



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

04/26/2011

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 005-10

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: Friday, May 13, 2011

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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

DATE STAMP

DEPT OF

APR 22 2011

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: **Linn County**

Local file number: **BC10-0004**

Date of Adoption: **04/19/2011**

Date Mailed: **04/21/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 11/24/2010

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 37.1-acre portion of a 84.11-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 37.1-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: **EFU**

to: **EFU - ARO**

Location: **13S-01W-13-00100**

Acres Involved: **37.1**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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**



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816, Fax 541-926-2060
www.co.linn.or.us

NOTICE OF ADOPTION

RESOLUTION NO: 2011-101
ORDINANCE NO. 2011-102
PLANNING FILE NO: BC10-0004
APPLICANT Myles Conway (Weber Pit)

PROPOSAL

Applications by Myles Conway of Schwabbe, Williamson & Wyatt, P.C., for a *Comprehensive Plan* text amendment to include a 37.1-acre portion of an 84.11-acre property in the Linn County aggregate inventory as a significant aggregate resource site, an Aggregate Resource Overlay (ARO) zone map amendment, and a development permit for aggregate mining and processing. The proposed development permit would authorize the mining, crushing, processing, batching, stockpiling, blasting and hauling of aggregate within the proposed 37.1-acre resource site. The property is identified as T13S, R01W, Section 13, Tax Lot 100; and is zoned Exclusive Farm Use (EFU). The proposed mining site is located on the east side of Berlin Road at its intersection with Skyline Road, Sweet Home.

Board Action: Resolution and Order No. 2010-139

The Linn County Board Of Commissioners approved *Resolution and Order No. 2011-101* to: (1) Approve the Findings and Conclusions supporting the Board decision; (2) Order that the applications be approved as proposed to include the identified 37.1-acre portion of the subject 84.11-acre property in the Linn County aggregate inventory as a significant aggregate resource site with all conflicts minimized; (3) apply the aggregate resource overlay (ARO) to the mining 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. 2011-0102* to: (1) Amend the Linn County *Comprehensive Plan* text to include the subject 37.1-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.

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. 2011-101 and Ordinance No. 2011-102 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

4/20/11

Robert Wheeldon
Director

Date

c: Myles Conway, Kenneth and Renaye Weber, DLCD, DOGAMI,DEQ, DSL, Linn County EHP. Linn County Road Department, State Fire Marshal, ODOT, Cal Emmert, Rodger Emmert, Richard Ball, Manuel and Carolyn Coelho, David and Patricia Costelow, Gilbert and Elizabeth Davis, William and Angela Helliwell, Allen and Teri Lowery, John and Laurie Martin, Terry and Roberta Mccalister, William and Connie Moyer, Sandra Poto, Brenda Ross, Larry and Defina Wilson, Gilbert Withrow, Ivan and Rebecca Wolthuis, Edward Coulter, Glen Davis, David Poto, Carl Weinbrecht, Harvey and Lauri Carlson, Darrell and Connie May, Verdin Davis, Tina Larsen, John and Laurie Martin, Diane Parker, Grant Smith,

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY

IN THE MATTER OF AMENDING THE)
LINN COUNTY COMPREHENSIVE)
PLAN TEXT AND THE LINN COUNTY)
ZONING MAP)

ORDINANCE NO. 2011-102
(Amending Code)
(Planning & Building Department BC10-0004)

WHEREAS, The Linn County Planning Commission held a duly advertised hearing on January 11, 2011 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 February 2, 2011, 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 continued the hearing to March 9, 2011 and allowed any interested party to provide written testimony by February 16, 2011 at 5:00pm and allowed the applicant to respond in writing by March 2, 2011 at 5:00pm.

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. 2011-101 and entitled Exhibit 1, (Resolution and Order No. 2010-139; Planning File BC10-0004; CONWAY, Myles; Weber Pit; 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 5, entitled *Inventory of Significant Sites Without Conflicting Uses (Privately Owned Aggregate Sites)* be amended to delete the following subsection and text:

5514 Wildish Corvallis/Weber T13S R01W S13, TL 100

Section 2. 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:

6006 Weber Pit T13S R01W S13, TL 100; Acreage: 37.1 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:

905.6006 Weber Pit

(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. 2011-101. 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 BC10-0004.

(2) Inventory Information.

(a) The resource site is a 37.1-acre portion of a 84.11-acre property identified on Linn County Assessor maps as T13S R01W S13, TL 100. The site is in an Exclusive Farm Use zoning district, and located on the east side of Berlin Road at its intersection with Skyline Road, Sweet Home. The 37.1-acre extraction area added to the inventory is a new Goal 5 resource site and processing facility, located at 28827 Berlin Road, Sweet Home, Oregon.

(b) The area added to the inventory contains an estimated 2,968,000 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 125 feet. The 37.1-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 Berlin Road 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 Berlin Road. 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 2011-101 establish that all identified potential conflicts with the Weber Pit 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 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. 2011-101 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 forth in Resolution and Order No. 2011-101.

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 2011-101.

(E) Post-mining Use and Reclamation.

The proposed post-mining use is farm use 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. Land uses within the impact area are not restricted beyond limitations already contained in the code. The plan establishes conditions for operations within the mining 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) mining area designation to the significant 37.1-acre resource site identified as portions of Linn county Assessor maps T13S R01W S13, TL 100. (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 March 9, 2011.

Adopted and passed March 9, 2011.


The effective date of this Ordinance shall be April 20, 2011.

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

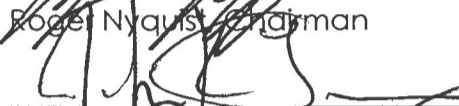
Signed April 19, 2011

Steve Druckenmiller,
Linn County Clerk
Recording Secretary

By _____



Roger Nyquist, Chairman



John K. Lindsey, Vice Chairman



William Tucker, Commissioner

Voting
For Against



X _____

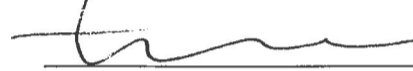
X _____

APPROVED AS TO CONTENT:



Robert Wheeldon
Linn County Planning and Building Director


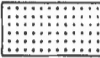

APPROVED AS TO FORM:



Thomas N. Corr
Linn County Attorney

Linn County Planning & Building Department



-  taxlots
-  ARO - IMPACT AREA
-  ARO EXTRACTION AREA

BC10-0004 ; WEBER PIT; CONWAY
13S01W13 00100
WEBER KENNETH & RENAYE
84.11 acres



Date: 03/03/2011



1 inch = 700 feet

**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. 2011-101**
(Planning and Building Department BC10-0004)
(Findings and Conclusions)

WHEREAS, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on February 2, 2011 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 37.1-acre portion of the property identified as Tax Lot 100 on Assessor map T13S, R01W, Section 13, 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 January 11, 2011;

WHEREAS, The Board, held the record open for 14 days, until February 16, 2011 for new written testimony only;

WHEREAS, The Board, held the record open for an additional 14 days, until March 2, 2011, for the applicant's written rebuttal;

WHEREAS, The Board, reconvened on March 9, 2011 and after considering all testimony and evidence submitted, reached a consensus to adopt the proposed *Comprehensive Plan* text amendment and proposed Zoning Map amendment, and to permit the mining and processing of aggregate on the property;

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. 2011-101; Planning File BC10-0004; Myles Conway; Weber Pit; Decision Criteria, Findings and Conclusions);

WHEREAS, The Conditions of Approval are to minimize identified conflicts and to supplement the County's program to achieve Goal 5 compliance for the Weber Site are attached hereto as Exhibit 2 (Resolution and Order No. 2011-101; Planning File BC10-0004; Conditions of Approval and Site-specific Program to Achieve Goal 5; Myles Conway; Weber Site); and 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. 2011-101; Planning File BC10-0004; Myles Conway; Weber Site; Decision Criteria, Findings and Conclusions) and Conditions of Approval in Exhibit 2 (Resolution and Order No. 2011-101; Planning File BC10-0004; Conditions of Approval and Site-specific Program to Achieve Goal 5; Myles Conway; Weber Site); and

ORDERED, That the applications be approved to include a 37.1-acre portion of the subject 84.11-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) 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 37.1-acre portion of the property identified on Linn County Assessor maps as Tax Lot 300 on Assessor map T13S, R01W, Section 13 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 37.1-acre portion of the property identified on Linn County Assessor maps as Tax Lot 100 on Assessor map T13S, R01W, Section 13, 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) mining area to the 37.1-acre portion of the property identified on Linn County Assessor maps as Tax Lot 100 on Assessor map T13S, R01W, Section 13 that is identified as a significant aggregate resource site, as delineated in Exhibit 1, Attachment A; and

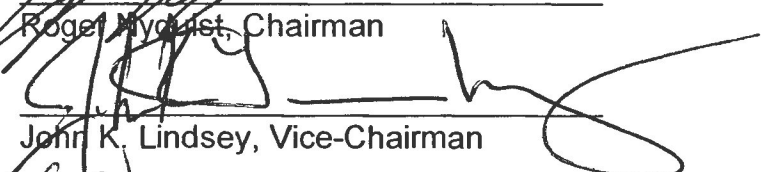
ORDERED, That the proposed Zoning Map amendment be prepared for adoption to apply the Aggregate Resource Overlay (ARO) impact area boundary to designated land that is within 1500 feet of the identified ARO mining area boundaries, with no additional restrictions other than those established by existing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

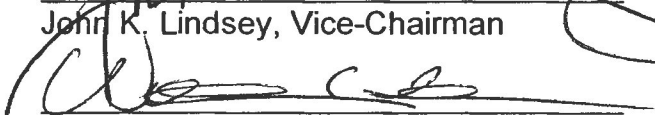
ORDERED, That a development permit be issued to authorize aggregate mining and processing on the 37.1-acre portion of the property identified on Linn County Assessor maps as Tax Lot 100 on Assessor map T13S, R01W, Section 13, that is identified as a significant aggregate resource site, consistent with 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 19th, day of April, 2011.

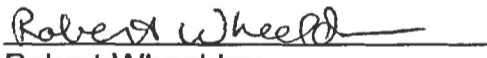
BOARD OF COUNTY
COMMISSIONERS FOR LINN
COUNTY


Roger Nyquist, Chairman


John K. Lindsey, Vice-Chairman


William Tucker, Commissioner

APPROVED AS TO CONTENT:


Robert Wheeldon
Linn County Planning and Building Director

APPROVED AS TO FORM:

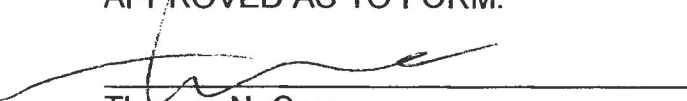

Thomas N. Corr
Linn County Attorney

EXHIBIT 1
Resolution and Order No. 2011- 101
Planning File BC10-0004
Myles Conway
Weber Quarry Site
Decision Criteria, Findings and Conclusions

I. APPLICATION SUMMARY

- A. A Comprehensive Plan (Plan) text amendment application to include a 37.1 acre portion of an 84.11 acre property in the Linn County aggregate inventory as a significant aggregate resource site (shown on attachment).
- B. An aggregate resource overlay (ARO) zone amendment application to apply the ARO to the 37.1-acre resource site and the associated mining impact area. Mining and processing is an allowed use in the ARO (shown on attachment).
- C. A development permit application for aggregate mining and processing on the resource site consistent with adopted provisions in the Plan and the ARO.
- D. A copy of the complete application, the supplemental materials submitted by the Applicant in connection with this proceeding and the Staff Report prepared by the Linn County Planning and Building Department can be found in the record.

II. DECISION CRITERIA

The Board finds that the Plan text amendment to include a 37.1 acre portion of an 84.11 acre property in the Linn County aggregate inventory as a significant aggregate resource site complies with the criteria in *Linn County Code (LCC) 921.872; LCC 939.010 to 939.200; and LCC 921.540 to 921.569.*

The Board finds that the application of the aggregate resource overlay (ARO) zone amendment to apply the ARO to the 37.1-acre resource site and the associated impact area complies with the criteria in *LCC 939.010 to 939.200.*

The development permit shall comply with the Plan and the criteria in *LCC 933.310 and the operating standards in LCC 934.350 to 934.359*

III. FINDINGS

A. Proposal Summary

The subject property is owned by the Kenneth & Renaye Carol Weber Trust. The quarry is operated by Liberty Rock Products. The property is identified on Linn County Assessor maps as T13S, R01W, Section 13, Tax Lot 100; is zoned Exclusive Farm Use (EFU); and is located on the east side of Berlin Road at its intersection with Skyline Road, Sweet Home.

The applicant seeks authorization to expand the existing 33-acre quarry by four additional acres and to amend the Comprehensive Plan (Plan) designation of the 37.1-acre resource site to include the site in the aggregate inventory as a significant site with all conflicts minimized.

The County previously authorized the subject property for aggregate mining and processing by the Linn County Board of Commissioners (Board) Order 81-206 (CU-83-80/81) and later modified by Board Order 97-540 (CU-83-96/97). The existing conditional use permit authorizes extraction and processing of a 33-acre portion of the 84.11 acre property. The Linn County Comprehensive Plan identifies a 33-acre mining area on the subject property. The subject property is currently listed on the County Comprehensive Plan as site 5514 (Wildish Corvallis/Weber) as a privately owned aggregate site (Significant Site without conflicting uses- formerly "2A" Site).

Based on the findings contained herein, the Board designates the subject property as a "significant" aggregate resource site under OAR 660-023-0180(3) and LCC 939.120. An aggregate resource site is "significant" if a representative set of samples of aggregate material in the deposit on the site meet 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 record contains evidence and reports from a certified engineering geologist demonstrating that the amount of aggregate materials at the site exceed the threshold for a significant site. In addition, the record contains evidence taken from the sampling of materials on site that demonstrates that aggregate materials exceed all ODOT specifications for air degradation, abrasion and sulfate soundness.

The Planning Commission (Commission) conducted a public hearing on the applications on January 11, 2011. At the close of the hearing the Commission adopted a motion to recommend that the Board of Commissioners approve the application and include the resource site in the "Inventory of Significant Sites with all Conflicts Minimized (Appendix 6)," apply the Aggregate Resource Overlay (ARO) to the resource site, and approve an operating permit to mine the property subject to compliance with 11 identified mining requirements and 12 separate operating conditions intended to minimize conflicts with surrounding land uses.

Based on the findings referenced herein, the Board finds the subject property to be a "Significant Site with all Conflicts Minimized (Appendix 6)." The Board finds that the conditions of approval specified in Exhibit 2 are reasonable and practical measures that would minimize any conflicts between the mining and processing operations and existing/approved land uses within the vicinity of the site that were identified in the land use process.

B. Inventory Classification (LCC 939.120)

The subject property is identified on Linn County Assessor maps as tax lot 100, Section 13, T13S, R01W. The site is located on the east side of Berlin Road at its intersection with Skyline Road in Sweet Home. The resource site encompasses

approximately 37.1 acres of the 84.11 acre property and contains the existing quarry that is operating under a conditional use permit first issued by Linn County in 1981. The record shows that this quarry has operated since the early 1940's and its operation pre-dates the adoption of State and County rules governing the extraction and processing of aggregate resources. The aggregate resource area includes the northern 37.1 acres of the subject property.

The application contains the results of laboratory testing of a representative sample of aggregate material 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 a stamped report prepared by Douglas C. Shank, a certified engineering Geologist, stating that nearly 3 million tons of aggregate material could be mined from the site utilizing the setback and operational requirements and limitations specified for the site. This amount is greater than the significance threshold of 2,000,000 tons or 1.5 million cubic yards in LCC 939.120(B)(2) to include the property in the inventory as a significant aggregate resource site.

The property contains soils that are classified as predominately classes III, IV and VI by the Soil Conservation Service (SCS). Evidence in the record demonstrates that the significance criteria in LCC 939.120(C) do not apply to this property.

The applicant has established the location, quantity and quality of the resource as meeting the requirements of the Goal 5 rule and County Code. 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 1500 feet from the boundaries of the proposed mining area, except where factual information is adequate to indicate significant potential conflicts beyond this distance. Based on the information contained in the record, the Board finds that the 1500 foot impact area specified in OAR 660-023-0180(5) and LCC 939.130(A)(1) fulfills the purpose of identifying conflicts with proposed mining and processing activities. The Board finds that factual information contained in the record does not indicate significant potential conflicts with the proposed mining and processing operation beyond the 1500 foot impact area specified by rule and ordinance. The Board finds that the designated impact area is consistent with the provisions in LCC 939.130(A).

Impact: The following is a general description of land uses within the designated impact area:

North:

Exclusive Farm Use and Farm Forest Zoning Districts:

There are seven dwellings and no businesses or schools within 1,500 feet of the aggregate resource area. To the north there is a mix of farm and forest uses. Beyond the 1500-foot boundary, properties are zoned Forest Conservation Management and contain commercial forestry operations. Land uses within the impact area to the north are: approximately 160 acres of timber, approximately 19 acres of row crops, and property used in conjunction with existing dwellings.

West:

Farm / Forest and Rural Residential 5 Acre Minimum Zoning Districts:

There are thirteen existing dwellings and no businesses or schools within 1,500 feet west of the aggregate resource area. There are two additional quarries located to the east of the subject property. The majority of the land is developed into single family dwellings and uses associated with dwellings.

South:

Farm / Forest and Exclusive Farm use Zoning Districts:

There are no dwellings, businesses or schools within 1,500 feet south of the aggregate resource area. The majority of the area to the south is pasture. There are approximately 40-acres of timber located directly south of the subject property.

East:

Farm / Forest Zoning District:

There are no dwellings, businesses or schools within 1,500 feet of the aggregate resource area. The property to the east is mostly in timber production and pasture.

D. Conflicts with Surrounding Land Uses

The proposed development plan and the specific operating plan for the existing and proposed mining area operation are described in detail in the application materials and the staff report prepared by the Linn County Planning and Building Department. Based on a review of those documents, the correspondence submitted by neighboring property owners and testimony provided at hearings before the Planning Commission and Board, the Board has identified the following potential conflicts that are associated with the existing and proposed mining operation on the subject property: (1) conflicts due to noise, dust or other discharges, (2) potential conflicts to local roads and, (3) conflicts with agricultural practices. As referenced below, the Board finds that the identified conflicts are minimized by the application of the permit conditions specified in Exhibit 2 and required by this Order. The findings and operating conditions are described in detail below:

Noise

The record indicates that the potential noise sources from the site are the following: mining activity, aggregate crushing and processing operations, truck/equipment operations and blasting. The record indicates that noise

impacts associated with the application will be consistent with the noise levels generated at the site under the existing conditional use permit. No additional uses or operations are authorized under the proposed application. The record further indicates that noise impacts are likely to decrease for some surrounding property owners as mining operations move north into the existing hillside.

The Board finds that residential dwellings and other land uses within the designated impact area are adequately buffered from operations on the subject property. Individual properties located north of the subject property are buffered by the large rock wall that is the subject of the ongoing mining operation. The evidence shows that the wall provides a natural buffer to mitigate and minimize noise impacts associated with the operation. Property located south of the quarry is buffered by the significant setback between mining operations and the southern property boundary. The record demonstrates that the southern portion of the subject property is planted with trees of varying ages that provide a natural buffer that mitigates and minimizes noise impacts associated with the mining operation. Active mining operations will be located a significant distance from the southern property line. As a condition of approval, the applicant has been required to retain the forested areas on site as a buffer between the quarry and nearby land uses. Properties to the east are zoned primarily for resource related uses (farm and forest zoning) and are also adequately buffered from noise associated with the mining operations. Properties to the west are buffered by required setbacks, the stated conditions of approval (Exhibit 2) and the right-of-way for Berlin Road.

The Board Order adopts a number of operating conditions that will minimize conflicts associated with noise. First, the applicant is required to maintain an excavation setback from property lines of no less than 75 feet. Second, the applicant's operation is limited to specified hours of operation that are specific to mining and processing activities, crushing and blasting activity. See Exhibit 2 Conditions of Approval. The designated operating hours will minimize noise conflicts on surrounding properties. Third, the applicant's operation is required to adhere to the applicable noise standards regulated by the Oregon Department of Environmental Quality. Under both state and local law, the applicant's adherence to applicable legal standards is sufficient to minimize an identified conflict in connection with the Goal 5 process. [See OAR 660-023-0180(1)(g): "minimize a conflict" means conformance with applicable legal standards; See also LCC 939.030(M).]

Dust

Based on evidence in the record and the testimony provided in public hearings, the Board finds that very minimal amounts of dust are associated with the proposed application. Aggregate mining in a basalt quarry creates minimal amounts of dust. Hearing testimony and comment letters did not identify significant issues related to the creation of dust from mining or processing operations at the subject location over its long history of active operations. The record demonstrates that dust levels are not expected to increase in connection with this application. The specific conditions of development approval that govern the current mining and processing operations on the subject property

(specified in CU-83-80/81) have proved to be effective in minimizing any conflicts associated with dust. The Board adopts the Conditions of Approval specified in Exhibit 2 attached hereto which incorporate the current operating conditions related to dust. 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. In addition, the applicant shall be required to obtain and maintain all permits necessary for the operation of the site, including but not limited to a permit issued by the Oregon Department of Geology and Mineral Industries (DOGAMI) and other state or federal permits needed in connection with the ongoing operation of the facility.

Blasting Activity

The record indicates that blasting activity conducted at the site potentially conflicts with surrounding land uses. Public testimony identified a number of concerns with blasting activity conducted at the site. The primary concern identified by project opponents is with the potential impacts to domestic water wells on surrounding properties. Issues/impacts related to water wells are discussed in greater detail below. Project opponents also identified conflicts related to the noise and vibration that are associated with blasting activity at the site. For the reasons set forth below, the Board finds that any noise and/or vibration impacts associated with blasting activity can be minimized through the imposition of the conditions of approval set forth in this decision.

Opponent testimony cited concerns with the potential impact of blasting on persons and structures in the vicinity of the subject property. The record demonstrates that the majority of those claims concerned past blasting activity on the site that was prior to and not in compliance with current limitations imposed under the existing conditional use permit. The Board finds that the conditions of approval specified herein are reasonable and practical measures that will minimize any conflicts associated with future blasting at the quarry. Moreover, the specific allegations of property damage contained in the record are not adequately supported by evidence or technical data. To the contrary, the applicant offered credible technical evidence that blasting activity conducted within or below the blasting standards promulgated by the National Fire Protection Association's Explosive Materials Code (NFPA 495) provide protection for structures and properties in the vicinity of the quarry.

The record demonstrates that blasting activity can be conducted at the site in a manner that will adequately protect structures on surrounding properties. A letter from the Department of Geology and Mineral Industries (dated February 11, 2011) notes that available literature from the blasting industry lists 2.0 inches per second as acceptable ground acceleration to avoid structural damage. The following conditions will work to minimize any conflicts associated with blasting activity. Any blasting activity must be conducted within the hours specified in Exhibit 2. The applicant is required to provide written notice of blasting activity to owners within 1500 feet of the ARO mining area boundary. Notice letters are required to be postmarked at least four days prior to blasting and shall indicate the date and estimated time of the scheduled blast. Any alteration to the blast

schedule shall require a minimum of 24 hours notice by mail, phone or hand delivery to each residence within the notice area.

Blasting at the quarry shall be designed and conducted in a manner which will not cause damage to surrounding properties. To ensure that safe ground vibration and air shock levels, based on accepted industry standards, are not exceeded, each blast at the quarry shall include seismographic monitoring and analysis at selected locations on surrounding properties. A minimum of three locations on nearby properties shall be monitored during each blast. The quarry operator shall be responsible to ensure the seismographic monitoring requirements are carried out. Blasting at the quarry shall be limited to 125 pounds of explosives per delay. Measured ground vibration during a blast shall not exceed 0.3 inches per second at any monitored location unless an alternative ground vibration standard is hereafter adopted by the Board. The measured peak air over pressure (air blast) shall not exceed U.S. Bureau of Mines guidelines of 134 decibels (db) at any monitored location on or around the quarry.

The hearing record and the history of blast monitoring at the quarry demonstrates that blasting activity conducted within the standards and conditions specified in this decision will minimize potential impacts and conflicts with surrounding properties. The blasting limitations specified herein are reasonable and practical measures that will minimize impacts within the impact area. The applicant will have the opportunity to request that the Board modify the blasting standards and limitations provided herein upon a showing to the Board that alternative blasting standards consistent with NFPA 495 can be implemented in a manner that is consistent with industry standards and provides adequate protection to properties within the designated impact area. The Board may at such time amend the blast design limitations and standards if the Board finds that it is in the public interest to apply the NFPA 495 blasting standards.

Impacts on Water Wells

The potential impact of blasting on domestic water wells falls outside the scope of the "impacts analysis" that is permitted under Goal 5 in connection with this application. Moreover, claims of negative impacts to area wells are contradicted by the findings and evidence evaluated by the Oregon Department of Geology and Mineral Industries and the Oregon Water Resources Department in connection with previous investigations of the existing mining operation.

Under both state and local law, alleged impacts to domestic water wells are not properly evaluated in connection with the Goal 5 process. The applicant has requested that the subject property be placed on the inventory of significant mineral and aggregate site under statewide planning Goal 5, utilizing the procedures specified in LCC Chapter 939. In connection with the Goal 5 process, the Board is required to identify conflicts with land uses in the impact area. The specific potential conflicts to be evaluated in this process are limited to the following: (a) conflicts due to noise, dust or other discharges; (b) potential conflicts to local roads used for access and egress to the site; (c) conflicts with

other Goal 5 resource sites; and (d) conflicts with agricultural practices. LCC 939.130(B)(4); See also OAR 660-023-0180(5)(b).

State law charges DOGAMI with the responsibility to regulate the applicant's mining operation and its potential impacts on groundwater resources in the vicinity of the quarry. ORS 517.835 provides that DOGAMI is charged with preventing and/or mitigating any off-site impacts to groundwater resources. The record in this proceeding demonstrates that DOGAMI has not made any findings that would substantiate a claim that mining operations and/or blasting activity at the site has impacted domestic water wells on surrounding properties. The Weber Quarry has operated under a permit issued by DOGAMI since 1972. During that time, DOGAMI has not documented any impact of the mine on domestic water wells.

The record contains a letter from DOGAMI to the current operator of the quarry (Cal Emmert of Liberty Rock Products) that provides a brief permitting and compliance history of the Weber Quarry. DOGAMI notes that current operator has not violated any term or condition of its Operating Permit since taking over operation of the quarry in 1992. The letter further notes that Mr. Emmert received DOGAMI's, "Outstanding Neighbor Award" in 2004 for his efforts to address the concerns of neighboring property owners with blasting activity conducted at the site. This letter provides confirmation that DOGAMI has not documented any groundwater impacts associated with the ongoing operation of this site.

The Board finds no factual basis for a claim that mining activity has impacted surrounding domestic water wells. Opponents have produced receipts and well logs that appear to demonstrate problems with certain wells over a 30 year period. This evidence does not, however, identify any causal link between blasting and the availability of water in this area. The applicant's blasting expert, Ed Coulter of Northwest Energetic, provided testimony that the level of blasting conducted at the site is not sufficient to impact wells, well casings and/or the aquifer utilized by surrounding properties. The Board finds Mr. Coulter's testimony and evidence to be credible.

Other Discharges from the Site

The record demonstrates that the only other potential discharges from the site are associated with the temporary asphalt batching plant that is authorized under this decision. The Board imposes the following conditions as reasonable and practical measures that will minimize potential conflicts with discharges from operating a temporary plant at the site. An asphalt batching plant shall be allowed only on a temporary basis in conjunction with a specific highway or development project. The applicant shall be required to obtain the written approval of the Linn County Planning Director in connection with the siting of a temporary batching plant. The plant may be permitted on a temporary basis in connection with specific road or development projects for up to 30 days in duration for each project. Under OAR 660-023-0180(1)(g), "minimize a conflict" means conformance with applicable legal standards. [See also LCC 939.030(M).] The applicant shall be required to comply with all applicable Oregon DEQ standards related to the operation of a batch plant. The applicant shall utilize

the latest batching technology in the operation of batching equipment on the property as a further safeguard to human health and the environment.

Potential Conflicts to Local Roads

The Board finds that there are no conflicts with local roads that would adversely affect land uses in the impact area. The Roadmaster has submitted a letter concluding that mining at the site, as proposed, will not have an adverse impact on county roads. The County Roadmaster reviewed the applicant's Truck Haul Plan and found that it meets the requirements of the County Road Department.

Access to the site is from Berlin Road, which is a county road. Vegetation has been removed at the entrance to improve sight lines. The entrance is at a slight horizontal curve. The remainder of Berlin Road features broad horizontal curves with good visibility. Vertical curves are present in this area; however the height of the dump trucks improves their visibility over vertical curves, and thus these vehicles pose less of a risk at vertical curves than passenger vehicles which are lower to the ground and harder to see over vertical curves.

The nearest arterial road is Hwy 20 which is utilized from some deliveries into Lebanon. The site is in a rural residential area and road capacity is more than sufficient. The site operates continuously throughout the day and does not generate a concentrated number of peak hour trips, either in the morning or in the afternoon.

According to the County Roadmaster, sight distances are adequate along the route. There are no adverse impacts on the quality of county roads or local access roads in the area of the proposed resource site. The proposed haul plan included in the submittal to the Linn County Road Department was deemed satisfactory to the Roadmaster.

Safety Conflicts with Public Airports

No safety conflicts are identified with public airports in association with this application.

Conflicts with Other Goal 5 Resources

There are no Goal 5 resources located within the designated impact area or in the general vicinity of the applicant's mining and processing operation. As a result, the Board finds that the application does not create any conflicts with other Goal 5 resources.

Conflicts with Agricultural Practices

The record contains written and oral testimony referencing the potential for conflict between mining and processing operations and surrounding agricultural practices. Much of the testimony concerned the potential impacts of blasting activity on wells and springs in the vicinity of the mine. As referenced above, the

Board finds that the conditions of approval referenced herein are reasonable and practical measures that will minimize identified conflicts.

Concerns were raised relating to potential impacts of a temporary asphalt batching plant on agricultural practices, including the potential for impact on the Marks Ridge Winery operation. The record shows that the winery is located less than 2 miles from the subject property. Winery Owners and area residents have registered concerns with the applicant's plan to site a temporary asphalt batching plant on the subject property. Project opponents cite ORS 215.301(1) which states that no application shall be approved to allow batching and blending of mineral and aggregate into asphalt cement within two miles of a planted vineyard. However, Subsection (2) of ORS 215.301 contains an exception to this provision stating that the prohibition shall "not be construed to apply to operations for batching and blending of mineral and aggregate under a local land use approval on October 3, 1989, or a subsequent renewal of an existing approval."

The record demonstrates that a portable asphalt mixing/batching plant has been authorized on the subject property since 1981. A conditional use permit issued by the County in connection with CU-83-80/81 authorized an aggregate mining operation, crushing and blasting activity and a portable asphalt mixing plant on the subject property. The Board finds that the authorization granted under this permit remains valid. LCC 921.543(A) required the applicant to "initiate the mining of aggregate" within two years of the date of final conditional use approval to vest its rights under the conditional use permit. The record demonstrates that the mining of aggregate materials was first initiated on the subject property in the 1940's. The record further demonstrates that the mining of aggregate has been conducted on a regular, ongoing and continuous basis since the conditional use permit was issued in 1981. "Mining activity" and "development" (the two terms that define "initiation of mining" under LCC 921.543) were initiated at the site within two years of the issuance of the conditional use permit. As a result, the rights granted under the conditional use permit have vested to the property owner, making the operation exempt from the statutory prohibition on asphalt batching operations as stated in ORS 215.301(1).

The record demonstrates that any asphalt batching plant will be located in a previously cleared site that is adequately buffered from surrounding properties. The Board Order requires that any such plant must be temporary in nature (for up to 30 days in duration for each project) and associated with a specific road or building project. The applicant will be required to obtain the written approval of the Linn County Planning Director in connection with any future temporary approval. The Planning Director shall be authorized to impose any such additional requirements that are necessary to minimize impacts.

Project opponents have cited concerns with the emissions from an asphalt batching plant, stating that such emissions would be harmful to both human health and area agricultural operations. The applicant shall be required to utilize current batching technology and to obtain any emissions permits as are required by the Department of Environmental Quality (DEQ) in connection with any

asphalt batching plant on the subject property. The DEQ permitting process has been established to set specific emissions standards that safeguard human health and the environment from asphalt batching plants. The potential for a conflict related to potentially hazardous air emissions is minimized through the requirement that the applicant adhere to DEQ permitting requirements. [See OAR 660-023-0180(1)(g) "minimize a conflict" means conformance with applicable legal standards; LCC 939.030(M).]

The Board finds that any potential conflicts with the agricultural operations are minimized through the imposition of conditions of development approval as provided herein. Evidence in the record demonstrates that the proposed mining and processing operations will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use nor will the mining and processing operation significantly increase the cost of accepted farm or forest practices. As a result, the Board finds that required conditions of approval will minimize conflicts to agricultural practices under the standards of ORS 215.296.

E. Measures to Minimize Potential Conflicts (LCC 939.140)

The Board finds that the conditions of approval specified in this Order and attached hereto are reasonable and practical measures that will minimize all of the conflicts that have been identified in this proceeding. The Board finds that the proposal satisfies the standard in LCC 939.140.

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

The Board finds that there are no conflicts between the proposed mine expansion 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 applicable.

G. Natural and/or Geologic Hazards

A small portion of the western portion of the 84.11 acre subject property has been identified in the Environmental Geology of Western Linn County Oregon as being subject to mass movement topography. This portion of the subject property falls outside of the boundaries of both the existing mining area and the area proposed for the expansion of mining and processing operations through this application and decision. A County GIS map depicting the location of the geologic hazard area in relation to the existing and proposed mining areas can be found in the record as an exhibit to the Applicant's letter to the Board dated March 1, 2011. This evidence demonstrates that mining and processing activities do not implicate a mapped geologic hazard area. The Board finds that this application does not authorize any activities within the mapped hazard area.

Moreover, all mining and reclamation activity on the subject property is regulated by DOGAMI and are subject to the terms and conditions specified in the Operating Plan and Reclamation Plan that are specific to this site. DOGAMI will require that the mining and processing operations be engineered, designed and

operated in a manner that will comply with all applicable hazard mitigation requirements. Therefore, the Board requires that the applicant adhere to all operating requirements specified in its DOGAMI Operating Plan and Reclamation Plan.

The Board finds that the existing and proposed mining areas are not located within an area subject to flooding, based on FEMA maps. There are no other areas subject to Natural Disasters and Hazards identified on the site.

H. Plan Consistency (LCC 921.872(A))

The proposal would add a 37.1 acre resource site to the inventory of significant aggregate resource sites without conflicting uses; apply the 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 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. This application has been reviewed pursuant to LCC Chapter 939 and is found to be consistent with the Comprehensive Plan.

I. Statewide Planning Goals (LCC92.872(B))

To approve the proposed aggregate inventory Plan amendment, the amendment must be consistent with the statewide planning goals. LCC 921.872(B)

Goal 1: Citizen Involvement. The proposal has been reviewed in public hearings before the Linn County Planning Commission and the Linn County Board of Commissioners. The hearings provided opportunities 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 1000 feet of the property and within 1500 feet of the proposed resource site were provided notice. Affected public agencies were also provided written notice.

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 County has determined the application is complete and in compliance with Chapter 921 and Chapter 939 of the Linn County Code.

Goal 3: Agricultural Lands. The area is zoned Exclusive Farm Use (EFU). The aggregate resource area is not predominately high-value farmland pursuant to OAR 660-33-0020(8). It is comprised 77% 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.

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.

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 and addressed as provided herein. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 5.

Goal 6: Air, Water and Land Resources Quality. Aggregate processing require Department of Environmental Quality (DEQ) permits. The DEQ was provided notice of this proposal. The Applicant has been required (as a condition of approval) to obtain all permits required by DEQ and obtain and maintain all permits necessary for the operation and reclamation of the site. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 6.

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. The record demonstrates that the affected portion of the subject property falls outside of the areas proposed for mining and/or processing operations. 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.

Goal 8: Recreational Needs. This property is not a planned recreation site. There are no recreational facilities within the 1500-foot impact area. The application complies with Goal 8 to the extent applicable.

Goal 9: Economy of the State. The proposal would permit a 37.1-acre resource site. The quarry provides employment and a supply of aggregate products for local and regional development. The Plan recognizes the importance of aggregate sites to the local economy. The application complies with Goal 9.

Goal 10: Housing. This proposal does not involve the provision of an additional dwelling. The site is in the EFU zone and is surrounded by other resource-zoned land and residential-zoned land. The proposed quarry would provide the types of aggregate products necessary for housing and road construction. The application complies with Goal 10.

Goal 11: Public Facilities and Services. The Lebanon Fire Protection District provides fire protection. Access to the site is from Berlin Road, 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. The application complies with Goal 11.

Goal 12: Transportation. The site is in a rural residential area and road capacity is more than sufficient. The site operates continuously throughout the day and does not generate a concentrated number of peak hour's trips, either in the morning or in the afternoon. The Board finds that there are no conflicts with local roads. The Roadmaster has submitted a letter concluding that mining at the site, as proposed, will not have significant adverse impacts on county roads. The proposed haul plan included in the submittal to the Linn County Road Department was deemed satisfactory to the Roadmaster.

The proposed quarry expansion 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 expansion is consistent with current and planned transportation facilities and in compliance with the policies of this Statewide Planning Goal.

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. The proposal is consistent with Goal 13.

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. The application complies with Goal 14.

Goal 15: Willamette River Greenway. The property is more than 10 miles from the Willamette River. Goal 15 does not apply.

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 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 the public hearings, the Board hereby concludes that:




1. A 37.1 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 by the

reasonable and practical measures identified as conditions of approval to this decision. The binding Conditions of Approval attached to this Resolution and Order constitute a supplemental, site-specific program to achieve Goal 5 compliance for the site, and ensure all identified conflicts are minimized.

3. The 37.1-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 "Analysis 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 37.1 acre resource site and to the designated impact area pursuant to LCC 939.200(B).
6. A development permit shall be issued authorizing aggregate mining and processing on the 37.1-acre resource site subject to the applicable provisions of LCC Chapter 921; LCC Chapter 931; LCC Chapter 934; and the conditions of approval specified in this Order.

Linn County Planning & Building Department



-  taxlots
-  ARO - IMPACT AREA
-  ARO EXTRACTION AREA

BC10-0004 ; WEBER PIT; CONWAY
13S01W13 00100
WEBER KENNETH & RENAYE
84.11 acres



1 inch = 700 feet

Date: 03/03/2011

EXHIBIT 2
Resolution and Order No. 2011-101
Planning File BC10-0004
Conditions of Approval and
Site-specific Program to Achieve Goal 5
Myles Conway; Weber Pit

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:

1. The mining, processing and sale of rock produced on-site shall be authorized within the 37.1-acre resource site 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 permitted mining area 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 permitted mining boundary and setbacks must be marked and clearly visible to 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 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 any permits required by 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.

Reasonable and Practical Measures to Minimize Conflicts:

1. The applicant shall retain the forested area located between the resource site and dwellings within the impact area, to act as a buffer between the quarry and nearby land uses.
2. Mining and processing activities shall be permitted Monday through Friday, 6:30am to 6:30pm, and Saturday, 9:00am to 5:00pm, except 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. Rock crushing is permitted Monday through Friday only, 8:00am to 5:00pm.
4. Drilling shall be limited to Monday through Friday, between the hours of 8:00am to 5:00pm. Blasting shall be limited to Monday through Friday, between the hours of 10:00am to 4:00pm. Written notice of blasting shall be provided to the residents of properties within 1500-feet of the ARO mining area boundary. Notice letters shall be postmarked at least four days prior to blasting and shall indicate the date and estimated time of the scheduled blast. Any alteration to the blast schedule shall require a minimum 24 hour notice by mail, phone or hand-delivered to each residence within that notice area.
5. The property is limited to a temporary asphalt batch plant, in conjunction with a highway or road project, for up to 30 days duration for each project, using only the latest batching technology and meeting DEQ standards, upon prior written request to the Planning and Building Department Director.
6. The blasting at the quarry shall be designed and conducted in a manner which will not cause damage to surrounding properties. To ensure that safe ground vibration and air shock levels, based on accepted industry standards, are not exceeded, each blast at the quarry shall include seismographic monitoring and analysis at selected locations on surrounding properties. A minimum of three locations on nearby properties shall be monitored during each blast. The quarry operator shall be responsible to ensure the seismographic monitoring requirements are carried out.

To achieve minimization of blasting impacts, blasting at the quarry shall not exceed 125 pounds of explosives per delay. Measured ground vibration during a blast shall not exceed 0.3 inches per second. The measured peak air over pressure (air blast) shall not exceed United States Bureau of Mines guidelines of 134 decibels (db) at any location on or around the quarry.

The applicant may request that the Board modify the blasting standards and limitations provided herein upon a showing to the Board that alternative blasting

standards consistent with NFPA 495 can be implemented in a manner that is consistent with industry standards and provides adequate protection to properties within the designated impact area. The Board may at such time amend the blast design limitations and standards by Board Order if the Board finds that it is in the public interest to apply the NFPA 495 blasting standards.

7. The applicant shall develop adequate truck circulation and parking areas to accommodate all trucks entering and leaving the property. Trucks shall not park within the public right-of-way.
8. The Planning and Building Department 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.
9. 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.
10. The following restrictive covenant shall be made part of the chain of title to the 84.11-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 Exclusive Farm Use 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 an Exclusive Farm Use (EFU) 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.

11. The applicant shall comply with all requirements of the Linn County Road Department.

Shuttle → DLCD

Plan Amendment

DEPT

APR 28

LAND CONSERVATION
AND DEVELOPMENT