



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

February 23, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Douglas County Plan Amendment
DLCD File Number 004-06

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: March 13, 2007

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Doug White, DLCD Community Services Specialist
John Renz, DLCD Regional Representative
Mark Darienzo, DLCD Flood Map Modernization Program Coordinator
Cheryl Goodhue, Douglas County

<paa> ya/

FORM 2

DEPT OF

FEB 21 2007

D L C D NOTICE OF ADOPTION

LAND CONSERVATION
AND DEVELOPMENT

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

Jurisdiction: Douglas County Local File No: 06-030
(if no number, use none)

Date of Adoption: February 14, 2007 Date Mailed: February 20, 2007
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: March 3, 2006

Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment Zoning Map Amendment
 New Land Use Regulation Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."
HY-MT ROCK, LLC, approval of request for a Plan map amendment to add a large-scale site to the Douglas County Mineral Resources Inventory (MRI) to permit mining of the site, and a zone change to apply the Mineral Resources Overlay (MRO) to the mining site.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice of the proposed amendment, write "N/A."

Same.

Plan Map Changed From: No change in AGG designation

Zone Map Changed From: No change in FF/FG zoning; MRO applied to site

Location: Gazley Road No. 35, north of Canyonville Acres Involved: 150+/- acre mining site

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 1, 2, 5, 12

Was an Exception Adopted? Yes: No:

=====
DLCD File No: 004-06 (15057)

Did the Department of Land Conservation and Development **receive** a Notice of Proposed Amendment **FORTY- FIVE (45) days prior to the first evidentiary hearing?** Yes: No:

If no, do the Statewide Planning Goals apply? Yes: No:

If no, did The Emergency Circumstances Require immediate adoption? Yes: No:

Affected State or Federal Agencies, Local Government or Special Districts: ODOT, ODF&W, DSL, DOGAMI, DFPA, South Umpqua rural Fire District, Citizens Communications, Charter Communications, Pacific Power, Avista Utilities, Williams Gas Pipelines, South Umpqua School District No. 19.

Local Contact: Cheryl Goodhue Area Code + Phone Number: (541) 440-4289

Address: Room 106, Justice Building, Douglas County Courthouse

City: Roseburg, Oregon Zip Code + 4: 97470

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** of the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need more copies?** You can copy this form on to 8½ x 11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE BOARD OF COMMISSIONERS
OF DOUGLAS COUNTY, OREGON

DOUGLAS COUNTY OREGON
FILED

FEB 15 2007

AN ORDER to affirm the Findings of Fact and)
Decision of the Planning Commission for an)
Amendment to the Douglas County)
Comprehensive Plan Map to add a large scale site)
to the Douglas County Mineral Resources Inventory)
(MRI) and permit mining of the site, together with)
a Zone Change to apply the Mineral Resources)
Overlay to the 150± acre mining site on a 245.10)
acre parcel located on Gazley County Road No. 35,)
just north of Canyonville for HY-MT ROCK, LLC.)
Planning Department File No. 06-030)

BARBARA E. NIELSEN, COUNTY CLERK

ORDER

The Douglas County Board of Commissioners being informed that the Douglas County Planning Commission, on January 18, 2007, and on request from the above captioned applicant, approved a Comprehensive Plan Amendment to add a large-scale site to the Douglas County Mineral Resources Inventory and to permit mining of the site. The subject property is located on Gazley County Road No. 35, just north of Canyonville.

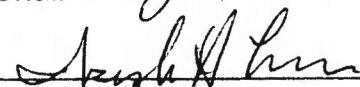
Pursuant to Section 6.900.1 of the Douglas County Land Use and Development Ordinance, the Board of Commissioners hereby affirms the Findings of Fact and Decision of the Planning Commission (Exhibit A, dated January 18, 2007, attached).

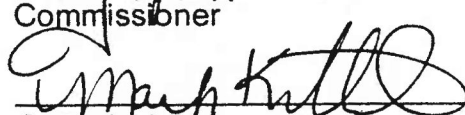
Based on the aforementioned Findings of Fact and Decision as affirmed, the Board of Commissioners hereby GRANTS the requested Plan Amendment and Orders that such Plan Amendment shall be filed in the County Court Journal, and the Douglas County Mineral Resources Inventory and Comprehensive Plan Maps shall be changed accordingly.

Dated this 14th day of February, 2007.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, OREGON


Chair


Commissioner


Commissioner



PLANNING DEPARTMENT

Room 106, Justice Building
Douglas County Courthouse, Roseburg, Oregon 97470
(541) 440-4289 / Fax (541) 440-6266

January 19, 2007

MEMORANDUM

TO: Applicant and All Parties

FROM: Cheryl A. Goodhue, Senior Planner

RE: HY-MT ROCK, LLC, request for a Comprehensive Plan Amendment to add a site to the Douglas County Mineral Resources Inventory(MRI) and to permit mining of the site, and a Zone Change to apply the Mineral Resources Overlay to the mining site, on a 245.10 acre parcel located on Gazley County Road No. 35, just north of Canyonville. The property is described as Tax Lots 100, 300 & 800 in Section 16 and Tax Lot 100 in Section 21A, Township 30S, Range 5W, W.M.; Property ID Nos. R29074, R29114, R29106, R30618 & R30626, is designated (FFT) Farm Forest Transitional, in part, and (AGG) Agriculture, in part, by the Douglas County Comprehensive Plan and is zoned (FF) Farm Forest and (FG) Exclusive Farm Use - Grazing, respectively. Planning Department File No. 06-030. South Umpqua Planning Advisory Committee (PAC).

Official notice is hereby given of the decision of the Douglas County Planning Commission in the matter of the above-referenced request. This matter initially came on regularly before the Planning Commission for hearing at the April 20, 2006 Planning Commission meeting, and was subsequently continued to the May 18th, August 17th, October 19th and December 14th, 2006 Planning Commission meetings.

The Planning Commission has APPROVED the Plan Amendment to add a site to the Douglas County Mineral Resources Inventory (MRI) and to permit mining of the site, and the Zone Change to apply the Mineral Resources Overlay to the mining site, **subject to the following conditions:**

1. The applicant shall obtain an access permit from Public Works confirming that the access point on Gazley County Road, from which the existing haul road emanates, meets current County standards.
2. The days and hours of the mining operation shall be limited to Monday through Saturday, 7:00 a.m. to 5:00 p.m., with blasting allowed once per week. A sign shall be placed on Gazley Road giving 48 hours notice of any proposed blast. The crushing/processing operation may occur 7 days a week from 7:00 a.m. to 3:00 a.m. No aspect of the mining or processing operation shall occur on legal (County) holidays.

----A Program With GREAT SPIRIT!----

January 19, 2007

3. To control congestion, trucks exiting the subject property onto Gazley Road shall be required to stop at a weigh station to collect a weight load ticket.
4. The stop sign at the haul road's entrance onto Gazley Road and warning signs along Gazley Road alerting traffic of trucks entering the highway shall be maintained for the duration of mining and processing operations on the subject property.
5. The use shall continue to operate under active Department of Geology and Mineral Industries (DOGAMI) and Department of Environmental Quality (DEQ) permits.
6. Any future structural development authorized as an accessory facility to the mining and processing operation shall meet the minimum 50 foot structural setback requirement of the Riparian Vegetation Corridor Overlay, unless a lesser standard is authorized by the Oregon Department of Fish and Wildlife.
7. The applicant will plant fir trees, every 10 feet, along an undeveloped parcel of land located between the access roadway and the O'Neal property.
8. The applicant will pave the access road for a distance of 1,800 feet from Gazley road toward the mining site.
9. A quiet burner will be used on the asphalt batch plant.
10. Any shop buildings will be located more than 200 feet from the O'Neal residence.
11. The applicant will operate within the noise and air quality standards set by the Oregon Department of Environmental Quality (DEQ) and all other local, state, and federal regulations.
12. The applicant will limit operations that have potential for significant dust emissions to conditions where the soils are damp or when wind velocities are low. In addition, the operation will use watering systems as necessary to moisturize materials and reduce dust emissions.
13. The site will operate subject to approved erosion and sediment control plans and the applicable regulatory standards, enforcement procedures, and administrative rules of DOGAMI and DEQ.
14. The property is subject to and will remain subject to the fire prevention measures contained in the Douglas County Fire siting Standards Covenant to assure the site will meet reasonable fire prevention measures. Such measures are in addition to federal mine safety regulations that apply to the site.

A copy of the Douglas County Planning Commission Findings of Fact and Decision are enclosed with this notice. This document was signed by the Douglas County Planning Commission Chairman on January 18, 2007. This decision will become effective eleven (11) days from the date the decision was signed unless review is sought pursuant to Section 2.500 of the Douglas County Land Use and Development Ordinance.

An information sheet for appeal is enclosed with this notice.

Enclosures

**INFORMATION SHEET
APPEAL OF A PLANNING COMMISSION DECISION**

This form is designed to assist people who wish to appeal a decision of the Douglas County Planning Commission.

The Douglas County Land Use and Development Ordinance, Section 2.500, provides a strict procedure which must be followed to appeal a decision regarding land use matters. This procedure must be followed or an appeal cannot be accepted.

To appeal a Douglas County Planning Commission decision requires:

1. Filing a written Notice of Review with the Planning Director no later than 10 days from the date of the decision sought to be reviewed.
2. The Notice of Review shall contain:
 - a. A reference to the decision sought to be reviewed;
 - b. A statement as to how the petitioner qualifies as a party;
 - c. The specific grounds relied upon in the petition request for review; and
 - d. The date of the decision sought to be reviewed.
3. The Notice of Review shall be accompanied by a non-refundable fee of \$250.00. The Appellant shall also pay a copy fee to cover the cost of making a duplicate of the hearing record (such fee to include costs related to preparation of the record). Checks should be payable to the Douglas County Treasurer.

The Board of Commissioners reviews, at a public hearing, the Notice of Review from the decision made by the Douglas County Planning Commission. Notice of the time and place of the review, together with any notice of review filed, shall be mailed to parties at least (10) days prior to the date of review. The Board of Commissioners may remand the matter to the Planning Commission for additional information, or they may affirm, reverse, or modify the decision of the Planning Commission. The Board will state their findings in writing and all parties to the review will be sent copies.

Please contact the Planning Department if you have questions or wish assistance in preparing or participating in an appeal.

Revised 02/01

BEFORE THE PLANNING COMMISSION OF DOUGLASS COUNTY

**FINDINGS, CONCLUSION, AND RECOMMENDATION
TO THE BOARD OF COMMISSIONERS**

Planning Department File No. 06-030

REQUEST for a Comprehensive Plan Amendment to add a site to the Douglas County Mineral Resources Inventory (MRI) and to permit mining of the site, and for a Zone Change.

APPLICATION OF HY-MT ROCK, LLC

PROPERTY located on the north side of Gazley County Road No. 35, just north of the city limits of Canyonville, and described as Tax Lot 100, 300 & 800 in Section 16 and Tax Lot 100 in Section 21A, Township 30 S, Range 5W, W.M.; Property ID Nos. R29074, R29114, R29106, R 30618, & R30626, containing 245.10 acres; with the mining site described as Tax Lot 100, 300, and the west half of Tax Lot 800 in Section 16 containing 150± acres, and with accessory uses supporting mining operations to be conducted on the remaining land area.

OVERLAYS are 100 Year Floodplain and Riparian Vegetation Corridor and the property is within the boundaries of the South Umpqua Planning Advisory Committee (PAC).

I. The Application

This Application of HY-MT ROCK, LLC for a Comprehensive Plan Amendment to add a site to the Douglas County Mineral Resources Inventory (MRI) and to permit mining of the site as more particularly described in the application, which is located within the 245.10 acre tract described above as the Property, and for a Zone Change, has been heard by the Planning Commission for Douglas County, as Planning Department File No. 06-030.

II. The Record

The record in this proceeding includes, but is not limited to, the original application document, the April 13, 2006 Staff Report and supplemental Staff Reports filed thereafter, all supplements and amendments to the application, all written materials submitted by the applicants and their representatives, the written correspondence and communications submitted by all parties and their representatives, the public hearing notices, all witness statements and presentations in the public hearings, and all the written and recorded records of the public hearings which have occurred. In addition, the Planning Commission conducted a site visit at the request of the opponents and the direct observations made by the Commission members of the physical characteristics of the site are duly considered.

III. The Criteria

The criteria of OAR 660-023-0180 are set forth in the April 13, 2006 Staff Report and the provisions of OAR 660-023-0180 are applied in consideration of the application.

IV. The Nature of the Request

The applicant, HY-MT ROCK, LLC is requesting a Post-Acknowledgement Plan Amendment, an amendment to the Douglas County Comprehensive Plan, to add a site to the Douglas County Mineral Resources Inventory (MRI) and to permit mining of a 150 ± acre portion (the site) located within a 245.10 acre tract located on Gazley Road, and as more particularly described in the application as amended, together with a request for a Zone Change to apply the Mineral Resources Overlay to the mining site.

The request is considered made under the provisions of Goal 5 Oregon Administrative Rule for Mineral and Aggregate Resources, OAR 660-023-0180 which establish the criteria for consideration of large-scale sites determined to be significant resource sites that are to be added to an Inventory, and the process standards for permitting mining of the site.

The subject site proposed for addition to the Douglas County Mineral Resources Inventory is a large-scale site, estimated by the applicant to exceed 92 million tons, therefore, the addition of the site and authorization to mine the site would be accomplished with the requested amendment.

V. Official Notice

The Douglas County Planning Commission takes official notice of the following:

1. The Douglas County Comprehensive Plan, including the Douglas County Land Use and Development Ordinance, as amended, which has been acknowledged by the Land conservation and Development Commission of the State of Oregon, Oregon law and Administrative Rules.
2. The records of the Douglas County Planning Department concerning the publication and mailing of notice of the public hearings on this matter.

VI. Findings and Conclusions of the Douglas County Planning Commission

1. Procedural Findings of Fact

The initial procedural findings of fact are set out in the staff report dated April 13, 2006, and thereafter in the supplemental staff reports submitted into the record, and except as may be otherwise addressed or expanded upon in these Findings, the Planning Commission for Douglas County:

Finding No. 1

Adopts and incorporates herein those Procedural Findings of Fact as set forth in the Staff Report dated April 13, 2006 and as thereafter set forth in the Supplemental Staff Reports to the Commission.

2. Location of the Subject Site

The property is described in the Staff Report and is more particularly described in the application as amended, and in supplemental materials, area maps, plat maps, and aerial photos, and including the reports and studies submitted by the applicant and accepted into the record in support of the application:

Finding No. 2

The subject property is located on the north side of Gazley County Road No. 35, just north of the city limits of Canyonville, and described as Tax Lot 100, 300 & 800 in Section 16 and Tax Lot 100 in Section 21A, Township 30 S, Range 5W, W.M.; Property ID Nos. R29074, R29114, R29106, R 30618, & R30626; with the mining site described as Tax Lot 100, 300, and the west half of Tax Lot 800 in Section 16, and with accessory uses supporting mining operations conducted on the remaining land area.

3. Determination of Significance, Large-scale Sites Greater than 500,000 tons.

The quantity and quality of the subject site is set forth in the Findings of the Staff Report and in the studies submitted by the applicant in support of the application, which evidence is incorporated herein by this reference. The assertion by the opponents that the evidence is inadequate as to the location, quantity, or quality of the site or that the evidence does not meet the criteria for a significant large scale aggregate site has been considered by the Planning Commission but the Planning Commission finds that the information submitted by the applicant is adequate to demonstrate that the site meets the criteria for a significant large scale aggregate site:

Finding No. 3

The applicant has submitted adequate information as to the location, quality, and quantity, of the site and the site must be considered significant under the provisions of OAR 660-023-0180 (3) (a)

4. Determination of Soil Classifications of the Mining Site

The Finding of the Staff Report as to the soil classifications of the mining site is consistent with the persuasive additional evidence submitted into the record and that evidence is considered in determining that site does not exceed the criteria for Class I or Class II or Unique soils or any combination of such soils:

Finding No. 4

Less than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource Conservation Service (NRCS) maps on June 11, 2004; and less than 35 percent of the proposed mining area consists of soil classified as Class II or of a combination of Class II and Class I or Unique soil, on NRCS maps available on June 11, 2004; with such NRCS soils maps indicating the site is composed entirely of Class 6 and Class 7 soils.

Planning Commission Conclusion

The Planning Commission determines that the Subject Site is a Significant, Large-scale Aggregate Resource Site exceeding 500,000 tons under OAR 660-023-0180 (3).

5. Determination of the Impact Area for Identifying Conflicts with Proposed Mining and Processing Activities.

The record and file in this matter identifies the uses as set forth in OAR 660-023-0180 (5) (b) that are within 1,500 feet of the boundaries of the mining area and further includes all significant potential conflicts beyond this distance. The aerial photographs, plat maps, maps and illustrations to studies of the site, submitted by the applicant into the record meet the criteria for identification of the impact area:

Finding No. 5

The impact area for purpose of identifying conflicts with proposed mining and processing activities is determined to be 1,500 feet from the boundaries of the mining area as described in the application, except where reports and studies supplementing the application also describe an additional impact area where there are significant potential conflicts with existing or approved land uses.

6. Determination of Existing or Approved land Uses within the Impact Area that will be Adversely Affected by Proposed Mining Operations and those Predicted Conflicting Uses.

a. Conflicts due to Noise, Dust, Other Discharges

The record demonstrates that there is not a conflicting use for residential dwellings within the 1,500 foot impact study area around the boundaries of the mining area. The only dwelling located within the impact area is used in support of mining and processing of aggregate on the adjoining property. There are no schools, hospitals, or other types of uses that would likely be impacted by the levels of noise, dust, or other discharges, that could potentially emanate from the site.

The applicant has identified potential noise, dust, and other discharges, that may conflict with the existing or approved land uses outside of the 1,500 foot impact area from the boundaries of the mining area, if operations at the mine area were to be performed without mitigation measures to minimize such conflicts.

The opponents' representatives have asserted adverse impacts will result from noise, dust, and other discharges that will conflict with the existing or approved land uses both with 1,500 feet and beyond that distance from the boundary of the mining site.

The opponents' representatives asserted that the proposed operation has numerous significant potential conflicts with existing or approved land uses both within and beyond 1,500 feet from the boundaries of the mining area. The opponents assert that these significant potential conflicts will impact air quality, impact drainages, watersheds, surface waters, well and ground waters, increase sedimentation of water ways, impact fish populations and their habitat, impact bird populations and their habitat, impact other wildlife, impact wetlands, cause offensive nighttime lighting, impacts from blasting vibration, impact the property rights of others, visual impacts, impact farm and forest practices on adjoining lands and increase the cost of such practices, impact fire hazards and fire suppression cost, and asserted other impacts as described in the record; all resulting from the operations proposed at this site. Each of these assertions of an impact was considered and evaluated within the criteria set forth in OAR 660-023-0180, and other applicable laws and regulations.

- i. The potential conflicts due to noise, dust, and other discharges that potentially conflict with existing or approved uses were each considered and the reports submitted by the applicant in support of the application and observations made during the site visit were found to be persuasive as to both the impact and the appropriate measures necessary to minimize such impacts.
- ii. The potential conflicts and impacts on drainages, watersheds, surface waters, well and ground waters, sedimentation of waterways, etc., were each considered and the reports submitted by the applicant in support of the application and observations made

- during the site visit were found to be persuasive as to the impact and the appropriate measures necessary to minimize such impacts.
- iii. The potential conflicts with and impacts on fish populations and their habitat, bird populations and their habitat, other wildlife, and wetlands, were each considered and the reports submitted by the applicant in support of the application and observations made during the site visit were found to be persuasive as to the impact and the appropriate measures necessary to minimize such impacts.
 - iv. The potential conflicts and impact due to nighttime lighting, and other visual impacts, were considered together with the measures proposed by the applicant to locate any shop building more than 200 feet from any current residence, to plant trees as a visual shield along the property line, and considered together with the observations made during the site visit, as well as the reports submitted by the applicant in support of the application. The reports submitted by the applicant and the observations made during the site visit were found to be persuasive as to the impact and the appropriate measures necessary to minimize such impacts.
 - v. The potential conflicts and impact due to blasting vibration, and other impact the property rights of others, were considered together with the measures proposed by the applicant to minimize any potential conflicts, and considered together with the observations made during the site visit, as well as the reports submitted by the applicant in support of the application. The reports submitted by the applicant were found to be persuasive as to the impact and the appropriate measures necessary to minimize such impacts.
 - vi. The potential conflicts and impact farm and forest practices on adjoining lands and increase the cost of such practices, were considered together with the observations made during the site visit as well as the reports submitted by the applicant in support of the application. The reports submitted by the applicant were found to be persuasive as to the impact and the appropriate measures necessary to minimize such impacts.
 - vii. The potential conflicts and impact on fire hazards and fire suppression cost, and other asserted impacts as described in the record were considered together with the measures proposed by the applicant to minimize such conflicts, and the observations made during the site visit.
 - viii. The potential conflicts between the proposed asphalt batch plant and statutorily protected vineyards located within two miles of the site was considered. However, this objection did not identify the location or the area of such vineyards in a manner sufficient to meet the criteria for consideration of vineyard operations. The reports of the consultants, submitted on behalf of the applicant, stating they were unable to find evidence of such vineyards, persuade the Commission that there are not vineyards in the area that make this a material issue.

The Planning Commission having carefully considered all of the potential conflicts and impacts:

Finding No. 6

There are significant potential conflicts due to noise, dust, and other discharges with regard to those existing and approved uses and associated activities (e.g. houses) that are sensitive to such discharges from mining operations, the proposed concrete batch plant, the proposed asphalt batch plant, and other accessory uses as proposed in the application.

b. Potential Conflicts to Local Roads Used for Access to the Site

The applicant submitted a Traffic Impact Study prepared by a certified traffic engineer that assessed the impact and potential conflict to the local roads that are used for access and egress to the mining site within one mile of the entrance to the mining site. The opponents' representative asserted that the roadway was not of adequate width, has insufficient shoulder area, and as a result there would be an increased risk of accidents, and impacts to foot and bicycle traffic on the roadways:

Finding No. 7

The potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site are adequately addressed and set forth in the Traffic Impact Study submitted by the Applicant and the report adequately supports a finding that the proposed operations will not have any significant impact on the local roads within a one-mile radius of the site.

c. Potential Conflicts with Existing Airports.

Based upon a review of the record and the evidence submitted by the applicant and the opponents:

Finding No. 8

The proposed operation will not create safety conflicts with existing public airports due to bird attractants.

- d. Potential Conflicts with other Goal 5 resource sites within the impact area.

Based upon a review of the record and the evidence submitted, and after full consideration of the opponents assertions of an impact on various drainages, watersheds, surface waters, well and ground waters, increase sedimentation of water ways, impacts on fish populations and their habitat, impacts on bird populations and their habitat, impacts on other wildlife, and impacts on wetlands, but also considering the studies and reports conducted by the applicant and the lack of supporting information indicating any acknowledged list of significant Goal 5 resource sites that are located within the impact area:

Finding No. 9

The proposed operation will not create conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources.

- e. Potential Conflicts with agricultural practices.

The impact on farm and forest practices on adjoining lands has been considered, including any conflicts resulting from the potential impact on the drainages, watersheds, surface waters, well and ground waters that might in turn affect agricultural practices:

Finding No. 10

The proposed operation will not create conflicts with agricultural practices or increase the cost of such practices.

- f. Other Conflicts

Reviewing the record for other conflicts for which consideration is necessary in order to carry out ordinances that supersede DOGAMI regulations, and considering opponents assertion of other unspecified conflicts:

Finding No. 11

There are no identified conflicts for which consideration is necessary to carry out ordinances that supersede DOGAMI regulations.

7. Determination of Reasonable and Practicable Measures that Minimize the Identified Conflicts.

The application on file in this matter, as amended, and as supplemented with studies and reports, identifies the conflicts set forth in OAR 660-023-0180 (5)(b) that are within 1,500 feet of the boundaries of the mining area and all significant potential conflicts beyond this distance. The application as amended includes reasonable and practicable measures that minimize all identified conflicts. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site as set forth in OAR 660-023-0180 (5) (c):

Finding No. 12

Reasonable and practicable measures have been and are identified to minimize all identified conflicts and mining, processing, a concrete batch plant, an asphalt plant, and other accessory uses as described in the application, shall be allowed subject to the identified measures.

Planning Commission Conclusion

The Planning Commission determines that the Subject Site is a Significant, Large-scale Aggregate Resource Site exceeding 500,000 tons under OAR 660-023-0180 (3) where reasonable and practicable measures to minimize all identified conflicts have been identified, and mining, processing, a concrete batch plant, an asphalt plant, and other accessory uses as described in the application, shall be allowed at the site.

8. Determination on Request for a Zone Change

The applicant is requesting a corresponding zone change to apply the Mineral Resources Overlay (MO) to the subject 150 +/- acre mining and processing area, pursuant to LUDO§3.32.100:

Finding No. 13

Application of the Mineral Resources Overlay to the mining and processing site is consistent with the Plan Amendment to add a significant site to the Douglas County Mineral Resources Inventory consistent with the determination that the site is significant and the allowing of mining at the site. Findings regarding "site suitability" and "conscious consideration of public health, safety and welfare" are contained in the preceding findings addressing the Rule criteria for authorization to mine the site.

9. Determination of Special Conditions Regulating Mining of the Site.

Reasonable and practicable measures are identified to minimize all identified conflicts as follows:

Finding No. 14

The determination of the special conditions, measures to minimize identified conflicts, and procedures regulating the mining of the site is as follows:

1. The applicant shall obtain an access permit from Public Works confirming that the access point on Gazley County Road, from which the existing haul road emanates, meets current County Standards.
2. The days and hours of the mining operation shall be limited to Monday through Saturday, 7:00 a.m. to 5:00 p.m., with blasting allowed once per week. A sign shall be placed on Gazley Road giving 48 hours notice of any proposed blast. The crushing/processing operation may occur 7 days a week from 7:00 a.m. to 3:00 a.m. No aspect of the mining processing operations shall occur on legal (Douglas County) holidays.
3. To control congestion, trucks exiting the subject property onto Gazley Road shall be required to stop at a weigh station to collect a weight load ticket.
4. The stop sign at the haul road's entrance onto Gazley Road and warning signs along Gazley Road alerting traffic of trucks entering the highway shall be maintained for the duration of mining and processing operations on the subject property.
5. The use shall continue to operate under active Department of Geology and Mineral Industries (DOGAMI) and Department of Environmental Quality (DEQ) permits.
6. Any future structural development authorized as an accessory facility to the mining and processing operation shall meet the minimum 50 foot structural setback requirement of the Riparian Vegetation Corridor Overlay, unless a lesser standard is authorized by the Oregon Department of Fish and Wildlife.

In addition to the above Special Conditions, Measures, and Procedures, the Commission has considered and adopted the following Special Conditions, Measures and Procedures based upon the application as amended and the supplemental evidence submitted into the record.

7. The applicant planting fir trees, every 10 feet, along an undeveloped parcel of land located between the access roadway and the O'Neal property.
8. The applicant paving the access road for a distance of 1,800 feet from Gazley Road toward the mining site.
9. To use a quiet burner on the asphalt batch plant.
10. To locate any shop buildings more than 200 feet from the O'Neal residence.
11. To operate within the noise and air quality standards set by the Oregon Department of Environmental Quality (DEQ) and all other local, state, and federal regulations.
12. To limit operations that have potential for significant dust emissions to conditions where the soils are damp or when wind velocities are low. In addition, the operation will use watering systems as necessary to moisturize materials and reduce dust emissions.
13. The site will operate subject to approved erosion and sediment control plans and the applicable regulatory standards, enforcement procedures, and administrative rules of DOGAMI and DEQ.
14. The property is subject to and will remain subject to the fire prevention measures contained in the Douglas County Fire Siting Standards Covenant to assure the site will meet reasonable fire prevention measures. Such measures are in addition to federal mine safety regulations that apply to the site.

Planning Commission Conclusion

The Planning Commission determines that the Subject Site is a Significant, Large-scale Aggregate Resource Site exceeding 500,000 tons under OAR 660-023-0180 (3) where reasonable and practicable measures to minimize all identified conflicts have been identified to minimize all identified conflicts, and mining, processing, a concrete batch plant, an asphalt plant, and other accessory uses, shall be allowed at the site.

Based upon all of the evidence properly introduced into the record, and in accordance with the foregoing analysis and discussion, we find the applicant has met the applicant's burden of proving compliance with all of the criteria germane to the application.

We approve the application as amended and subject to the above stated conditions.

Decision of the Douglas County Planning Commission

Based upon the above stated Findings and Conclusions, the Planning Commission of Douglas County, State of Oregon, concludes that the application as amended should be approved, subject to the above stated conditions, and that the Douglas County Board of Commissioners should approve the application as amended, subject to the above stated Conditions.

DATED this 18th day of January, 2007.

DOUGLAS COUNTY PLANNING COMMISSION

By: David Jacques
Chairman