



Oregon  
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development  
635 Capitol Street, Suite 150  
Salem, OR 97301-2540  
(503) 373-0050  
Fax (503) 378-5518  
www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

7/8/2010

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Linn County Plan Amendment  
DLCD File Number 002-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

### Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, July 20, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Olivia Glantz, Linn County  
Jon Jinings, DLCD Community Services Specialist  
Amanda Punton, DLCD Regional Representative

<paa> YA





FORM **2**

**DLCD**

# Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

☐ In person ☐ electronic ☐ mailed

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**DEPT OF**

**JUN 30 2010**

**LAND CONSERVATION  
AND DEVELOPMENT**

For Office Use Only

Jurisdiction: **Linn County**

Local file number: **BC10-0002**

Date of Adoption: **06/29/2010**

Date Mailed: **06/29/10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 03/22/2010

☒ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

**A comprehensive plan text amendment to add a 53.3-acre portion of a 444.70-acre property to the Linn County aggregate inventory as a significant aggregate resource site. A zone map amendment to add an aggregate resource overlay (ARO) designation to the 53.3-acre portion of the property is also requested**

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from: **F/F**

to: **F/F - ARO**

Location: **12S-01W-05 -00200**

Acres Involved: **53.3**

Specify Density: Previous:

New:

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

**Linn County Enviromental Health, Linn County Assessor, Linn County Building Offical, Linn County Roads Department, Lebanon Rural Fire Protection District, State Fire Marshall, Department of Forestry, DEQ, WRD, DOGAMI, United State Army Corps of Engineers, Oregon Fish and Wildlife**

Local Contact: **OLIVIA GLANTZ**

Phone: **(541) 967-3816**

Extension: **2368**

Address: **PO BOX 100, ROOM 114**

Fax Number: **541-967-2060**

City: **ALBANY**

Zip: **97322**

E-mail Address: **OGLANTZ@CO.LINN.OR.US**

DLCD File No. 002-10 (18201) [16200]



# LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse  
PO Box 100, Albany, Oregon 97321  
Phone 541-967-3816, 1-800-319-3816  
Fax 541-926-2060 [www.co.linn.or.us](http://www.co.linn.or.us)

## NOTICE OF ADOPTION

**RESOLUTION NO:** 2010-139  
**ORDINANCE NO.** 2010-140  
**PLANNING FILE NO:** BC10-0002  
**APPLICANT** Pinnacle II Quarry

### PROPOSAL

Applications by Alton E. Sullivan for a *Comprehensive Plan* text amendment to include a 53.3-acre portion of a 44.70-acre property in the Linn County aggregate inventory as a significant aggregate resource site, an Aggregate Resource Overlay (ARO) zone amendment, and a development permit for aggregate mining and processing. The proposed development permit would authorize the mining, crushing, processing, batching, stockpiling and hauling of aggregate within the proposed 53.3-acre resource site. The property is identified as T12S, R01W, Section 05, Tax Lot 200 and is zoned Farm Forest (F/F). The proposed mining site is located at 39190 Mt. Hope Drive, approximately two miles east of Lebanon.

### Board Action: Resolution and Order No. 2010-139

The Linn County Board Of Commissioners approved *Resolution and Order No. 2010-139* to: (1) Approve the Findings and Conclusions supporting the Board decision; (2) Order that the applications be approved as proposed to include the identified 53.3-acre portion of the subject 44.70-acre property in the Linn County aggregate inventory as a significant aggregate resource site without conflicting uses; (3) apply the aggregate resource overlay (ARO) zone to the resource site and the impact area; and (4) Authorize mining consistent with the ARO and other applicable regulations.

### Board Action: Ordinance No. 2010-140

The Linn County Board Of Commissioners approved *Ordinance No. 2010-070* to: (1) Amend the Linn County *Comprehensive Plan* text to include the subject 53.3-acre resource site in the Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6, entitled *Inventory of Significant Sites With all Conflicts Minimized*; and (2) Amend the Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6A, entitled *Inventory of significant Sites With all Conflicts Minimized* to add the adopted subsection and text.

If you wish to appeal this decision, an appeal must be filed with the Land Use Board of Appeals (LUBA) within 21 days from the date this notice is mailed.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY

IN THE MATTER OF AMENDING THE )  
LINN COUNTY *COMPREHENSIVE* )  
*PLAN* TEXT AND THE LINN COUNTY )  
BC10-0002) ZONING MAP )

ORDINANCE NO. 2010-140  
(Amending Code)  
(Planning & Building Department

WHEREAS, The Linn County Planning Commission held a duly advertised hearing on May 11, 2010 to make a recommendation to the Board of Commissioners (Board) regarding proposed amendments to the Linn County *Comprehensive Plan* text and zoning map;

WHEREAS, At 10:00 a.m., on May 26, 2010, the Board conducted a regularly scheduled and duly advertised public hearing and considered the proposed amendments of the *Comprehensive Plan* text and the zoning map;

WHEREAS, The Board having read the proposed ordinance and having received and considered the oral and written public testimony presented prior to and at the hearing; and

WHEREAS, The findings in support of this ordinance are attached to Resolution and Order No. 2010-139 and entitled Exhibit 1, (Resolution and Order No. 2010-139; Planning File BC09-0001; Pinnacle II Quarry; Decision Criteria, Findings and Conclusions); and, now, therefore, be it

*Ordained by the Linn County Board of Commissioners, That:*

**Section 1. Text Amendment.** The Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6, entitled *Inventory of Significant Sites With All Conflicts Minimized*, be amended to add the following subsection and text:

6005 Pinnacle II T12S R01W S05, TL 200; Acreage: 53.3 acres

**Section 3. Text Amendment.** The Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6A, entitled *Analyses Justifying a Classification as a Significant Site With All Conflicts Minimized*, be amended to add the following subsection and text:

**905.6004 Pinnacle II Quarry**

**(A) Goal 5 analysis.**

**(1) Findings of Fact.**

The findings of fact in support of this resource site analysis are contained in Resolution and Order No. 2010-139. The record supporting this analysis is located in the office of the Linn



County Clerk. Copies of the application, evidence and decision documents are contained in Planning and Building Department case file number BC10-0002.

(2) *Inventory Information.*

- (a) The resource site is a 53.3-acre portion of a 444.70-acre property identified on Linn County Assessor maps as T12S R01W S05, TL 200. The site is in a Farm Forest zone district, and located on the south side of Mt. Hope Drive at its intersection with Bond Road, Lebanon. The 53.3-acre extraction area added to the inventory is a new extraction and processing facility, located at 39190 Mt. Hope Drive, Lebanon, Oregon.
- (b) The area added to the inventory contains an estimated 3,863,013 tons, of aggregate material that meets the Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness. The average thickness of the aggregate layer is 54 feet. The 53.3-acre aggregate resource site is a significant site as set forth in the *Comprehensive Plan* and the Goal 5 rule for aggregate.

(c) *Impact Area*

To determine conflicts associated with the proposed mining of this resource site, an impact area including land within 1500 feet from the boundaries of the site was established and conflicts analyzed. There is no substantive evidence of potential significant impacts or conflicts beyond the 1500-foot impact area boundary.

(B) *Conflicts Due to Noise, Dust or Other Discharges*

- (1) The truck haul route and intersection between Mt. Hope Drive and the interior haul road were evaluated by the Linn County Road Master. The Linn County Road Master reviewed the applicant's Traffic Impact Analysis and found that the truck haul route will have no significant impact to Linn County roads. The applicant will be required as a condition to this application to improve the access and driveway to minimize the dust and tracking on to Mt. Hope Drive. The conflicts identified with the haul road due to noise, dust or other discharges have been minimized.
- (2) The property is a new noise source on a previously unused site. The operator shall meet DEQ noise standards for all noise sensitive uses in the impact area. The applicant will retain the existing vegetative buffer on the southern portion of the property as long as the aggregate resource area is active.
- (3) The findings adopted in Resolution and Order 2010-139 establish that all identified potential conflicts with the Pinnacle II Site are prevented or minimized. Measures to minimize conflicts adopted in that resolution are included in the County's program to achieve Goal 5 compliance for the site. Mining at this site, as proposed, will not cause significant conflicts with any land uses that are sensitive to noise, dust, or other discharges when mining is conducted in compliance with the adopted measures to minimize conflicts. All potential conflicts will be minimized such that they are not significant.

Potential dust conflicts with dwellings within the impact area are minimized through applications of water and dust palliatives on the site as necessary to prevent the generation of fugitive dust and meet DEQ nuisance standards. Potential noise impacts will be minimized by the operator complying with the vegetative buffers, the use of "smart" back-up alarms (or equivalent to) on all mining equipment and by meeting DEQ noise standards prior to operating the site.

*(C) Other Potential Conflicts*

- (1) No potential conflicts with local roads are identified.
- (2) No safety conflicts with existing public airports are identified.
- (3) No conflicts with other Goal 5 resource sites are identified.
- (4) No existing or potential conflicts with agricultural practices are identified.

*(D) Measures to Minimize Identified Conflicts*

Potential conflicts are identified with some residential uses within the 1500-foot impact area boundary. Resolution and Order No. 2010-139 contains a list of reasonable and practical measures that will ensure all existing and potential conflicts will be minimized. The development permit to mine the site shall require compliance with all the conditions and requirements set for in Resolution and Order No. 2010-139.

The program to protect the resource is contained in the Plan policies for aggregate resources in LCC 905.820(B); by the application of the Aggregate Resource Overlay (ARO) pursuant to LCC 939.200(B) and LCC 931.700 to 931.755; by the provisions set forth in this resource site analysis; and by the Conditions of Approval adopted as part of Resolution and Order 2010-139.

*(E) Post-mining Use and Reclamation.*

The proposed post-mining use is forestry and wildlife habitat.

*(F) Potential Future Conflicting Uses.*

The mining operation is designed and permitted to minimize all potential conflicts with surrounding uses such that they are not significant. New uses permitted within the identified impact area, will not be significantly impacted by extraction area activities and will not significantly impact those activities. The County is not limiting land uses within the impact area beyond limitations already contained in the code, but has established conditions for operations in the proposed extraction expansion area to prevent impacts to existing and potential future uses within the impact area.

**Section 3. Map Amendment.** Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to apply the Aggregate Resource Overlay (ARO) designation to the significant 53.3-acre resource site identified as portions of Linn county Assessor maps T12S R01W S05, TL 200. (Exhibit 1)

**Section 4. Map Amendment.** Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to designate the land that is within 1500 feet of the identified ARO mining area boundaries as Aggregate Resource Overlay (ARO) impact area, with no additional restrictions other than those established by existing code. (Exhibit 1)

**Section 5. Savings clause.** Repeal of a code section or ordinance shall not revive a code section or ordinance in force before or at the time the repealed code section or ordinance took effect. The repeal shall not affect a punishment or penalty incurred before the repeal took effect, nor a suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the repealed code section or ordinance.

**Section 6. Severability.** Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

**Section 7. Effective date.** To protect the health, safety, and welfare of the citizens of Linn County, this ordinance shall take effect following adoption.

**Section 8. Codification.** Following adoption, this ordinance shall be codified pursuant to LCC Chapter 120.

Public reading held May 26, 2010.

Adopted and passed June 29, 2010.

The effective date of this Ordinance shall be June 29, 2010.

BOARD OF COUNTY COMMISSIONERS  
FOR LINN COUNTY

Signed June 29, 2010

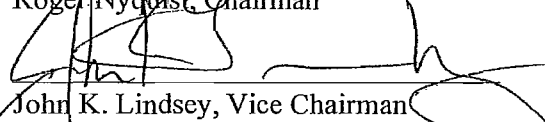
Voting

Steve Druckenmiller,  
Linn County Clerk  
Recording Secretary

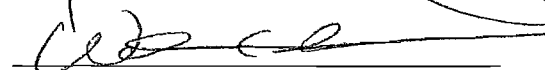
By



Roger Nyquist, Chairman



John K. Lindsey, Vice Chairman



William Tucker, Commissioner

For Against

X

X

X

APPROVED AS TO CONTENT:



Robert Wheeldon  
Linn County Planning and Building Director


APPROVED AS TO FORM:



Thomas N. Corr  
County Attorney for Linn County

Appeals to LUBA must be filed in accordance with ORS 197.830. If you have any questions about this process, you should contact LUBA in Salem.

Resolution/Order No. 2010-139 and Ordinance No. 2010-140 may be reviewed at the office of the Linn County Clerk, Room 205, Linn County Courthouse; that office is open from 8:30 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. A copy of the ordinance is available in the office of the Linn County Clerk. A fee to cover copying costs will be charged.

  
Robert Wheeldon  
Director

6/29/10  
Date

c: Alton Sullivan, DLCD, DOGAMI, DEQ, DSL, Linn County EHP. Linn County Road Department, State Fire Marshal, City of Lebanon, Robert Hall, Jerry Chilla, Bruce Brown, Thad Nelson, John Frenzel, Benjamin Brown, Benjamin Brown Jr, Myra Brown, Benjamin Duerr, Rose Marie Duerr, Rita Salvage, William Salvage, Frank Holstad, Rodney Moye, Robert Hall, Carolyn Hall, Alison Kingsbery John Shader, Gabriel Salvage, Floyd Garrison, Ruthann Garrison, Paul Dickinson, Ruth Dickinson, Paul Siefker, Sheri Siefker, Michael Oakley, Leonard Israel, Mark Duerr, Michael Kuhns, Billy Williams, Ladean Williams, Tom & Kristi Bertagna, Marvin Moe, Scott & Susie Shearer, Tom Owens, Joanne Nelson, Mike Wells, Rick Franklin, Bob Speaker, Brian Vandetta,



**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**FOR LINN COUNTY OREGON**

**IN THE MATTER OF AMENDING THE)  
LINN COUNTY *COMPREHENSIVE* )  
*PLAN* TEXT AND THE LINN COUNTY )  
ZONING MAP; AND APPROVING AN )  
AGGREGATE MINING PERMIT )**

**RESOLUTION &  
ORDER NO. 2010-139**

(Planning and Building Department BC10-0002)

(Findings and Conclusions)

**WHEREAS**, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on May 26, 2010 for the purpose of considering the matter of a proposed *Comprehensive Plan* text amendment and zoning map amendment that would amend the *Comprehensive Plan* text to include a 53.3-acre portion of the property identified as Tax Lot 200 on Assessor map T12S, R01W, Section 05, in the inventory of significant aggregate resource sites with all conflicts minimized; amend the Zoning Map to apply the Aggregate Resource Overlay (ARO) to the resource site; and permit the mining and processing of aggregate on the property;

**WHEREAS**, The proposed *Comprehensive Plan* text amendment and proposed zoning map amendment had been previously considered by the Linn County Planning Commission at a duly advertised hearing on May 11, 2010, which voted 6-2-0 to recommend approval to the Board;

**WHEREAS**, The Board, after considering all testimony and evidence submitted, reached a consensus to recommend that the proposed *Comprehensive Plan* text amendment and proposed zoning map amendment be adopted to permit the proposed aggregate mining and processing; and

**WHEREAS**, The findings in support of the proposed *Comprehensive Plan* text amendment and zoning map amendment are attached hereto as Exhibit 1 (Resolution and Order No. 2010-139; Planning File BC10-0002; Pinnacle II; Decision Criteria, Findings and Conclusions); and

**WHEREAS**, The Conditions of Approval, to ensure minimization of all potential conflicts and to supplement the County's program to achieve Goal 5 for the Pinnacle II Site are attached hereto as Exhibit 2 (Resolution and Order No. 2010-139; Planning File BC10-0002; Conditions of Approval and Site-specific Program to Achieve Goal 5; Pinnacle II) now, therefore, be it

**RESOLVED**, That the Board of County Commissioners for Linn County approve the Findings and Conclusions as set forth in Exhibit 1 (Resolution and Order No. 2010-139; Planning File BC10-0002; Pinnacle II; Decision Criteria, Findings and Conclusions) and Conditions of Approval in Exhibit 2 (Resolution and Order No. 2010-139; Planning File BC10-0002; Conditions of Approval and Site-specific Program to Achieve Goal 5; Pinnacle II); and

**ORDERED**, That the applications be approved to include a 53.3-acre portion of the subject 444.70-acre property in the Linn County aggregate inventory as a significant aggregate resource site with all conflicts minimized; to apply the aggregate resource overlay (ARO) zone to the resource site and the impact area; and to authorize mining consistent with the ARO, the Conditions of Approval, and other applicable regulations;

**ORDERED**, That the *Linn County Comprehensive Plan* text be prepared for Board adoption amending LCC Chapter 905, Appendix 6, entitled "*Inventory of Significant Sites With All Conflicts Minimized*" to include the 53.3-acre portion of the property identified on Linn County Assessor maps as Tax Lot 200 on Assessor map T12S, R01W, Section 05 containing a significant aggregate resource;

**ORDERED**, That *Linn County Comprehensive Plan* text be prepared for Board adoption amending LCC Chapter 905, Appendix 6A, entitled "*Analyses Justifying a Classification as a Significant Site With All Conflicts Minimized*" to include the conclusions of the Goal 5 resource and conflict analysis in support of adding the identified 53.3-acre portion of the property identified on Linn County Assessor maps as Tax Lot 200 on Assessor map T12S, R01W, Section 05, to the aggregate inventory as a significant site;

**ORDERED**, That the proposed Zoning Map amendment be prepared for adoption to apply the Aggregate Resource Overlay (ARO) to designated land that is within 1500 feet of the identified ARO mining area boundaries, with no additional restrictions other than those established by existing code, as delineated in Exhibit 1, Attachment A;

**ORDERED**, That the proposed Zoning Map amendment be prepared for adoption to apply the Aggregate Resource Overlay (ARO) to the 53.3-acre portion of the property identified on Linn County Assessor maps as Tax Lot 200 on Assessor map T12S, R01W, Section 05 that is identified as a significant aggregate resource site, as delineated in Exhibit 1, Attachment A; and


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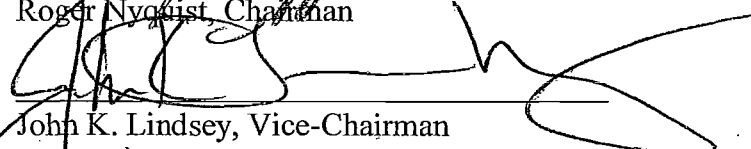
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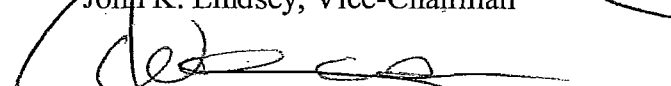
**ORDERED**, That a development permit be issued to authorize aggregate mining and processing on the 53.3-acre portion of the property identified on Linn County Assessor maps as Tax Lot 200 on Assessor map T12S, R01W, Section 05, that is identified as a significant aggregate resource site, consistent with LCC Chapter 905, Appendix 6 and Appendix 6A; LCC Chapter 921; LCC Chapter 931; LCC Chapter 934; and the Conditions of Approval attached hereto as Exhibit 2.

Resolved this 2<sup>nd</sup>, day of June, 2010.

BOARD OF COUNTY COMMISSIONERS  
FOR LINN COUNTY

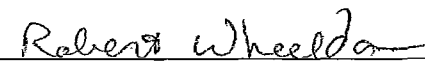
  
\_\_\_\_\_  
Roger Nyquist, Chairman

  
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John K. Lindsey, Vice-Chairman

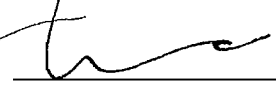
  
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William Tucker, Commissioner

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APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Robert Wheeldon  
Linn County Planning and Building Director

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Thomas N. Corr  
County Attorney for Linn County

**EXHIBIT 1**  
**Resolution and Order No. 2010-139**  
**Planning File BC10-0002**  
**Alton E. Sullivan and Dixie G. Sullivan**  
**Pinnacle II Quarry Site**  
**Decision Criteria, Findings and Conclusions**

**I. APPLICATION SUMMARY**

- A. A Comprehensive Plan (Plan) text amendment application to include a 53.3-acre portion of a 444.7-acre property in the Linn County aggregate inventory as a significant aggregate resource site.
- B. An aggregate resource overlay (ARO) zone amendment application to apply the ARO to the 53.3-acre resource site.
- C. A development permit application for aggregate mining and processing on the resource site consistent with adopted provisions in the Plan and the ARO, if applicable, and Conditions of Approval.

**II. DECISION CRITERIA**

The proposed aggregate inventory Plan text amendment has been reviewed based on the applicable criteria and procedures in *Linn County Code (LCC) 921.872* and *LCC 939*. The decision by the Board is to include the property in the aggregate inventory as a significant Goal 5 Resource Site. The mining and processing development permit is subject to the criteria in *LCC 921.540 to 921.569*.

After reviewing the applicable criteria and relevant facts and evidence, on May 26, 2010, the Board of Commissioners found that the resource site is a significant site that is approved for mining. The Aggregate Resource Overlay (ARO) will be applied to the site and impact area. Mining and processing aggregate is an allowed use in the ARO, as specified and limited by the Conditions of Approval. The operating standards that govern aggregate mining and processing are identified in *LCC 934.350 to 934.359*.

**III. FINDINGS**

**A. Proposal Summary**

The subject property is owned and operated by Alton E. and Dixie G. Sullivan. The property is identified on Linn County Assessor Maps as T12S-R01W-Section 5, Tax Lot 200. It is located on the south side of Mt. Hope Drive, near the intersection with Bond Road, Lebanon. It is zoned Farm/Forest (F/F).

The applicant is requesting a new aggregate resource area located on the subject property. The application states that the mining area currently consists of 5.5 acres. The Linn County Comprehensive Plan does not identify a mining area on the subject property. Before mining can be authorized on the property, the county must first include the aggregate resource site in the county's aggregate inventory (ORS 215.298). The inventory process and classification must comply with the implementing regulations for statewide planning Goal 5 (OAR 660-023-

0180). A *Comprehensive Plan text amendment* is required to include the property in the aggregate inventory. The Plan text amendment, zone map amendment, and development permit applications were reviewed concurrently.

The site contains and estimated 3.9 million tons of rock that complies with ODOT standards for quality; therefore, it is a significant aggregate resource site. A Comprehensive Plan text amendment should be adopted to add the site to the County's aggregate inventory pursuant to ORS 215.298 and OAR 660-023-0180. ARO zoning should be applied to the property.

The application states that the quarry will generally operate Monday - Saturday, year-round, with normal hours of 7:00 a.m. to 6:00 p.m., and with additional hours utilized on a project by project basis. The application states that the mining operation may be operated sporadically during the normal business hours and there may be extended periods when the quarry is operating on a very reduced schedule however, the aggregate source will be available to operation year round as needed. The quarry will blast and crush during normal business hours.

The application states that the operator expects no more than four employees at most times. Typical mining equipment that would be used on-site includes: excavator, 2 loaders, 1 push cat, 3-4 dump trucks, portable crusher, water truck, rock drill, drilling equipment, grader, scales, scale shack, and tractors.

The proposed operating characteristics comply with the requirements of Linn County Code.

The Planning Commission recommended approval of the applications by a vote of 6-2-1. The Board of County Commissioners approved the applications based on the findings of fact in this Resolution and Order.

#### **B. Inventory Classification (*LCC 939.120*)**

The application documents the location, quality and quantity information for the aggregate resource site. The property is identified on Linn County Assessor maps as T12S, R01W, Section 5, tax lot 200.

The proposed resource site contains 53.3 acres of a 444.70 acre property. It contains an existing 5.5 acre quarry that is not on the Linn County Inventory. The location of the resource area has been surveyed and is described in the application material.

The application contains the results of laboratory testing of aggregate samples from the property. The test results indicate that a representative set of samples from the property meet Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness. These results satisfy the requirements of *LCC 939.120(B) (1)* for a significant aggregate site.

The application contains an analysis prepared by Udel Engineering and Land Surveying, LLC demonstrating there is an estimated 3.9 million tons of aggregate material in the proposed resource area. This exceeds the significance threshold of 2,000,000 tons or 1.5 million cubic yards in *LCC 939.120(B) (2)* necessary to include the property in the inventory as a significant aggregate resource site.



The property contains predominately non-high value NRCS Class III and IV soils. The average depth of the aggregate layer is greater than 50 feet. The significance criteria in *LCC 939.120(C)* therefore do not apply to this property.

The applicant has established the location, quantity and quality of the resource meet the requirements of the Goal 5 rule and County Code. The Board finds that the site meets the significance criteria in *LCC 939.120*.

**C. Impact Area (*LCC 939.130*)**

To determine existing and potential conflicts between the proposed mining and processing activities and other area land uses, Oregon Administrative Rules (OAR) and *LCC 939.130(A)(1)* establish an impact area of 1,500 feet from the boundaries of the proposed mining area, except where substantial factual information in the record is adequate to demonstrate there are significant potential conflicts beyond this distance. Testimony regarding impacts beyond 1,500 feet from the resource area was presented at the Planning Commission and Board of Commissioners' hearings. Documentation of substantial evidence demonstrating potential significant impacts beyond 1,500 feet was not submitted into the record of these proceedings. The Board finds that there is not substantial factual evidence demonstrating significant potential conflicts outside 1,500 feet from the proposed resource area, therefore, the Board finds that a 1,500 foot impact area is consistent with the provisions in *LCC 939.130(A)*.

Impact Area maps and data were provided with the application, and include the following description of impact area uses:

**North:**

Farm / Forestry Zoning.

There are no dwellings, businesses or schools within 1,500 feet of the aggregate resource area. All land to the north within the 1,500 foot impact area is in the 444.7 acre subject parcel owned by the applicants (T12S-R1W-Section 5, Tax Lot 200). The only improvement is one equipment storage building. Land uses within the impact area to the north are, approximately 100 acres of commercial timber (40-50 year old second-growth Douglas fir), approximately 8 acres of wetlands in three ponds, approximately 7 acres of open hillside, and approximately 20 acres of Christmas trees.

**East:**

Farm / Forestry Zoning.

There are no dwellings, businesses or schools within 1,500 feet of the aggregate resource area. The applicants own about 70% of the land to the east within the impact area. There are parts of three parcels within 1,500 feet of the aggregate resource area: one being the subject parcel, owned by the applicants, second a 21 acre portion of an 89.4 acre parcel owned by the applicants and third a 4 acre portion of a 40 acre parcel owned by High Hopes, Ltd. There are approximately 50 acres of second growth Douglas fir (20 to 50 years old), 8 acres pond and 3 acres open hillsides.

**South:**

Farm / Forestry Zoning.

There are two dwellings within 1,500 feet of the aggregate resource area. There are no businesses or schools within 1,500 feet south of the aggregate resource area.

The applicants own approximately 60% of the land to the east within the impact area. There are parts of eight properties within 1,500 feet of the aggregate resource area:

- Subject parcel, owned by the applicants.
- A portion of a 78.74 acre parcel owned by Harriet Alexander. This property contains a single-family dwelling within the 1,500 foot impact area.
- A portion of a 34.15 acre property owned by Jared and Marci Gazeley.
- A portion of a 39.39 acre property owned by Gary and Joyce Johnson.
- A portion of a 20.81 acre property owned by Gregory Davis and Vicky Peck.
- A 15.07-acre property owned by Thomas and Nadine Owen. This property contains a single-family dwelling.
- A portion of a 15.03 acre property owned by Thomas and Nadine Owen.
- A small portion of T12S-R-1W-Section 8, Tax Lot 108 which is a narrow strip that provides access to the other two Owen's properties.

To the south there are two single-family dwellings, 45-acres of fenced pasture with some cattle grazing, 75-acres of Douglas fir, and 17-acres of open hillsides.

**West:**

Farm / Forest Zoning.

There are no dwellings, businesses or schools within 1,500 feet of the aggregate resource area. There are parts of three parcels are within 1,500 feet of the aggregate resource area.

- Subject parcel, owned by the applicants.
- A portion of a 191.98 acre resource parcel owned by Scott and Susan Shearer.
- A portion of a 226.26 acre parcel owned by Bill and Lois Paetsch Trust.

There are approximately 40 acres of commercial timber; this use is immediately adjacent to the aggregate resource area to the west.

Summary of Potentially Noise Sensitive Uses in Impact Area:

There are no schools or businesses within the impact area. The only potentially noise sensitive uses within 1,500 feet of the resource area are two dwellings, located approximately 1,300 feet and 1,450 feet from the resource area.

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**D. Conflicts Due to Noise, Dust or Other Discharges [LCC 939.130(B) (4) (a)]**

The Board finds:

The impact area includes agricultural land, forest land, and two dwellings to the south.

The only land uses within the impact area that are potentially sensitive to noise, dust or other discharges are the two dwellings to the south of the aggregate resource area. One of the dwellings (owned by Owen) is approximately 1,300 feet to the southeast of the boundary of the proposed aggregate resource area. The other dwelling (owned by Alexander) is approximately 1,450 feet southwest of the boundary of the proposed aggregate resource area. Both dwellings are significantly up slope from the proposed aggregate resource area. Both dwellings are separated from the aggregate resource area by dense, mature Douglas fir timber. The applicants will retain this vegetative buffer as long as the aggregate resource area is active. There are no anticipated conflicts with residential use of the dwellings because of their distance from the boundary of the aggregate resource area, their location up slope from the aggregate resource area and the dense screen of Douglas fir trees.

Both of the owners of residences within the 1,500 foot impact area, Mr. Owen and Ms. Alexander, have submitted letters stating that the proposed aggregate extraction activities will not conflict with the use of their property for a residence or for farming or forest uses.

The actively mined area will be periodically watered, as necessary, to prevent dust impacts. There are four ponds on the subject property and adjacent land owned by the applicants that will provide sufficient water for dust control. Compliance with all DEQ and DOGAMI aggregate resource regulations will prevent impacts from dust, noise or other discharges.

The existing trees between the boundary of the aggregate resource area and the dwellings also provide a visual and noise buffer.

The location of the resource area relative to surrounding uses, together with natural buffering and conditions of approval that regulate operational characteristics of the quarry will adequately prevent conflicts between the proposed mining and land uses that are sensitive to noise, dust or other discharges (e.g. houses and schools, as specified in LCC 939.130(B)(4)(a)).

The Board finds that with conditions and requirements of approval the operating and reclaimed phases of the project will minimize all potential conflicts with surrounding uses.

**E. Potential Conflicts to Local Roads [LCC 939.130(B) (4) (b)]**

The Roadmaster has submitted a letter concluding that mining at the site, as proposed, will not have significant adverse impacts on county roads. The application contains the Haul Plan, as submitted to the County Roadmaster. The County Roadmaster reviewed the Haul Plan and found that it meets the requirements of the County Road Department.

According to the County Roadmaster, sight distances are adequate along the route. There are no horizontal or vertical alignment issues along the haul route. All county road used have sufficient capacity for the existing and proposed traffic. The additional 0-10 daily truck trips under normal operating conditions and occasional 20-50 trips for short periods of peak operation will not adversely impact any of the county roads used.

Based on these facts, the Board finds that the application complies with LCC 939.130(B)(4)(b).

**F. Conflicts with Other Goal 5 Resource Sites [LCC 939.130(B)(4)(c)]**

There are three ponds to the north of the proposed aggregate resource area and within the 1,500 foot impact area. The mining area is more than 200 feet from all of the ponds and is separated from them by mature Douglas fir timber. Surface water quality will be maintained as described in the Surface Water Management Plan, found in the application. Based on this information, mining on the site will have no impact on the ponds.

The impact area is within a Peripheral Wildlife Habitat area. Mining activities will create minimal noise and traffic. These activities will not impact wildlife habitat within 1,500 feet of the resource area boundary. The aggregate resource area will be restored for forestry and wildlife habitat uses after mining is completed.

There are no other Goal 5 resource sites within 1,500 feet of the proposed resource area boundaries that are identified on an inventory in the Comprehensive Plan and for which the requirements of Goal 5 have been completed.

**G. Conflicts with Agricultural Practices [LCC 939.130(B)(4)(d)]**

There are two agricultural practices within 1,500 feet of the resource area boundary: a 20-acre of Christmas tree farm to the northwest, owned by the applicants and 40-acres of fenced pasture to the south owned by Harriet Alexander. No conflicts have been identified between the proposed aggregate resource extraction and the existing Christmas tree operation, owned and operated by the Sullivans and extensive livestock grazing operations within 1,500 feet of the resource boundary area.

Impacts of any crushing equipment will be mitigated through the requirements of the DEQ permit required for operation rock crushing machinery. Permit requirements include dust abatement controls. Compliance with the DEQ permit will minimize impacts to local agricultural practices.

The Board finds that conflicts will be minimized with conditions and requirements of approval, with the current mining activity and adjacent agriculture practices within 1,500 feet of the mining site property boundary.

**H. Potential Future Conflicting Uses (LCC 939.180)**

The area within 1,500 feet of the proposed aggregate mining site is zoned Farm/Forest. The F/F zone permits resource related uses (e.g. forestry, farming and similar uses) and discourages establishment of uses that would conflict with resource uses on adjacent property.

No land uses that are permitted outright by the Linn County Land Development Code in the F/F zoning district would result in conflicts between the proposed aggregate mining and surrounding uses.

**I. Measures to Minimize Potential Conflicts (*LCC 939.140*)**

The Board finds that no potential conflicts have been identified within the impact area that cannot be minimized to a level at which they can no longer be considered significant. The Board finds that the proposal satisfies the standard in *LCC 939.140*.

**J. Economic, Social, Environmental and Energy (ESEE) Consequences (*LCC 939.150*)**

The Board finds that there are no conflicts between the proposed aggregate resource mining and adjacent land uses that cannot be minimized to a level at which they can no longer be considered significant. An ESEE conflict analysis, as specified in *LCC 939.150*, is therefore not required.

**K. Plan Consistency [*LCC 921.872(A)*]**

The Board action will add a 53.3-acre resource site to the inventory of significant aggregate resource sites with conflict minimized; apply the Aggregate Resource Overlay (ARO) to the property; and authorize a development permit for aggregate extraction and processing on the site. To approve an aggregate inventory Plan amendment, the amendment must be consistent with the intent of the applicable section(s) of the Comprehensive Plan (Plan) [*LCC 921.872(A)*].

The aggregate resources element of the Plan states at *LCC 905.800(F)* that: "Aggregate resources must be inventoried and significant resource sites must be protected for use by future generations." The Plan at *LCC 905.800(G)* states: "...an Aggregate Resource Overlay (ARO) is established in the Agricultural Resource...plan designation(s) when a significant aggregate resource site qualifies for protection from conflicting land uses."

The aggregate resources policy in *LCC 905.820(B)(1)* states, "Linn County shall consider mineral and aggregate resource extraction and processing as a resource use of the land in Agricultural Resources, Farm/Forest and Forest Resource plan designations." The aggregate resources policies in *LCC 905.820(B) (2) to 905.820(B) (20)* establish review policies and procedures to include aggregate resource sites in the Plan inventory as appropriate.

The procedures and criteria in *LCC Chapter 939* implement the Aggregate Resources element of the Plan. The Board finds that the application has been submitted and reviewed pursuant to *LCC Chapter 939* to ensure consistency with the Comprehensive Plan.

**L. Statewide Planning Goals [*LCC 921.872(B)*]**

The Board finds that the Comprehensive Plan amendment is consistent with the statewide planning goals as demonstrated by the following facts, evidence and analyses [*LCC 921.872(B)*]:

1. **Goal 1: Citizen Involvement.** The proposal was reviewed at public hearings before the Linn County Planning Commission and the Linn County Board of Commissioners. The hearings provided opportunity for citizen involvement. Notice of the hearings was



provided to surrounding landowners and concerned citizens in the manner specified in county ordinance and state law. Property owners within 1,000 feet of the property and within 1,500 feet of the proposed resource site were provided notice. Affected public agencies were also provided written notice.

2. **Goal 2: Land Use Planning.** Linn County has an acknowledged comprehensive plan and implementing Code. The Plan and Code establish procedures to amend the Linn County Comprehensive Plan, including amendments to the Aggregate Resource Inventory. The Planning and Building Department has determined the application is complete and in compliance with *Chapter 921* and *Chapter 939* of the *Linn County Code*.
3. **Goal 3: Agricultural Lands.** The area is zoned Farm/Forest. The aggregate resource area is not high-value farmland pursuant to OAR 660-33-0020(8). It is comprised 100% of soils classified as Agricultural Capability Class III through VI. The proposed aggregate resource site is not suitable for agricultural use due to slope and soil characteristics. The reclamation of the property for forestry and wildlife habitat uses is consistent with Goal 3. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 3.
4. **Goal 4: Forest Lands.** Goal 4 requires that the county conserve forest land by maintaining the forest land base. ORS 527.722 and OAR 660 Division 6 have been adopted by the Legislature and LCDC to implement Goal 4. OAR 660-006-0025 specifies authorized uses in Goal 4 areas and includes, “mining and aggregate and mineral resources.” The proposed Plan amendment would allow mining of a “significant” aggregate resource site consistent with all provisions of state law and local ordinances. The reclamation of the property for forestry and wildlife habitat uses is consistent with Goal 4. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 4.
5. **Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources.** Goal 5 requires that the county protect natural resources and lists mineral and aggregate resources as being subject to Goal 5. The proposed Plan amendment would allow mining of a “significant” aggregate resource site. OAR 660-023-0180 specifies that, “An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality and location of the resource demonstrates that ... (a) A representative set of samples of aggregate material in the deposit on the sites meets the applicable Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion and soundness and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley ... ..”.

The application demonstrates that the aggregate material at the site meets ODOT’s specifications and that there is more than 2,000,000 tons of material at the site. Therefore, the site is a significant Goal 5 resource pursuant to OAR 660-023-0180. A 1,500 foot “impact area” around the proposed aggregate resource site has been identified and potential conflicts with existing surrounding uses, potentially permitted uses, and Goal 5 resources have been reviewed. No Goal 5 conflicting uses have been identified. Therefore, the adopted Plan amendment complies with Statewide Planning Goal 5.

6. **Goal 6: Air, Water and Land Resources Quality.** Aggregate processing typically requires Department of Environmental Quality (DEQ) air and water discharge permits. The DEQ was provided notice of this proposal. The Board did not receive written comments from DEQ. As approved aggregate will be processed using a rock crusher. Crushers require DEQ discharge permits. Water is provided from an on-site to minimize dust.
7. **Goal 7: Areas Subject to Natural Disasters and Hazards.** A small portion of the southeast corner of the proposed aggregate site has been identified in the Environmental Geology of Western Linn County Oregon as being subject to mass movement topography. Slope stabilization measures during mining and reclamation are regulated by Oregon DOGAMI and are indicated on DOGAMI inspection reports as part of the operating permit and reclamation procedures. The operation will comply with all DOGAMI requirements. There are not other areas subject to Natural Disasters and Hazards identified on the site. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 7.
8. **Goal 8: Recreational Needs.** This property is not a planned recreation site. There are no recreational facilities within the 1,500-foot impact area.
9. **Goal 9: Economy of the State.** The proposal would permit a 53.3-acre resource site. The quarry provides employment and a supply of aggregate products for local and regional development.
10. **Goal 10: Housing.** This proposal does not involve the provision of an additional dwelling. The site is in the F/F zone and is surrounded by other resource-zoned land. The proposed quarry would provide the types of aggregate products necessary for housing and road construction.
11. **Goal 11: Public Facilities and Services.** The Lebanon Fire Protection District provides fire protection. Access to the site is from Mt. Hope Drive, which is a paved County road. The Linn County Road Department has approved the haul route on nearby County roads and the on-site haul road. Public water and sewer facilities are not a part of this application.
12. **Goal 12: Transportation.** The application states the proposed quarry expansion area would generate up to 10 additional truck trips per day at peak. Truck traffic to and from the site will use the existing quarry access. The sight-distance is good from the existing intersection where the haul road meets Mt Hope Drive. The Linn County Roadmaster provided a letter stating that the Roadmaster finds that there will be no significant impacts to Linn County roads from the proposed quarry expansion. The Roadmaster further states that he has reviewed the rock haul plan and finds that it meets the requirements of the Linn County Road Department.

The proposed quarry will not:

- (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:*

- (A) 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;*
- (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
- (C) 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.*

Therefore, under Goal 12, the quarry is consistent with current and planned transportation facilities and in compliance with the policies of this Statewide Planning Goal.

13. Goal 13: Energy Conservation. Economic factors, specifically the energy and capital costs of hauling aggregate, dictate that aggregate resources are normally chosen that are closest to the point of consumption. The primary market for aggregate in this area is for rural uses, such as road construction and maintenance, farm and forest uses, and construction markets in Lebanon, Sweet Home and Albany. Aggregate from this site would promote energy conservation when compared to hauling building materials to these areas from sites farther from the point of consumption.
14. Goal 14: Urbanization. The subject property is not proposed or available for urbanization, so Goal 14 is not directly affected by the proposal. The local communities of Lebanon, Sweet Home and Albany are typical urban markets for aggregates produced from this site. The proposal supports urbanization by providing building materials that are a necessary component of urbanization in nearby communities.
15. Goal 15: Willamette River Greenway. The property is more than 10 miles from the Willamette River. Goal 15 does not apply.
16. Goal 16: Estuarine Resources; Goal 17: Coastal Resources; Goal 18: Beaches and Dunes. Linn County does not have any estuaries, coastal shorelines, beaches or dunes. Goals 16, 17, and 18 do not apply in Linn County.

#### IV. CONCLUSION

The proposal has been reviewed and is in compliance with all applicable law, including the procedures and criteria in *LCC 939.050 to LCC 939.200* and *LCC 921.872*. Based on the facts presented in the application materials and in County hearings, the Board hereby finds that:

1. A 53.3 acre portion of the subject property is a significant aggregate resource site pursuant to the criteria in *LCC 939.120*.
2. There are no existing or potential conflicts between the proposed mining area and land uses within the impact area that cannot be minimized to a level at which they are no longer considered significant. The binding Conditions of Approval attached as Exhibit 2 to this Resolution & Order constitute a supplemental, site-specific program to achieve Goal 5 for the site, and ensure conflict minimization.
3. The 53.3 acre resource site shall be identified in LCC Chapter 905, Appendix 6, entitled "Inventory of Significant Sites With All Conflicts Minimized" pursuant to *LCC 939.200*.
4. The conclusions of the Goal 5 analysis shall be included in LCC Chapter 905, Appendix 6A, entitled "Analyses Justifying a Classification as a Significant Site With All Conflicts Minimized."
5. The zoning map shall be amended to apply the Aggregate Resource Overlay (ARO) to the subject 53.3 acre resource site and to the impact area pursuant to *LCC 939.200(B)*.
6. A development permit shall be issued authorizing aggregate mining and processing without asphalt batching on the 53.3 acre resource site subject to the applicable provisions of LCC Chapter 921; LCC Chapter 931; LCC Chapter 934; and the Conditions of Approval in Exhibit 2 to this Order.

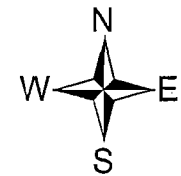
# Linn County Planning & Building Department

Exhibit 1, Attachment A



- Internal Haul Roads
- taxlots
- ARO-Extraction
- ARO-Impact

12S01W05 00200  
TRUST CO OF  
AMERICA FBO SULLIVAN  
444.7 acres



Date: 06/10/2010



**EXHIBIT 2**  
**Resolution and Order No. 2010-139**  
**Planning File BC10-0002**  
**Conditions of Approval and**  
**Site-specific Program to Achieve Goal 5**  
**Pinnacle II Quarry**

The following requirements and conditions intended to minimize conflicts with surrounding land uses shall be included in the Comprehensive Plan and shall be incorporated into the mining permit issued for this resource site:

**Requirements:**

1. The mining, processing and sale of rock produced on-site shall be authorized within the 53.3-acre resource site, identified in Exhibit 1 of this document, subject to limitations set forth in the development permit. Primary processing activities including drilling, excavating, crushing, blasting, batching, stockpiling and hauling are permitted uses.
2. The applicant shall survey and mark the permit boundary. The survey must be conducted by a registered land surveyor and the resulting survey coordinates must be capable of being converted to the state plane coordinate system. The permit boundary and setbacks (property line, river, and north boundary of pasture) must be clearly seen by equipment operators. Other features, such as processing areas, stockpiles, access roads and excavation boundaries must be staked.
3. The applicant shall maintain an excavation setback from property lines of no less than 75-feet.
4. Aggregate extraction may occur year-round, in conformance with these conditions and other applicable law.
5. The operator shall obtain and maintain all permits necessary for operation and reclamation of the site. Prior to commencing mining operations, the operator shall submit to the County:
  - a. A copy of a DOGAMI approved operating permit and reclamation plan for the site;
  - b. Relevant documents demonstrating that the operator's DOGAMI reclamation bond is in full force and effect;
  - c. Copies of any and all NPDES, Fill and Removal, or other state or federal permits required for operation of the facility.
6. The aggregate site shall comply with the applicable noise standards regulated by the Department of Environmental Quality.
7. The applicant shall obtain and maintain a current permit from the Department of Environmental Quality.
8. The operation shall at all times remain in compliance with the Aggregate Site standards in LCC 934.350-359.

9. The applicant shall obtain and maintain a current permit from the Oregon Department of Geology and Mineral Industries (DOGAMI). A copy of the permit, approved reclamation plan and performance bond shall be provided to the Planning and Building Department prior to establishing the mining operation.
10. The post-mining use of the site shall be forestry, fish and wildlife habitat, consistent with the provisions of the DOGAMI approved Reclamation Plan, the Linn County Comprehensive Plan and implementing ordinances, and state law.
11. All buildings and structures used in conjunction with this quarry shall comply with the applicable provisions of the Linn County Development Code.
12. All lighting used on the resource site shall be shielded to cast light downward and shall be arranged so as not to shine the light directly towards other properties.
13. Applicant shall comply with all requirements found in Linn County Code Chapter 921.541-921.546 & 934.350 – 934.359.

**Operating Conditions:**

1. The applicant shall retain the forested area located between the resource site and the two dwellings south of the site.
2. Mining and processing activities shall be permitted Monday – Saturday, 7am – 6pm. Mining and processing activities shall not be permitted on Sundays or any of the following holidays; New Year's Day, Memorial Day; the Fourth of July; Labor Day; Thanksgiving Day or Christmas Day.
3. A development permit will be issued authorizing aggregate mining and processing without asphalt batching on the 53.3-acre resource site.
4. The planning director may grant an exception allowing additional hours of operation upon a demonstration that such hours are needed to address damage to public roads or structures that require immediate repair; or road construction or repair that is scheduled during nighttime hours or weekends to reduce traffic conflicts.
5. The applicant shall use water or another dust palliative conforming to DEQ standards to mitigate dust on the stockpiles, on-site haul roads and vehicle circulation areas as needed.
6. The following restrictive covenant shall be made part of the chain of title to the 444-acre parcel:

Grantees and their heirs, legal representatives, assigns and lessees hereby acknowledge by the placement of this covenant, or the acceptance and recording of this instrument, that the property herein described is situated in a Farm/Forest zoning district of Linn County, Oregon. As such, they may be subjected to common, customary and accepted farm or forest management activities for the operation of a commercial farm or forest that includes management and harvesting of agricultural products or timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, and any other accepted and customary farm or forest management activity conducted in accordance with federal and state laws. The above practices ordinarily and

necessarily produce noise, dust, smoke and other types of visual, odor or noise impacts which grantees accept as normal and necessary farming or forestry management activities and as part of the risk of building a residential dwelling in a Farm/Forest zoning district.

Prior to the issuance of development permits or operation of the mining area, the applicant shall supply proof that the deed covenant has been incorporated into the deed and recorded in the Linn County Clerk's Office.

7. The applicant shall pave the interior haul road a distance of 50-feet from Mt. Hope Drive and shall comply with all access improvement standards and requirements of the Linn County Road Department. For more information please contact the Linn County Road Department at 541-967-3919.
8. The operator shall provide "smart" back-up alarms (or equivalent) on all loaders and dozers operating in the expansion Mining Area. Smart alarms only emit backing alarm noises when they sense an object or person in the path of the machine, with the alarm increasing in volume as the distance to the object or person is reduced.
9. The operator shall provide notice of scheduled blasting to those properties within 1000' of the subject property and those persons listed on Exhibit 3 of Resolution and Order 2010-139, at least three days prior to blasting on the subject site. The blasting notice shall include the expected date and approximate time of day the blasting will occur.

Exhibit 3
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Bruce Brown  
38623 Mt. Hope Drive  
Lebanon, OR 97355

Thad Nelson  
39178 Mt. Hope Drive  
Lebanon, OR 97355

John Frenzel  
33698 Bond Road  
Lebanon, OR 97355

Benjamin & Myrna Brown  
Benjamin Brown, JR  
38497 Mt. Hope Drive  
Lebanon, OR 97355

Benjamin Duerr  
38602 Mt. Hope Drive  
Lebanon, OR 97355

Rose Marie Duerr  
38602 Mt. Hope Drive  
Lebanon, OR 97355

Rita Salvage  
38621 Payne Drive  
Lebanon, OR 97355

William Salvage  
38621 Payne Drive  
Lebanon, OR 97355

Frank Holstad  
39135 Mt. Hope Drive  
Lebanon, OR 97355

Rodney E. Moye  
39399 Mt. Hope Drive  
Lebanon, OR 97355

Robert & Carolyn Hall  
33522 Totem Pole Road  
Lebanon, OR 97355

Alison Kingsberry  
39031 Mt. Hope Drive  
Lebanon, OR 97355

John Shader  
39474 Mt. Hope Drive  
Lebanon, OR 97355

Gabriel W. Salvage  
38670 Mt. Hope Drive  
Lebanon, OR 97355

Floyd & Ruthann Garrison  
39411 Mt. Hope Drive  
Lebanon, OR 97355

Paul & Ruth Dickinson  
39459 Mt. Hope Drive  
Lebanon, OR 97355

Paul & Sheri Siefker  
39627 Mt. Hope Drive  
Lebanon, OR 97355

Michael Oakley  
33792 Totem Pole Road  
Lebanon, OR 97355

Leonard Israel  
31057 Sodaville Road  
Lebanon, OR 97355

Mark Duerr  
38613 Mt. Hope Drive  
Lebanon, OR 97355

Michael Kuhns  
38605 Mt. Hope Drive  
Lebanon, OR 97355

Billy T. Williams  
38590 Mt. Hope Drive  
Lebanon, OR 97355

Ladean L. Williams  
38590 Mt. Hope Drive  
Lebanon, OR 97355

Tom & Kristi Bertagna  
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Jerry Chilla  
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Marvin Moe  
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Scott & Susie Shearer  
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Lebanon, OR 97355

Joanne Nelson  
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Lebanon, OR 97355

Mike Wells  
29940 Bartels Creek Drive  
Lebanon, OR 97355

