chose to have to the Planning Commission make a decision on these two applications, as well as a recommendation to the Board of Commissions on the Comprehensive Plan Amendment and Zoning Map Amendment.

Decisions made at the Planning Commission hearing:

- Subject to Standards Review: Approval, with conditions, to determine the Carver rock source to be a Significant Site.

- Comprehensive Plan Amendment: Recommendation of approval, with conditions, to add the Carver rock source to the Comprehensive Plan Aggregate Inventory as a Significant Site.

- Zoning Map Amendment: Recommendation of approval, with conditions, to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 20 acre Permit Boundary and all land within 1,500 feet.

- Conditional Use Permit: Approval, with conditions, to allow an aggregate operation and include drilling, shooting, crushing, screening, and stockpiling crushed aggregate.

The Board of Commissioners, at their May 6, 2015, public hearing, will consider the Comprehensive Plan Amendment and Zoning Map Amendment. All applicable standards are addressed in IV.

IV. FINDINGS:

A. Comprehensive Plan Amendment

1. Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.060.B.2., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)

PLANNING COMMISSION FINDING: The request is for a Comprehensive Plan Amendment to add a proposed 20 acre aggregate site to the Aggregate Inventory as a "Significant Site". Any proposal for a new quarry site in the Exclusive Farm Use Zone, must be determined to be a significant site before it can be added to the Aggregate Inventory as a Significant Site. By a vote of 6-0, the Planning Commission approved the quarry as a Significant Site on April 7, 2015. Upon completion of the Comprehensive Plan Amendment portion of the hearing on April 7th, the Planning Commission voted unanimously to forward a recommendation of approval, with conditions, to the Board of Commissioners for the Comprehensive Plan Amendment application.

Section 2.080.A., Notice
Section 2.090, Contents of Notice
Section 2.140, Hearing Procedure
Section 2.150, Official Notice
Section 2.190, General Conduct of Hearings

PLANNING COMMISSION FINDING: The above sections establish the requirements for providing notice of public hearings and the general conduct of hearings. A ten day pre-notice is required for a second quasi-judicial hearing. This hearing is being held on May 6, 2015. The public hearing notice was published in The Dalles Chronicle on April 21, 2015, and notice was provided to agencies and property owners within 750' of the subject parcel, on April 21, 2015, fifteen days before the hearing. Posting of the hearing notice in public places occurred more than fifteen days before the hearing.

2. Wasco County Comprehensive Plan

Chapter 2 – Physical Characteristics

(***)

G., Mineral & Aggregate Resources

PLANNING COMMISSION FINDING: The request is consistent with the requirements of Chapter 2, Section G., which provides general information about rock sources in Wasco County, instructions on how to apply for the Mineral & Aggregate Overlay zone, the requirements of an ESEE (Economic, Social, Environmental & Energy) Analysis, as well as Table 8, Wasco County Aggregate Inventory.

Requirements in OAR 660-16-005 and 660-16-010 direct local jurisdictions to analyze the ESEE consequences of (a) allowing mining on a Significant Site, and (b) allowing conflicting uses to displace mining on a significant site. The owners submitted an ESEE analysis with the Subject to Standards Review. The ESEE analysis identified conflicting uses in the area and discussed impacts of the aggregate site.

Upon expiration of the Planning Commission appeal period on Tuesday, April 21, 2015, the proposed quarry site was identified as a "Significant Site." If the request is approved, staff will update Table 8, Wasco County Aggregate Inventory.

Chapter 11 – Revisions Process

The Comprehensive Plan for Wasco County is the primary document which guides and controls land use within Wasco County excluding incorporated areas. The plan is intended to reflect the community's current thoughts on land use planning and to be responsive to the needs and desires of citizens. In order to achieve this, the plan must respond to changing community attitudes and needs and to unforeseen circumstances which may affect the use of land in the future. It is, therefore, the intent of this section to permit the amendments of the Comprehensive Plan on a periodic basis and to describe the procedure for the amendment process.

(***)

B. A Comprehensive Plan Amendment May Take the Following Forms:

1. *Amendment of one or more policies of the plan.(Legislative)*

2. *Amendment to the text, inventories, maps or figures of the plan. (Legislative or Quasi-Judicial)*

3. *Amendment of a portion of the Comprehensive Plan Land Use Designation map. (Legislative or Quasi-Judicial)*

4. *Amendment to the urban growth boundary. (Legislative or Quasi-Judicial)*

5. *A combination plan change/zone amendment. (Legislative or Quasi-Judicial)*

PLANNING COMMISSION FINDING: The request is for a quasi-judicial amendment to the Comprehensive Plan Mineral and Aggregate Inventory, as permitted by B.2.

C. Who May Apply For a Plan Revision
A Comprehensive Plan Revision may be initiated by:

1. *Wasco County Governing Body. (Legislative)*

2. *Planning Commission by majority vote confirmed by the Wasco County Governing Body. (Legislative)*

3. *Property owner or his authorized representative. (Quasi-Judicial)*

PLANNING COMMISSION FINDING: A request for a revision to the Wasco County Aggregate Inventory to add the proposed quarry as a "Significant Site." The request was made for the property owner, Blaine D. Carver, by John Bryant, J. Arlie Bryant, LLC, his authorized representative.

(***)

E. Quasi-Judicial Revisions
Section E. states that quasi-judicial revisions are those which do not have significant effect beyond the immediate area of the change, i.e., narrow in scope and focusing on specific situations.

Each plan change or revision will first be heard by the Planning Commission on a first-come, first-serve basis. Such hearing shall be conducted in accordance with the Wasco County Planning Commission "Rules and Regulations".

PLANNING COMMISSION FINDING: The request is consistent with E. The proposed amendment focuses on a new aggregate operation. The proposed amendment will not affect any other quarry in Wasco County except the proposed quarry on the subject parcel.

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H. Section H. establishes general criteria which must be considered before approval of an amendment to the Comprehensive Plan is given.

1. Compliance with the statewide land use goal as provided by Chapter 15 or further amended by the Land Conservation and Development Commission, where applicable.

PLANNING COMMISSION FINDING: Chapter 15 lists the goals and policies for each Statewide Planning Goal. Goal 5, Policy 1 – Mineral and Aggregate Resources, helps to protect and utilize appropriately the mineral and aggregate resources in Wasco County, and minimize conflict between aggregate uses and surrounding land uses. The request is consistent with Statewide Land Use Goal 5 and implementing policies in Chapter 15, as discussed below.

2. Substantial proof that such change shall not be detrimental to the spirit and intent of such goals.

PLANNING COMMISSION FINDING: As discussed below in Chapter 15 (page 12 of 30 of the Planning Commission Recommendation report), the request complies with the goals and policies related to aggregate operations.

3. A mistake in the original comprehensive plan or change in the character of the neighborhood can be demonstrated.

PLANNING COMMISSION FINDING: A change in the character of southern Wasco County has resulted in the request for the Comprehensive Plan Amendment.

The character of southeastern Wasco County has evolved significantly resulting in the request for a Comprehensive Plan Amendment. The County Comprehensive Plan inventories were compiled in the late 1970's and early 1980's. Since the inventories were compiled, many things have happened and the character of the county has changed. Items include the Rajneesh era in Antelope, declining timber harvest due to Spotted Owl concerns, and the closure of area lumber mills and aluminum plants. Stimulus money has been made available from the federal government for transportation system projects. This has resulted in an increased need for aggregate resources. New methods for generating electricity have been found to be cost effective resulting in placement of many wind turbines in adjacent Oregon and Washington counties. Wasco County hopes to be the next location of wind turbines, additionally there is future potential for solar power generation. These projects will also require considerable aggregate resources. There are no active private quarries in this vicinity of Wasco County.

4. Factors which relate to the public need for healthful, safe and aesthetic surroundings and conditions.

PLANNING COMMISSION FINDING: These factors were addressed in the Planning Commission hearing, primarily through the Conditional Use Review which requires compliance with criteria that require: maintenance of wildlife areas, riparian habitat, cultural and historic areas, the protection of farm and forest uses, the ability to maintain or provide public services, including but not limited to police protection, fire protection, road maintenance and safety, pedestrian safety, and protection of water, land and air resource quality. With proposed conditions in the Conditional Use Permit approval, the request provides healthful, safe and aesthetic surroundings and conditions for the public.

5. *Proof of change in the inventories originally developed.*

PLANNING COMMISSION FINDING: Proof of change in the originally developed Aggregate Inventory was addressed in H.3.

6. *Revisions shall be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change must be established.*

PLANNING COMMISSION FINDING: The request complies with H.6. The request is to add a new quarry to the Aggregate Inventory.

There are four existing identified privately owned aggregate sites within 3 miles of the Carver property, however, none are identified as a Significant Site. Wasco County and Oregon Department of Transportation (ODOT) have aggregate sites in this area of southern Wasco County, however, they are not extraction sites, but only stockpile sites, and they do not sell rock to private individuals or companies. There is no privately owned quarry within approximately 16 miles of the subject parcel that contains a rock source identified as "Significant." Though it does not sound like a long distance to haul rock, considering the terrain consisting of steep hills, narrow roads, and extreme curves, it is slow going and the trucks must use a lot of fuel to transport the rock. If quality rock is needed in this part of the County, the cost will not be economically feasible due to transportation costs.

Based on distance to existing available private rock sources, the public need and justification for the quarry expansion has been established.

The applicant submitted testing for two of the three required minimum testing requirements, as required by LUDO Section 3.815.A.2. It was determined that the rock quality is very good; these testing results serve as the factual basis to support the change.

I. Transportation Planning Rule Compliance

1. *Review of Applications for Effect on Transportation Facilities - A proposed plan amendment, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR"). "Significant" means the proposal would:*

   a. *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

   b. *Change standards implementing a functional classification system; or*

c. As measured at the end of the planning period identified in the adopted transportation system plan:

1) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

2) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or

3) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

PLANNING COMMISSION FINDING: OAR-660-012-0005(30), Definitions, states: "Transportation Facilities" means any physical facility that moves or assist in the movement of people or goods including facilities identified in OAR 660-012-0020 but excluding electricity, sewage and water systems.

Staff contacted Arthur Smith, Wasco County Public Works Director, on March 16, 2015, to seek his input regarding effect of the request on transportation facilities. Mr. Smith stated that the County would like to permit the proposed road approach onto Hinton Road, but did not expect this access to result in any change to the road. According to Mr. Smith, the proposed increase in traffic, 25 truck loads per day, will not damage the road sufficiently to warrant improvement. A **condition** is recommended requiring the applicant to submit Wasco County approval of a Road Approach Permit to access the aggregate operation south of Hinton Road.

The proposed driveway accessing the aggregate site has good site distance onto Hinton Road. If the truck drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., the proposed use will not unduly impair traffic flow or safety in the area. A **condition** requiring this is recommended.

A **condition** is also recommended requiring the owner to ensure all trucks hauling aggregate from the site be properly contained to avoid the spillage of rock and debris onto public roads. The owner shall keep Highway 97 and adjoining routes of travel clear of rock spillage.

Other conditions related to roads, such as maintenance of on-site roads, providing water to reduce dust, etc., were applied in the review of the Conditional Use Permit, and are included as recommended conditions of approval.

2. Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:

a. Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance

standards of the transportation facility.

b. Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section -0060 of the TPR.

c. Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.

d. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

PLANNING COMMISSION FINDING: As discussed in I.1., the request will not significantly affect Hinton Road.

3. Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a plan amendment application pursuant to Section 4.140 Traffic Impact Analysis (TIA)) of the Land Use and Development Ordinance.

PLANNING COMMISSION FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system from a Comprehensive Plan Amendment. According to Arthur Smith, Public Works Director (March 16, 2015), the proposed increase in traffic, 25 truck loads per day, will not damage the road sufficiently to warrant improvement, and if the drivers follow normal traffic laws, such as on stopping at stop signs, using turn signals, yielding when required, etc., there would be no impact on Hinton County Road. Based on these reasons, Mr. Smith said he did not feel a Traffic Impact Analysis is necessary and would not require this to be submitted.

J. Procedure for the Amendment Process

1. A petition must be filed with the Planning Offices on forms prescribed by the Director of Planning.

PLANNING COMMISSION FINDING: The owner's representative, John Bryant, made application to the Planning Department for a Comprehensive Plan Amendment to amend the Aggregate Inventory to add the proposed quarry as a Significant Site.

2. Notice of a proposed revision within, or to, the urban growth boundary will be given to the appropriate city at least thirty (30) days before the County public hearing.

PLANNING COMMISSION FINDING: The proposed amendment is not within or adjacent to an urban growth boundary, therefore, 2. does not apply.

3. Notification of Hearing:

a. Notices of public hearings shall summarize the issues in an understandable and meaningful manner.

b. Notice of a legislative or judicial public hearing shall be given as prescribed in ORS 215.503. In any event, notice shall be given by

publishing notice in newspapers of general circulation at least twenty (20) days, but not more than forty (40) days, prior to the date of the hearing.

PLANNING COMMISSION FINDING: Public notice summarizing the proposed request was published in The Dalles Chronicle and was provided to all property owners on April 21, 2015, 15 days prior to the May 6, 2015, Board of Commissioners hearing.

c. *A quorum of the Planning Commission must be present before a public hearing can be held. If the majority of the County Planning Commission present cannot agree on a proposed change, the Commission will hold another public hearing in an attempt to resolve the difference or send the proposed change to the County Governing Body with no recommendation.*

PLANNING COMMISSION FINDING: Six members of the Planning Commission were present at their April 7, 2015, hearing. The Commissioners unanimously (6-0) voted to recommend approval of the Comprehensive Plan Amendment, with conditions, to the Board of Commissioners.

d. *After the public hearing, the Planning Commission shall recommend to the County Governing Body that the revision be granted or denied, and the facts and reasons supporting their decision. In all cases the Planning Commission shall enter findings based on the record before it to justify the decision. If the Planning Commission sends the proposed change with no recommendation, the findings shall reflect those items agreed upon and those items not agreed upon that resulted in no recommendation.*

PLANNING COMMISSION FINDING: The Planning Commission recommendation and report are part of the Board of Commissioners record and is attached to this report. The Planning Commission, on April 7, 2015, voted 6-0 to forward a recommendation of approval, with conditions to the Board of Commissioners.

e. *Upon receiving the Planning Commission's recommendation, the County Governing Body shall take such action as they deem appropriate. The County Governing Body may or may not hold a public hearing. In no event shall the County Governing Body approve the amendment until at least twenty (20) days have passed since the mailing of the recommendation to parties.*

PLANNING COMMISSION FINDING: The Planning Commission notice of decision and recommendation was sent to owners, agencies, and affected property owners, on April 9, 2015, 27 days prior to the Board of Commissioners hearing. This is consistent with e., which requires a minimum of 20 days between the Planning Commission notice of decision and the Board of Commissioners notice of hearing.

Chapter 14 – Findings and Recommendations

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B.2., Goal 5 Issues – Mineral and Aggregate Resources

As stated in the Goals and Policies under Goal #5, rock and aggregate resources will be identified and protected by placement of the Environmental Protection District zone.

Extraction of these resources is a conditional use in the agricultural and forestry zones and a permitted use in the manufacturing zones.

Generally, residential uses are the uses which come into conflict with the extraction of aggregate and mineral resources. The provisions of the Environmental Protection District Division 5 overlay zone provide the protection necessary for all aggregate sites.

PLANNING COMMISSION FINDING: The request complies with Chapter 14 of the Comprehensive Plan.

The owner's representative made application to expand an existing aggregate operation, and has requested that the EPD-5, Mineral & Aggregate Overlay zone be applied to the expanded Permit Boundary, and all land (Impact Area) within 750 feet of the Permit Area, to protect the aggregate resource. Through discussions with Amanda Punton, Goal 5 Specialist, Department of Land Conservation & Development, staff learned that the state of Oregon uses 1,500 feet as their standard protection area. Though the County LUDO requires a minimum of 750 feet, the County can decide to use a larger distance. The Planning Commission concurred that if the State is using 1,500 feet as their distance to protect aggregate sites and it may become the State requirement in the future, therefore, it is appropriate to use 1,500 feet in this request.

Most of the 1,500 foot Impact Area lies on the Carver parcel, however, a small portion of the 5,768.56 acre property to the southwest will be limited in the placement of future sensitive uses (will not render property unusable). The placement of the EPD-5 Overlay on this property will not prohibit any existing uses or proposed uses in the future because the land is large enough to easily find an alternate building site.

Findings in this report show that there are no existing Sensitive Uses within 1,500 feet of the proposed expansion boundary. The EPD-5 zone will protect the aggregate resource from future Sensitive Uses within the Impact Area.

Chapter 15 – Goals and Policies
Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources

Policy 1 – Mineral Resources
Protect and utilize appropriately the mineral and aggregate resources of Wasco County, and minimize conflict between surface mining and surrounding land uses.

Implementation

A. The development of new rock and aggregate resource sites shall be consistent with the State Planning Goal 5 and Oregon Administrative Rules Chapter 660, Division 16 process to balance conflicts between mining operations and new and existing surrounding conflicting uses.

PLANNING COMMISSION FINDING: The request is consistent with Policy 1.A.

Wasco County updated all sections of the Wasco County Comprehensive Plan relating to Goal 5 – Mineral and Aggregate Resources, during its 1994 Periodic Review project.

Conflicts between mining operations and existing surrounding uses was evaluated in the ESEE Analysis submitted by the owners. Considering existing farm uses in the area, and the distance from existing Sensitive Uses, no conflicting uses, such as residential use, were identified in the Impact Area.

Application of the Mineral & Aggregate Overlay zone will protect the significant aggregate site and its Impact Area from future potential conflicting uses.

B. Sites identified as significant aggregate resource sites shall not support interim or permanent uses which may jeopardize the future availability of the resource.

PLANNING COMMISSION FINDING: The request complies with B. The request is to create a 20 acre aggregate quarry site. No other interim or permanent uses are proposed or considered as part of this request.

C. Mining and processing of gravel and mineral materials may only be allowed at sites included on the "Other Site" inventory or "Significant Sites" inventory.

1. Mining at sites on the "Other Sites" inventory may be allowed by a conditional use permit.

2. Mining at sites on the "Significant Sites" inventory may only be permitted in accordance with the Mineral Resources Overlay.

PLANNING COMMISSION FINDING: Current State law allows new aggregate sites in an Exclusive Farm Use Zone on sites designated as "Significant Sites." The owner's representative submitted an ESEE analysis which evaluated the quality and quantity of rock in the proposed Permit Area. Based on the findings of the staff analysis, a determination was made by the Planning Commission (April 7, 2015) that the quarry is a Significant Site. The appeal period for this significance determination expired at 4 p.m., April 21, 2015. No appeal was submitted to the Planning Department, therefore, the aggregate site has been determined to be a Significant Site. If this request is approved, staff will add the Carver site to the Comprehensive Plan Aggregate Inventory.

D. For each site determined to be significant, the County shall complete the remainder of the County Goal 5 process identifying conflicting uses, analyzing the ESEE consequences of the conflicting use(s), and designating a level of protection from conflicting uses. If the final decision concerning the site is to preserve fully or partially protect the resource from conflicting uses, the County shall zone the site with the Mineral Resources Overlay.

PLANNING COMMISSION FINDING: The quarry was found to be a Significant Site by the Planning Commission during the Subject to Standards Review at their April 7, 2015, public hearing. An ESEE analysis was submitted for the aggregate site. Excluding two homes on the owner's property, the ESEE Analysis identified the closest Sensitive Use, a residence, as being more than 1,500 feet northwest of the aggregate operation. Currently the aggregate operation is not protected from future potential conflicting uses, however, the site has been determined to be significant, will now be protected through application of the Mineral & Aggregate Overlay Zone. The Planning Commission recommends this in IV.B., Zoning Map Amendment.

Policy 2 – Mineral Resources
The County shall maintain an inventory of mineral and aggregate resource sites. The comprehensive plan inventory shall consist of three parts:

- *An inventory of "Significant Sites" identified through the Goal 5 process as important resources that will be protected from conflicting uses;*
- *An inventory of "Potential Sites" for which sufficient information concerning the location, quality, and quantity of a resource site is not adequate to allow the County to make a determination of significance;*
- *An inventory of "Other Sites" for which available information demonstrates that the site is not a significant resource to be protected.*

Implementation

A. *The significance of non-aggregate mineral resources shall be judged on a case-by-case basis, taking into account information concerning the commercial or industrial use of the resource, as well as the relative quality and relative abundance of the resource within at least the County.*

PLANNING COMMISSION FINDING: An Aggregate Inventory is maintained as part of the Comprehensive Plan. An ESEE analysis was submitted by the owners evaluating the quality and quantity of rock on this specific parcel. The proposed quarry has been evaluated according to the significance criteria, and was found to be significant.

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D. *For sites on the "Potential Sites" inventory, the County shall review available information about mineral and aggregate resources, and if the information is sufficient, determine the site to be significant when one of the following conditions exist:*

1. *As part of the next scheduled Periodic Review;*

2. *When a landowner or operator submits information concerning the potential significance of a resource site and requests a Comprehensive Plan amendment;*

3. *When resolution of the status of a potential resource site is necessary to advance another planning objective.*

PLANNING COMMISSION FINDING: The landowner and his representative requested approval of a Comprehensive Plan Amendment to add the proposed 20 acre quarry to the Comprehensive Plan Aggregate Inventory as a Significant Site. On April 7, 2015, the Planning Commission reviewed a Subject to Standards Review to determine if the site was a significant rock source. The Commission, on a vote of 6-0, voted to determine that the Carver rock source was a Significant Site, and recommended approval of the Comprehensive Plan Amendment to the Board of Commissioners.

E. *In order to approve surface mining at a site zoned for exclusive farm or forestry use, the County shall find, as part of the ESEE analysis, that the proposed activity will not: 1) force a significant change in, or significantly increase the cost of, accepted farming or forestry practices on surrounding lands, and 2) will not significantly increase fire hazard or significantly*

increase fire suppression costs or significantly increase risks to fire suppression personnel.

PLANNING COMMISSION FINDING: There is no forest use identified on surrounding lands. Existing farm uses on surrounding land consists primarily of grazing with dryland crops (wheat/hay) as a secondary use. As previously discussed, cattle are not affected by aggregate sites. The property owner is the single owner of property within 1/4 mile of the proposed aggregate Permit Boundary.

Excluding property in Mr. Blaine Carver's ownership, there are no planted fields on property within 2,000+ feet from the quarry operation. Due to distance and intensity of farm uses on surrounding lands, the expanded quarry will not increase the cost of accepted farm practices on surrounding lands, nor will it change how surrounding owners farm their land.

It must be recognized that it is impossible to prove with certainty that a non-farm use will not conflict with nearby resource uses. It is possible however, to evaluate the likelihood of potential conflicts and make a reasonable conclusion regarding potential changes to or increases in costs for resource practices based on review of factual evidence. To minimize potential conflicts between the proposed aggregate site and surrounding farm uses, a previous **condition** in Section 3.210.H., required the owners to sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 prior to receiving zoning approval on a building permit.

F. The County may establish and impose conditions on operation of a surface mine when deemed necessary as a result of a site-specific Goal 5 analysis. Where such conditions conflict with criteria and standards in the Mineral and Aggregate Resources Overlay, the conditions developed through the Goal 5 analysis shall control.

PLANNING COMMISSION FINDING: It is noted that if any conditions of approval imposed as a result of the Comprehensive Plan Amendment are in conflict with conditions in the Zoning Map Amendment (Section IV.B.), the conditions in the Comprehensive Plan Amendment section shall control.

G. No surface mining or processing activity, as defined by the zoning ordinance, shall commence without land use approval from the County, and approval of a reclamation plan and issuance of an operating permit by DOGAMI.

PLANNING COMMISSION FINDING: The applicant submitted a request for an Operating Permit and a proposed Reclamation Plan to the Oregon Department of Geology & Mineral Industries (DOGAMI). During the Planning Commission hearing it was pointed out that permits are required by Wasco County and the state of Oregon (DOGAMI). A **condition** in IV.B. specifically requires DOGAMI approval prior to any excavation.

H. Aggregate sites shall be subordinate to the landscape setting as seen from travel corridors when such travel corridors have been determined to be significant by the ESEE analysis.

PLANNING COMMISSION FINDING: Hinton Road is located north of the proposed aggregate site, and Bakeoven Road is located west of the proposed aggregate site. The topography of the

area consists of both gently sloping fields, and sheer rock walls. landscape setting in the area is large open fields with many rock outcrops east of the highway. No travel corridors were identified as significant by the ESEE analysis, however, the County strives to reduce visibility of aggregate operations from roads so that they blend into the landscape, and are "visually subordinate."

The proposed aggregate operation starts by removing the overburden (top soil), if any exists, from the aggregate site. The overburden is placed in "berms" along the eastern and western sides of the quarry. As extraction occurs into the hillside, all overburden is used to extend the earthen berms towards Hinton Road to screen the extraction and processing operation from view of the road. As proposed, the proposed quarry will be subordinate to the landscape setting as seen from local roads.

B. Zone Change Request

Wasco County Land Use & Development Ordinance

Wasco County Land Use & Development Ordinance
Chapter 2 – Development Approval Procedures

Section 2.060, Application/Completeness, Section B.

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1. Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)

PLANNING COMMISSION FINDING: The request is for a Zone Change to add the Mineral & Aggregate Overlay to a proposed 20 acre Permit Boundary, and its Impact Area. The Planning Commission voted 6-0 at their April 7, 2015, public hearing to forward a recommendation of approval, with conditions, to the Board of Commissioners, who will make the final decision on the Zone Change.

Section 2.080.A., Notice
Section 2.090, Contents of Notice
Section 2.140, Hearing Procedure
Section 2.150, Official Notice
Section 2.190, General Conduct of Hearings

PLANNING COMMISSION FINDING: The above sections establish the requirements for providing notice of public hearings and the general conduct of hearings. The first evidentiary hearing provided a twenty day pre-notice before the Planning Commission held their April 7, 2015, quasi-judicial public hearing. A ten day pre-notice is required for a second quasi-judicial hearing. This hearing is being held on May 6, 2015. The public hearing notice was published in The Dalles Chronicle on April 21, 2015, and notice was provided to agencies and property owners within 750' of the subject parcel, on April 21, 2015, fifteen days before the hearing. Posting of the hearing notice in public places occurred more than fifteen days before the hearing.

Chapter 9 – Zone Change and Ordinance Amendment

Section 9.010, Application for Zone Change

Section 9.010.C. states that an application for a zone change may be initiated by an application being filed with the Director of Planning on the appropriate forms, containing information required to establish the criteria for the change (quasi-judicial only).

PLANNING COMMISSION FINDING: John Bryant, J. Arlie Bryant, LLC, authorized representative for the property owner, Blaine Carver, applied for a quasi-judicial zone change to apply the EPD-5, Mineral & Aggregate Overlay to the proposed expanded quarry and Impact Area, as required by Section 9.010.C. Application of the EPD-5 Overlay will not change the underlying Exclusive Farm Use zoning.

Section 9.020, Criteria for Decision

The Approving Authority may grant a zone change only if specific circumstances are found to exist:

A. The original zoning was the product of a mistake; or

PLANNING COMMISSION FINDING: The original zoning was not the product of a mistake.

B. It is established that:

1. The rezoning will conform with the Comprehensive Plan; and,

PLANNING COMMISSION FINDING: The request is consistent with 1. The applicant provided an analysis of the Statewide Planning Goals in the ESEE analysis on page P191 of staff's report and recommendation to the Planning Commission. The Statewide Goals are the basis for the Comprehensive Plan, which was determined to be consistent with these goals on August 25, 1983. The analysis provided by the applicant shows that the application of the Mineral & Aggregate Overlay will conform to the Comprehensive Plan.

2. The site is suitable to the proposed zone; and

PLANNING COMMISSION FINDING: The request complies with B.2. The applicant and owner have requested application of the EPD-5, Mineral & Aggregate Overlay zone to an aggregate site determined to be significant by the Planning Commission on April 7, 2015. The site is suitable for the proposed use because it lacks top soil, is primarily composed of agricultural capability class VII soils (considered unsuitable by the State of Oregon for commercial farm use in eastern Oregon), there is an abundance of high quality aggregate material, and there is sufficient distance between the aggregate site and sensitive uses such as residences.

3. There has been a conscious consideration of the public health, safety and welfare in applying the specific zoning regulations.

PLANNING COMMISSION FINDING: The request is consistent with B.3. The quarry site is located in a manner which blends with the surrounding land uses and retains natural landforms to shield the operation from surrounding ownerships and passing traffic. The quarry will operate in compliance with all applicable regulations for noise, dust, odor, and hours of operation. The site is remote from any existing residential improvements. The quarry has operated in the past, and is anticipated to operate harmoniously with surrounding land uses in the future.

Section 9.030, Transportation Planning Rule Compliance

A. Review of Applications for Effect on Transportation Facilities - A proposed zone change or land use regulation change, whether initiated by the County or by a

private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR").

PLANNING COMMISSION FINDING: Staff spoke with Arthur Smith, Wasco County Public Works Director, on March 16, 2015, regarding the proposed aggregate site. Mr. Smith stated that Hinton Road is a gravel road, and there is potential for wear and tear on Hinton Road depending on the time of year the aggregate site is active, however, in his opinion, 25 truck loads per day should not result in a significant impact to Hinton Road.

Trucks hauling aggregate must follow weight, length and height requirements. If they are hauling legally, the road should wear normally, therefore, there will not significantly affect a transportation facility. A **condition** requiring compliance with these requirements was included in the Planning Commission's Conditional Use Permit approval. Another **condition** requires truck drivers to comply with normal traffic laws.

B. Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP.

PLANNING COMMISSION FINDING: Application of the Mineral & Aggregate Overlay zone to the subject property will not affect any transportation facility. According to Arthur Smith, Wasco County Public Works Director, Hinton Road can handle the seasonal addition of approximately 25 trips per day that the quarry will generate.

C. Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a zone change application pursuant to Section 4.140 Traffic Impact Analysis (TIA))

PLANNING COMMISSION FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system and traffic patterns from a Zone Change. Staff spoke with Arthur Smith, Public Works Director, on March 16, 2015. According to Mr. Smith, the proposed increase in traffic, 25 truck loads per day, will not damage the road sufficiently to warrant improvement, and further stated that the proposed use will have no impact on Hinton Road if the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., therefore, no Traffic Impact Analysis is required.

Section 9.040, Conditions Relative to the Approval of a Zone Change
Reasonable conditions may be imposed, pursuant to Section 2.110(D) as are necessary to insure the compatibility of a zone change to surrounding uses and as are necessary to fulfill the general and specific purposes of this Ordinance.

PLANNING COMMISSION FINDING: **Conditions** have been recommended throughout this report to insure the compatibility of the aggregate area with surrounding uses.

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Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance
After hearing information presented at the hearing, the Approving Authority shall recommend that the proposed zone change or amendment to the Zoning Ordinance be granted or denied. The Director of Planning or his assistants shall reduce to writing the

Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based.

PLANNING COMMISSION FINDING: With **conditions** throughout this report, the request is consistent with all of the requirements of the LUDO. On April 7, 2015, the Planning Commission voted 6-0, to recommend approval of the Zoning Map Amendment, with proposed conditions, to the Board of Commissioners. This will result in the placement of the EPD-5, Mineral & Aggregate Overlay Zone, to the 20 acre Permit Boundary, and all land within 1,500 feet of the boundary, as explained Under Chapter 14 on page 12 of 30).

Section 9.080, Action by County Governing Body
Upon receipt of the Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Governing Body act until at least twenty (20) days after the Notice of Planning Commission Recommendation has been mailed.

PLANNING COMMISSION FINDING: The Planning Commission held a public hearing on April 7, 2015, and provided notice of their decision/recommendation to all affected parties on April 9, 2015. The decision became final 12 days later, at 4 p.m., April 21, 2015. The Board of Commissioners hearing, held on May 6, 2015, is 27 days after the Planning Commission decision/recommendation was mailed, therefore, the request complies with Section 9.080.

Chapter 3 – Basic Provisions

Section 3.800, EPD-5, Mineral & Aggregate Overlay

Section 3.830, Permitted Uses - Extraction Areas
The following uses may be permitted in the Extraction Area subject to Site Plan approval in accordance with Section 3.840:

A. Any permitted use allowed in the underlying zone, may be allowed subject to the underlying zone criteria and as otherwise authorized through the ESEE analysis.

B. Conditional uses shall be reviewed against the approval criteria of Section 3.845.

C. Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.

D. Stockpiling and storage of mineral and aggregate materials.

E. Processing of:

1. Materials, including crushing, washing, milling, screening, sizing, or batching of portland cement; and

2. Batching or blending of mineral and aggregate into asphaltic concrete, except within 2 miles of a planted commercial vineyard.

F. Buildings (not including residences), structures and equipment directly related to the above permitted aggregate uses.

G. Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.

H. Sale of products extracted and processed on-site from a mineral and aggregate operation.

PLANNING COMMISSION FINDING: Section 3.840 is addressed below. The owner proposes to process the aggregate material, including extraction, crushing, washing, milling, screening, and sizing, which are all uses permitted in the approved Extraction Area.

Section 3.835, Development Standards - Extraction Area
A development plan shall be submitted to the Wasco County Planning Department for any permitted activity allowed in Section 3.830. The following requirements apply to mining and processing unless other standards are adopted in the County process. Such standards shall be clearly identified in the ESEE analysis. The applicant shall demonstrate that the following standards or site specific replacement standards adopted in the County process, are met or can be met by a specified date.

A. Screening

1. Mining Activities to be Screened.

a. All excavated areas except areas where reclamation is being performed, internal on-site roads existing of the effective date of this ordinance, new roads approved as part of the site plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation which provides natural screening;

b. All processing equipment;

c. All equipment stored on the site.

2. Types of Screening.

a. Natural Screening. Existing vegetation or other landscape features which are located within 50 feet of the boundary of the site, and which screen the view of mining activities from screened uses, shall be preserved and maintained.

b. Supplied Screening. Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied screening shall not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.

PLANNING COMMISSION FINDING: With **conditions**, the request is consistent with Section 3.835.A. The proposed aggregate site is screened from Bakeoven Road by topography to the west and south, but is visible to the east along Hinton Road, and directly north of the site. The Planning Commission recommends a **condition** requiring the applicant to create a minimum 6' tall earth berm, approximately 350 feet in length within 90 days of beginning operation of the aggregate site. The berm shall be planted with grass that is natural to the surrounding area. In addition, a **condition** is recommended requiring the owner to screen all processing equipment and equipment stored on the site. This can be accomplished by the proposed berm.

B. Access

1. *On-site roads used in mining, and access from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards.*

    a. *All access roads intersecting a paved county road or state highway shall be paved thirty feet from the paved county road or state highway unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;*

PLANNING COMMISSION FINDING: The request is consistent with 1.a. Hinton Road is not a paved county road, therefore, the access road to the aggregate site does not need to contain a paved approach onto Hinton Road. The applicant states in his application that he will have an on-site 4,000-5,000 gallon water truck to reduce potential dust resulting from the access road leading to Hinton Road.
Staff spoke with Arthur Smith, Public Works Director, about this issue prior to the Planning Commission hearing. Mr. Smith said he would not want to see a paved road approach onto Hinton Road, andhe recommended no paving be required. The Planning Commission concurs.

    b. *All on-site roads within the Extraction Area, and access roads, shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date;*

PLANNING COMMISSION FINDING: With a **condition**, the request complies with b. The access road from Hinton Road to the proposed aggregate site is not improved to any type of road standard. During site preparation, the applicant will have to create rock/gravel road surfaces so that trucks have access to the site. This will occur prior to or within 30 days that extraction begins. Staff recommends requiring a **condition** advising the owner that on-site roads must be constructed and maintained in a manner that vehicular noise and dust is minimized. If the internal road is constructed properly, there will be little dust created by trucks. There are no buildings or structures within 1/4 mile of the proposed quarry, and the noise created by trucks hauling rock will only be noticed by the property owner. There will be a 4, 000 gallon water truck and a 5,000 gallon water tank on site for dust suppression, and the rock crusher has numerous water sprays for dust controls.

    c. *All on-site roads within the Extraction Area, and access roads, shall be paved at all points within 250 feet of a noise or dust sensitive use existing on the effective date of this ordinance.*

PLANNING COMMISSION FINDING: With the exception of the owner's farm dwelling and accessory farm dwelling north of Hinton Road, no noise or dust sensitive uses exist within 0.5 mile of the aggregate site, therefore, it is consistent with c.

2. *Improvements to substandard public roads outside of the Extraction Area may only be required as necessary to comply with a road improvement program adopted as part of transportation element of the Comprehensive Plan. Payment for public road improvements shall not be a condition of approval for mining at significant sites.*

PLANNING COMMISSION FINDING: The subject parcel has direct access to Hinton Road, a County-maintained road. According to Arthur Smith, Public Works Director (March 16, 2015), the

proposed increase in traffic, 25 truck loads per day, will not damage the road sufficiently to warrant improvement.

3. *Improvement fees in lieu of improvements of public roads, county roads and state highways may be required when the Planning Director or hearings body, in consultation with the appropriate road authority, determines that the increased traffic on the roads resulting from the surface mining activity will damage the road sufficiently to warrant off-site improvement. If the fee in lieu of improvements is required, the amount of the fee shall reflect the applicant's pro-rata share of the actual total cost of the capital expenditure of the road construction or reconstruction project necessitated by and benefiting the surface mining operation. Discounts for taxes and fees already paid for such improvements, such as road taxes for vehicles and for property already dedicated or improved, shall be applied.*

PLANNING COMMISSION FINDING: According to Arthur Smith, Public Works Director (March 16, 2015), the proposed increase in traffic, 25 truck loads per day, will not damage the road sufficiently to warrant improvement.

4. *An effective vehicular barrier or gate shall be required at all access points to the site.*

PLANNING COMMISSION FINDING: With a recommended condition, the request is consistent with 4. There is no existing gate across the driveway which provides access to the site. A **condition** is recommended requiring placement of an effective vehicular barrier or gate across the road leading to the aggregate site.

C. *Hours of Operation*

1. *Drilling and blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday.*

PLANNING COMMISSION FINDING: With a recommended **condition**, the request is consistent with C.1. A **condition** is recommended limiting the hours of drilling and blasting to 9 a.m. to 5 p.m., Monday-Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any recognized legal holiday.

2. *Mineral and aggregate extraction, processing and equipment operation within 750' or as established by the ESEE analysis of any Sensitive Use existing of the effective date of this ordinance is restricted to the hours of 7:00 am to 6:00 pm, Monday through Friday. All other sites are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.*

PLANNING COMMISSION FINDING: The Impact Area was identified by the Planning Commission as all land within 1,500 feet of the Permit Boundary. There are no sensitive uses within 1,500 feet (as established by the ESEE analysis) of the quarry site. The Planning Commission recommends requiring a **condition** limiting the hours of operation to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

D. *Environmental Standards*

1. *DEQ Standards. Mineral and aggregate extraction, processing and other operations shall conform to all the applicable environmental standards of the County and applicable DEQ air quality and emissions standards. The applicant shall provide a copy of an approved DEQ permit(s) prior to commencement of the operation.*

PLANNING COMMISSION FINDING: A **condition** is recommended requiring the owner to submit a copy of an approved DEQ permit prior to commencement of operation.

E. *Equipment Removal. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.*

PLANNING COMMISSION FINDING: The Planning Commission recommends requiring equipment removal as stated in E., as a **condition** of approval.

F. *Performance Agreement*

1. *The operator of a mineral and aggregate site shall keep applicable DOGAMI permits or exemption certificates in effect.*

PLANNING COMMISSION FINDING: A **condition** is recommended requiring the aggregate site operator to keep applicable DOGAMI permits or exemption certificates in effect.

2. *The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least $1,000,000.00.*

PLANNING COMMISSION FINDING: A **condition** is recommended requiring any mining operator to carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least $1 million.

G. *Significant Resource Area Protection. Conflicts between inventoried mineral and aggregate resource sites and significant fish and wildlife habitat, riparian areas and wetlands, significant scenic viewpoints or vistas, and ecologically and scientifically significant natural areas protected by the Significant Resource Areas Overlay Zone in accordance with Section 3.910 (Natural Areas Overlay) and 3.770 (Cultural, Historical and Archeological Overlay) of this Ordinance and identified on the Significant Resource Areas Map, shall be balanced as determined by the program and as determined by the County process.*

PLANNING COMMISSION FINDING: Little Dead Dog Canyon Creek is located over 450 feet north of the proposed quarry. This creek is not a fish-bearing stream. Though it provides some wildlife habitat and riparian areas, it is not located in an identified natural area and does not contain cultural, historical, or archaeological features. A **condition** is recommended requiring the maintenance of all vegetation within between the quarry operation and Little Dead Dog Canyon Creek. Maintenance of vegetation does not include farm use activities.

H. *Site Reclamation.*

1. *No mining shall commence without providing the County a copy of a DOGAMI operating permit, approved reclamation plan, or exemption certificate.*

PLANNING COMMISSION FINDING: A **condition** is recommended requiring the owner to provide a copy of a DOGAMI operating permit/exemption certificate, and approved reclamation plan to the Planning Department prior to the commencement of mining.

2. *A reclamation plan shall be submitted concurrently with the development plan required in Section 3.835. The reclamation plan shall include a schedule showing the planned order and sequence of reclamation, shall assure that the site will be restored or rehabilitated for the land uses specified in the underlying zone including subsequent beneficial uses identified through the County process.*

PLANNING COMMISSION FINDING: The owner has provided a draft reclamation plan, however, it has not yet been approved by DOGAMI. A **condition** is recommended requiring the owner to submit a DOGAMI-approved reclamation plan prior to commencement of mining.

3. *The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County. When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.*

   a. *If site plan approval is required, the County shall require that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.*

PLANNING COMMISSION FINDING: In order to operate an aggregate extraction site, the owner must satisfy the requirements of Wasco County and DOGAMI. The Planning Commission recommends a **condition** advising the owner that County approval and DOGAMI approval are both required prior to any new mining activity.

I. Water Management

1. *All surface water shall be managed to provide protection against sediment discharge into streams, rivers and lakes. Existing natural drainage on the site shall not be changed in a manner which interferes with drainage patterns on adjoining property, or which drains waste materials or waste water onto adjoining property or perennial streams. Where the mineral and aggregate operation abuts a lake, river, or perennial stream, all existing vegetation within 100 feet of the mean high water mark shall be retained unless otherwise authorized in accordance with the ESEE analysis and the development plan.*

PLANNING COMMISSION FINDING: The natural drainage of the property south of Hinton Road is southeast to northwest, and water drains into Little Dead Dog Canyon. The Permit Boundary is located 480 feet south of the creek, and all vegetation will be retained between the quarry and the creek. Retention of the vegetation will prevent potential sediment from reaching the creek, and natural drainage into the creek will continue to occur. A **condition** is recommended requiring all vegetation between the proposed Permit Boundary and Little Dead Dog Canyon to be retained.

2. *All water required for the mineral and aggregate operation, including dust control, landscaping and processing of material, shall be managed: (a) in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements, or (b) shall be legally available and appropriated for such use.*

The applicant shall provide written documentation of water rights from the State Department of Water Resources and/or local water district prior to the commencement of any site operation.

PLANNING COMMISSION FINDING: The owner's plan includes placement of a 4-5,000 gallon water truck on-site. The availability of this water will allow the request to meet all DEQ and DOGAMI requirements. No water right is required for an on-site water truck.

J. Flood Plain. Any extraction Area located wholly or in part in a Flood Hazard Area shall receive approval in accordance with Chapter 22 of this Ordinance prior to any site operation.

PLANNING COMMISSION FINDING: The Extraction Area is not in a Flood Hazard Area.

K. Compliance with Special Conditions. The applicant shall demonstrate that all special conditions or requirements adopted as part of the County process have been satisfied or will be satisfied by a specified date.

PLANNING COMMISSION FINDING: This report recommends many conditions of approval to ensure all applicable requirements have been met. Some conditions must be met after expiration of the appeal period, but prior to operation. Some conditions do not require any action, and some actions must be met after the aggregate operation ceases.

L. Security. Fencing of site boundaries shall be required on the boundary between a significant site and a parcel zoned to allow dwellings as an outright permitted use. Fencing shall be a cyclone type fence, shall be earth tone color, and shall be a minimum of six feet high.

PLANNING COMMISSION FINDING: A dwelling is not an outright permitted use in the Exclusive Farm Use zone, therefore, L. is not applicable to this request.

Section 3.840, Application Process

Final development plan approval is required prior to the beginning of any mineral and aggregate activity listed in Section 3.825 (A), and before any expansion of a pre-existing or nonconforming site. The applicant shall provide the following at the time of application:

A. A site plan demonstrating that the development standards required in Section 3.835 can be met, and any requirements adopted as part of the County process, including:

1. *Screening and Fencing;*
2. *Access;*
3. *Hours of Operation;*
4. *Environmental Standards;*
5. *Equipment Removal;*
6. *Performance Agreement;*
7. *Significant Resource Area Protection;*
8. *Site Reclamation;*
9. *Water Management; and*
10. *Flood Plain.*

B. A map or diagram showing the location and setbacks of all proposed mineral and aggregate activities and operations and the location and distance to all Sensitive Uses within the Impact Area.

PLANNING COMMISSION FINDING: A site plan containing this information was provided by the applicant at the time of application.

C. The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.835 and any other requirements adopted as part of the County process.

PLANNING COMMISSION FINDING: The Planning Commission recommends approval of the request to the Board of Commissioners, with recommended conditions.

Section 3.845, Impact Area - Uses and Standards

A. Any permitted use allowed in the underlying zone may be allowed in the Impact Area subject to the underlying zone criteria and as otherwise authorized by the County process.

PLANNING COMMISSION FINDING: The subject parcel is zoned Exclusive Farm Use, A-1(160). This zone allows farm and forest use as an outright permitted use, so grazing and growing crops in the surrounding area can continue, as well as the establishment of other non-sensitive uses allowed in the underlying zone.

B. Uses allowed Conditionally.

1. Any conditional use in the underlying zone(s) which are not noise sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the underlying zone criteria.

PLANNING COMMISSION FINDING: Section 3.815C.3.b. lists noise sensitive uses and uses that conflict with aggregate extraction operations. Uses that are listed as conditional uses in the Exclusive Farm Use Zone that are not noise sensitive/conflicting uses shall be reviewed as a conditional use subject to the underlying zone criteria.

2. Noise sensitive uses and conflicting uses shall be reviewed as conditional uses subject to criteria D, Approval Criteria.

PLANNING COMMISSION FINDING: In the future, noise sensitive or conflicting uses proposed in the EPD-5 Overlay Zone, shall be reviewed as a conditional subject to Section 3.815.D.

C. Prohibited Uses. Uses identified through the County process as incompatible with mining shall not be permitted within the Impact Area.

PLANNING COMMISSION FINDING: Uses listed below are considered to be incompatible with mining, and shall not be permitted in the Impact Area zoned EPD-5, Mineral & Aggregate Overlay Zone.

1. An outdoor gathering
2. Dwellings
3. Winery
4. Model Aircraft take-off and landing sites

5. Churches and cemeteries
6. Propagation, cultivation, maintenance, and harvesting of aquatic or insect species
7. Farm ranch recreation
8. Commercial utility facilities (Wind, Hydroelectric or Other)
9. A site for disposal of solid waste
10. Personal use airports
11. Fire service facilities, and community centers owned by a government agency or nonprofit organization
12. Parks and playgrounds
13. Public or private schools for kindergarten through grade 12
14. Home Occupation
15. Dog Kennels
16. Private parks, playgrounds, and campgrounds
17. Golf courses
18. Commercial activities such as roadside stands that are in conjunction with farm use.

D. Review Criteria. To approve uses allowed conditionally in the Impact Area the applicant must demonstrate compliance with the following criteria…

PLANNING COMMISSION FINDING: All of the uses proposed in the Impact Area (drilling, shooting, extraction, crushing, screening, and stockpiling crushed aggregate) are permitted in the Mineral & Aggregate Overlay Zone. No other uses are requested, therefore, D. is not applicable to this request.

(***)

F. Waiver of Remonstrance and Indemnity.

1. The owner of a proposed new Sensitive Use shall sign and record in the County Deed Records an Aggregate Operation Easement, Waiver of Remonstrance and Indemnity which shall declare that the applicant and his successors or heirs will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site.

PLANNING COMMISSION FINDING: If a new Sensitive Use is proposed within the EPD-5 Overlay, the affected owner shall record documents listed in F.1.

2. The Aggregate Operations Easement and Waiver of Remonstrance and Indemnity shall run with the land, until such time as the site is exhausted and the site is reclaimed in accordance with the approved reclamation plan or the operator releases these restrictions, easements or waivers or remonstrance and indemnity.

3. It shall be a requirement of the mineral and aggregate operator to release any restrictions, easements or waivers of remonstrance and indemnity.

PLANNING COMMISSION FINDING: A **condition** is recommended advising the owner that the Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted, and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate owner will release all restrictions, easements or waivers of remonstrance and indemnity.

Section 3.850, Designation of Overlay Zone
The Mineral and Aggregate Overlay Zone may be applied through the plan update process, or through individual application for an Aggregate Overlay zone/ Comprehensive Plan amendment pursuant to Section 2.060 (B)(15) of this Ordinance. The approving authority shall approve the overlay zone designation if the provisions of Chapter 3, Section 3.800 - 3.850 of this Ordinance have been met. (Amended 9-93)

The boundary of the Overlay Zone shall be all property contained in the Mineral and Aggregate Extraction Area and Mineral and Aggregate Impact Area.

PLANNING COMMISSION FINDING: Application of the Mineral & Aggregate Overlay Zone was requested by the applicant through Section 2.060.B.2. The overlay zone shall be applied to all land within the 20 acre boundary, and all land within 1,500 feet of the Permit Boundary.

Section 3.855, Termination of Mineral and Aggregate Overlay Zone
The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

A. The owner of the Mineral and Aggregate resource site submits evidence showing a significant resource no longer exists on the site; and

B. The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and

C. The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

PLANNING COMMISSION FINDING: A **condition** is recommended advising the owner that the termination of the Mineral & Aggregate Overlay zone shall occur when one of the above criteria has been met.

V. BOARD OF COMMISSIONER DECISION OPTIONS

A. Comprehensive Plan Amendment

1. Approve the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with the proposed findings and conditions recommended by the Planning Commission.

2. Approve the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with amended findings and conditions provided by the Board of Commissioners.

3. Deny the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with amended findings provided by the Board of Commissioners.

4. Continue the hearing to a date and time certain.

B. Zoning Map Amendment

1. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate

boundary, with the proposed findings and conditions recommended by the Planning Commission.

2. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings and conditions provided by the Board of Commissioners.

3. Deny the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings provided by the Board of Commissioners.

4. Continue the hearing to a date and time certain.

VI. PLANNING COMMISSION RECOMMENDATION:

A. Recommend approval of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site, with conditions of approval described in VII.; and

B. Recommend approval of the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the aggregate site, with conditions of approval described in VII.

VII. RECOMMENDED CONDITIONS OF APPROVAL:

The Planning Commission recommends the Board of Commissioners apply the following conditions of approval:

A. Comprehensive Plan Amendment:

1. The applicant shall submit approval from the Wasco County Public Works Department for the driveway approach on the south side of Hinton Road to the quarry site.

2. The applicant shall submit copies of the DOGAMI-approved Operating Permit and Reclamation Plan prior to excavation in the expansion area.

B. Zoning Map Amendment

1. <u>Prior to any excavation, the following conditions shall be met:</u>

   a. Place an effective barrier or gate across the access road to prevent general access to the proposed quarry.

   b. Submit a copy of an approved DEQ permit.

      1) Submit a copy of a DOGAMI operating permit or exemption certificate, and a DOGAMI-approved Reclamation Plan.

      2) Create rock/gravel road surfaces to the Permit Boundary prior to or within 30 days that extraction begins. On-site roads must be constructed and maintained in a manner that vehicular noise and dust is minimized.

2. Miscellaneous Conditions:

   a. County approval and DOGAMI approval are both required prior to any mining activity.

   b. Create a minimum 6' tall berm, approximately 350 feet in length as shown on the site plan within 90 days of beginning operation of the aggregate site. The berm shall be planted with grass that is natural to the surrounding area.

   c. Hours of drilling and blasting are limited to 9 a.m. to 5 p.m., Monday – Friday. No blasting or drilling shall occur on Saturdays, Sundays, or recognized legal holidays.

   d. Hours of operation for extraction are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

   e. Screen all processing equipment and equipment stored on the site.

   f. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

   g. The aggregate site operator shall keep applicable DOGAMI permits or exemption certificates in effect.

   h. Any mining operator shall carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least $1 million.

   i. All vegetation between the Permit Boundary and Little Dead Dog Canyon Creek shall be maintained.

   j. The Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate site will release all restrictions, easements or waivers of remonstrance and Indemnity.

   k. The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

      1) The owner of the mineral and aggregate resource site submits evidence showing a significant resource no longer exists on the site; and

      2) The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and

      3) The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND *SKY & TELESCOPE*.

What is good lighting?

Good outdoor lights improve visibility, safety, and a sense of security, while minimizing energy use, operating costs, and ugly, dazzling glare.

Why should we be concerned?

Many outdoor lights are poorly designed or improperly aimed. Such lights are costly, wasteful, and distractingly glary. They harm the nighttime environment and neighbors' property values. Light directed uselessly above the horizon creates murky skyglow — the "light pollution" that washes out our view of the stars.

Glare Here's the basic rule of thumb: If you can see the bright bulb from a distance, it's a bad light. With a good light, you see lit ground instead of the dazzling bulb. "Glare" is light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers.

Light Trespass Poor outdoor lighting shines onto neighbors' properties and into bedroom windows, reducing privacy, hindering sleep, and giving the area an unattractive, trashy look.

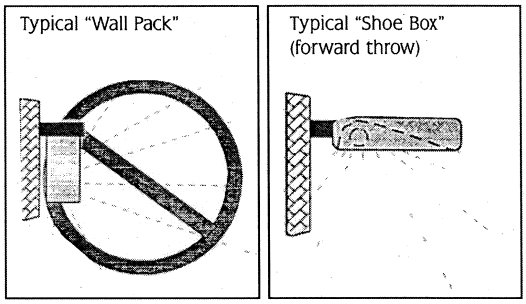
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. Each year we waste more than a billion dollars in the United States needlessly lighting the night sky.

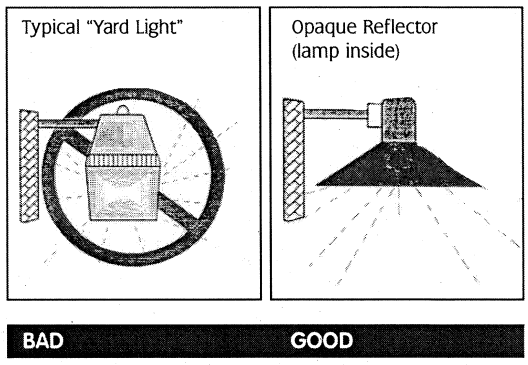
Excess Lighting Some homes and businesses are flooded with much stronger light than is necessary for safety or security.

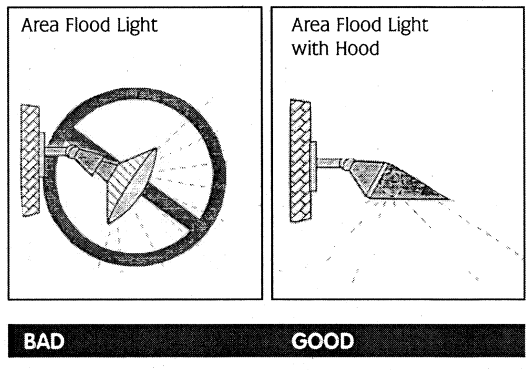
How do I switch to good lighting?

1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate

Some Good and Bad Light Fixtures







areas 100 times more brightly than the full Moon! More importantly, by choosing properly shielded lights, you can meet your needs without bothering neighbors or polluting the sky.

2. Aim lights down. Choose "full-cutoff shielded" fixtures that keep light from going uselessly up or sideways. Full-cutoff fixtures produce minimum glare. They create a pleasant-looking environment. They increase safety because you see illuminated people, cars, and terrain, not dazzling bulbs.

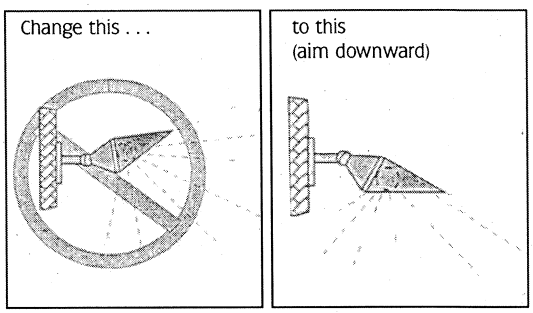
3. Install fixtures carefully to maximize their effectiveness on the targeted area and minimize their impact elsewhere. Proper aiming of fixtures is crucial. Most are aimed too high. Try to install them at night, when you can see where all the rays actually go. Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as well as a wasteful light does with a high-wattage bulb.

4. If color discrimination is not important, choose energy-efficient fixtures utilizing yellowish high-pressure sodium (HPS) bulbs. If "white" light is needed, fixtures using compact flourescent or metal-halide (MH) bulbs are more energy-efficient than those using incandescent, halogen, or mercury-vapor bulbs.

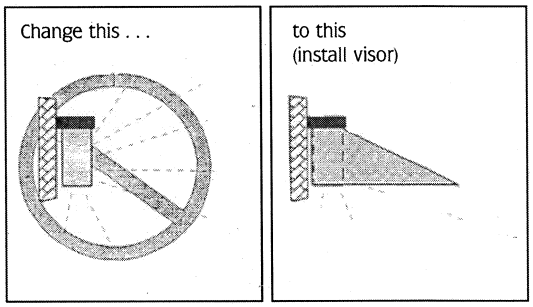
5. Where feasible, put lights on timers to turn them off each night after they are no longer needed. Put home security lights on a motion-detector switch, which turns them on only when someone enters the area; this provides a great deterrent effect!

Replace bad lights with good lights. You'll save energy and money. You'll be a good neighbor. And you'll help preserve our view of the stars.

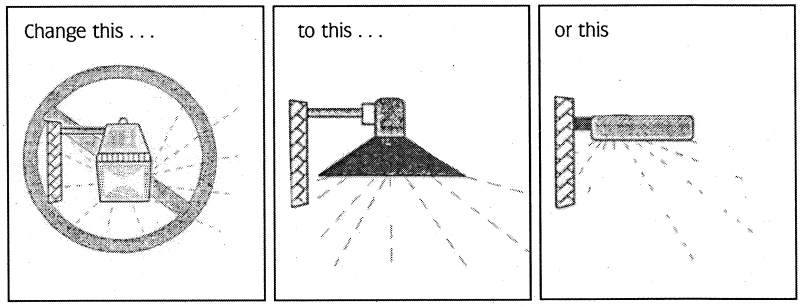
What You Can Do To Modify Existing Fixtures



FLOOD LIGHT



WALL PACK



YARD LIGHT | OPAQUE REFLECTOR | SHOE BOX

Presented by the **New England Light Pollution Advisory Group** (NELPAG) (http://cfa-www.harvard.edu/cfa/ps/nelpag.html)

and ***Sky & Telescope*** (http://SkyandTelescope.com/).

NELPAG and *Sky & Telescope* support the International Dark-Sky Association (IDA) (http://www.darksky.org/).

We urge all individuals and groups interested in the problems of light pollution and obtrusive lighting to support the IDA and subscribe to its newsletter. IDA membership costs $30 per year; send your check to IDA, 3225 N. First Avenue, Tucson, AZ 85719, U.S.A.

GNF01

SKY & TELESCOPE

Sky Publishing Corp.
49 Bay State Road
Cambridge, MA 02138
SkyandTelescope.com

Owner Name: _____ _____
Mailing Address: _____ _____
_____ _____

Blaine D. Carver, herein called the Grantor, is the owner of real property described as follows:

Township 5 South, Range 16 East W.M., Tax Lot 3600; Account 12549

In accordance with the conditions set forth in the decision of Wasco County Board of Commissioners, dated _____, approving aggregate operation (File PLACUP-15-02-0003), Grantor hereby grants to the Owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

---

1. The Grantors, their heirs, successors, and assigns hereby acknowledge by granting of this easement that the above described property is situated in an Exclusive Farm Use zone in Wasco County, Oregon, and may be subjected to conditions resulting from farm or forest operations on adjacent lands. Farm operations include, but are not limited to, the raising, harvesting and selling of crops or the feeding, breeding, management and sale of livestock or poultry, application of chemicals, road construction and maintenance, and other accepted and customary farm management activities conducted in accordance with Federal and State laws. Forest operations include, but are not limited to reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals and disposal of slash, and other accepted and customary forest management activities conducted in accordance

After recording, please return original to:
Wasco County Planning Department

with Federal and State laws. Said farm or forest management activities ordinarily and necessarily produce noise, dust, odor, and other conditions, which may conflict with Grantors' use of Grantor's property for residential purposes. Grantor hereby waives all common law rights to object to normal and necessary farm or forest management activities legally conducted on adjacent lands which may conflict with grantors' use of grantor's property for residential purposes and grantor hereby gives an easement to adjacent property owners for such activities.

2. Grantors shall comply with all restrictions and conditions for maintaining residences in the Exclusive Farm Use zone that may be required by State and local land use laws and regulations.

This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors and assigns.

IN WITNESS WHEREOF, the Grantor has executed this easement on _____, 201___.

_____
Titleholders Signature

_____
Titleholders Signature

STATE OF OREGON)
COUNTY OF WASCO)

Personally appeared the above named _____, and acknowledged the above easement to be his voluntary act and deed.

_____
Notary Public for Oregon

Aggregate Hearings
Bryant-Hagens Packet

- Planning Commission Summary
- Attachment A – Planning Commission Decisions & Recommendations
- Attachment B – Board of Commissioners Options
- Attachment C – Recommended Conditions of Approval
- Attachment D - Maps
- Attachment E – Planning Commission Report
- Attachment F – Lighting Standards
- Attachment G – Farm Management Easement

Wasco County Planning Department

"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058
(541) 506-2560 • wcplanning@co.wasco.or.us
www.co.wasco.or.us/planning

PLANNING COMMISSION RECOMMENDATION
to the Wasco County Board of Commissioners

FILE # PLACUP-15-01-0002

HEARING DATE: May 6, 2015
NOTIFICATION DATE: April 21, 2015

REQUESTS: Create a 20 acre aggregate operation (rock quarry). Applications before the Board of Commissioners include:

1. Comprehensive Plan Amendment to add a proposed 20 acre aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and

2. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed 20 acre aggregate operation.

APPLICANT:
J. Arlie Bryant, Inc.
2000 W 6th Street
The Dalles, OR 97058

OWNER:
Hagen Bar 50 Ranches
5310 Wainwright Road
Prineville, OR 97754

PROPERTY INFORMATION:

Zoning: A-1(160), Exclusive Farm Use Zone in Wasco County
The property is also located in the EPD-12, Sensitive Bird Overlay

Location: The aggregate site is located east of Highway 197, approximately 3½ miles north of its intersection with Highway 97, approximately 9½ miles southeast of Shaniko, Oregon; more specifically described as:

Existing Tax Lot	Previous Tax Lot	Acct #	Acres
7S 15E 0 600	7S 15E 0 106	12795	3,706.82

A. Planning Commission Decisions/Recommendations
B. Board of Commissioner Decision Options
C. Recommended Conditions of Approval
D. Maps
E. Planning Commission Report
F. Lighting Standards
G. Farm Management Easement

The full Planning Commission recommendation with all proposed findings of fact is enclosed as **Attachment C** and was available at the Wasco County Planning Department and Wasco County Board of Commissioners Office for review one week prior to the May 6, 2015, hearing. The full Planning Commission recommendation is made a part of the record. This summary does not supersede or alter any of the findings or conclusions in the staff report, but summarizes the results of the Planning Commission's review and recommendation.

Aggregate Sites in the Exclusive Farm Use Zone

To establish a new aggregate site, renew an existing aggregate site, or expand an aggregate site in the Exclusive Farm Use Zone in Wasco County, up to **four** applications may be required to be submitted. They include:

A. Subject to Standards Review: The existing or proposed rock source must be determined to be a "Significant Site." This involves applying for, and receiving approval, of a Subject to Standards Review and submittal of information showing compliance with specific criteria (involves meeting specific aggregate testing, requires long-term lease or ownership of the property, and requires a significant quantity of rock to be available).

B. Comprehensive Plan Amendment: Once a rock quarry is determined to be a "Significant Site" it needs to be added to the Wasco County Comprehensive Plan Aggregate Inventory as a "Significant Site." This requires submittal of, and approval of a Comprehensive Plan Amendment to add the "Significant Site" to the Aggregate Inventory.

C. Zoning Map Amendment: If a rock quarry meets all of the significance criteria, it is important to protect the rock source from noise- and dust-sensitive uses such as residential use, by the application of the EPD-5, Mineral & Aggregate Overlay Zone to the quarry boundary, and all land within a minimum of 750 feet of the boundary.

D. Conditional Use Permit: LUDO Chapter 3, Section 3.210, A-1, Exclusive Farm Use Zone, subsection E.4. and 5. Allows extraction, drilling, blasting, crushing, screening and stockpiling of rock, and a batch plant, subject to compliance with Conditional Use

Of these four applications, the Planning Commission can make decisions on the Subject to Standards Review and Conditional Use Permit, and can make a recommendation to the Board of Commissioners on a Comprehensive Plan Amendment and Zoning Map Amendment.

John Bryant, J. Arlie Bryant, LLC, authorized representative for Hagens Bar 50 Ranches, made application to create a 20 acre aggregate extraction site (rock quarry). His applications included a Partition to legalize the improperly created property; a Subject to Standards Review to determine whether the site is a significant rock source; a Comprehensive Plan Amendment to update the Aggregate Inventory to include this aggregate site; a Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay to the aggregate site's Permit Boundary, and all land within a distance of the Permit Boundary, and a Conditional Use Permit to allow drilling, shooting, crushing and stockpiling of crushed aggregate.

ATTACHMENT A

PLANNING COMMISSION DECISIONS & RECOMMENDATIONS

On April 7, 2015, the Wasco County Planning Commission met to hold a quasi-judicial public hearing to consider all four applications.

PLANNING COMMISSION DECISIONS:

A. With a vote of 6-0, with conditions, the Planning Commission voted to approve the Subject to Standards Review and designate the 50 acre aggregate site as a significant rock source.

B. With a vote of 6-0, with conditions, the Planning Commission voted to approve the Conditional Use Permit to allow an aggregate operation and include drilling, shooting, crushing, stockpiling crushed aggregate, and a batch plant.

PLANNING COMMISSION RECOMMENDATIONS:

A. With a vote of 6-0, with conditions in Attachment A, the Planning Commission voted to recommend approval of a Comprehensive Plan Amendment to add the proposed 50 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a "Significant Site."

B. On a vote of 6-0, with conditions in Attachment A, the Planning Commission voted to recommend approval of a Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 50 acre Permit Boundary and all land within 1,500 feet.

ATTACHMENT B

BOARD OF COMMISSIONERS OPTIONS

BOARD OF COMMISSIONERS OPTIONS:

A. Comprehensive Plan Amendment:

1. Approve the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with the Planning Commission's proposed findings and conditions.

2. Approve the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory, with amended findings and conditions provided by the Board.

3. Deny the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Comprehensive Plan Aggregate Inventory,with amended findings provided by the Board.

4. Continue the hearing to a date and time certain.

B. Zoning Map Amendment

1. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with the Planning Commission's proposed findings and conditions.

2. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings and conditions provided by the Board.

3. Deny the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 50 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings provided by the Board.

4. Continue the hearing to a date and time certain.

ATTACHMENT C

RECOMMENDED CONDITIONS OF APPROVAL

A. Comprehensive Plan Amendment:

1. Truck drivers shall follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc.

2. All trucks hauling aggregate from the site be properly contained to avoid the spillage of rock and debris onto public roads. The owner shall keep Highway 197 and adjoining routes of travel clear of rock spillage.

B. Zoning Map Amendment:

1. Prior to any excavation, the following conditions shall be met:

   a. The owner shall submit a copy of an approved DEQ permit showing conformance with air quality and emissions standards.

   b. The owner shall submit a copy of a DOGAMI operating permit or exemption certificate, and a DOGAMI-approved Reclamation Plan.

   c. County approval and DOGAMI approval are both required prior to any mining activity.

   d. The western 30' of the driveway shall be paved to reduce dust onto Highway 197.

   e. The applicant shall obtain an Approach Road Permit from ODOT for the existing access road (private easement road) to Highway 197.. A **condition** stating this is recommended.

   f. An effective barrier or gate to be placed across the access road on Hagen's property to provide access to the proposed quarry.

   g. All vegetation between the proposed Permit Boundary and Deep Creek shall be retained.

2. Miscellaneous Conditions:

   a. All processing equipment and equipment stored on the site shall be screened from view of Highway 97.

   b. Hours of drilling and blasting are limited to 9 a.m. to 5 p.m., Monday – Friday. No blasting or drilling shall occur on Saturdays, Sundays, or recognized legal holidays.

   c. Hours of operation for extraction are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

   d. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

e. The aggregate site operator shall maintain applicable DOGAMI permits or exemption certificates in effect.

f. Any mining operator shall carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least $1 million.

g. The Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate site will release all restrictions, easements or waivers of remonstrance and Indemnity.

h. The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

    a. The owner of the mineral and aggregate resource site submits evidence showing a significant resource no longer exists on the site; and

    b. The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and

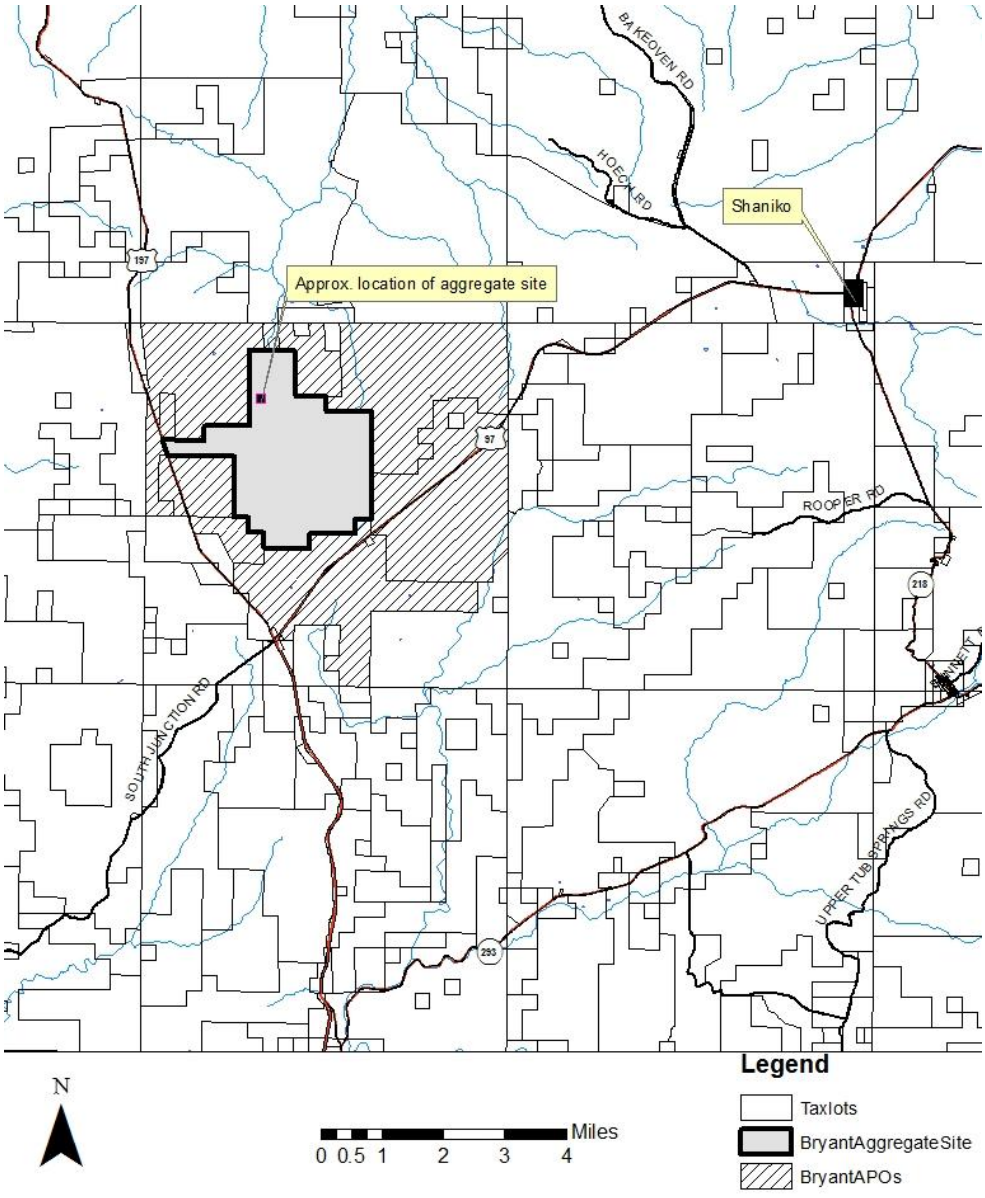
    c. The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

ATTACHMENT D – MAPS

Applicant: J. Arlie Bryant, LLC
Property Owner: Hagens Bar 50 Ranches

7S 15E 0, Tax Lots 600

Vicinity Map

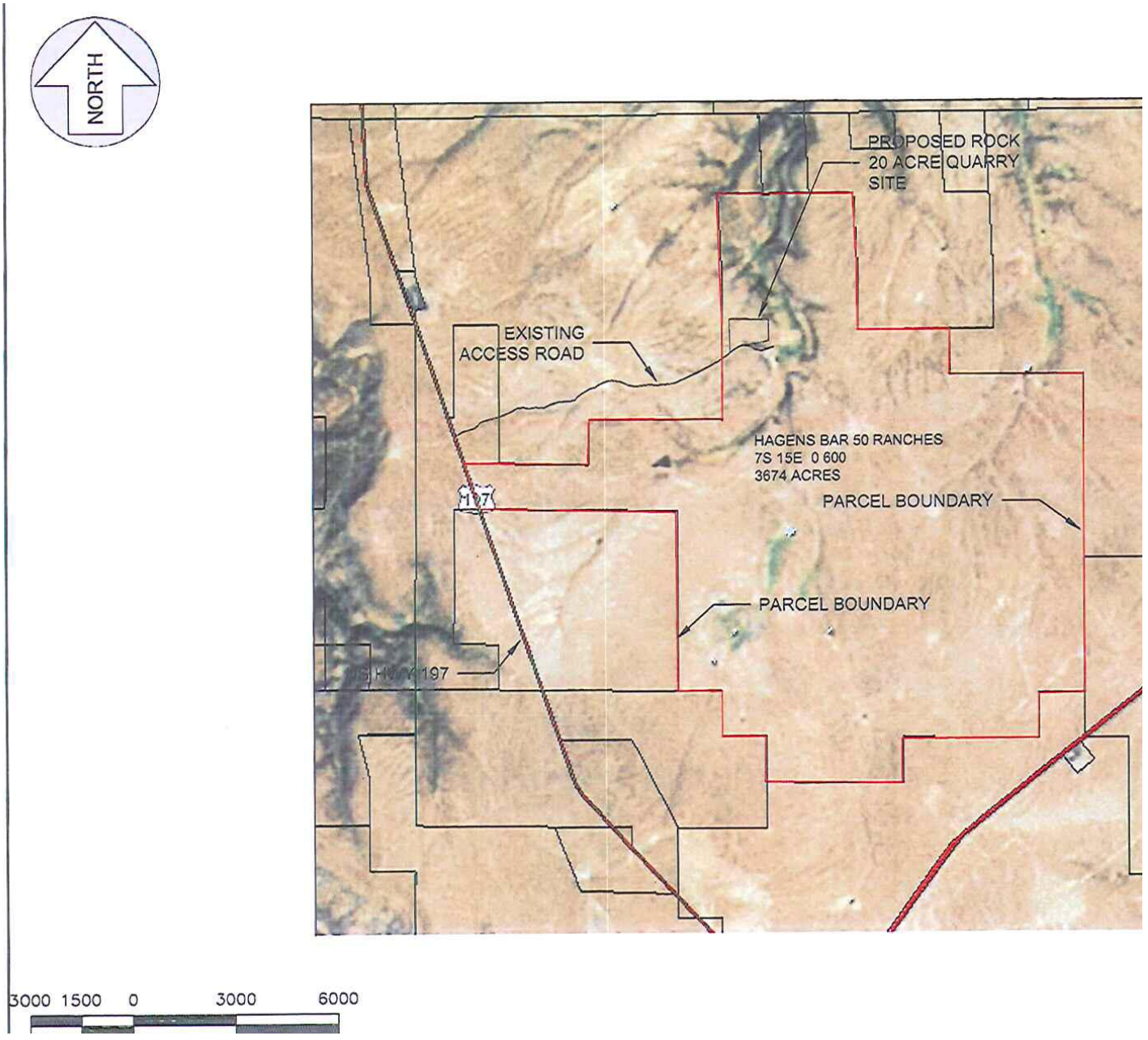


ATTACHMENT D – MAPS

Applicant: J. Arlie Bryant, LLC
Property Owner: Hagens Bar 50 Ranches

7S 15E 0, Tax Lots 600

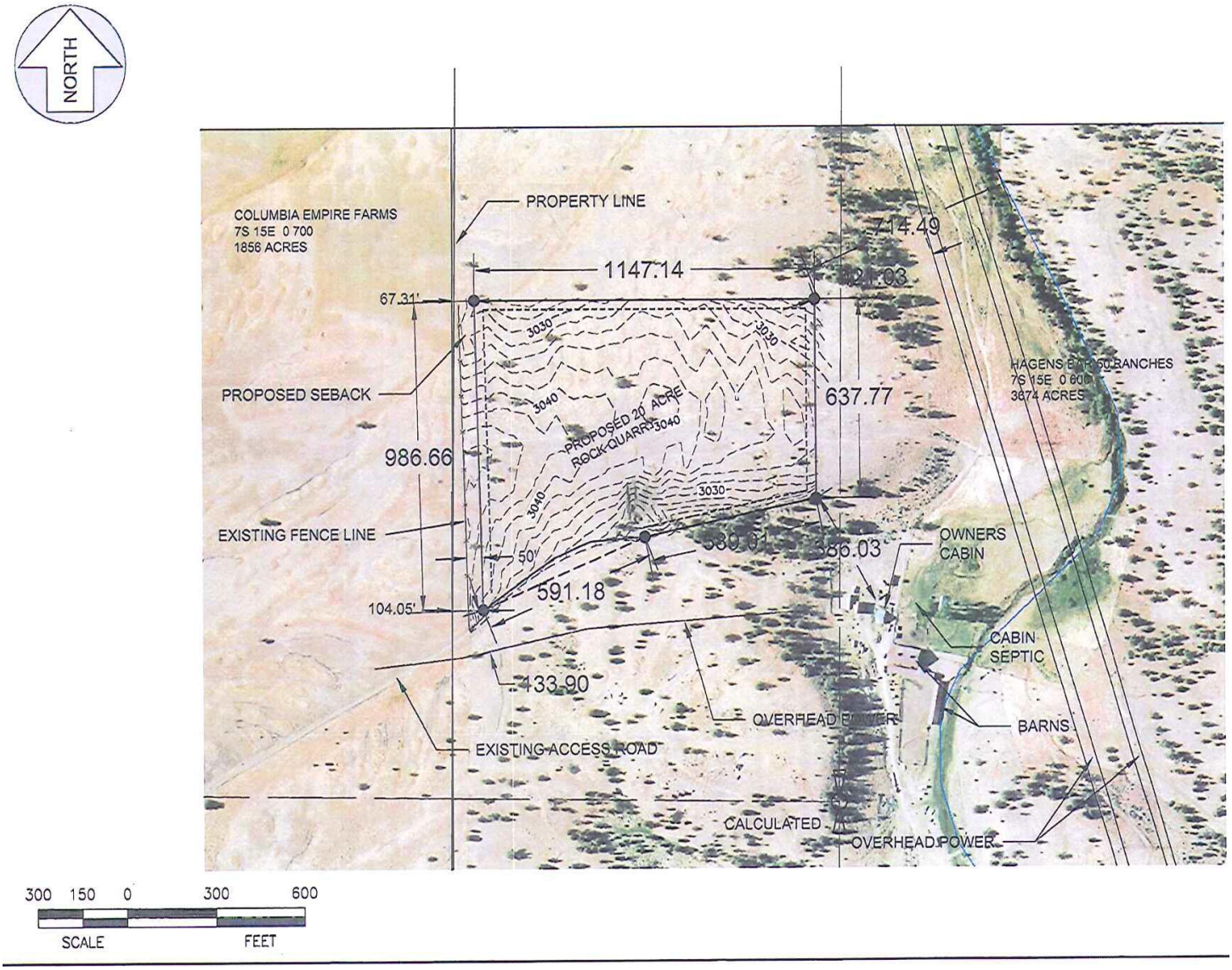
Site Plan



ATTACHMENT D – MAPS

Applicant: J. Arlie Bryant, LLC
Property Owner: Hagens Bar 50 Ranches

7S 15E 0, Tax Lots 600



ATTACHMENT E

PLANNING COMMISSION RECOMMENDATION

File Number: PLACUP-15-01-0002

Requests: Create a 20 acre aggregate operation (rock quarry). Applications before the Board of Commissioners include:

1. Comprehensive Plan Amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and

2. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the aggregate operation.

Prepared For: Wasco County Board of Commissioners

Procedure Type: Quasi-Judicial Hearing

Hearing Date: May 6, 2015

Applicant: J. Arlie Bryant, Inc.

Owners: Hagens Bar 50 Ranches

Location: The aggregate site is located east of Highway 197, approximately 3½ miles north of its intersection with Highway 97, approximately 9½ miles southeast of Shaniko, Oregon; more specifically described as:

Existing Tax Lot	Previous	Acct#	Acres
7S 15E 0 600	7S 15E 0 106	12795	3,706.82

Zoning: A-1(160), Exclusive Farm Use Zone
The property is also located within the EPD-12, Sensitive Bird Overlay

Past Actions: None

Prepared by: Dawn Baird, Associate Planner

I. APPLICABLE STANDARDS

A. Comprehensive Plan Amendment

1. Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.060.B.1.	(Recommendation to County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
Section 2.080.A.	(Notice)
Section 2.090	(Contents of Notice)
Section 2.140	(Hearing Procedure)
Section 2.150	(Official Notice)
Section 2.190	(General Conduct of Hearings)

2. Wasco County Comprehensive Plan

a. Chapter 2 – Physical Characteristics

Section G.	(Mineral & Aggregate Resources)

b. Chapter 11 – Revisions Process

Section B.	(A Comprehensive Plan may take the following forms)
Section C.	(Who may apply for a plan revision)
Section E.	(Quasi-Judicial Revisions)
Section H.	(General Criteria)
Section I.	(Transportation Planning Rule Compliance)
Section J.	(Procedure for the Amendment Process)

c. Chapter 14 – Findings and Recommendations

Section B.	(Goal 5 Issues)

d. Chapter 15 – Goals and Policies

Section E.	(Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources)

B. Zoning Map Amendment

Wasco County Land Use & Development Ordinance

1. Chapter 2 – Development Approval Procedures

Section 2.060.B.2.	(Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment - Chapter 9)
Section 2.080.A.	(Notice)
Section 2.090	(Contents of Notice)
Section 2.140	(Hearing Procedure)
Section 2.150	(Official Notice)
Section 2.190	(General Conduct of Hearings)

2. Chapter 9 – Zone Change and Ordinance Amendment

Section 9.010	(Application for Zone Change)
Section 9.020	(Criteria for Decision)
Section 9.030	(Transportation Planning Rule Compliance)

Section 9.040	(Conditions Relative to the Approval of a Zone Change)
Section 9.060	(Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance)
Section 9.070	(Notice of Planning Commission Recommendation)
Section 9.080	(Action by County Governing Body)

3. Chapter 3 – Basic Provisions

Section 3.800	(Division 5 – Mineral and Aggregate Overlay)
Section 3.830	(Permitted Uses - Extraction Areas)
Section 3.835	(Development Standards - Extraction Area)
Section 3.845	(Impact Area - Uses and Standards)
Section 3.850	(Designation of Overlay Zone)
Section 3.855	(Termination of Mineral and Aggregate Overlay Zone)

II. BACKGROUND

A. Legal Parcel: Partitioning and subdivision regulations went into effect on 9/4/1974. Prior to 9/4/1974, an owner did not have to submit an application for a partition/ subdivision, but after this date, an owner needed to submit a land use application to the Planning Department, receive approval, and record the partition map with the Wasco County Clerk. During the application process, it was discovered that the subject property was created by Contract in 1981, after the existence of subdivision and partitioning regulations in Wasco County (9/4/1974). There does not appear to be a recorded subdivision or partition relating to this property, and it appears to be improperly created. On April 7, 2015, the Planning Commission approved a House Bill 2723 Partition to allow the owner to legalize the property. A condition was included requiring the owner to record a final plat with the Wasco County Clerk within 90 days of approval, and prior to any excavation at the proposed quarry site.

B. Site Description: Staff conducted a site inspection of the subject parcel on February 17, 2015. The subject property is 3,674 +/- acres in size. The 20 acre proposed aggregate is accessed by a private easement east of Highway 197. The proposed site was previously used a private, noncommercial aggregate site for the owner's personal use (permitted use), however it is not located on the County's Aggregate Inventory, located in the Comprehensive Plan and is referred to by staff as a proposed operation.

The development site is located on the north side of this easement road, approximately 1.75 miles east of Highway 197. Existing development located southeast of the proposed aggregate site includes a single family dwelling for the owner, two loft barns, and two general purpose buildings. Bonneville Power Administration (BPA) transmission lines run north/south through the center of the property. The BPA right-of-way for the transmission lines is located approximately 125-375' east of the Permit Boundary.

Deep Creek runs north/south through the property and is located approximately 600-900' east of the Permit Boundary. Chandler Canyon goes through the eastern portion of the property (north-south), approximately 1.3-1.4 mile east of the Permit Boundary. There are also four ponds located 1-1.7 miles south of the proposed aggregate site. The aggregate site contains 2-10% south- and east-facing slopes. There is an old extraction site, approximately 0.41 acres in size along the road on the southern portion of the proposed 20 acre site. This site is not identified in the Comprehensive Plan/Zoning Map but has been used by the owner to maintain his farm roads. The proposed extraction site contains sparse grassy vegetation, with scattered juniper trees on the subject parcel in the vicinity of the quarry site. The site is screened from all adjacent properties and

roads due to its south- and east-facing slopes. More than 50% of the property contains agricultural capability class VII soils, which are considered unsuitable for commercial farm use in eastern Oregon. The remaining 2,490.7 acres of the subject parcel consist of rolling terrain with predominantly 2-20% slopes, scattered Juniper trees, sage brush vegetation. The parcel is principally used for livestock grazing.

C. Surrounding Land Use: Surrounding properties are used for dryland crops, such as hay, cattle grazing, and Conservation Reserve Program (CRP), a federal agricultural program. With the exception of property to the west, all dryland crops/CRP land is located at least 1/2 mile from the proposed aggregate site. Property to the west has a history of being used for dryland crops, and is located approximately 250 feet northwest of the proposed aggregate site. Properties to the east contain additional BPA right-of-way (different than on the subject property). Slopes are similar to the subject property (2-10%), with the exception of slopes leading down to creeks which are 50+%. Surrounding properties contain scattered juniper trees, sage brush, and natural grasses

III. SUMMARY OF PLANNING COMMISSION HEARING (APRIL 7, 2015)

The Bryant/Hagens request included a Partition application to legalize an improperly created property, and the four applications required for an aggregate site in the Exclusive Farm Use Zone:

- Subject to Standards Review
- Comprehensive Plan Amendment
- Zoning Map Amendment
- Conditional Use Permit

In the Exclusive Farm Use Zone, creation of a new aggregate site, renewal of a permit for an existing aggregate site, or expansion of an existing aggregate site, can only occur if the rock source has been determined to be a "Significant Site". This determination is done through a Subject to Standards Review. If a site is determined to be significant, the three remaining applications will be processed:

A Comprehensive Plan Amendment is required to add the "Significant Site" to the Wasco County Comprehensive Plan Aggregate Inventory.

A Zoning Map Amendment is required to protect the significant rock source by placing the EPD-5, Mineral & Aggregate Overlay Zone on the aggregate site and a specific area around the boundary of the aggregate site.

The remaining application is a Conditional Use Permit. Aggregate operations and batch plants are regulated by the Conditional Use Review requirements to ensure there are no conflicts with surrounding farm or forest uses, for the protection of fish & wildlife habitat, cultural and historic resources, public facilities including roads, fire, electricity, sewer, water, etc.

The Planning Director has the authority to make a decision on the Subject to Standards request, and the Conditional Use Permit request, however, to expedite the process, the Director chose to have to the Planning Commission make a decision on these two applications, as well as a recommendation to the Board of Commissioners for the Comprehensive Plan Amendment and Zoning Map Amendment.

The results of the Planning Commission hearing were:

- Subject to Standards Review, approval, with conditions, to determine the proposed 20 acre aggregate site (Bryant/Hagens) to be a Significant Site.

- Comprehensive Plan Amendment, recommendation of approval, with conditions, to add the proposed 20 acre Bryant/Hagens rock source to the Comprehensive Plan Aggregate Inventory as a Significant Site.

- Zoning Map Amendment, recommendation of approval, with conditions, to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 20 acre aggregate site and all land within 1,500 feet.

- Conditional Use Permit, approval, with conditions, to allow an aggregate operation and include drilling, shooting, crushing, screening and stockpiling crushed aggregate.

The Board of Commissioners May 6, 2015, public hearing will consider the Comprehensive Plan Amendment and Zoning Map Amendment. All applicable standards are addressed in IV.

IV. FINDINGS:

A. Comprehensive Plan Amendment

1. Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.060.B.1., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)

FINDING: The request is for a Comprehensive Plan Amendment to add a proposed acre aggregate site to the Aggregate Inventory as a "Significant Site". A proposed aggregate site in the Exclusive Farm Use Zone, must be determined to be a significant site before it can be added to the Aggregate Inventory as a Significant Site. The Planning Commission approved the quarry as a Significant Site on April 7, 2015. Upon completion of the Comprehensive Plan Amendment portion of the hearing on April 7th, the Planning Commission voted unanimously (6-0) to forward a recommendation of approval, with conditions, to the Board of Commissioners for the Comprehensive Plan Amendment application.

Section 2.080.A., Notice
Section 2.090, Contents of Notice
Section 2.140, Hearing Procedure
Section 2.150, Official Notice
Section 2.190, General Conduct of Hearings

FINDING: The above sections establish the requirements for providing notice of public hearings and the general conduct of hearings. A ten day pre-notice is required for a second quasi-judicial hearing. This hearing is being held on May 6, 2015. The public hearing notice was published in The Dalles Chronicle on April 21, 2015, and notice was provided to agencies and property owners within 750' of the subject parcel, on April 21, 2015, fifteen days before the hearing. Posting of the hearing notice in public places occurred more than fifteen days before the hearing.

2. Wasco County Comprehensive Plan

Chapter 2 – Physical Characteristics

(***)

G., Mineral & Aggregate Resources

FINDING: The request is consistent with the requirements of Chapter 2, Section G., which provides general information about rock sources in Wasco County, instructions on how to apply for the Mineral & Aggregate Overlay zone, the requirements of an ESEE (Economic, Social, Environmental & Energy) Analysis, as well as Table 8, Wasco County Aggregate Inventory.

Prior to the Planning Commission hearing, the existing site was not identified or included on the Wasco County Aggregate Inventory. Upon expiration of the Planning Commission appeal period on Tuesday, April 21, 2015, the site is identified as a "Significant Site," but needs Board approval to be added to the Comprehensive Plan Aggregate Inventory.

Requirements in OAR 660-16-005 and 660-16-010 direct local jurisdictions to analyze the ESEE consequences of (a) allowing mining on a significant site, and (b) allowing conflicting uses to displace mining on a significant site. The owners submitted an ESEE analysis with the Subject to Standards Review. The ESEE analysis identified conflicting uses in the area and discussed impacts of the aggregate site.

If the request is approved, staff will update Table 8, Wasco County Aggregate Inventory.

Chapter 11 – Revisions Process

The Comprehensive Plan for Wasco County including all urbanizable areas is the primary document which guides and controls land use within Wasco County excluding incorporated areas. The plan is intended to reflect the community's current thoughts on land use planning and to be responsive to the needs and desires of citizens. In order to achieve this, the plan must respond to changing community attitudes and needs and to unforeseen circumstances which may affect the use of land in the future. It is, therefore, the intent of this section to permit the amendments of the Comprehensive Plan on a periodic basis and to describe the procedure for the amendment process.

(***)

B. A Comprehensive Plan Amendment May Take the Following Forms:

1. *Amendment of one or more policies of the plan.(Legislative)*

2. *Amendment to the text, inventories, maps or figures of the plan. (Legislative or Quasi-Judicial)*

3. *Amendment of a portion of the Comprehensive Plan Land Use Designation map. (Legislative or Quasi-Judicial)*

4. *Amendment to the urban growth boundary. (Legislative or Quasi-Judicial)*

5. *A combination plan change/zone amendment. (Legislative or Quasi-Judicial)*

FINDING: The request is for a quasi-judicial amendment to the Comprehensive Plan Mineral and Aggregate Inventory, as permitted by B.2.

C. *Who May Apply For a Plan Revision*
A Comprehensive Plan Revision may be initiated by:

1. *Wasco County Governing Body. (Legislative)*

2. *Planning Commission by majority vote confirmed by the Wasco County Governing Body. (Legislative)*

3. *Property owner or his authorized representative. (Quasi-Judicial)*

FINDING: The request complies with C.3. A request for a revision to the Wasco County Aggregate Inventory to add the proposed quarry, was made by John Bryant, J. Arlie Bryant, LLC, on behalf of the property owner, Hagens Bar 50 Ranches. Mr. Bryant is the authorized representative of the property owner.

(***)

E. *Quasi-Judicial Revisions*
Section E. states that quasi-judicial revisions are those which do not have significant effect beyond the immediate area of the change, i.e., narrow in scope and focusing on specific situations.

Each plan change or revision will first be heard by the Planning Commission on a first-come, first-serve basis. Such hearing shall be conducted in accordance with the Wasco County Planning Commission "Rules and Regulations".

FINDING: The request is consistent with criterion c. The proposed amendment focuses on a single new aggregate operation. The proposed amendment will not affect any other quarry in Wasco County except the quarry on the Hagens Bar 50 Ranches property.

(***)

H. *Section H. establishes general criteria which must be considered before approval of an amendment to the Comprehensive Plan is given.*

1. *Compliance with the statewide land use goal as provided by Chapter 15 or further amended by the Land Conservation and Development Commission, where applicable.*

FINDING: Chapter 15 lists the goals and policies for each Statewide Planning Goal. Goal 5, Policy 1 – Mineral and Aggregate Resources, helps to protect and utilize appropriately the mineral and aggregate resources in Wasco County, and minimize conflict between aggregate uses and surrounding land uses. The request is consistent with Statewide Land Use Goal 5 and implementing policies in Chapter 15, as discussed below.

2. *Substantial proof that such change shall not be detrimental to the spirit and intent of such goals.*

FINDING: As discussed belowin Chapter 15 (bottom of page 12 of 30 of this report), the request complies with the goals and policies related to aggregate operations.

3. *A mistake in the original comprehensive plan or change in the character of the neighborhood can be demonstrated.*

FINDING: A change in the character of southern Wasco County has resulted in the request for the Comprehensive Plan Amendment.

The character of southeastern Wasco County has evolved significantly resulting in the request for a Comprehensive Plan Amendment. The County Comprehensive Plan inventories were compiled in the late 1970's and early 1980's. Since the inventories were compiled, many things have happened and the character of the county has changed. Items include the Rajneesh era in Antelope, declining timber harvest due to Spotted Owl concerns, and the closure of area lumber mills and aluminum plants. Stimulus money has been made available from the federal government for transportation system projects. This has resulted in an increased need for aggregate resources. New methods for generating electricity have been found to be cost effective resulting in placement of many wind turbines in adjacent Oregon and Washington counties. Wasco County hopes to be the next location of wind turbines, additionally there is future potential for solar power generation. These projects will also require considerable aggregate resources. There are no active private quarries in this vicinity of Wasco County.

4. *Factors which relate to the public need for healthful, safe and aesthetic surroundings and conditions.*

FINDING: These factors were addressed in the Planning Commission hearing, primarily through the Conditional Use Review which requires compliance with criteria that require: maintenance of wildlife areas, riparian habitat, cultural and historic areas, the protection of farm and forest uses, the ability to maintain or provide public services, including but not limited to police protection, fire protection, road maintenance and safety, pedestrian safety, and protection of water, land and air resource quality. With conditions in the Conditional Use Permit approval, the request provides healthful, safe and aesthetic surroundings and conditions for the public.

5. *Proof of change in the inventories originally developed.*

FINDING: Proof of change in the originally developed Aggregate Inventory was addressed in H.3.

6. *Revisions shall be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change must be established.*

FINDING: The request complies with H.6. The request is to add the proposed aggregate site to the County's Aggregate Inventory. The applicant submitted testing results showing the rock in the proposed quarry meets the "Significant Site" standards to be included in the aggregate inventory.

Oregon Department of Transportation (ODOT) has three stockpile sites approximately 1.8 miles to the west, 2.8 miles to the southwest (both along the east side Highway 197), and 3 miles to the southeast (south of Highway 97). ODOT does not sell rock to private individuals or

companies. There is currently no privately owned quarry within 16 miles of the subject parcel that contains a rock source identified as "Significant." Though it does not sound like a long distance to haul rock, considering the terrain, which consists of steep hills and extreme curves, it is slow going and the trucks must use a lot of fuel to transport the rock. If quality rock is needed in this part of the County, the cost will not be economically feasible due to high transportation costs.

Based on distance to existing available private rock sources, the public need and justification for the quarry expansion has been established.

The owners submitted testing results Carlson Testing, Inc., Bend, Oregon, dated December 31, 2014. It was determined that the rock in the proposed quarry is good; these reports serve as the factual basis to support the change.

I. Transportation Planning Rule Compliance

1. Review of Applications for Effect on Transportation Facilities - A proposed plan amendment, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR"). "Significant" means the proposal would:

a. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

b. Change standards implementing a functional classification system; or

c. As measured at the end of the planning period identified in the adopted transportation system plan:

1) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

2) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or

3) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

FINDING: OAR-660-012-0005(30), Definitions, states: "Transportation Facilities" means any physical facility that moves or assist in the movement of people or goods including facilities identified in OAR 660-012-0020 but excluding electricity, sewage and water systems."

An e-mail dated February 5, 2015, from Scott Peters, ODOT Permit Specialist, states that "this proposed quarry site located in a rural location. The driveway accessing the aggregate site has good site distance onto Highway 197. If the drivers follow normal traffic laws, such as stopping at

stop signs, using turn signals, yielding when required, etc., the proposed use will not unduly impair traffic flow or safety in the area. A **condition** requiring this is recommended.

A **condition** is recommended requiring the owner to ensure all trucks hauling aggregate from the site be properly contained to avoid the spillage of rock and debris onto public roads. The owner shall keep Highway 97 and adjoining routes of travel clear of rock spillage.

Other conditions related to roads, such as maintenance of on-site roads, providing water to reduce dust, etc., were applied in the review of the Conditional Use Permit and are included as a condition of approval.

2. *Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:*

    a. *Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*

    b. *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section -0060 of the TPR.*

    c. *Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.*

    d. *Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*

FINDING: Scott Peters, ODOT Permits Specialist (e-mail, February 5, 2015) stated that the additional traffic generated by the proposed quarry will not significantly affect Highway 197. Highway 197 is a state maintained highway, and can accommodate much more traffic before it reaches its capacity.

3. *Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a plan amendment application pursuant to Section 4.140 Traffic Impact Analysis (TIA)) of the Land Use and Development Ordinance.*

FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system from a Comprehensive Plan Amendment. The mineral extraction operation is an existing use. If the expansion is approved, the use will continue as it has for the past 16+ years, and no change to the use will occur. According an e-mail dated February 5, 2015, Scott Peters, ODOT Permit Specialist, there will be no impact on Highway 197 if the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., therefore, no Traffic Impact Analysis is required.

J. Procedure for the Amendment Process

1. A petition must be filed with the Planning Offices on forms prescribed by the Director of Planning.

FINDING: The owner's representative made application to the Planning Department for a Comprehensive Plan Amendment to amend the Aggregate Inventory to identify the proposed quarry as a Significant Site.

2. Notice of a proposed revision within, or to, the urban growth boundary will be given to the appropriate city at least thirty (30) days before the County public hearing.

FINDING: The proposed amendment is not within or adjacent to an urban growth boundary, therefore, 2. does not apply.

3. Notification of Hearing:

a. Notices of public hearings shall summarize the issues in an understandable and meaningful manner.

b. Notice of a legislative or judicial public hearing shall be given as prescribed in ORS 215.503. In any event, notice shall be given by publishing notice in newspapers of general circulation at least twenty (20) days, but not more than forty (40) days, prior to the date of the hearing.

FINDING: Public notice summarizing the proposed request was published in The Dalles Chronicle and was provided to all property owners on April 21, 2015, 15 days prior to the May 6, 2015, Board of Commissioners hearing.

c. A quorum of the Planning Commission must be present before a public hearing can be held. If the majority of the County Planning Commission present cannot agree on a proposed change, the Commission will hold another public hearing in an attempt to resolve the difference or send the proposed change to the County Governing Body with no recommendation.

FINDING: Six members of the Planning Commission were present at their April 7, 2015, hearing. The Commissioners unanimously (6-0) voted to recommend approval of the Comprehensive Plan Amendment, with conditions, to the Board of Commissioners.

d. After the public hearing, the Planning Commission shall recommend to the County Governing Body that the revision be granted or denied, and the facts and reasons supporting their decision. In all cases the Planning Commission shall enter findings based on the record before it to justify the decision. If the Planning Commission sends the proposed change with no recommendation, the findings shall reflect those items agreed upon and those items not agreed upon that resulted in no recommendation.

FINDING: The Planning Commission recommendation and report are part of the Board of Commissioners record and is attached to this report. The Planning Commission, on April 7,

2015, voted 6-0 to forward a recommendation of approval, with conditions to the Board of Commissioners.

> *e. Upon receiving the Planning Commission's recommendation, the County Governing Body shall take such action as they deem appropriate. The County Governing Body may or may not hold a public hearing. In no event shall the County Governing Body approve the amendment until at least twenty (20) days have passed since the mailing of the recommendation to parties.*

FINDING: The Planning Commission notice of decision and recommendation was sent to owners, agencies, and affected property owners, on April 9, 2015, 27 days prior to the Board of Commissioners hearing. This is consistent with e., which requires a minimum of 20 days between the Planning Commission notice of decision and the Board of Commissioners notice of hearing.

> **Chapter 14 – Findings and Recommendations**
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> (***)
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> ***B.2., Goal 5 Issues – Mineral and Aggregate Resources***
>
> ***As stated in the Goals and Policies under Goal #5, rock and aggregate resources will be identified and protected by placement of the Environmental Protection District zone.***
>
> ***Extraction of these resources is a conditional use in the agricultural and forestry zones and a permitted use in the manufacturing zones.***
>
> ***Generally, residential uses are the uses which come into conflict with the extraction of aggregate and mineral resources. The provisions of the Environmental Protection District Division 5 overlay zone provide the protection necessary for all aggregate sites.***

FINDING: The request complies with Chapter 14 of the Comprehensive Plan.

The property owners have made application to create a 20 acre aggregate operation, and have requested that the EPD-5, Mineral & Aggregate Overlay zone be applied to the expanded Permit Boundary, and all land (Impact Area) within 750 feet of the Permit Area, to protect the aggregate resource. Through discussions with Amanda Punton, Goal 5 Specialist, Department of Land Conservation & Development, staff learned that the state of Oregon uses 1,500 feet as their standard protection area. Though the County LUDO requires a minimum of 750 feet, the County can decide to use a larger distance. The Planning Commission concurred that if the State is using 1,500 feet as their distance to protect aggregate sites and it may become the State requirement in the future, therefore, it is appropriate to use 1,500 feet in this request.

Most of the 1,500 foot Impact Area lies on the Hagens parcel, however, land to the west is also affected, and this area on the property will be limited in the placement of future sensitive uses (will not render property unusable). The placement of the EPD-5 Overlay on this property will not prohibit any existing uses or proposed uses in the future because the land is large enough to easily find an alternate building site (1,856.91 acres).

Findings in this report show that there are no existing Sensitive Uses within 1.75 mile of the proposed quarry operation (house to southwest). The EPD-5 zone will protect the aggregate resource from future Sensitive Uses within the Impact Area.

Chapter 15 – Goals and Policies
Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources

Policy 1 – Mineral Resources
Protect and utilize appropriately the mineral and aggregate resources of Wasco County, and minimize conflict between surface mining and surrounding land uses.

Implementation

A. The development of new rock and aggregate resource sites shall be consistent with the State Planning Goal 5 and Oregon Administrative Rules Chapter 660, Division 16 process to balance conflicts between mining operations and new and existing surrounding conflicting uses.

FINDING: The request is consistent with Policy 1.A.

Wasco County updated all sections of the Wasco County Comprehensive Plan relating to Goal 5 – Mineral and Aggregate Resources, during its 1994 Periodic Review project.

Conflicts between mining operations and existing surrounding uses was evaluated in the ESEE Analysis submitted by the owners. Considering existing farm uses in the area, and the distance from existing Sensitive Uses, no conflicting uses were identified in the Impact Area.

Application of the Mineral & Aggregate Overlay zone will protect the significant aggregate site and its Impact Area from future potential conflicting uses.

B. Sites identified as significant aggregate resource sites shall not support interim or permanent uses which may jeopardize the future availability of the resource.

FINDING: The request complies with B. The request is to create a 20 acre aggregate site. No other interim or permanent uses are proposed or considered as part of this request.

C. Mining and processing of gravel and mineral materials may only be allowed at sites included on the "Other Site" inventory or "Significant Sites" inventory.

1. Mining at sites on the "Other Sites" inventory may be allowed by a conditional use permit.

2. Mining at sites on the "Significant Sites" inventory may only be permitted in accordance with the Mineral Resources Overlay.

FINDING: Current State law allows new in an Exclusive Farm Use Zone on sites designated as "Significant Sites." The owners submitted an ESEE analysis which evaluated the quality and quantity of rock in the proposed Permit Area. Based on the findings of the staff analysis, a determination was made by the Planning Commission (April 7, 2015) that the quarry is a Significant Site. The appeal period for this significance determination expired at 4 p.m., April 21, 2015. No

appeal was submitted to the Planning Department, therefore, the aggregate site has been determined to be a Significant Site.

> *D. For each site determined to be significant, the County shall complete the remainder of the County Goal 5 process identifying conflicting uses, analyzing the ESEE consequences of the conflicting use(s), and designating a level of protection from conflicting uses. If the final decision concerning the site is to preserve fully or partially protect the resource from conflicting uses, the County shall zone the site with the Mineral Resources Overlay.*

FINDING: The quarry was found to be a Significant Site during the Subject to Standards Review at the April 7, 2015, Planning Commission hearing. An ESEE analysis was submitted for the aggregate site. This analysis identified the closest sensitive use, a residence, as being 2.3 miles northwest of the aggregate operation. Currently the aggregate operation is not protected from future potential conflicting uses, however, the site has been determined to be significant, and will now be protected through application of the Mineral & Aggregate Overlay Zone. The Planning Commission recommends this in IV.B., Zoning Map Amendment.

> *Policy 2 – Mineral Resources*
> *The County shall maintain an inventory of mineral and aggregate resource sites. The comprehensive plan inventory shall consist of three parts:*
> - *An inventory of "Significant Sites" identified through the Goal 5 process as important resources that will be protected from conflicting uses;*
> - *An inventory of "Potential Sites" for which sufficient information concerning the location, quality, and quantity of a resource site is not adequate to allow the County to make a determination of significance;*
> - *An inventory of "Other Sites" for which available information demonstrates that the site is not a significant resource to be protected.*
>
> *Implementation*
>
> *A. The significance of non-aggregate mineral resources shall be judged on a case-by-case basis, taking into account information concerning the commercial or industrial use of the resource, as well as the relative quality and relative abundance of the resource within at least the **County.***

FINDING: An Aggregate Inventory is maintained as part of the Comprehensive Plan. An ESEE analysis was submitted by the owners evaluating the quality and quantity of rock on this specific parcel. Additional on-site information for the subject parcel was submitted by the owners' engineer. The proposed quarry has been evaluated according to the significance criteria, and was found to be significant.

> (***)
>
> *D. For sites on the "Potential Sites" inventory, the County shall review available information about mineral and aggregate resources, and if the information is sufficient, determine the site to be significant when one of the following conditions exist:*
>
> *1. As part of the next scheduled Periodic Review;*

2. *When a landowner or operator submits information concerning the potential significance of a resource site and requests a Comprehensive Plan amendment;*

3. *When resolution of the status of a potential resource site is necessary to advance another planning objective.*

FINDING: The landowner and his representative requested approval of a Comprehensive Plan Amendment to add the expanded quarry to the Comprehensive Plan Aggregate Inventory as a Significant Site. On April 7, 2015, the Planning Commission reviewed a Subject to Standards Review to determine if the site was a significant rock source. The Commission, on a vote of 6-0, voted to determine that the Hagens rock source was a Significant Site, and recommended approval of the Comprehensive Plan Amendment to the Board of Commissioners.

E. In order to approve surface mining at a site zoned for exclusive farm or forestry use, the County shall find, as part of the ESEE analysis, that the proposed activity will not: 1) force a significant change in, or significantly increase the cost of, accepted farming or forestry practices on surrounding lands, and 2) will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

FINDING: There is no forest use identified on surrounding lands. Existing farm use on surrounding lands consists primarily of grazing and dryland crops, primarily hay. The proposed quarry will have no impact on cost of farming practices on surrounding farm use because of its secluded location, and type of predominant surrounding farm use (grazing)

To minimize potential conflicts between the proposed expanded Permit Area and surrounding farm uses, a **condition** in the Conditional Use Permit approval required the owners to sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 prior to receiving zoning approval on a building permit.

F. The County may establish and impose conditions on operation of a surface mine when deemed necessary as a result of a site-specific Goal 5 analysis. Where such conditions conflict with criteria and standards in the Mineral and Aggregate Resources Overlay, the conditions developed through the Goal 5 analysis shall control.

FINDING: It is noted that if any conditions of approval imposed as a result of the Comprehensive Plan Amendment are in conflict with conditions in the Zoning Map Amendment (Section IV.B.), the conditions in the Comprehensive Plan Amendment section shall control.

G. No surface mining or processing activity, as defined by the zoning ordinance, shall commence without land use approval from the County, and approval of a reclamation plan and issuance of an operating permit by DOGAMI.

FINDING: The applicant submitted a request for an Operating Permit and a proposed Reclamation Plan to the Oregon Department of Geology & Mineral Industries (DOGAMI). During the Planning Commission hearing it was pointed out that permits are required by Wasco County

and the state of Oregon (DOGAMI). A **condition** in IV.B. specifically requires DOGAMI approval prior to any excavation.

H. Aggregate sites shall be subordinate to the landscape setting as seen from travel corridors when such travel corridors have been determined to be significant by the ESEE analysis.

FINDING: Highway 197 is 1.75 miles west of the aggregate site. There are topographic changes (hills) that completely screen the proposed quarry from Highway 197.

B. Zone Change Request

Wasco County Land Use & Development Ordinance

Wasco County Land Use & Development Ordinance
Chapter 2 – Development Approval Procedures

Section 2.060, Application/Completeness, Section B.

(***)

1. Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)

FINDING: The request is for a Zone Change to add the Mineral & Aggregate Overlay to the proposed 20 acre aggregate operation, and its Impact Area. At their April 7, 2015, public hearing the Planning Commission voted-0 to forward a recommendation of approval, with conditions, to the Board of Commissioners, who will make the final decision on the Zone Change.

Section 2.080.A., Notice
Section 2.090, Contents of Notice
Section 2.140, Hearing Procedure
Section 2.150, Official Notice
Section 2.190, General Conduct of Hearings

FINDING: The above sections establish the requirements for providing notice of public hearings and the general conduct of hearings. The first evidentiary hearing provided a twenty day pre-notice before the Planning Commission held their April 7, 2015, quasi-judicial public hearing. A ten day pre-notice is required for a second quasi-judicial hearing. This hearing is being held on May 6, 2015. The public hearing notice was published in The Dalles Chronicle on April 21, 2015, and notice was provided to agencies and property owners within 750' of the subject parcel, on April 21, 2015, fifteen days before the hearing. Posting of the hearing notice in public places occurred more than fifteen days before the hearing.

Chapter 9 – Zone Change and Ordinance Amendment

Section 9.010, Application for Zone Change
Section 9.010.C. states that an application for a zone change may be initiated by an application being filed with the Director of Planning on the appropriate forms, containing information required to establish the criteria for the change (quasi-judicial only).

FINDING: John Bryant, the authorized representative of the owner, Blaine Carver, applied for a quasi-judicial zone change to apply the EPD-5, Mineral & Aggregate Overlay to the proposed expanded quarry and Impact Area, as required by Section 9.010.C. Application of the EPD-5 Overlay will not change the underlying Exclusive Farm Use zoning.

Section 9.020, Criteria for Decision

The Approving Authority may grant a zone change only if specific circumstances are found to exist:

A. The original zoning was the product of a mistake; or

FINDING: The original zoning was not the product of a mistake.

B. It is established that:

1. The rezoning will conform with the Comprehensive Plan; and,

FINDING: The request is consistent with B.1. The applicant provided an analysis of the Statewide Planning Goals in the ESEE analysis on page P307 of the staff's report and recommendation to the Planning Commission. The Statewide Goals are the basis for the Comprehensive Plan, which was determined to be consistent with these goals on August 25, 1983. The analysis provided by the applicant shows that the application of the Mineral & Aggregate Overlay will conform to the Comprehensive Plan.

2. The site is suitable to the proposed zone; and

FINDING: The request complies with B.2. The owners have requested application of the EPD-5, Mineral & Aggregate Overlay zone to an aggregate site determined to be significant by the Planning Commission on April 7, 2015. The site has been listed as a Potential Site in the Aggregate Inventory in the Comprehensive Plan. The site is suitable for the proposed use because it lacks top soil, is composed entirely of agricultural capability class VII soils (considered unsuitable by the State of Oregon for commercial farm use in eastern Oregon), there is an abundance of high quality aggregate material, and there is sufficient distance between the aggregate site and sensitive uses such as residences.

3. There has been a conscious consideration of the public health, safety and welfare in applying the specific zoning regulations.

FINDING: The request is consistent with B.3. The quarry site is located in a manner which blends with the surrounding land uses and retains natural landforms to shield the operation from surrounding ownerships and passing traffic. The quarry will operate in compliance with all applicable regulations for noise, dust, odor, and hours of operation. The site is remote from any existing residential improvements. The quarry has operated in the past, and is anticipated to operate harmoniously with surrounding land uses in the future.

Section 9.030, Transportation Planning Rule Compliance

A. Review of Applications for Effect on Transportation Facilities - A proposed zone change or land use regulation change, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR").

FINDING: Staff contacted Scott Peters, Permit Specialist, Oregon Department of Transportation on February 5, 2015, to seek his input regarding effect of the request on transportation facilities. Mr. Peters stated that the proposed quarry will not result in any significant impact to Highway 197.

Trucks hauling aggregate must follow weight, length and height requirements. If they are hauling legally, the road should wear normally, therefore, there will not significantly affect a transportation facility. A requiring compliance with these requirements was included in the Planning Commission's April 7, 2015, Conditional Use Permit approval. Another **condition** required truck drivers to comply with normal traffic laws.

> *B. Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP.*

FINDING: Application of the Mineral & Aggregate Overlay zone to the subject property will not affect any transportation facility. According to ODOT, Highway 197 can handle the additional 25 trips per day that the quarry will generate.

> *C. Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a zone change application pursuant to Section 4.140 Traffic Impact Analysis (TIA))*

FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system from a Zone Change. In an e-mail dated February 5, 2015, Scott Peters, ODOT Permit Specialist, said that the access from the proposed aggregate operation to Highway 197 has good site distance. There will be no impact on Highway 197 if the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., therefore, no Traffic Impact Analysis is required.

> ***Section 9.040, Conditions Relative to the Approval of a Zone Change***
> *Reasonable conditions may be imposed, pursuant to Section 2.110(D) as are necessary to insure the compatibility of a zone change to surrounding uses and as are necessary to fulfill the general and specific purposes of this Ordinance.*

FINDING: **Conditions** have been recommended throughout this report to insure the compatibility of the aggregate area with surrounding uses.

> (***)

> ***Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance***
> *After hearing information presented at the hearing, the Approving Authority shall recommend that the proposed zone change or amendment to the Zoning Ordinance be granted or denied. The Director of Planning or his assistants shall reduce to writing the Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based.*

FINDING: With **conditions** throughout this report, the request is consistent with all of the requirements of the LUDO. The Planning Commission's recommendation to the Board of Commissioners is to recommend approval of the Zone Change to add the EPD-5 Overlay Zone to the 20 acre quarry site, and all land within 1,500 feet of the boundary, as explained under Chapter 14 (page 12 of 30).

Section 9.070, Notice of Planning Commission Recommendation
Within ten (10) days of the final Planning Commission hearing, the Director of Planning or his assistants shall give notice thereof to any persons who signed in and testified at the hearing and to such other persons as may have requested the same in writing.

FINDING: Notice was provided on April 9, 2015, as required by Section 9.070.

Section 9.080, Action by County Governing Body
Upon receipt of the Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Governing Body act until at least twenty (20) days after the Notice of Planning Commission Recommendation has been mailed.

FINDING: The Planning Commission held a public hearing on April 7, 2015, and provided notice of their decision/recommendation to all affected parties on April 9, 2015. The decision became final 12 days later, at 4 p.m., April 21, 2015. The Board of Commissioners hearing, held on May 6, 2015, is 27 days after the Planning Commission decision/recommendation was mailed.

Chapter 3 – Basic Provisions

Section 3.800, EPD-5, Mineral & Aggregate Overlay

Section 3.830, Permitted Uses - Extraction Areas
The following uses may be permitted in the Extraction Area subject to Site Plan approval in accordance with Section 3.840:

A. Any permitted use allowed in the underlying zone, may be allowed subject to the underlying zone criteria and as otherwise authorized through the ESEE analysis.

B. Conditional uses shall be reviewed against the approval criteria of Section 3.845.

C. Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.

D. Stockpiling and storage of mineral and aggregate materials.

E. Processing of:

1. Materials, including crushing, washing, milling, screening, sizing, or batching of portland cement; and

2. Batching or blending of mineral and aggregate into asphaltic concrete, except within 2 miles of a planted commercial vineyard.

F. Buildings (not including residences), structures and equipment directly related to the above permitted aggregate uses.

G. Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.

H. Sale of products extracted and processed on-site from a mineral and aggregate operation.

FINDING: Section 3.840 is addressed below. The owner proposes to process the aggregate material, including extraction, crushing, washing, milling, screening, and sizing, which are all uses permitted in the approved Extraction Area.

Section 3.835, Development Standards - Extraction Area
A development plan shall be submitted to the Wasco County Planning Department for any permitted activity allowed in Section 3.830. The following requirements apply to mining and processing unless other standards are adopted in the County process. Such standards shall be clearly identified in the ESEE analysis. The applicant shall demonstrate that the following standards or site specific replacement standards adopted in the County process, are met or can be met by a specified date.

A. Screening

1. Mining Activities to be Screened.

a. All excavated areas except areas where reclamation is being performed, internal on-site roads existing of the effective date of this ordinance, new roads approved as part of the site plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation which provides natural screening;

b. All processing equipment;

c. All equipment stored on the site.

2. Types of Screening.

a. Natural Screening. Existing vegetation or other landscape features which are located within 50 feet of the boundary of the site, and which screen the view of mining activities from screened uses, shall be preserved and maintained.

b. Supplied Screening. Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied screening shall not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.

FINDING: The proposed quarry is located in a secluded location and is topographically screened from all roads and surrounding properties to the north, east, and south. Only a small strip of land to the west is visible from the quarry site. No additional screening is required.

B. Access

1. On-site roads used in mining, and access from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards.

a. All access roads intersecting a paved county road or state highway shall be paved thirty feet from the paved county road or state highway unless the

applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;

FINDING: With a **condition**, the request is consistent with 1.a. The driveway approach onto Highway 197 is not paved. A condition is recommended requiring the western 30' of the driveway to be paved to reduce dust onto Highway 197.

b. All on-site roads within the Extraction Area, and access roads, shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date;

FINDING: The existing access road to the proposed quarry will be reconstructed with the first excavated rock from the quarry. It will be constructed and maintained to allow Bonneville Power Administration equipment to access their powerlines. The roads will be well constructed and maintained to meet BPA's needs. The application states that mufflers are provided on trucks and an on-site water truck will be located on the property, which allows the request to comply with all applicable DEQ standards for vehicle noise control and ambient air quality

c. All on-site roads within the Extraction Area, and access roads, shall be paved at all points within 250 feet of a noise or dust sensitive use existing on the effective date of this ordinance.

FINDING: No noise or dust sensitive uses exist within 1.75 miles of the aggregate site, therefore, it is consistent with c.

2. Improvements to substandard public roads outside of the Extraction Area may only be required as necessary to comply with a road improvement program adopted as part of transportation element of the Comprehensive Plan. Payment for public road improvements shall not be a condition of approval for mining at significant sites.

FINDING: The subject parcel has access to Highway 197, a State-maintained road by a private easement. No improvements to public roads are required.

3. Improvement fees in lieu of improvements of public roads, county roads and state highways may be required when the Planning Director or hearings body, in consultation with the appropriate road authority, determines that the increased traffic on the roads resulting from the surface mining activity will damage the road sufficiently to warrant off-site improvement. If the fee in lieu of improvements is required, the amount of the fee shall reflect the applicant's pro-rata share of the actual total cost of the capital expenditure of the road construction or reconstruction project necessitated by and benefiting the surface mining operation. Discounts for taxes and fees already paid for such improvements, such as road taxes for vehicles and for property already dedicated or improved, shall be applied.

FINDING: According to Scott Peters, Permit Specialist, Oregon Department of Transportation (ODOT), in an e-mail dated February 5, 2015, no improvement to Highway 197 is required, however, the applicant must obtain an Approach Road Permit from ODOT for the existing access road. A **condition** stating this is recommended.

4. *An effective vehicular barrier or gate shall be required at all access points to the site.*

FINDING: A **condition** is recommended requiring an effective barrier or gate to be placed across the access road on Hagens' property to provide access to the proposed quarry.

C. *Hours of Operation*

1. *Drilling and blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday.*

FINDING: With a recommended **condition**, the request is consistent with C.1. A **condition** is recommended limiting the hours of drilling and blasting to 9 a.m. to 5 p.m., Monday-Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any recognized legal holiday.

2. *Mineral and aggregate extraction, processing and equipment operation within 750' or as established by the ESEE analysis of any Sensitive Use existing of the effective date of this ordinance is restricted to the hours of 7:00 am to 6:00 pm, Monday through Friday. All other sites are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.*

FINDING: The Impact Area was identified by the Planning Commission as all land within 1,500 feet of the Permit Boundary. There are no sensitive uses within 1,500 feet (as established by the ESEE analysis) of the quarry site. The Planning Commission recommends requiring a **condition** limiting the hours of operation to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

D. *Environmental Standards*

1. *DEQ Standards. Mineral and aggregate extraction, processing and other operations shall conform to all the applicable environmental standards of the County and applicable DEQ air quality and emissions standards. The applicant shall provide a copy of an approved DEQ permit(s) prior to commencement of the operation.*

FINDING: A **condition** is recommended requiring the owner to submit a copy of an approved DEQ permit prior to commencement of operation.

E. *Equipment Removal. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.*

FINDING: The Planning Commission recommends requiring equipment removal as stated in E., as a **condition** of approval.

F. *Performance Agreement*

1. *The operator of a mineral and aggregate site shall keep applicable DOGAMI permits or exemption certificates in effect.*

FINDING: A **condition** is recommended requiring the aggregate site operator to keep applicable DOGAMI permits or exemption certificates in effect.

> *2. The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least $1,000,000.00.*

FINDING: A **condition** is recommended requiring any mining operator to carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least $1 million.

> *G. Significant Resource Area Protection. Conflicts between inventoried mineral and aggregate resource sites and significant fish and wildlife habitat, riparian areas and wetlands, significant scenic viewpoints or vistas, and ecologically and scientifically significant natural areas protected by the Significant Resource Areas Overlay Zone in accordance with Section 3.910 (Natural Areas Overlay) and 3.770 (Cultural, Historical and Archeological Overlay) of this Ordinance and identified on the Significant Resource Areas Map, shall be balanced as determined by the program and as determined by the County process.*

FINDING: Deep Creek is a fish-bearing creek, with riparian areas along the banks. The proposed quarry is over 500 feet from the creek. Chandler Canyon Creek is not a fish-bearing creek, and it is located nearly 1 mile east of the proposed quarry site. Though both creeks provides some wildlife habitat and riparian areas, they are not located in an identified natural area and do not contain cultural, historical, or archaeological features. Due to distance between creeks and the quarry site, with retention of vegetation, the existing resources will be protected.

> *H. Site Reclamation.*
>
> *1. No mining shall commence without providing the County a copy of a DOGAMI operating permit, approved reclamation plan, or exemption certificate.*

FINDING: A **condition** is recommended requiring the owner to provide a copy of a DOGAMI operating permit/exemption certificate, and approved reclamation plan to the Planning Department prior to the commencement of mining.

> *2. A reclamation plan shall be submitted concurrently with the development plan required in Section 3.835. The reclamation plan shall include a schedule showing the planned order and sequence of reclamation, shall assure that the site will be restored or rehabilitated for the land uses specified in the underlying zone including subsequent beneficial uses identified through the County process.*

FINDING: The owner has provided a draft reclamation plan, however, it has not yet been approved by DOGAMI. A **condition** is recommended requiring the owner to submit a DOGAMI-approved reclamation plan prior to commencement of mining.

> *3. The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County. When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.*

a. If site plan approval is required, the County shall require that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.

FINDING: In order to operate an aggregate extraction site, the owner must satisfy the requirements of Wasco County and DOGAMI. The Planning Commission recommends a **condition** advising the owner that County approval and DOGAMI approval are both required prior to any new mining activity.

I. Water Management

1. All surface water shall be managed to provide protection against sediment discharge into streams, rivers and lakes. Existing natural drainage on the site shall not be changed in a manner which interferes with drainage patterns on adjoining property, or which drains waste materials or waste water onto adjoining property or perennial streams. Where the mineral and aggregate operation abuts a lake, river, or perennial stream, all existing vegetation within 100 feet of the mean high water mark shall be retained unless otherwise authorized in accordance with the ESEE analysis and the development plan.

FINDING: The natural drainage of the area containing the proposed quarry site is west to east, and water drains into Deep Creek. The Permit Boundary is located over 500 feet from the creek, and all vegetation will be retained between the quarry and the creek. Retention of the vegetation will prevent sediment from running into the creek, and natural drainage into the creek will continue to occur. A **condition** is recommended requiring all vegetation between the proposed Permit Boundary and Deep Creek to be retained. With this condition, all vegetation within 500 feet of the creek will be maintained and there will be no sediment discharge into the creek.

2. All water required for the mineral and aggregate operation, including dust control, landscaping and processing of material, shall be managed: (a) in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements, or (b) shall be legally available and appropriated for such use. The applicant shall provide written documentation of water rights from the State Department of Water Resources and/or local water district prior to the commencement of any site operation.

FINDING: The owner's plan includes placement of a 4-5,000 gallon water truck on-site. The availability of this water will allow the request to meet all DEQ and DOGAMI requirements. No water right is required for an on-site water truck.

J. Flood Plain. Any extraction Area located wholly or in part in a Flood Hazard Area shall receive approval in accordance with Chapter 22 of this Ordinance prior to any site operation.

FINDING: The Extraction Area is not in a Flood Hazard Area.

K. Compliance with Special Conditions. The applicant shall demonstrate that all special conditions or requirements adopted as part of the County process have been satisfied or will be satisfied by a specified date.

FINDING: This report recommends many conditions of approval to ensure all applicable requirements have been met. Some conditions must be met after expiration of the appeal period,

but prior to operation. Some conditions do not require any action, and some actions must be met after the aggregate operation ceases.

L. Security. Fencing of site boundaries shall be required on the boundary between a significant site and a parcel zoned to allow dwellings as an outright permitted use. Fencing shall be a cyclone type fence, shall be earth tone color, and shall be a minimum of six feet high.

FINDING: A dwelling is not an outright permitted use in the Exclusive Farm Use zone, therefore, L. is not applicable to this request.

Section 3.840, Application Process

Final development plan approval is required prior to the beginning of any mineral and aggregate activity listed in Section 3.825 (A), and before any expansion of a pre-existing or nonconforming site. The applicant shall provide the following at the time of application:

A. A site plan demonstrating that the development standards required in Section 3.835 can be met, and any requirements adopted as part of the County process, including:

1. *Screening and Fencing;*
2. *Access;*
3. *Hours of Operation;*
4. *Environmental Standards;*
5. *Equipment Removal;*
6. *Performance Agreement;*
7. *Significant Resource Area Protection;*
8. *Site Reclamation;*
9. *Water Management; and*
10. *Flood Plain.*

B. A map or diagram showing the location and setbacks of all proposed mineral and aggregate activities and operations and the location and distance to all Sensitive Uses within the Impact Area.

FINDING: A site plan containing this information was provided by the applicant at the time of application.

C. The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.835 and any other requirements adopted as part of the County process.

FINDING: The Planning Commission recommends approval of the request to the Board of Commissioners, with recommended conditions.

Section 3.845, Impact Area - Uses and Standards

A. Any permitted use allowed in the underlying zone may be allowed in the Impact Area subject to the underlying zone criteria and as otherwise authorized by the County process.

FINDING: The subject parcel is zoned Exclusive Farm Use, A-1(160). This zone allows farm and forest use as an outright permitted use, so grazing of the land can continue, as well as the establishment of other uses allowed in the underlying zone.

B. Uses allowed Conditionally.

1. Any conditional use in the underlying zone(s) which are not noise sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the underlying zone criteria.

FINDING: Section 3.815C.3.b) lists noise sensitive uses and uses that conflict with aggregate extraction operations. Uses that are listed as conditional uses in the Exclusive Farm Use Zone that are not noise sensitive/conflicting uses shall be reviewed as a conditional use subject to the underlying zone criteria.

2. Noise sensitive uses and conflicting uses shall be reviewed as conditional uses subject to criteria D, Approval Criteria.

FINDING: In the future, noise sensitive/conflicting uses shall be reviewed as a conditional subject to Section 3.815.D.

C. Prohibited Uses. Uses identified through the County process as incompatible with mining shall not be permitted within the Impact Area.

FINDING: Uses listed below are considered to be incompatible with mining, and shall not be permitted in the Impact Area.

1. An outdoor gathering
2. Dwellings
3. Winery
4. Model Aircraft take-off and landing sites
5. Churches and cemeteries
6. Propagation, cultivation, maintenance, and harvesting of aquatic or insect species
7. Farm ranch recreation
8. Commercial utility facilities (Wind, Hydroelectric or Other)
9. A site for disposal of solid waste
10. Personal use airports
11. Fire service facilities, and community centers owned by a government agency or nonprofit organization
12. Parks and playgrounds
13. Public or private schools for kindergarten through grade 12
14. Home Occupation
15. Dog Kennels
16. Private parks, playgrounds, and campgrounds
17. Golf courses
18. Commercial activities such as roadside stands that are in conjunction with farm use.

D. Review Criteria. To approve uses allowed conditionally in the Impact Area the applicant must demonstrate compliance with the following criteria…

FINDING: All of the uses proposed in the Impact Area (drilling, shooting, extraction, crushing, screening, and stockpiling crushed aggregate) are permitted in the Mineral & Aggregate Overlay Zone. No other uses are requested, therefore, D. is not applicable to this request.

(***)

F. Waiver of Remonstrance and Indemnity.

1. The owner of a proposed new Sensitive Use shall sign and record in the County Deed Records an Aggregate Operation Easement, Waiver of Remonstrance and Indemnity which shall declare that the applicant and his successors or heirs will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site.

FINDING: If a new Sensitive Use is proposed within the EPD-5 Overlay, the affected owner shall record the documents listed in F.1.

2. The Aggregate Operations Easement and Waiver of Remonstrance and Indemnity shall run with the land, until such time as the site is exhausted and the site is reclaimed in accordance with the approved reclamation plan or the operator releases these restrictions, easements or waivers or remonstrance and indemnity.

3. It shall be a requirement of the mineral and aggregate operator to release any restrictions, easements or waivers of remonstrance and indemnity.

FINDING: A **condition** is recommended advising the owner that the Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate owner will release all restrictions, easements or waivers of remonstrance and indemnity.

Section 3.850, Designation of Overlay Zone
The Mineral and Aggregate Overlay Zone may be applied through the plan update process, or through individual application for an Aggregate Overlay zone/ Comprehensive Plan amendment pursuant to Section 2.060 (B)(15) of this Ordinance. The approving authority shall approve the overlay zone designation if the provisions of Chapter 3, Section 3.800 - 3.850 of this Ordinance have been met. (Amended 9-93)

The boundary of the Overlay Zone shall be all property contained in the Mineral and Aggregate Extraction Area and Mineral and Aggregate Impact Area.

FINDING: The application of the Mineral & Aggregate Overlay Zone was requested by the applicant through Section 2.060.B.2. The overlay zone shall be applied to all land within the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary.

Section 3.855, Termination of Mineral and Aggregate Overlay Zone
The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

A. The owner of the Mineral and Aggregate resource site submits evidence showing a significant resource no longer exists on the site; and

B. The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and

C. The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

FINDING: A **condition** is recommended advising the owner that the termination of the Mineral & Aggregate Overlay zone shall occur when one of the above criteria has been met.

V. BOARD OF COMMISSIONER DECISION OPTIONS

A. Comprehensive Plan Amendment

1. Approve the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Comprehensive Plan Aggregate Inventory as a Significant Site, with the proposed findings and conditions recommended by the Planning Commission.

2. Approve the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Comprehensive Plan Aggregate Inventory as a Significant Site, with amended findings and conditions provided by the Board of Commissioners.

3. Deny the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Comprehensive Plan Aggregate Inventory as a Significant Site, with amended findings provided by the Board of Commissioners.

4. Continue the hearing to a date and time certain.

B. Zoning Map Amendment

1. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 of the aggregate boundary, with the proposed findings and conditions recommended by the Planning Commission.

2. Approve the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings and conditions provided by the Board of Commissioners.

3. Deny the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 of the aggregate boundary, with amended findings provided by the Board of Commissioners.

4. Continue the hearing to a date and time certain.

VI. PLANNING COMMISSION RECOMMENDATION:

A. Recommend approval of the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site with conditions of approval described in VII.; and

B. Recommend approval of the Zoning Map Amendment to apply the EPD-5, Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the aggregate site with conditions of approval described in VII.

VII. RECOMMENDED CONDITIONS OF APPROVAL: The Planning Commission recommends the Board of Commissioners apply the following conditions of approval:

A. Comprehensive Plan Amendment:

1. Truck drivers shall follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc.

2. All trucks hauling aggregate from the site be properly contained to avoid the spillage of rock and debris onto public roads. The owner shall keep Highway 197 and adjoining routes of travel clear of rock spillage.

B. Zoning Map Amendment:

1. Prior to any excavation, the following conditions shall be met:

   a. The owner shall submit a copy of an approved DEQ permit showing conformance with air quality and emissions standards.

   b. The owner shall submit a copy of a DOGAMI operating permit or exemption certificate, and a DOGAMI-approved Reclamation Plan.

   c. County approval and DOGAMI approval are both required prior to any mining activity.

   d. The western 30' of the driveway shall be paved to reduce dust onto Highway 197.

   e. The applicant shall obtain an Approach Road Permit from ODOT for the existing access road (private easement road) to Highway 197.. A **condition** stating this is recommended.

   f. An effective barrier or gate to be placed across the access road on Hagens' property to provide access to the proposed quarry.

   g. All vegetation between the proposed Permit Boundary and Deep Creek shall be retained.

2. Miscellaneous Conditions:

   a. All processing equipment and equipment stored on the site shall be screened from view of Highway 97.

   b. Hours of drilling and blasting are limited to 9 a.m. to 5 p.m., Monday – Friday. No blasting or drilling shall occur on Saturdays, Sundays, or recognized legal holidays.

   c. Hours of operation for extraction are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

   d. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

e. The aggregate site operator shall maintain applicable DOGAMI permits or exemption certificates in effect.

f. Any mining operator shall carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least $1 million.

g. The Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate site will release all restrictions, easements or waivers of remonstrance and Indemnity.

h. The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

   1) The owner of the mineral and aggregate resource site submits evidence showing a significant resource no longer exists on the site; and

   2) The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and

   3) The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND *SKY & TELESCOPE*.

What is good lighting?

Good outdoor lights improve visibility, safety, and a sense of security, while minimizing energy use, operating costs, and ugly, dazzling glare.

Why should we be concerned?

Many outdoor lights are poorly designed or improperly aimed. Such lights are costly, wasteful, and distractingly glary. They harm the nighttime environment and neighbors' property values. Light directed uselessly above the horizon creates murky skyglow — the "light pollution" that washes out our view of the stars.

Glare Here's the basic rule of thumb: If you can see the bright bulb from a distance, it's a bad light. With a good light, you see lit ground instead of the dazzling bulb. "Glare" is light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers.

Light Trespass Poor outdoor lighting shines onto neighbors' properties and into bedroom windows, reducing privacy, hindering sleep, and giving the area an unattractive, trashy look.

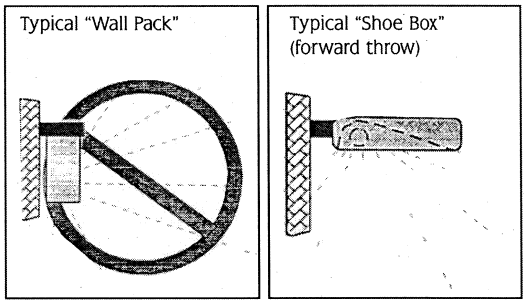
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. Each year we waste more than a billion dollars in the United States needlessly lighting the night sky.

Excess Lighting Some homes and businesses are flooded with much stronger light than is necessary for safety or security.

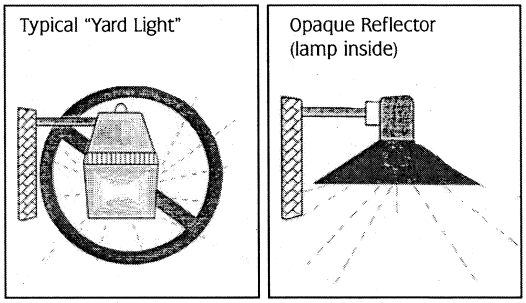
How do I switch to good lighting?

1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate

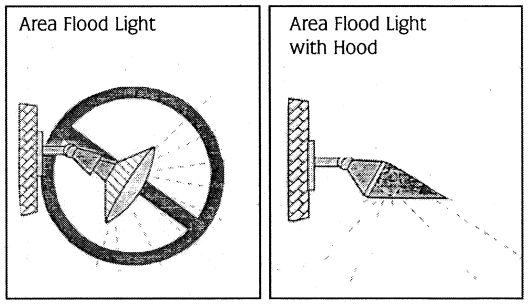
Some Good and Bad Light Fixtures



BAD	GOOD
Waste light goes up and sideways	Directs all light down



BAD	GOOD
Waste light goes up and sideways	Directs all light down



BAD	GOOD
Waste light goes up and sideways	Directs all light down

areas 100 times more brightly than the full Moon! More importantly, by choosing properly shielded lights, you can meet your needs without bothering neighbors or polluting the sky.

2. Aim lights down. Choose "full-cutoff shielded" fixtures that keep light from going uselessly up or sideways. Full-cutoff fixtures produce minimum glare. They create a pleasant-looking environment. They increase safety because you see illuminated people, cars, and terrain, not dazzling bulbs.

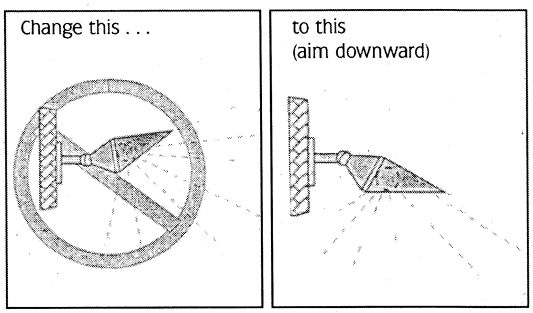
3. Install fixtures carefully to maximize their effectiveness on the targeted area and minimize their impact elsewhere. Proper aiming of fixtures is crucial. Most are aimed too high. Try to install them at night, when you can see where all the rays actually go. Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as well as a wasteful light does with a high-wattage bulb.

4. If color discrimination is not important, choose energy-efficient fixtures utilizing yellowish high-pressure sodium (HPS) bulbs. If "white" light is needed, fixtures using compact flourescent or metal-halide (MH) bulbs are more energy-efficient than those using incandescent, halogen, or mercury-vapor bulbs.

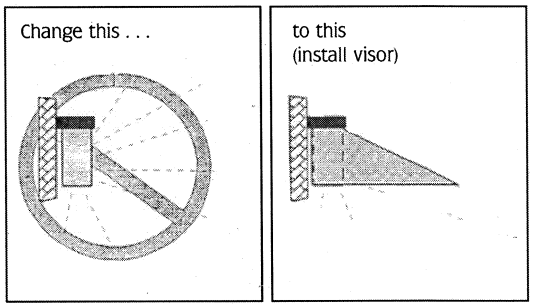
5. Where feasible, put lights on timers to turn them off each night after they are no longer needed. Put home security lights on a motion-detector switch, which turns them on only when someone enters the area; this provides a great deterrent effect!

Replace bad lights with good lights. You'll save energy and money. You'll be a good neighbor. And you'll help preserve our view of the stars.

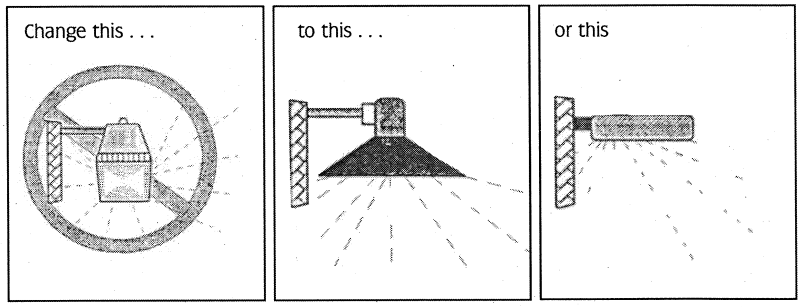
What You Can Do To Modify Existing Fixtures



FLOOD LIGHT



WALL PACK



YARD LIGHT | OPAQUE REFLECTOR | SHOE BOX

Presented by the **New England Light Pollution Advisory Group** (NELPAG) (http://cfa-www.harvard.edu/cfa/ps/nelpag.html)

and ***Sky & Telescope*** (http://SkyandTelescope.com/).

NELPAG and *Sky & Telescope* support the International Dark-Sky Association (IDA) (http://www.darksky.org/).

We urge all individuals and groups interested in the problems of light pollution and obtrusive lighting to support the IDA and subscribe to its newsletter. IDA membership costs $30 per year; send your check to IDA, 3225 N. First Avenue, Tucson, AZ 85719, U.S.A.

GNF01

SKY & TELESCOPE

Sky Publishing Corp.
49 Bay State Road
Cambridge, MA 02138
SkyandTelescope.com

Owner Name: _____ _____
Mailing Address: _____ _____
_____ _____

Hagens Bar 50 Ranches, LLC, herein called the Grantor, is the owner of real property described as follows:

Township 7 South, Range 15 East W.M., Tax Lot 600; Account 12795

In accordance with the conditions set forth in the decision of Wasco County Board of Commissioners, dated _____, approving aggregate operation (File PLACUP-15-01-0001), Grantor hereby grants to the Owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

---

1. The Grantors, their heirs, successors, and assigns hereby acknowledge by granting of this easement that the above described property is situated in an Exclusive Farm Use zone in Wasco County, Oregon, and may be subjected to conditions resulting from farm or forest operations on adjacent lands. Farm operations include, but are not limited to, the raising, harvesting and selling of crops or the feeding, breeding, management and sale of livestock or poultry, application of chemicals, road construction and maintenance, and other accepted and customary farm management activities conducted in accordance with Federal and State laws. Forest operations include, but are not limited to reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals and disposal of slash, and other accepted and customary forest management activities conducted in accordance

After recording, please return original to:
Wasco County Planning Department

with Federal and State laws. Said farm or forest management activities ordinarily and necessarily produce noise, dust, odor, and other conditions, which may conflict with Grantors' use of Grantor's property for residential purposes. Grantor hereby waives all common law rights to object to normal and necessary farm or forest management activities legally conducted on adjacent lands which may conflict with grantors' use of grantor's property for residential purposes and grantor hereby gives an easement to adjacent property owners for such activities.

2. Grantors shall comply with all restrictions and conditions for maintaining residences in the Exclusive Farm Use zone that may be required by State and local land use laws and regulations.

This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors and assigns.

IN WITNESS WHEREOF, the Grantor has executed this easement on _____, 201___.

_____
Titleholders Signature

_____
Titleholders Signature

STATE OF OREGON)
COUNTY OF WASCO)

Personally appeared the above named _____, and acknowledged the above easement to be his voluntary act and deed.

_____
Notary Public for Oregon

WASCO COUNTY BOARD OF COMMISSIONERS

HEARING FORMAT & SCRIPT: May 6, 2015

Jon Justesen, et. al.

1. The public hearing is now open for the purpose of considering **PLACUP-15-01-0002**, a request to expand an existing 21.5 acre rock quarry to 50 acres in size. Applications before the Board of Commissioners include:

   a. Comprehensive Plan Amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and

   b. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the aggregate operation.

2. **The procedure I would like to follow is:**

   a. Establishment of Party Status
   b. Reading of the Rules of Evidence
   c. Disclosure of Ex Parte Contact
   d. Planning Commission Report presented by Staff
   e. Applicant's testimony
   f. Those who wish to speak in favor of the proposal
   g. Those who wish to speak in opposition of the proposal
   h. Applicant's rebuttal
   i. Close the hearing for questions, deliberation, and the decision

   Time Limitations
   If numerous people in the audience wish to testify, do a show of hands of those who would like to testify either for or against the proposal. If a lot of people want to testify, indicate they will be limited to **5 minutes (or other)** and their testimony will be timed. **Also indicate that their testimony needs to be limited to applicable criteria.**

3. **Party Recognition**

   Anyone can speak for or against the proposal. However, only those who have party status will be able to appeal a decision reached by this Commission.

   A party is defined in Section 1.090 as

   a. *The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.*

b. *All property owners of record, as provided in (a) above, within the notification area, as described in section 2.080 A.2., of the property which is the subject of the application.*

c. *A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.*

d. *Any affected unit of local government or public district or state or federal agency.*

e. *Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority. (Revised 1/92)*

4. The Rules of Evidence are as follows:

- **a.** No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- **b.** Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs.
- **c.** Testimony and evidence must be directed toward the criteria applicable to the subject hearing.
- **d.** Failure to raise an issue accompanied by statements or evidence sufficient to afford the Board of Commissioners and parties an opportunity to respond to the issue precludes further appeal based on that issue.
- **e.** Any party of record may request that the record remain open for at least seven (7) days prior to the conclusion of the initial evidentiary hearing.

5. Disclosure of Interest of Ex Parte Contact:

- **a.** Does any Board member wish to disqualify themselves for any personal or financial interest in this matter?
- **b.** Does any Board member wish to report any significant ex parte or pre-hearing contacts?
- **c.** Does any member of the audience wish to challenge the right of any Board member to hear this matter?
- **d.** Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of Wasco County in this matter?

6. Will the staff please present their report?

- **a.** Does the Board have any questions?

7. Does the Applicant or their Representative wish to present anything?

- **a.** Does the Board have any questions?

8. Are there any persons who wish to speak in favor of the proposal?

- **a.** Please sign in and state your name and address for the record.
- **b.** Please limit your comments to criteria that are applicable to the request.
- **c.** Does the Board have any questions?

9. **Are there any persons who wish to speak in opposition of the proposal?**
   - **a.** Please sign in and state your name and address for the record.
   - **b.** Please limit your comments to criteria that are applicable to the request.
   - **c.** Does the Board have any questions?

10. **Does the Applicant or their Representative wish to rebut any of the testimony?**
    The scope and extent of the rebuttal shall be limited to issues raised during testimony and shall not be used to introduce new evidence.

11. **If there is no further testimony, the Public Hearing is closed and the Planning Commission will enter into deliberation.**

12. **Deliberation**

13. **Motion**

14. **Second**

15. **Discussion**

16. **Vote**

17. **Conclusion of the Hearing**
    State clearly to the audience and particularly to the applicant:
    - **a.** The Decision by the Board of Commissioners.
    - **b.** The Notice of the Board of Commissioners Decision will be forwarded to affected agencies, adjacent property owners, and those awarded party status. Appeal deadlines and procedures will be detailed in the Notice of Decision.

BOARD OF COMMISSIONER PRESENTATION: May 6, 2015
PLACUP-15-01-0002 (Jon Justesen)

Thank you and Good Afternoon. For the record my name is Dawn Baird and I am an Associate Planner for the Wasco County Planning Department. I am going to present the background information in this case.

1. **Request**: The request is for expansion of a 21.5 acre aggregate extraction site to a 50 acre site.

2. **Background:** Wasco County's current LUDO, Section 3.210, Exclusive Farm Use Zone, requires four things for a new aggregate extraction sites/expanded aggregate site/renewal of an existing aggregate site:

   a. To be designated as a Significant Site;
   b. To be listed in the Comprehensive Plan Aggregate Inventory as a Significant Site;
   c. To be shown on the zoning map as containing the EPD-5, Mineral & Aggregate Overlay Zone to protect the aggregate site and the immediate area around the resource; and
   d. A conditional use permit to allow the use and ensure it is compatible with the surrounding area.

   The Planning Commission has the authority to approve the Subject to Standards Review and the Conditional Use Permit, but submits a recommendation to the BOC who makes the final decision on the CPA and ZNC.

   On January 29, 2015, an authorized representative of Jon Justesen submitted applications for a Subject to Standards Review, a Comprehensive Plan Amendment, a Zoning Map Amendment, and a Conditional Use Permit.

   On April 7, 2015, the Wasco County Planning Commission voted (6-0) to approve the Subject to Standards Review and Conditional Use Permit, and recommended approval of the Comprehensive Plan Amendment and Zoning Map Amendment to the Board of Commissioners. Today, the Board will make a final decision on the Comprehensive Plan Amendment and Zoning Map amendment requests.

3. **Location**: The aggregate site is located east of Highway 97, approximately 3.4 miles northeast of Shaniko, Oregon; 6S 17E 0 2400 and 2200; Accounts 12707/12710. The subject parcel is approximately 3,208.37 acres in size.

4. **Planning Commission Recommendation**: The full Planning Commission Recommendation was provided in the Board of Commissioner's agenda packets. It was available for review at the Board of Commissioners Office and the Planning Department one week prior to this hearing, and it is considered a part of the record.

5. **Stage in the Process**: On January 29, 2015, applications were submitted for a Subject to Standards Review, a Comprehensive Plan Amendment, a Zone Change, and a Conditional Use Permit. It was determined to be complete on February 26, 2015.

   On April 7, 2015, the Wasco County Planning Commission voted (6-0) to approve the Subject to Standards Review and Conditional Use Permit, and recommended approval of the Comprehensive Plan Amendment and Zoning Map Amendment to the Board of Commissioners. Notice of this decision was provided to agencies and property owners on April 9, 2015. The appeal period for the STS and CUP expired at 4 p.m., April 21, 2015, so these decisions are final.

Today, the Board will make a final decision on the Comprehensive Plan Amendment and Zoning Map amendment requests.

6. Criteria: The applicable standards used to evaluate each request include:

Wasco County Land Use & Development Ordinance (LUDO)

a. Comprehensive Plan Amendment (Page 5/30)

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

- Section 2.060.B.2., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
- Section 2.080.A., Notice
- Section 2.090, Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

Wasco County Comprehensive Plan

- Chapter 2 – Physical Characteristics, G., Mineral & Aggregate Resources
- Chapter 11 – Revisions Process
- Chapter 14 – Findings and Recommendations
- Chapter 15 – Goals and Policies

In addition to hearing and noticing requirements, this application requires compliance with the Statewide Planning Goals, and submittal of an ESEE Analysis, which considers the Economic, Social, Environmental and Energy impacts of the request. These sections of the Comp Plan demonstrate that the proposed change will not be detrimental to the spirit and intent of the statewide goals, requires consideration of the public need for healthful, safe and aesthetic surroundings and conditions, requires demonstration that a change in the originally developed inventory occurred, and that transportation facilities will not be damaged or become overloaded. Adding the proposed site to the Aggregate Inventory identifies the aggregate site as a Goal 5-protect site, and protects the aggregate operation from conflicting sensitive uses such as dwellings. The Planning Commission's recommendation finds that the Comprehensive Plan Amendment is consistent with all of the pertinent criteria and standards.

b. Zoning Map Amendment (Page 15/30)

Wasco County Land Use & Development Ordinance

1) Chapter 2 – Development Approval Procedures
   - Section 2.060.B.1., Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)
   - Section 2.080.A., Notice
   - Section 2.090, Contents of Notice
   - Section 2.140, Hearing Procedure
   - Section 2.150, Official Notice
   - Section 2.190, General Conduct of Hearings

2) Chapter 9 – Zone Change and Ordinance Amendment

- Section 9.010, Application for Zone Change
- Section 9.020, Criteria for Decision
- Section 9.030, Transportation Planning Rule Compliance
- Section 9.040, Conditions Relative to the Approval of a Zone Change
- Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance
- Section 9.070, Notice of Planning Commission Recommendation
- Section 9.080, Action by County Governing Body

3) Chapter 3 – Basic Provisions
- Section 3.800, EPD-5, Mineral & Aggregate Overlay
- Section 3.835, Development Standards - Extraction Area
- Section 3.840, Application Process
- Section 3.845, Impact Area - Uses and Standards
- Section 3.855, Termination of Mineral and Aggregate Overlay Zone

Applicable criteria for a Zoning Map Amendment require ensuring the rezone will comply with the Comprehensive Plan, that the site is suitable for the proposed zone and that there has been consideration of the public health, safety and welfare in applying the regulations. The request considers impacts on transportation facilities. The Mineral & Aggregate Overlay Zone lists the uses that can be established in the overlay zone, identifies visual screening requirements, equipment removal, and insurance requirements for the aggregate operator. Criteria require on-site roads to meet minimum standards and may include road improvements to public roads. The EPD-5 overlay zone allows the County to regulate hours of operation and blasting, as well as implementing DEQ air quality and DOGAMI reclamation requirements. It is also these criteria that protect the aggregate site from new conflicting uses within the Impact Area.

The Planning Commission's recommendation finds that the Zoning Map Amendment is consistent with all of the pertinent criteria and standards.

7. <u>Findings:</u>

Findings of fact for both of the applications are listed separately in the Planning Commission recommendation. Based on proposed findings, the requests, with recommended conditions, are consistent with the Wasco County LUDO and Wasco County Comprehensive Plan.

One comment was received between the April 7th Planning Commission hearing and today's May 6th BOC hearing. This comment is from the Department of Energy, Bonneville Power Administration. It is their form-letter response to any proposed land use action on property that contains BPA Transmission Lines and states the restrictions for building within the BPA easement. It states that BPA requires a permit for any work done within the BPA easement. There are no BPA easements on the subject parcel.

If any additional findings, corrections to recommended findings, or new or amended conditions are proposed by the Board, they will be added to the final report and Notice of Decision.

8. <u>Board of Commissioner Decision Options:</u> The Board of Commissioners should make a motion and vote on each application separately, therefore, there are two sets of options.

a. COMPREHENSIVE PLAN AMENDMENT:

1) Approve the Comprehensive Plan Amendment to add the 50 acre expanded aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with the proposed findings and conditions recommended by the Planning Commission; or

2) Approve the Comprehensive Plan Amendment to add the 50 acre expanded aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with amended findings and conditions provided by the Board of Commissioners; or

3) Deny the Comprehensive Plan Amendment to add the 50 acre expanded aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with amended findings provided by the Board of Commissioners; or

4) Continue this hearing to a date and time certain.

The Planning Commission recommends Option A, approve the Comprehensive Plan Amendment to add the 50 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, with the recommended findings and conditions provided by the Planning Commission

b. ZONING MAP AMENDMENT:

1) Approve the Zoning Map Amendment to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with the proposed findings and conditions recommended by the Planning Commission; or

2) Approve the Zoning Map Amendment to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with amended findings and conditions provided by the Board of Commissioners; or

3) Deny the Zone Change to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with amended findings provided by the Board of Commissioners; or

4) Continue this hearing to a date and time certain.

The Planning Commission recommends Option A, approval of the Zone Change to apply the Mineral & Aggregate Overlay Zone to the 50 acre expanded aggregate site, and all land within 1,500 feet of the Permit Boundary, with the recommended findings and conditions provided by the Planning Commission.

Staff is not aware of any reason to continue this public hearing and believes the Board of Commissioners has sufficient information to make a decision on this request.

That concludes my presentation and I would be glad to answer any questions the Board may have.

WASCO COUNTY BOARD OF COMMISSIONERS

HEARING FORMAT & SCRIPT: May 6, 2015

J. Arlie Bryant, LLC for Blaine Carver

1. The public hearing is now open for the purpose of considering **PLACUP-15-02-0003**, a request to create a 20 acre aggregate operation (rock quarry). Applications before the Board of Commissioners include:

a. Comprehensive Plan Amendment to add a proposed 20 acre aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and

b. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed 20 acre aggregate operation.

2. The procedure I would like to follow is:

a. Establishment of Party Status
b. Reading of the Rules of Evidence
c. Disclosure of Ex Parte Contact
d. Planning Commission Report presented by Staff
e. Applicant's testimony
f. Those who wish to speak in favor of the proposal
g. Those who wish to speak in opposition of the proposal
h. Applicant's rebuttal
i. Close the hearing for questions, deliberation, and the decision

Time Limitations
If numerous people in the audience wish to testify, do a show of hands of those who would like to testify either for or against the proposal. If a lot of people want to testify, indicate they will be limited to **5 minutes (or other)** and their testimony will be timed. **Also indicate that their testimony needs to be limited to applicable criteria.**

3. Party Recognition

Anyone can speak for or against the proposal. However, only those who have party status will be able to appeal a decision reached by this Commission.

A party is defined in Section 1.090 as

a. *The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.*

b. *All property owners of record, as provided in (a) above, within the notification area, as described in section 2.080 A.2., of the property which is the subject of the application.*

c. *A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.*

d. *Any affected unit of local government or public district or state or federal agency.*

e. *Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority. (Revised 1/92)*

4. The Rules of Evidence are as follows:

- **a.** No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- **b.** Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs.
- **c.** Testimony and evidence must be directed toward the criteria applicable to the subject hearing.
- **d.** Failure to raise an issue accompanied by statements or evidence sufficient to afford the Board of Commissioners and parties an opportunity to respond to the issue precludes further appeal based on that issue.
- **e.** Any party of record may request that the record remain open for at least seven (7) days prior to the conclusion of the initial evidentiary hearing.

5. Disclosure of Interest of Ex Parte Contact:

- **a.** Does any Board member wish to disqualify themselves for any personal or financial interest in this matter?
- **b.** Does any Board member wish to report any significant ex parte or pre-hearing contacts?
- **c.** Does any member of the audience wish to challenge the right of any Board member to hear this matter?
- **d.** Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of Wasco County in this matter?

6. Will the staff please present their report?

- **a.** Does the Board have any questions?

7. Does the Applicant or their Representative wish to present anything?

- **a.** Does the Board have any questions?

8. Are there any persons who wish to speak in favor of the proposal?

- **a.** Please sign in and state your name and address for the record.
- **b.** Please limit your comments to criteria that are applicable to the request.

c. Does the Board have any questions?

9. Are there any persons who wish to speak in opposition of the proposal?
- **a.** Please sign in and state your name and address for the record.
- **b.** Please limit your comments to criteria that are applicable to the request.
- **c.** Does the Board have any questions?

10. Does the Applicant or their Representative wish to rebut any of the testimony?
The scope and extent of the rebuttal shall be limited to issues raised during testimony and shall not be used to introduce new evidence.

11. If there is no further testimony, the Public Hearing is closed and the Planning Commission will enter into deliberation.

12. Deliberation

13. Motion

14. Second

15. Discussion

16. Vote

17. Conclusion of the Hearing
State clearly to the audience and particularly to the applicant:
- **a.** The Decision by the Board of Commissioners.
- **b.** The Notice of the Board of Commissioners Decision will be forwarded to affected agencies, adjacent property owners, and those awarded party status. Appeal deadlines and procedures will be detailed in the Notice of Decision.

BOARD OF COMMISSIONER PRESENTATION: May 6, 2015
PLACUP-15-02-0003 (J. Arlie Bryant/Blaine Carver)

Thank you and Good Afternoon. For the record my name is Dawn Baird and I am an Associate Planner for the Wasco County Planning Department. I am going to present the background information in this case.

1. **Request**: The request is to create a 20 acre aggregate extraction site.

2. **Background:** Wasco County's current LUDO, Section 3.210, Exclusive Farm Use Zone, requires four things for a new aggregate extraction sites/expanded aggregate site/renewal of an existing aggregate site:

   a. To be designated as a Significant Site;
   b. To be listed in the Comprehensive Plan Aggregate Inventory as a Significant Site;
   c. To be shown on the zoning map as containing the EPD-5, Mineral & Aggregate Overlay Zone to protect the aggregate site and the immediate area around the resource; and
   d. A conditional use permit to allow the use and ensure it is compatible with the surrounding area.

   The Planning Commission has the authority to approve the Subject to Standards Review and the Conditional Use Permit, but submits a recommendation to the BOC who makes the final decision on the CPA and ZNC.

3. **Location**: The aggregate site is located is located south of Hinton Road, approximately 0.6 mile east of Bakeoven Road, approximately 7 miles northwest of Shaniko, Oregon; 5S 16E 0 3600; Account 12549. The subject parcel is approximately 223.20 acres in size.

4. **Planning Commission Recommendation**: The full Planning Commission Recommendation was provided in the Board of Commissioner's agenda packets. It was available for review at the Board of Commissioners Office and the Planning Department one week prior to this hearing, and it is considered a part of the record.

5. **Stage in the Process**: On February 9, 2015, John Bryant, J. Arlie Bryant, LLC, an authorized representative of Blaine Carver, submitted applications for a Subject to Standards Review, a Comprehensive Plan Amendment, a Zone Change, and a Conditional Use Permit. The application was determined to be complete on February 26, 2015.

   On April 7, 2015, the Wasco County Planning Commission voted (6-0) to approve the Subject to Standards Review and Conditional Use Permit, and recommended approval of the Comprehensive Plan Amendment and Zoning Map Amendment to the Board of Commissioners. Notice of this decision was provided to agencies and property owners on April 9, 2015. The appeal period for the STS and CUP expired at 4 p.m., April 21, 2015, so these decisions are final.

   Today, the Board will make a final decision on the Comprehensive Plan Amendment and Zoning Map amendment requests.

6. **Criteria**: The applicable standards used to evaluate each request include:

   Wasco County Land Use & Development Ordinance (LUDO)

   a. Comprehensive Plan Amendment (Page 4/30 of PC Recommendation)

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

- Section 2.060.B.2., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
- Section 2.080.A., Notice
- Section 2.090, Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

Wasco County Comprehensive Plan

- Chapter 2 – Physical Characteristics, G., Mineral & Aggregate Resources
- Chapter 11 – Revisions Process
- Chapter 14 – Findings and Recommendations
- Chapter 15 – Goals and Policies

In addition to hearing and noticing requirements, this application requires compliance with the Statewide Planning Goals, and submittal of an ESEE Analysis, which considers the Economic, Social, Environmental and Energy impacts of the request. These sections of the Comp Plan demonstrate that the proposed change will not be detrimental to the spirit and intent of the statewide goals, requires consideration of the public need for healthful, safe and aesthetic surroundings and conditions, requires demonstration that a change in the originally developed inventory occurred, and that transportation facilities will not be damaged or become overloaded. Adding the proposed site to the Aggregate Inventory identifies the aggregate site as a Goal 5-protect site, and protects the aggregate operation from conflicting sensitive uses such as dwellings. The Planning Commission's recommendation finds that the Comprehensive Plan Amendment is consistent with all of the pertinent criteria and standards.

b. <u>Zoning Map Amendment (Page 16/30 of the PC Recommendation)</u>

Wasco County Land Use & Development Ordinance

1) Chapter 2 – Development Approval Procedures
   - Section 2.060.B.1., Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)
   - Section 2.080.A., Notice
   - Section 2.090, Contents of Notice
   - Section 2.140, Hearing Procedure
   - Section 2.150, Official Notice
   - Section 2.190, General Conduct of Hearings

2) Chapter 9 – Zone Change and Ordinance Amendment

   - Section 9.010, Application for Zone Change
   - Section 9.020, Criteria for Decision
   - Section 9.030, Transportation Planning Rule Compliance
   - Section 9.040, Conditions Relative to the Approval of a Zone Change
   - Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance
   - Section 9.070, Notice of Planning Commission Recommendation

- Section 9.080, Action by County Governing Body

3) Chapter 3 – Basic Provisions
   - Section 3.800, EPD-5, Mineral & Aggregate Overlay
   - Section 3.835, Development Standards - Extraction Area
   - Section 3.840, Application Process
   - Section 3.845, Impact Area - Uses and Standards
   - Section 3.855, Termination of Mineral and Aggregate Overlay Zone

Applicable criteria for a Zoning Map Amendment require ensuring the rezone will comply with the Comprehensive Plan, that the site is suitable for the proposed zone and that there has been consideration of the public health, safety and welfare in applying the regulations. The request considers impacts on transportation facilities. The Mineral & Aggregate Overlay Zone lists the uses that can be established in the overlay zone, identifies visual screening requirements, equipment removal, and insurance requirements for the aggregate operator. Criteria require on-site roads to meet minimum standards and may include road improvements to public roads. The EPD-5 overlay zone allows the County to regulate hours of operation and blasting, as well as implementing DEQ air quality and DOGAMI reclamation requirements. It is also these criteria that protect the aggregate site from new conflicting uses within the Impact Area.

The Planning Commission's recommendation finds that the Zoning Map Amendment is consistent with all of the pertinent criteria and standards.

7. <u>Findings:</u>

Findings of fact for both of the applications are listed separately in the Planning Commission recommendation. Based on proposed findings, the requests, with recommended conditions, are consistent with the Wasco County LUDO and Wasco County Comprehensive Plan.

One comment was received between the April 7th Planning Commission hearing and today's May 6th BOC hearing. This comment is from the Department of Energy, Bonneville Power Administration. It is their form-letter response to any proposed land use action on property that contains BPA Transmission Lines and states the restrictions for building within the BPA easement. It states that BPA requires a permit for any work done within the BPA easement.

If any additional findings, corrections to recommended findings, or new or amended conditions are proposed by the Board, they will be added to the final report and Notice of Decision. There are no BPA lines/easement on the subject parcel though proposed rock from this quarry is intended to be used on a BPA line upgrade project.

8. <u>Board of Commissioner Decision Options:</u> The Board of Commissioners should make a motion and vote on each application separately, therefore, there are two sets of options.

a. COMPREHENSIVE PLAN AMENDMENT:

1) Approve the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with the proposed findings and conditions recommended by the Planning Commission; or

2) Approve the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with amended findings and conditions provided by the Board of Commissioners; or

3) Deny the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with amended findings provided by the Board of Commissioners; or

4) Continue this hearing to a date and time certain.

The Planning Commission recommends Option A, approve the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, with the recommended findings and conditions provided by the Planning Commission

b. ZONING MAP AMENDMENT:

1) Approve the Zoning Map Amendment to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the proposed findings and conditions recommended by the Planning Commission; or

2) Approve the Zoning Map Amendment to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with amended findings and conditions provided by the Board of Commissioners; or

3) Deny the Zone Change to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with amended findings provided by the Board of Commissioners; or

4) Continue this hearing to a date and time certain.

The Planning Commission recommends Option A, approval of the Zone Change to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the recommended findings and conditions provided by the Planning Commission.

Staff is not aware of any reason to continue this public hearing and believes the Board of Commissioners has sufficient information to make a decision on this request.

That concludes my presentation and I would be glad to answer any questions the Board may have.

WASCO COUNTY BOARD OF COMMISSIONERS

HEARING FORMAT & SCRIPT: May 6, 2015

J. Arlie Bryant, LLC for Hagens Bar 50 Ranches

1. The public hearing is now open for the purpose of considering **PLACUP-15-01-0001**, a request to create a 20 acre aggregate operation (rock quarry). Applications before the Board of Commissioners include:

   a. Comprehensive Plan Amendment to add a proposed 20 acre aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and

   b. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed 20 acre aggregate operation.

2. **The procedure I would like to follow is:**

   a. Establishment of Party Status
   b. Reading of the Rules of Evidence
   c. Disclosure of Ex Parte Contact
   d. Planning Commission Report presented by Staff
   e. Applicant's testimony
   f. Those who wish to speak in favor of the proposal
   g. Those who wish to speak in opposition of the proposal
   h. Applicant's rebuttal
   i. Close the hearing for questions, deliberation, and the decision

   Time Limitations
   If numerous people in the audience wish to testify, do a show of hands of those who would like to testify either for or against the proposal. If a lot of people want to testify, indicate they will be limited to **5 minutes (or other)** and their testimony will be timed. **Also indicate that their testimony needs to be limited to applicable criteria.**

3. **Party Recognition**

   Anyone can speak for or against the proposal. However, only those who have party status will be able to appeal a decision reached by this Commission.

   A party is defined in Section 1.090 as

   a. *The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.*

b. *All property owners of record, as provided in (a) above, within the notification area, as described in section 2.080 A.2., of the property which is the subject of the application.*

c. *A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.*

d. *Any affected unit of local government or public district or state or federal agency.*

e. *Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority. (Revised 1/92)*

4. The Rules of Evidence are as follows:

a. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
b. Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs.
c. Testimony and evidence must be directed toward the criteria applicable to the subject hearing.
d. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Board of Commissioners and parties an opportunity to respond to the issue precludes further appeal based on that issue.
e. Any party of record may request that the record remain open for at least seven (7) days prior to the conclusion of the initial evidentiary hearing.

5. Disclosure of Interest of Ex Parte Contact:

a. Does any Board member wish to disqualify themselves for any personal or financial interest in this matter?
b. Does any Board member wish to report any significant ex parte or pre-hearing contacts?
c. Does any member of the audience wish to challenge the right of any Board member to hear this matter?
d. Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of Wasco County in this matter?

6. Will the staff please present their report?

a. Does the Board have any questions?

7. Does the Applicant or their Representative wish to present anything?

a. Does the Board have any questions?

8. Are there any persons who wish to speak in favor of the proposal?

a. Please sign in and state your name and address for the record.
b. Please limit your comments to criteria that are applicable to the request.

c. Does the Board have any questions?

9. Are there any persons who wish to speak in opposition of the proposal?
- **a.** Please sign in and state your name and address for the record.
- **b.** Please limit your comments to criteria that are applicable to the request.
- **c.** Does the Board have any questions?

10. Does the Applicant or their Representative wish to rebut any of the testimony?
The scope and extent of the rebuttal shall be limited to issues raised during testimony and shall not be used to introduce new evidence.

11. If there is no further testimony, the Public Hearing is closed and the Planning Commission will enter into deliberation.

12. Deliberation

13. Motion

14. Second

15. Discussion

16. Vote

17. Conclusion of the Hearing
State clearly to the audience and particularly to the applicant:
- **a.** The Decision by the Board of Commissioners.
- **b.** The Notice of the Board of Commissioners Decision will be forwarded to affected agencies, adjacent property owners, and those awarded party status. Appeal deadlines and procedures will be detailed in the Notice of Decision.

BOARD OF COMMISSIONER PRESENTATION: May 6, 2015
PLACUP-15-01-0001 (J. Arlie Bryant/Hagens)

Thank you and Good Afternoon. For the record my name is Dawn Baird and I am an Associate Planner for the Wasco County Planning Department. I am going to present the background information in this case.

1. **Request**: The request is to create a 20 acre aggregate extraction site.

2. **Background:** Wasco County's current LUDO, Section 3.210, Exclusive Farm Use Zone, requires four things for a new aggregate extraction sites/expanded aggregate site/renewal of an existing aggregate site:

   a. To be designated as a Significant Site;
   b. To be listed in the Comprehensive Plan Aggregate Inventory as a Significant Site;
   c. To be shown on the zoning map as containing the EPD-5, Mineral & Aggregate Overlay Zone to protect the aggregate site and the immediate area around the resource; and
   d. A conditional use permit to allow the use and ensure it is compatible with the surrounding area.

   The Planning Commission has the authority to approve the Subject to Standards Review and the Conditional Use Permit, but submits a recommendation to the BOC who makes the final decision on the CPA and ZNC.

3. **Location**: The aggregate site is located is located east of Highway 197, approximately 3½ miles north of its intersection with Highway 97, approximately 9½ miles southeast of Shaniko, Oregon; 7S 15E 0 600; Account 12795. The subject parcel is approximately 3,706.82 acres in size.

4. **Planning Commission Recommendation**: The full Planning Commission Recommendation was provided in the Board of Commissioner's agenda packets. It was available for review at the Board of Commissioners Office and the Planning Department one week prior to this hearing, and it is considered a part of the record.

5. **Stage in the Process**: On January 16, 2015, John Bryant, J. Arlie Bryant, LLC, an authorized representative of Hagens Bar 50 Ranches, submitted applications for a Subject to Standards Review, a Comprehensive Plan Amendment, a Zone Change, and a Conditional Use Permit. The request was found to be complete on February 1, 2015. In addition to the four applications to establish an aggregate site, the original request also included a request to legalize a tax lot that appeared to be improperly created after the existence of subdivision and partitioning regulations in Wasco County (9/4/1974). This application was approved by the Planning Commission. Prior to any excavation, and within 90 days of Planning Commission final approval, a final plat must be recorded with the County Clerk to legally establish the property as a legal parcvel.

   On April 7, 2015, the Wasco County Planning Commission voted (6-0) to approve the Subject to Standards Review, Conditional Use Permit, and Partition, and recommended approval of the Comprehensive Plan Amendment and Zoning Map Amendment to the Board of Commissioners. Notice of this decision was provided to agencies and property owners on April 9, 2015. The appeal period for the STS and CUP expired at 4 p.m., April 21, 2015, so these decisions are final.

   Today, the Board will make a final decision on the Comprehensive Plan Amendment and Zoning Map amendment requests.

6. **Criteria**: The applicable standards used to evaluate each request include:

Wasco County Land Use & Development Ordinance (LUDO)

a. Comprehensive Plan Amendment (Page 5/30 of PC Recommendation)

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

- Section 2.060.B.2., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
- Section 2.080.A., Notice
- Section 2.090, Contents of Notice
- Section 2.140, Hearing Procedure
- Section 2.150, Official Notice
- Section 2.190, General Conduct of Hearings

Wasco County Comprehensive Plan

- Chapter 2 – Physical Characteristics, G., Mineral & Aggregate Resources
- Chapter 11 – Revisions Process
- Chapter 14 – Findings and Recommendations
- Chapter 15 – Goals and Policies

In addition to hearing and noticing requirements, this application requires compliance with the Statewide Planning Goals, and submittal of an ESEE Analysis, which considers the Economic, Social, Environmental and Energy impacts of the request. These sections of the Comp Plan demonstrate that the proposed change will not be detrimental to the spirit and intent of the statewide goals, requires consideration of the public need for healthful, safe and aesthetic surroundings and conditions, requires demonstration that a change in the originally developed inventory occurred, and that transportation facilities will not be damaged or become overloaded. Adding the proposed site to the Aggregate Inventory identifies the aggregate site as a Goal 5-protect site, and protects the aggregate operation from conflicting sensitive uses such as dwellings. The Planning Commission's recommendation finds that the Comprehensive Plan Amendment is consistent with all of the pertinent criteria and standards.

b. Zoning Map Amendment (Page 16/30 of the PC Recommendation)

Wasco County Land Use & Development Ordinance

1) Chapter 2 – Development Approval Procedures
   - Section 2.060.B.1., Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)
   - Section 2.080.A., Notice
   - Section 2.090, Contents of Notice
   - Section 2.140, Hearing Procedure
   - Section 2.150, Official Notice
   - Section 2.190, General Conduct of Hearings

2) Chapter 9 – Zone Change and Ordinance Amendment

   - Section 9.010, Application for Zone Change
   - Section 9.020, Criteria for Decision

- Section 9.030, Transportation Planning Rule Compliance
- Section 9.040, Conditions Relative to the Approval of a Zone Change
- Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance
- Section 9.070, Notice of Planning Commission Recommendation
- Section 9.080, Action by County Governing Body

3) Chapter 3 – Basic Provisions
   - Section 3.800, EPD-5, Mineral & Aggregate Overlay
   - Section 3.835, Development Standards - Extraction Area
   - Section 3.840, Application Process
   - Section 3.845, Impact Area - Uses and Standards
   - Section 3.855, Termination of Mineral and Aggregate Overlay Zone

Applicable criteria for a Zoning Map Amendment require ensuring the rezone will comply with the Comprehensive Plan, that the site is suitable for the proposed zone and that there has been consideration of the public health, safety and welfare in applying the regulations. The request considers impacts on transportation facilities. The Mineral & Aggregate Overlay Zone lists the uses that can be established in the overlay zone, identifies visual screening requirements, equipment removal, and insurance requirements for the aggregate operator. Criteria require on-site roads to meet minimum standards and may include road improvements to public roads. The EPD-5 overlay zone allows the County to regulate hours of operation and blasting, as well as implementing DEQ air quality and DOGAMI reclamation requirements. It is also these criteria that protect the aggregate site from new conflicting uses within the Impact Area.

The Planning Commission's recommendation finds that the Zoning Map Amendment is consistent with all of the pertinent criteria and standards.

7. <u>Findings:</u>

Findings of fact for both of the applications are listed separately in the Planning Commission recommendation. Based on proposed findings, the requests, with recommended conditions, are consistent with the Wasco County LUDO and Wasco County Comprehensive Plan.

One comment was received between the April 7th Planning Commission hearing and today's May 6th BOC hearing. This comment is from the Department of Energy, Bonneville Power Administration. It is their form-letter response to any proposed land use action on property that contains BPA Transmission Lines and states the restrictions for building within the BPA easement. It states that BPA requires a permit for any work done within the BPA easement.

If any additional findings, corrections to recommended findings, or new or amended conditions are proposed by the Board, they will be added to the final report and Notice of Decision. There are BPA lines/easement on the subject parcel and proposed rock from this quarry is intended to be used on a BPA line upgrade project. The Board might decide to add an advisory condition letting the applicant know that any work within the BPA right-of-way requires a permit from the Department of Energy, Bonneville Power Adminiswtration.

8. <u>Board of Commissioner Decision Options:</u> The Board of Commissioners should make a motion and vote on each application separately, therefore, there are two sets of options.

a. COMPREHENSIVE PLAN AMENDMENT:

1) Approve the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with the proposed findings and conditions recommended by the Planning Commission; or

2) Approve the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with amended findings and conditions provided by the Board of Commissioners; or

3) Deny the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Aggregate Inventory as a Significant Site, with amended findings provided by the Board of Commissioners; or

4) Continue this hearing to a date and time certain.

The Planning Commission recommends Option A, approve the Comprehensive Plan Amendment to add the 20 acre aggregate site to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site, with the recommended findings and conditions provided by the Planning Commission

b. ZONING MAP AMENDMENT:

1) Approve the Zoning Map Amendment to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the proposed findings and conditions recommended by the Planning Commission; or

2) Approve the Zoning Map Amendment to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with amended findings and conditions provided by the Board of Commissioners; or

3) Deny the Zone Change to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with amended findings provided by the Board of Commissioners; or

4) Continue this hearing to a date and time certain.

The Planning Commission recommends Option A, approval of the Zone Change to apply the Mineral & Aggregate Overlay Zone to the 20 acre aggregate site, and all land within 1,500 feet of the Permit Boundary, with the recommended findings and conditions provided by the Planning Commission.

Staff is not aware of any reason to continue this public hearing and believes the Board of Commissioners has sufficient information to make a decision on this request.

That concludes my presentation and I would be glad to answer any questions the Board may have.

Submitted by Dan VanVactor

Public Notice

Answers to Frequently Asked Questions:

QUESTION #1:
Are floating docks attached to the ground unlawful under the Wasco County Land Use and Development Ordinance (WCLUDO) at Pine Hollow Reservoir?
ANSWER:
YES. NO dock can be legally attached to the surface of the reservoir. All docks, fences, buildings and walls must be located 50 feet from the high water mark of Pine Hollow Reservoir.

QUESTION #2:
What is the building setback adjacent to Pine Hollow Reservoir in Wasco County?
ANSWER:
The Wasco County Land Use and Development Ordinance (WCLUDO) 3.230.5 states:
"All structures or similar permanent fixtures (except hydroelectric facilities) shall be set back from the high water line or mark along all streams or lakes a minimum distance of fifty (50) feet when measured horizontally at a right angle."

QUESTION #3:
How does Wasco County define "structure"?
ANSWER:
WCLUDO 1.090 defines a structure as "anything constructed, erected or air inflated, permanent or temporary, which requires location on the ground". "Among other things structures include buildings, walls, fences, billboards, poster panels and parking lots."

QUESTION #4:
Who owns the land under Pine Hollow Reservoir?
ANSWER:
Badger Improvement District.

QUESTION #5:
Who is responsible for the safety of the dam at Pine Hollow Reservoir?
ANSWER:
The State of Oregon and Badger Improvement District

QUESTION #6:
Do floating docks pose a risk to the safety of the dam at Pine Hollow Reservoir?
ANSWER:
YES, according to the Oregon State Dam Safety inspection dated January 08, 2015.

QUESTION #7:
Why do floating docks pose a hazard to the safety of Pine Hollow Dam?
ANSWER:
Docks cannot be lawfully attached to the ground under the Wasco County Land Use and Development Ordinance within 50 feet of the high water mark (see question #1 and #2 above). If floating docks were to block the overflow they could cause the dam to breach according to the dam safety inspection, conducted by the State of Oregon.

Since our last Commission meeting: (4/15/15)

4/15 – NACO Community, Econ. and Workforce Development Steering Comm

All matters pertaining to housing programs, community and economic development and public works including the creation of affordable housing and housing options for different populations, residential, commercial and industrial development and building and housing codes. (Issues directly related to the MCEDD and MC Housing Boards – CDBG grants etc)

4/16, 4/23 & 4/30 - NORCOR Budget and Regular Meeting -

Primary discussion was on the Tools Program and moving it to a 501C as a cost saving and potential for new sources of revenue. Budget approved. Funding formula adjusted for 2016. The 4 Sheriffs will control total bed use and sharing.

4/16 & 5/2 WC Pioneer Association

93rd Annual Meeting. Gave the WC Welcoming Remarks as 2nd VP. Now I am the 1st VP heading into next year

4/20 Regional Solutions – as Gov. appointee representing AOC

Presentation from the Oregon Tourism Board and Commissioner Kramer led a presentation on the proposed Forest Collaborative.

4/21 & 5/5 MCEDD LAB – Attainable Housing Loan fund update. Revised an existing loan with the Maupin Market. Successful Client. Approved the expansion loan of a HR Business and Modified another HR Business's existing loan.

4/22 Forest Collaborative - As an observer for Regional Solutions

Mosier State Water Board Public Hearing (testified)

4/27 MC Housing / Chair – approved budget and clarified some operational items

EZ Distribution annual meeting - regarding first Google EZ $125k each to County & City

4/28 MCCOG Exec Mtg

5/4 Veterans AdHoc. Medical issues, Veterans District

5/5 Union Pacific – lunch with U.P. Directors arranged by Huffman, variety of officials from Hood River and Wasco County