



# 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

04/03/2012

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

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** Clackamas County Plan Amendment  
DLCD File Number 005-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL:** Tuesday, April 17, 2012

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

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

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

**Cc:** Steve Koper, Clackamas County  
Angela Lazarean, DLCD Urban Planner  
Amanda Punton, DLCD Natural Resources Specialist  
Jennifer Donnelly, DLCD Regional Representative

<paa> YA



FORM **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

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DEPT OF

MAR 28 2012

LAND CONSERVATION  
AND DEVELOPMENT  
For Office Use Only

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

Jurisdiction: **Clackamas County**

Local file number: **Z0331-11-CP / Z0332-11-Z**

Date of Adoption: **2/9/2012**

Date Mailed: **3-27-12**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 6/20/2011

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".

The County has adopted a Post-Acknowledgement Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan to designate the subject property as a Goal 5 significant resource (mining site), to allow mining. The County has also approved a zone change to apply a Mineral and Aggregate Overlay (MAO) zone to the subject property.

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

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **EFU**

to: **EFU/MAO**

Location: **41E 6 100/190/1800/1900 & 41E 7 300/390/400**

Acres Involved: **90**

Specify Density: Previous: **n/a**

New: **n/a**

Applicable statewide planning goals:

**1**  **2**  **3**  **4**  **5**  **6**  **7**  **8**  **9**  **10**  **11**  **12**  **13**  **14**  **15**  **16**  **17**  **18**  **19**

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:

DOGAMI, ODOT, DEQ, ODOA

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Local Contact: **Steve Koper, Planner**

Phone: **(503) 742-4551** Extension: **0**

Address: **150 Beaver Creek Road**

Fax Number: **503-742-4550**

City: **Oregon City**

Zip:

E-mail Address: **97045**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Comprehensive  
Plan Amendment and Zone Change  
For Pacific Rock Products, L.L.C.



Board Order No. 2012 - 12  
(page 1 of 2)

File Nos.: Z0331-11-CP / Z0332-11-ZAP

This matter coming regularly before the Board of County Commissioners, and it appearing that Pacific Rock Products applied for a Post Acknowledgement Plan Amendment (PAPA) and zone change on property described as T4S, R1E, Section 06, Tax Lots 100, 1800, 1900 and T4S, R1E, Section 07, Tax Lots 190, 300, 390, 400, located on the west side of S. Barlow Road at the southwest corner of its intersection with Highway 99E; and

It further appearing that the planning staff recommended approval of the application by its report dated November 22, 2011, attached as Exhibit A; and

It further appearing that the Planning Commission recommended approval of the application at its November 28, 2011 meeting; and

It further appearing that after appropriate notice the Board of County Commissioners held a public hearing on January 11, 2012, at which testimony and evidence was presented, and that the Board made a preliminary decision to approve the application;

Based upon the evidence and testimony presented, this Board makes the following findings and conclusions:

1. The applicant requests a Post Acknowledgement Plan Amendment to designate the subject property as a "Significant Site" and add it to Table III-2 as such; a PAPA to allow mining of the subject property pursuant to OAR 660-023-0180; and a zone change to impose a Mineral and Aggregate Overlay on the subject property and adjacent property within the noise compliance boundary, as shown in Exhibit C, pursuant to Section 708 of the Clackamas County Zoning and Development Ordinance.
2. The Board finds that the application meets the requirements of the Statewide Planning Goals, the Clackamas County Comprehensive Plan Policies, the applicable state laws and regulations, and the Clackamas County Zoning and Development Ordinance, and adopts as its findings the Staff Report dated November 22, 2011, attached Exhibit A.
3. Approval of the application is subject to the Conditions of Approval listed in attached Exhibit B.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

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Plan Amendment and Zone Change  
For Pacific Rock Products, L.L.C.



Board Order No. 2012 - 12  
(page 2 of 2)

File Nos.: Z0331-11-CP / Z0332-11-ZAP

NOW, THEREFORE, IT IS HEREBY ORDERED  
that the following are approved, subject to the Conditions of Approval attached as Exhibit B:

1. Amendment of Comprehensive Plan Table III-2, "Inventory of Mineral and Aggregate Resource Sites," to add the subject property as a "Significant Site."
2. Amendment of the Comprehensive Plan to allowing mining of the subject property consistent with this order and a future mineral and an aggregate overlay district site plan review permit.
3. Application of the Mineral and Aggregate Overlay Zoning District to the subject property and adjacent property within the noise compliance boundary, as shown in Exhibit C.

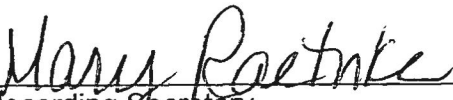
DATED this 9th day of February, 2012.

BOARD OF COUNTY COMMISSIONERS



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Chair



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Recording Secretary

NAME: Pacific Rock Products LLC  
FILE NO: Z0331-11-CP / Z0332-11-ZAP  
REPORT AUTHOR: Steve Koper  
HEARING DATE: November 28, 2011 (PC), January 11, 2012 (BCC)  
REPORT DATE: November 22, 2011

**PLANNING STAFF REPORT/RECOMMENDATION**  
**TO THE PLANNING COMMISSION**

GENERAL INFORMATION

Applicant: Pacific Rock Products, L.L.C.; 8705 NE 117<sup>th</sup> Avenue, Vancouver, WA 98662

Owner: Same

Proposal: The applicant is proposing a Post-Acknowledgement Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan in order to designate the subject property as a Goal 5 significant resource (mining site), to allow mining. The applicant is also proposing a zone change to apply a Mineral and Aggregate Overlay (MAO) zone to the subject property.

Location: On the west side of S. Barlow Road, south the intersection of S. Hwy 99E and S. Barlow Road (southwest of the City of Barlow).

Legal Description: T4S, R1E, Section 6, Tax Lots 100, 1800, 1900, WM  
T4S, R1E, Section 7, Tax Lots 190, 300, 390, 400, WM

Adjacent Properties: T4S, R1E, Section 8, Tax Lot 1000 (“Rodrigues Property”)  
T4S, R1E, Section 8, Tax Lots 600, 700, 800 (“Original Site”)

Comprehensive Plan Designation: Agriculture

Zoning District: EFU; Exclusive Farm Use

Total Area Involved: The new site includes approximately 90.0 acres. The existing mining site on the east side of S. Barlow Road, includes approximately 248 acres (The original site is approximately 203 acres and the Rodrigues property, added in 2006, is approximately 38 acres).

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RECOMMENDATION:

1. Approval of the PAPA Application (File No. Z0331-11-CP) to designate the subject property as a “Significant” Goal 5 aggregate resource site in the Mineral and Aggregate Section of the Comprehensive Plan.
2. Approval of the Mineral Aggregate Overlay (MAO) zoning district to authorize mining of the property, the boundaries of which are proposed at Exhibit 14.

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BACKGROUND INFORMATION, DESCRIPTION OF THE SUBJECT PROPERTY AND SURROUNDING AREA AND PUBLIC SERVICE PROVIDERS

A. Prior Land Use Applications:

1. File Nos. Z0348-93-CP / Z0349-93-Z (Adjacent Property / Tax Lots 600, 700, 800). This is the original PAPA (Post Acknowledgement Plan Amendment) application which designated the existing mining site as a significant Goal 5 resource and approved a Mineral Aggregate Overlay zoning district on the property and adjacent properties. See Exhibit 2. The application was approved on January 12, 1995 and included 31 conditions of approval related to the extraction site and 3 conditions related to conflicting uses in the impact area (MAO Boundary).
2. Minor Modification of File Nos. Z0348-93-CP / Z0349-93-Z. On July 28, 2000 a Minor Modification of this file was approved by the County. The Minor Modification authorized a modification to relocate the originally approved access road to the same location approved for the asphalt concrete batch plant on tax lot 1000. See Exhibit 4.
3. File No. Z1826-97-MAR (Subject Property and Adjacent Property / Tax Lots 600, 700, 800 and 1000). Mineral and Aggregate Overlay District Permit to develop the property with a surface mining operation as authorized in File No. Z0348-93-CP / Z0349-93-Z. This permit also authorizes the post mining use to reclaim the land as a water impoundment and agricultural land. This application was approved by the County on April 28, 1998 subject to 33 conditions. See Exhibit 5.
4. Minor Modification of File No. Z1826-97-MAR. On July 28, 2000 a Minor Modification of File No. Z1826-97-MAR was approved by the County. See Exhibit 6. The Minor Modification authorized changes to two conditions of approval included in the original approval. The first change included a modification to condition no. 16 to increase the limit on aggregate and mineral extraction from 150,000 cubic yards to 3 million tons per calendar year. The second change included a modification of condition no. 10 to relocate the access road for the mining site to the same location approved for asphalt

batch plant located on tax lot 1000. See reference to Conditional Use Permit File No. Z0652-99-C.

5. File No. Z0652-99-C (Subject Property / Tax Lot 1000): Conditional Use Permit to operate an asphalt batch plant. The County Hearings Officer approved the conditional use permit for the batch plant subject to conditions of approval. The batch plant is used in conjunction with the existing mining operation on the adjacent property. The applicant has proposed to continue the use of this batch plant to accommodate the processing of materials mined from the subject property.

6. File Nos. Z0756-06-CP and Z0757-06-ZAP: PAPA (Post Acknowledgement Plan Amendment) application which designated the Rodrigues site as a significant Goal 5 resource and approved a Mineral Aggregate Overlay zoning district on the Rodrigues property, which was acquired by Pacific Rock Products, LLC subsequent to approval of the original site. Final approval was made by Board Order No. 2007-269, on April 26, 2007 (Exhibit 7).

7. File No. Z0566-07-MAR Mineral and Aggregate Overlay District Permit to develop the property with a surface mining operation as authorized in File No. Z0756-06-CP and Z0757-06-ZAP (Exhibit 8).

B. Definitions: Oregon Administrative Rule 660, Division 23 outlines the “Procedures and Requirements for Complying with Goal 5.” OAR 660-023-010 and 660-023-0180(1) includes the definitions of a number of words and terminology which will be used in the evaluation of this application. A copy of these definitions is included in Exhibit 10.

C. Site Description: An aerial photo of the property and surrounding area is included in the application (“Maps/Pictures” tab). As described previously the existing mining site on the east side of S. Barlow Road is approximately 241 acres. The subject site is a proposed expansion of that existing mining site, located on the west side of S. Barlow Road and is approximately 90 acres. The applicant has proposed to mine the subject site and move the raw gravel extracted from the site under S. Barlow Road via a continuous conveyor system located in a previously installed 8-foot diameter culvert. The applicant is proposing to maintain the existing paved access drive off of Barlow Road near the north property line of the original site for vehicular access. The applicant has added an amended access plan for access to the subject site for the purposes of employee parking and infrequent movement of equipment (Exhibit 13). No hauling or truck trips would be generated from this access. The existing processing operation on the original property will not be relocated, and will also serve to process rock extracted from the proposed site. The subject site is relatively level. Tax Lot 900 is presently developed with accessory structures. Tax Lot 400 is developed with a residence. Applicant has not indicated, but presumably these structures would be removed prior to commencement of mining operations on the proposed site. There are no streams, creeks or identified wetlands on the property.



D. Surrounding Conditions: All the adjacent and nearby lands are zoned Exclusive Farm Use (EFU). There is a small pocket of land zoned Farm Forest – 10 Acre (FF-10) southeast of the site, on the opposite side of Hwy 99E. Also on the opposite side of Hwy 99E, north of the property is a small pocket of Rural Industrial (RI) and the City of Barlow, further to the north. With respect to the directly adjacent EFU properties, the tax lots to the south (500 and 600) are each developed with a single family dwelling (R3 and R4 of the “Noise” tab). These properties are primarily in grass and pasture and used for grazing a few cattle. Further south is a number of large parcels in nursery stock. The adjacent property to the east is developed with the existing Pac Rock mining operation, which includes mining pits, access and circulation roads, storage areas and a processing facility located in the northeast corner of the property.

E. Service Providers:

1. Sewer: The subject property is not located within a public or private sewer district. Sewage disposal is accommodated by an on-site sewage disposal system.
2. Water: Well.
3. Surface Water: The subject property is not located within a public or private surface water district. Surface water is regulated pursuant to Section 1008 of the ZDO. Surface water management for mining operations is regulated by the DOGAMI and / or DEQ.
4. Fire Protection: Canby Fire District

F. Agency and Property Owner Notification List:

1. City of Barlow
2. Clackamas County Services District No. 1
3. Canby Fire District
4. Aurora Airport
5. DTD, Engineering Div. – Transportation and Surface Water
6. County Weighmaster
7. Oregon Dept. of Transportation; District 2B
8. Oregon Dept. of Aviation
9. Dept. of Geology and Mineral Industries (DOGAMI)
10. Dept. of Environmental Quality
11. Dept. of Land Conservation and Development
12. Dept. of Water Resources
13. NW Natural Gas
14. Property Owners within 2,250’ of the subject property

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G. CPO Recommendation: The subject property is located within the South Canby Community Planning Organization (CPO). This CPO is inactive.

H. Exhibits: See Exhibit List following the last page of this report. A list of recommended conditions of approval is included in Exhibit 12.

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## SECTION 1- COMPREHENSIVE PLAN TEXT AMENDMENT

### PART 1. COMPLIANCE WITH STATEWIDE PLANNING GOALS

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

1. The Planning Staff agrees with and adopts the affirmative findings in the application (page 19) and the following additional findings in addressing this Goal.
2. This is a quasi-judicial land use application. The Clackamas County Comprehensive Plan and Section 1300 of the Zoning and Development Ordinance (ZDO) contain adopted and acknowledged procedures for citizen involvement and public notification. This application has been processed consistent with the notification requirements in Section 1302 of the ZDO including notice to individual adjacent and surrounding property owners within 2,250 feet of the subject property, notice in the local newspaper, and notice to affected agencies and dual interest parties. Notice to the Community Planning Organization (CPO) in the area was not provided because the CPO is inactive. One or more advertised public hearings will also be conducted before the Clackamas County Planning Commission and Board of County Commissioners, which provides an opportunity for additional citizen involvement and input.

**This application is consistent with Goal 1.**

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

1. The Planning Staff agrees with and adopts the affirmative findings in the application (pages 19-20), except as noted below and the following additional findings in addressing this Goal.
2. The findings addressing this Goal include a reference to OAR 616, Division 23 as the rule guiding the process for decision making for Goal 5 PAPA's. The correct reference is OAR 660, Division 23.
3. Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to the following governmental agencies for comments; City of Barlow, Canby Fire District, Aurora Airport, DTD, Traffic Engineering, County Weighmaster, Oregon Dept. of Transportation; District 2B, Oregon Dept. of Aviation, Dept. of Geology and Mineral Industries (DOGAMI), Dept. of Environmental Quality, Dept. of Land Conservation and Development and Dept. of Water Resources. Notice of this application was provided to all these agencies on October 26, 2011, well in advance of the first evidentiary public hearing. This will provide an opportunity for these governments and agencies to evaluate and comment on this application and for the County to consider and coordinate this decision and action with the affected governments

and agencies.

4. The subject property is located in proximity to the City of Barlow and within the boundary of the Urban Growth Management Agreement (UGMA) between the City and Clackamas County. Notice of the application was provided to the city. This proposal will not affect the Comprehensive Plan of any nearby cities. No comments have been received from the City of Barlow.

5. Goal 2 requires that all land use actions be consistent with the acknowledged Comprehensive Plan. This application has been evaluated against all the applicable goals and policies of the Clackamas County Comprehensive Plan. The background information and findings provided by the applicant and within this report, and comments received from agencies and interested parties provide an adequate factual base for rendering an appropriate decision consistent with the adopted County Comprehensive Plan.

**This application is consistent with Goal 2.**

C. Goal 3; Agricultural Land: *To preserve and maintain agricultural lands.*

1. The Planning Staff agrees with and adopts the affirmative findings in the application (pages 20-21) and the following additional findings in addressing this Goal.

2. The subject property is designated Agriculture on the County Comprehensive Plan map. No change in the Agricultural plan designation is proposed. This PAPA application requires a “balancing” of Goal 3, which is intended to preserve agricultural lands and Goal 5 which is intended to protect significant natural resources including mineral and aggregate resources. The “balancing” test is essentially weighed using the Goal 5 process in OAR 660, Division 23. The findings throughout this staff report provide an analysis of that rule and other applicable Statewide Planning Goals and Comprehensive Plan policies. This proposal is consistent with Goal 3 because, as discussed herein, the mineral and aggregate resource on the property is considered “Significant”. Approval of this application will recognize and protect the resource, allow use of the resource to be mined for a limited duration and the post mining use for fish and wildlife habitat uses is an allowed use in agricultural area and consistent with the preservation of agricultural land. Based on those findings this proposal is consistent with Statewide Planning Goal 3.

**This application is consistent with Goal 3.**

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

1. The Planning Staff agrees with and adopts the affirmative findings in the application (page 22) and the following additional findings in addressing this Goal.

2. The subject property is designed Agriculture on the Comprehensive Plan map. This application does not include any land designated Forest on the Comprehensive Plan map.

**Goal 4 is not applicable.**

E. Goal 5; Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources.*

1. The Planning Staff agrees with and adopts the affirmative findings in the application (pages 22-23) and the following additional findings in addressing this Goal.

2. Goal 5 resources include open space areas, scenic and historic resources and other natural features and resources, including mineral and aggregate resources. Chapter 3 of the Clackamas County Comprehensive Plan identifies significant Goal 5 resources within the County.

3. The subject property is located in proximity to two significant Goal 5 resources: the Historic Barlow House (T4S, R41E, Section 5C, Tax Lot 900 / on the south side of Hwy 99E directly east of S. Barlow Road) and the adjacent Mineral and Aggregate Site to the east (Pac Rock). The Molalla River is adjacent to the existing mining operation. In the most recent application (Z0756-06-CP and Z0756-06-ZAP), it was determined that there were no conflicts. In this case, because the Molalla River is even further from the edge of the proposed expansion site (over ½ a mile and well outside of the County's ¼ mile Principal River Conservation Area), staff finds that it should not be included in the conflicts analysis. No other outstanding scenic views/sites, wilderness areas, historic sites or structures, cultural areas, potential or approved Oregon recreation trails identified in the Comprehensive Plan are located on the subject property.

4. This application requests that the subject property be identified as a significant Goal 5 Mineral and Aggregate Resource site. This again requires a “balancing” of this potential Goal 5 resource against the protection of, and / or potential conflicts with, other Goal 5 resources in the area.

5. OAR 660-023-0180(5)(b)(D) requires a conflict analysis to consider impacts of the proposed mining on other Goal 5 resources. The finding in Part 7 of this report demonstrate the proposed expansion area will not have significant impacts on the Barlow House and adjacent mining operation and are adopted to address this Goal.

**This application is consistent with Goal 5.**

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

1. The Planning Staff agrees with and adopts the affirmative findings in the application (pages 23-25) and the following additional findings in addressing this Goal.

2. The County Comprehensive Plan and ZDO contain adopted implementing regulations to protect the air, water and land resources. These regulations, which include compliance with both County and State requirements (DEQ, DOGAMI, etc.), include standards to regulate air, dust, water, erosion and noise. Compliance with these regulations will be required and applied to any future development proposals (grading, mining, processing, hauling, etc.) on the property. Compliance with these regulations will ensure the proposed mining operation maintains and improves the air, water and land resources in the area.

**This application is consistent with Goal 6.**

G. Goal 7; Areas Subject to Natural Disasters and Hazards: *To protect life and property from natural disasters.*

1. The Planning Staff agrees with and adopts the affirmative findings in the application (page 25) addressing this Goal.

**This application is consistent with Goal 7.**

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

1. The Planning Staff agrees with and adopts the affirmative findings in the application (page 26) and the following additional findings in addressing this Goal.

2. This proposal does not involve any designated recreational or open space lands, or affect access to any significant recreational uses in the area. This project will have no impact on the recreational needs of the County or State.

**This application is consistent with Goal 8.**

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

1. The Planning Staff agrees with and adopts the affirmative findings in the application (page 26) and the following additional findings in addressing this Goal.

2. This Goal is intended to ensure Comprehensive Plans contribute to a stable and healthy economy in all regions of the state. Goal 9 also requires the County to provide for an adequate supply of sites of suitable sizes, types, locations, and services for a variety of industrial and commercial uses consistent with plan policies.

3. OAR 660-009 implements Statewide Planning Goal 9 for lands within urban growth boundaries. The subject property is not located within an urban growth boundary, therefore OAR 660-009 is not applicable. This proposal does not include any land designated for commercial, industrial or other types of employment uses specifically regulated under Goal 9.

**This application is consistent with Goal 9.**

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

1. The Planning Staff agrees with and adopts the affirmative findings in the application (page 27) and the following additional findings in addressing this Goal.
2. This goal requires local jurisdictions to provide for an adequate number of needed housing units and to encourage the efficient use of buildable land within urban growth boundaries. OAR 660-007 and 660-008 defines the standards for determining compliance with Goal 10. OAR 660-008 addresses the general housing standards. OAR 660-007 addresses the housing standards inside the Portland Metropolitan Urban Growth Boundary. OAR 660-007 takes precedence over any conflicts between the two rules.
3. The Planning Staff does not believe Goal 10 is applicable because this application does not include land planned to provide for urban residential or rural residential housing. The Agricultural plan designation is intended to preserve and maintain the land for agricultural uses and is not intended to provide land for housing. This proposal will not affect the inventory or amount of buildable lands needed for housing in the County.

**Goal 10 is not applicable.**

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

1. The Planning Staff agrees with and adopts the affirmative findings in the application (page 27) and the following additional findings in addressing this Goal.
2. This Goal provides guidelines for cities and counties in planning for the timely, orderly and efficient arrangement of public facilities and services, such as sewer, water and storm drainage. The Goal requires these public facilities and services to be provided at levels necessary and suitable for urban and rural uses, as appropriate. The subject property is located outside of an urban growth boundary and is considered "Rural" land. The area is not located within, or serviced by any public or private water, sewer or storm drainage service district. The extension of public sewer, water or storm drainage facilities is not proposed or required to support the proposed mining operation. The inclusion of the subject property as a significant mineral and aggregate site will have no affect on the planning of public facilities or services by the County or nearby cities of Canby and Barlow.

**This application is consistent with Goal 11.**

L. Goal 12; Transportation; “*To provide and encourage a safe, convenient and economic transportation system.*”

1. Oregon Administrative Rule (OAR) 660-012 (Transportation Planning Rule) implements Statewide Planning Goal 12.

2. OAR 660-012-0060 applies to any plan map amendment that would significantly affect an existing or planned transportation facility. OAR 660-012-0060(1) requires any amendments to functional plans, acknowledged comprehensive plans, and land use regulations which would significantly affect a transportation facility to demonstrate (put in place measures as provided in Section (2) of the rule) that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. Pursuant to OAR 660-012-0060(1) a plan or land use regulation amendment is deemed to significantly affect a transportation facility if it;

a) *Changes the functional classification of an existing or planned transportation facility;*

b) *Changes standards implementing a functional classification; 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; or*

*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.*

3. Pursuant to OAR 660-012-0060(2) compliance with OAR 660-012-0060(1) can be achieved by one or a combination of the following;

a) *Adopting measures that demonstrate the allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*

b) *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or*



*mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*

*c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*

*d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*

*e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.*

4. The applicant has submitted a Traffic Analysis (TA) completed by Associated Transportation Engineering and Planning, Inc. dated December 8, 2010. The TA includes an evaluation of the Hwy 99E / Barlow Road intersection, Barlow Road / Lone Elder intersection and Barlow Road / Site Access intersection.

5. The Hwy. 99E / Barlow Road intersection is under the jurisdiction of the State of Oregon and is subject to the requirements of the Oregon Highway Plan. The Barlow Road / Lone Elder intersection and Barlow Road / Site access intersection are under the jurisdiction of Clackamas County and subject to the requirements of the Clackamas County Comprehensive Plan and implementing zone change criteria in Section 1202 of the ZDO.

6. The PAPA application on the original mining site included an evaluation of potential traffic based on a maximum annual aggregate extraction limit of 3 million tons. Operating a maximum allowable levels, it was determined the mining operation would generate 154 trips in the AM Peak Hour and 120 trips in the PM Peak Hour. The affected transportation system was found to be adequate to support this traffic in the modification of the original PAPA application the year 2000.

7. The TA includes two more recent traffic counts (September 9, 2010 and February 23, 2010) identifying the traffic generated from the existing mining operation. These counts indicate that the existing mining operation is generating approximately 21 trips (in/out) in the AM and 36 trips in the PM Peak Hours. This is a fraction of the allowable and anticipated traffic trips authorized in the original PAPA application during the peak hour period. The low number of trips is primarily due to the fact that the mining operation is not operating near the 3 million ton extraction limit.

8. The DTD, Traffic Engineering Staff has not submitted comments on the subject application. However, in the considering the Rodrigues site, TE Staff concluded that Barlow Road / Lone Elder Road intersection and Barlow Road / Site Access intersection

are subject to a Level of Service D standard. The Traffic Analysis in the Rodrigues application provided an analysis of existing traffic in the area and a second analysis of the existing traffic plus the maximum allowable traffic authorized in the original PAPA application (154 AM Peak Hour Trips and 120 PM Peak Hour Trips) for the adjacent mining site. The TA demonstrated that both these intersections are currently operating at an acceptable Level of Service B or better in both the AM and PM Peak Hours. Supplemental traffic analysis of the Barlow Road / Site Access intersection and Barlow Road / Lone Elder Road intersection demonstrated that these intersections will operate at an acceptable LOS D or better in the 20 year planning period. DTD, Traffic Engineering comment will be available at the Planning Commission hearing (Exhibit 11). However, Planning staff does not believe there is anything in the current proposal that would change the conclusions made in the Rodrigues PAPA and/or the conclusions made in the current TA that indicate that the proposal would change the Level of Service in the 20 year planning period.

9. The Oregon Department of Transportation has not submitted comments in regards to impacts on the Hwy. 99E / Barlow Road intersection. Prior comment from ODOT (in File No. Z0756-06-CP / Z0757-06-ZAP) indicated that the previous proposal would comply with the Oregon Highway Plan providing the proposed expansion area does not result in an increase in the AM and PM traffic trips authorized in the original PAPA application on the adjacent mining site.

Pursuant to OAR 660-012-0060(1)(c)(C) a proposed plan amendment will not significantly affect the transportation facility if it does not “*Worsen the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*” To the extent traffic from the proposed expansion combined with traffic from the existing mining area does not generate more AM and PM trips previously anticipated in the PAPA application this proposal will not worsen the performance of the Hwy. 99E / Barlow Road intersection.

11. In summary, this proposal is consistent with OAR 660-012-0060(1)(a) and (b) because it does not include in a change in the functional classification of an existing or planned transportation facility, nor change the standards implementing a functional classification. This proposal will not significantly affect the State transportation system as defined in OAR 660-012-0060(1)(c)(C) because it will not worsen the performance of the Hwy. 99E / Barlow Road intersection. The TA demonstrates the County transportation system is adequate to accommodate anticipated traffic throughout the 20 year planning period as required in the Comprehensive Plan.

**This proposal is consistent with Goal 12.**

M. Goal 13; Energy Conservation: To conserve energy.

1. The Planning Staff agrees with and adopts the affirmative findings in the application (page 28-29) addressing this Goal.

**This proposal is consistent with Goal 13.**

N. Goal 14; Urbanization: *To provide for an orderly and efficient transition from rural to urban land uses.*

1. The findings on pages 29-30 of the application address this Goal. The Planning Staff does not disagree with the information and arguments set forth by the applicant. However, the Planning Staff does not agree that the findings are relevant, and does not believe Goal 14 is applicable to this application for the following reasons:

- a. The subject property is not located within an UGB or Urban Reserve Area.
- b. This proposal does not involve a change in the location of the UGB.
- c. This proposal does not include a conversion of rural land to urban land, or urbanizable land to urban land.

**Goal 14 is not applicable.**

O. Goal 15: Willamette River Greenway: *To protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

1. The subject property is not located within or near the Willamette River Greenway.

**Goal 15 is not applicable.**

P. Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes) and Goal 19 (Ocean Resources).

**Goals 16, 17, 18 and 19 are not applicable to Clackamas County.**

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**PART 2. COMPLIANCE WITH CLACKAMAS COUNTY COMPREHENSIVE PLAN POLICIES:**

**A. Chapter 1; Introduction:** *This Chapter identifies the purpose of the Comprehensive Plan and how to use the Plan.*

1. This Chapter of the Plan includes a general introduction to the plan and describes how to use the plan. This Chapter does not include any Goals or Policies applicable to a quasi-judicial land use application.

**Chapter 1 is not applicable.**

**B. Chapter 2; Citizen Involvement:** *The purpose of this Chapter is to promote citizen involvement in the governmental process and in all phases of the planning process.*

1. The Planning Staff agrees with and adopts the affirmative findings in the application (page 39) and the following additional findings in addressing this Goal.

2. Policy 1.0 is Chapter applicable to this application.

a. Policy 1.0; *Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representation, not only of property owners and Countywide special interests, but also of those within the neighborhood or areas in question.*

The Clackamas County Comprehensive Plan and ZDO have adopted and acknowledged procedures for citizen involvement. Specifically, the County has provided notice to property owners within 2,250 feet of the subject property, and published public notices in the newspaper consistent with State law and Section 1302 of the ZDO. Notice to the Community Planning Organization (CPO) in the area was not provided because the CPO is inactive. The Planning Commission and Board of County Commissioners will also hold one or more public hearings, as necessary, consistent with Section 1303 of the ZDO. These public mailings, notices and hearings will ensure an opportunity for citizens to participate in the land use process. This application has been processed consistent with those procedures.

**This proposal is consistent with Chapter 2.**

**C. Chapter 3; Natural Resources and Energy:** *The purpose of this Chapter is to provide for the planning, protection and appropriate use of the County's land, water and air resources, mineral and aggregate resources, wildlife habitats, natural hazard areas and energy sources.*

1. The Planning Staff agrees with and adopts the affirmative findings in the application except as noted below (pages 39-46) and the following additional findings in addressing

this Goal.

2. This Chapter contains eight (8) distinct Sections addressing; 1) Water Resources; 2) Agriculture; 3) Forests; 4) Mineral and Aggregate Resources; 5) Wildlife Habitats and Distinctive Resource Areas; 6) Natural Hazards; 7) Energy Sources and Conservation and; 8) Noise and Air Quality. Each of these Sections is addressed below.

3. Water Resources Section: This Section of the Chapter identifies policies applicable to River and Stream Corridors, Principal River Conservation Areas, Stream Conservation Areas, Wetlands and Groundwater.

- a. **Principal River:** The subject property is located in proximity to the Molalla River. The Molalla River is identified as a Principal River on the Principal River Conservation Area Design Plan map (Map III-1c) in the Comprehensive Plan and on the River and Stream Conservation Area (RSCA) Map. See Exhibit 8. This stream is also identified as a wetland on the National Wetland Inventory (NWI) maps. The boundary of the Molalla River Design Plan area, is approximately  $\frac{1}{4}$  mile (1,320 feet) from the edge of the river. The subject property is approximately  $\frac{3}{4}$  mile (2700 feet) from the Molalla River and is outside of the  $\frac{1}{4}$  mile Design Plan boundary. There are no policies in this Section of the Plan applicable to this application
- b. **Habitat Conservation Areas:** The subject property is not located within inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
- c. **Water Quality Resource Areas:** The subject property is not located within inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
- d. **Wetlands:** The County recognizes the NWI as a resource document for identifying wetlands in the County. The County Comprehensive Plan and ZDO do not regulate wetlands in rural areas of the County. The Division of State Lands (DSL) is responsible for the administration of State wetland laws in rural areas. The DSL was sent notice of this application. There are no wetlands on the NWI identified on the subject property. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
- e. **Groundwater:** The subject property is not located in any Limited or Critical Groundwater Area identified by the Oregon Department of Water Resources. The findings in the conflict analysis addressed in OAR 660-023-0180(5)(b)(A) demonstrate this proposal will not significantly impact groundwater resources in the area.

**This application complies with the Water Resources Section of Chapter 3.**

4. Agriculture Section: The subject property is designated Agriculture on the Comprehensive Plan map. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

5. Forests Section: This application does not involve any land planned or zoned for Forest uses. The subject property is not currently used or managed for forest production. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

6. Mineral and Aggregate Resources: This Section of the Plan is intended to protect and ensure the appropriate use of mineral and aggregate resources while minimizing adverse effects of mining and processing on surrounding land uses.

a. The subject property is not currently identified on the “Inventory of Mineral and Aggregate Resource Sites” in Table III-2 of the Comprehensive Plan. This application proposes to include the subject property on the list of “Significant Sites” in the Inventory of Mineral and Aggregate Resource Sites in Table III-2. Policies 1.0, 3.0, 4.0, 8.0 and 9.0 are applicable.

1. Policy 1.0: *To identify and protect mineral and aggregate resources, the county will comply with Statewide Planning Goal 5 and administrative rules adopted by LCDC interpreting the Goal 5 planning process.*

The findings in the application and throughout this staff report provide an evaluation and analysis of the Statewide Planning Goal 5 and the most recent administrative rules adopted by LCDC interpreting the Goal 5 planning process.

**This policy is met.**

2. Policy 3.0: *Where the county has completed the Goal 5 planning process and developed a program for protection of a significant mineral or aggregate site, the county shall use a Mineral and Aggregate Overlay District. The county may use other tools to carry out its program to achieve the Goal. If any aspect of the overlay requires interpretation, the county shall rely on direction in the site-specific program in the comprehensive plan.*

This application includes a request for a Mineral and Aggregate Overlay District. If the subject property is determined to be a “Significant Mineral and Aggregate Site” the MAO overlay district will allow mining of the subject property.

**This policy is met.**

3. Policy 4.0: *The county shall use the site plan review process for the Mineral and Aggregate Overlay District solely for determining whether an application to mine*

*complies with the site-specific program developed through the county's Goal 5 analysis or complies with other standards of the Zoning and Development Ordinance.*

Site plan review is required through a Mineral and Aggregate Resource District permit. See Policy 8.0d below. If this PAPA application and MAO zoning district is amended to authorize mining, the operator will be required to submit and obtain approval of a Mineral and Aggregate Resource District Permit as required in Section 708 of the ZDO. The findings in the application (page 31-39) indicate that this application is consistent with the ZDO.

This application does not include site plan review. This permit has not been submitted as part of this application, nor does the public notice for this application include a request for site plan review. If the application is approved, a condition of approval will require site plan review through a Mineral and Aggregate Resource District permit prior to any mining. This permit review will ensure that mining complies with the site specific program approved in this application and requirements in Section 708 of the ZDO.

**This policy is met.**

4. Policy 8.0: *The county will coordinate its planning and permitting processes for mineral and aggregate resources with the Oregon Department of Geology and Mineral Industries (DOGAMI) and Oregon Department of State Lands.*

The County has sent notice and a copy of this application to the DOGAMI and Oregon Department of State Lands (DSL). The County will coordinate the review of this permit and any other required permit with these agencies if the application is approved. A condition of approval is warranted to that effect.

**This policy is met.**

a. Policy 8.0a: *To assist state agency permit decisions, the county will identify post-mining land uses as part of any program to protect a significant mineral and aggregate resource site.*

The application includes a post-mining (conceptual reclamation plan) use of the property to include fish and wildlife habitat ("Conceptual Reclamation Plan" tab of the application). This is an allowed use in the underlying EFU zoning district. This use is also consistent with the approved post-mining use on the adjacent mining site. If this application is approved a condition of approval will specifically identify the post-mining use to assist the DOGAMI and other state agencies in the issuance of operating permits.

**This policy is met.**

b. Policy 8.0b: *The county recognizes the jurisdiction of DOGAMI for the purpose of mined land reclamation pursuant to ORS 517.750 to 517.900 and the rules adopted thereunder.*

The policy does not require any findings. If the application is approved a condition of approval will require DOGAMI to regulate reclamation of the mining site.

**This policy is met.**

c. Policy 8.0c: *Unless specifically authorized under ORS 517.830(3), DOGAMI should delay its final decision of approval of a reclamation plan and issuance of an operating permit, as those terms are defined by statute and rule, until all issues concerning the local land use are decided by the county.*

There is no evidence of specific authorization under ORS 517.830(3) in the record. Therefore, DOGAMI should delay its final decision of approval of a reclamation plan until such time as County approvals are obtained to allow mining.

**This policy is met.**

d. Policy 8.0d: *No mining or processing activity, as defined by the Zoning and Development Ordinance, shall begin until the county has issued a final land use decision and the permittee provides copies of an approved reclamation plan and operating permit issued by DOGAMI or DSL.*

This policy does not require any findings. If the application is approved a condition of approval will require the mining operator to submit and obtain approval of a Mineral and Aggregate Resource District operating permit from the County and to provide evidence to the County that all other necessary permits have been obtained from the DOGAMI, the DSL and any other applicable agencies.

**This policy is met.**

5. Policy 9.0: *The county shall resolve issues relating to mine truck use of public roads as directed in county transportation plans and policies. The county reserves the right to make agreements with aggregate operators about the use of county roads independent from its decision in Goal 5 analysis.*

The adequacy and safety of the public roads is addressed under the discussion of Statewide Planning Goal 12 – Transportation (and the implementing Transportation Planning Rule) and in the discussion of the zone change criteria in Section 1202 of the ZDO. Those finding demonstrate the transportation system is adequate to accommodate truck traffic from the existing and proposed mine. Other traffic management plans have been made with the operator regarding the use of Arndt Road and periodic maintenance of Barlow Road between the site access and Hwy. 99E. These agreements will remain in place and also apply to the proposed mining area.

**This policy is met.**



7. Wildlife Habitats and Distinctive Resource Areas: There are no significant wildlife habitats or scenic areas identified on Map III-2 of the Comprehensive Plan located on or near the subject property.

There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

8. Natural Hazards: This Section of the Chapter identifies policies applicable to floodplains, natural and geologic hazards, steep hillsides and areas with limiting soil characteristics such as shrink-swell soils, compressed soils, etc.

The subject property is located outside of the 100 year floodplain of the Molalla River. The subject property is located outside of the area map by the DOGAMI which identifies natural and geologic hazards. However, the subject property is very flat. There are no known natural or geologic hazards on the property. In addition, no buildings or other significant improvements are proposed or required on the property to support the mining operation.

There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

9. Energy Sources and Conservation: This Section of the Chapter identifies policies intended to conserve energy and promote energy efficiency through source development, recycling, land use circulation patterning, site planning, building design and public education.

There are no policies in this Section applicable to this application.

10. Noise and Air Quality. This Section of the Chapter identifies policies intended to minimize noise and improve air quality. Policy 2.0 and 3.0 are applicable.

a. Policy 2.0: *Implement a procedure to minimize the impact of external noise on sensitive land uses.*

1. Policy 2.1: *Require, through the review process, buffering of noise sensitive areas or uses where appropriate. For example, adjacent to arterials, expressways, freeways or heavily used rail lines, landscaped berms or other solid barriers may be required. Encourage setbacks and / or noise insulation in structures.*

This application includes a noise study to address noise impacts on noise sensitive uses including nearby residential uses. The review and evaluation of this noise study is considered in the PAPA application. The submitted noise study prepared by Daly-Standlee & Associates, Inc., dated June 13, 2011 demonstrates that noise impacts from the proposed mining operation, with reasonable mitigation conditions, can be minimized in compliance with DEQ Noise standards.

**This policy is met.**

2. Policy 2.2: *Noise mitigation plans, subject to County approval, shall be required of significant new noise generating land uses adjacent to or impacting established noise sensitive properties.*

The proposed mining operation is considered a significant new noise generator. The submitted noise study includes a noise mitigation plan, including the berms, landscaping and other noise reducing technology on mining equipment and vehicles. The review and evaluation of this noise study including the appropriate mitigation measures are considered in the PAPA application. This review will ensure noise impacts satisfy minimum DEQ noise standards.

**This policy is met.**

3. Policy 2.3: *Construction or reconstruction of high volume arterials, expressways, or freeways in or near residential areas may require sound buffers as part of the road project.*

This proposal does not include the construction or reconstruction of a high volume arterial, expressway or freeway.

**This policy is not applicable.**

b. Policy 3.0: *Cooperate with local, regional, state, and federal agencies and industry to maintain and / or improve local air quality.*

This application includes a number of measures to eliminate or reduce fugitive dust from the mining activities and processing facilities. The review and evaluation of dust impacts which affect air quality are evaluated in the PAPA application. These findings demonstrate dust and any other adverse impacts to the air quality can be minimized and satisfy DEQ air quality standards. If the application is approved a condition of approval will also require the mining operation to obtain a General Air Contaminant Discharge Permit, if required by the DEQ.

**This policy is met.**

**This application is consistent with Chapter 3.**

**D. Chapter 4; Land Use:** *This Section of the Comprehensive Plan provides the definitions for urban and rural land use categories, and outlines policies for determining the appropriate Comprehensive Plan land use designation for all lands within the County.*

1. This Chapter contains three distinct Sections; 1) Urbanization; 2) Urban Growth Concepts and; 3) Land Use Policies for the following Land Use Plan designations; Residential, Commercial, Industrial, Open Space and Floodplains, Rural Communities, Rural, Agriculture and Forest. Each of these Sections is addressed below.

a. Urbanization Section. This Section of the Plan outlines polices guiding land use in Immediate Urban Areas, Future Urban Areas, Future Urban Study Areas and Urban Reserve Areas.

The subject property is outside of the Metro Urban Growth Boundary. The property is not located in a Future Urban Areas, Future Urban Study Area or Urban Reserve Area.

**The Urbanization Policies are not applicable.**

b. Urban Growth Concept Policies. The Urban Growth Concept policies in this Section of the Plan are intended to implement the Region 2040 Growth Concept Plan. The subject property is not located within the boundaries of the Urban Growth Concept Plan Map on Comprehensive Plan Map IV-8.

**The Urban Growth Concept Policies are not applicable.**

c. Land Use Plan Designations. The subject property is currently designated Agriculture on the Comprehensive Plan map. The remaining policies pertaining to the Residential, Industrial, Open Space and Floodplains, Rural Communities, Rural and Forest plan designations in this Section of the plan are not applicable. The proposal does not involve a change to the Agricultural plan designation. Policy 3.0 in the Agricultural Section of the Plan is applicable.

1. Policy 3.0: *Land uses which conflict with agricultural uses shall not be allowed.*

The potential conflicts with adjacent and nearby agricultural uses is evaluated in the conflict analysis under OAR 660-023-0180(5). Those findings demonstrate the proposed mining use will not significantly conflict with agricultural uses and adopted by reference to address this policy.

**This policy is met.**

**This application is consistent with Chapter 4.**

**E. Chapter 5; Transportation:** *This Chapter outlines policies addressing all modes of transportation.*

1. This Chapter contains six (6) distinct Sections addressing; 1) Roadways; 2) Transportation Demand Management; 3) Parking; 4) Transit; 5) Pedestrian and Bicycle Facilities and; 6) Freight, Rail, Air, Pipelines and Water Transportation. Each of these Sections is addressed below.

2. Roadways. The purpose of this Section is to create and maintain a safe, continuous County-wide road system that accommodates movement by all modes. The adopted County Roadway Standards are also used to ensure a safe and adequate road system. Policies 14.0, 15.0, 16.0 and 20.0 are applicable.

a. Policy 14.0: *Plan and control access onto roads within the County, as shown on Table V-5, for urban areas and according to American Association of State Highway and Transportation Officials (AASHTO) guidelines for rural areas, for both new and existing uses, and coordinate with the Oregon Department of Transportation for access control on state highways. Access standards need to be applied in a flexible manner that maintains reasonable access to property when access cannot be denied.*

The existing site has an access drive to S. Barlow Road. The location of this access drive was approved in the original PAPA application approved for the original site and subsequently for the prior expansion site. The applicant has proposed to use this same access drive for hauling of the rock mining from the proposed site, which would be processed on the existing site. There is no existing access to any state highway, nor is any proposed.

The applicant has also proposed access to the proposed site (Exhibit 13), solely for the purpose of employee parking (for those involved in the extraction operations at the proposed site) and the infrequent movement of heavy equipment from the existing site to the proposed site. In addition, the applicant has proposed to maintain the existing access point on S. Barlow Road until such time as extraction commences on the proposed site, so that the tenant farmer may continue to have access for farming operations and the occasional moving of heavy equipment the proposed mining site.

**This policy is met.**

b. Policy 15.0: *Require right-of-way dedication, on-site improvements to the applicable roadway standard as shown on Table V-2 and V-3, and off-site improvements for new developments and land divisions necessary to handle expected traffic loads and travel by alternative modes.*

S. Barlow Road is designated as a minor arterial road. Table V-3 requires a minimum 60' right-of-way width a minor arterial road. The current right-of-way width of Barlow Road along the frontage of the subject property is 60'. No additional right-of-way is required to meet the minimum standard. The DTD, Traffic Engineering staff has not recommended any additional right-of-way, on site or off-site improvements to the roadway. The Planning Staff does not believe additional improvements are warranted because the proposed mining operation will not generate any additional traffic or impacts on the affected transportation system.

**This policy is met.**

c. Policy 16.0: *Require development to be served by adequate roadway facilities.*

The findings addressing Statewide Planning Goal 12 and comments from the DTD, TE staff demonstrate that the affected road system is adequate to accommodate mining of the proposed expansion area.

**This policy is met.**

d. Policy 20.0: *Assess anticipated off-site traffic impacts caused by new developments and land divisions. The developer or subdivider may be required to participate financially or otherwise in the provision of off-site improvements, dedications or other requirements.*

This proposal will not increase off-site traffic impacts because the proposed expansion area will share the maximum extraction limit of 3 millions tons per year with the original and prior expansion sites. The combined traffic from that site and proposed expansion area will not exceed the anticipated traffic generated from the existing approved site.

**This policy is met.**

3. Transportation Demand Management. This Section outlines strategies to achieve efficiency in the transportation system by reducing demand and vehicle miles traveled.

There are no policies in this Section of the Chapter applicable to this application.

4. Parking. This Section of the Chapter outlines policies for parking standards to meet the Region 2040 Growth Concept Plan, Transportation Planning Rule and DEQ's Air Quality Maintenance Plan.

There are no policies in this Section of the Chapter applicable to this application.

5. Transit. This Section of the Chapter outlines policies for accommodating transit services and facilities.

There are no policies in this Section of the Chapter applicable to this application.

6. Pedestrian and Bicycle Facilities. This Section of the Chapter outlines policies for providing pedestrian and bicycle facilities.

S. Barlow Road is designated as a Planned Bikeway on Map V-7b. Barlow Road does not currently include bike lanes. The DTD, Traffic Engineering staff has not recommended any additional right-of-way, on site or off-site improvements to the roadway. The Planning Staff does not believe additional bike lane improvements are warranted because the proposed mining operation will not generate any additional traffic or impacts on the affected transportation system.

7. Freight, Rail, Air, Pipelines and Water Transportation. This Section of the Chapter outlines policies applicable to these various travel modes of movement of people and goods.

There are no policies in this Section of the Chapter applicable to this application.

**This application is consistent with Chapter 5.**

**F. Chapter 6; Housing:** *The purpose of the Housing element of the Plan is to, "Provide opportunities for a variety of housing choices, including low and moderate income housing, to meet the needs, desires, and financial capabilities of all Clackamas County residents to the year 2010."*

1. The Planning Staff agrees with and adopts the findings in the application (page 53) addressing this Goal. There are no policies in this Chapter applicable to this application.

**Chapter 6 is not applicable.**

**G. Chapter 7; Public Facilities and Services:** *The goal of the Public Facilities and Services Chapter is to ensure an appropriate level of public facilities and services are necessary to support the land use designations in the Comprehensive Plan, and to provide those facilities and services at the proper time to serve the development in the most cost effective way.*

1. The Planning Staff agrees with and adopts the affirmative findings in the application (pages 53-55) and the following additional findings in addressing this Chapter.

2. The subject property is located outside of the Urban Growth Boundary and is not located within any public sewer, water or storm drainage districts. This proposal will have no affect on any public facilities (sanitary sewer, water, storm drainage, solid waste, street lighting).

3. Law enforcement is provided by the Clackamas County Sheriff's Office. The property is located within the Canby Fire District #62. A condition of approval will require review and approval of this development by the Canby Fire District. This proposal will have no effect on schools because no new housing is proposed. This proposal will have no effect on County Government services.

**This application is consistent with Chapter 7.**

**H. Chapter 8; Economics:** *The goal of the Economics element of the Plan is to "Establish a broad-based, stable and growing economy to provide employment opportunities to meet the needs of the County residents." This Chapter contains 4 Sections related to; 1) Existing Industry and Business; 2) New Industry and Business; 3) Coordination; and 4) Target Industries.*

1. The Planning Staff agrees with and adopts the affirmative findings in the application (pages 55-57) addressing this Goal.

**This application is consistent with Chapter 8.**

**1. Chapter 9; Open Space, Parks, and Historic Sites:** *The purpose of this Chapter of the Plan is to protect the open space resources of the County, to provide land, facilities and programs which meet the recreation needs of County residents and visitors, and to preserve the historical, archaeological, and cultural resources of the County.*

1. The Planning Staff agrees with and adopts the affirmative findings in the application (pages 57-58) and the following additional findings in addressing this Goal.

2. The subject property does not include any lands designated as park land. There are no designated Historic Districts or Historic Corridors on or adjacent to the subject property. The “Barlow House” is located approximately 800 feet northeast of northerly point the proposed expansion site, off of Hwy. 99E. The Barlow House is designated as a Historic Landmark. Therefore, Policy 6.0 is applicable.

a. Policy 6.0: *Develop policies and programs to protect historic resources and minimize conflicts.*

OAR 660-023-0180(5)(b)(D) requires a conflict analysis to consider impacts of the proposed mining on other Goal 5 resources. The findings in Part 7 of this report demonstrate the proposed expansion area will not have significant impacts on the Barlow House and are adopted to address this Goal. Conditions of approval in the Rodrigues PAPA included a condition requiring the mining operator to develop a plan for the annual cleaning of the exterior of the Barlow House in conjunction with other area mining operators. The Planning Staff has recommended the same condition to the proposed expansion area.

**This policy is met.**

**This application is consistent with Chapter 9.**

**J. Chapter 10; Community Plan and Design Plans:** *This Chapter of the Comprehensive Plan includes the Mt. Hood Community Design Plan, Kruse Way Design Plan, Sunnyside Village Plan, Clackamas Industrial Area and North Bank of the Clackamas River Design Plan, Clackamas Regional Center Area Design Plan, Sunnyside Corridor Community Plan, and McLoughlin Corridor Design Plan.*

1. The subject property is not located within a Community Plan or Design Plan area.

**Chapter 10 is not applicable.**

**K. Chapter 11; The Planning Process:** *The purpose of this Chapter is to establish a framework for land use decisions that will meet the needs of Clackamas County residents, recognize the County's interrelationships with its cities, surrounding counties, the region, and the state, and insure that changing priorities and circumstances can be met.*

1. This Chapter contains two (2) Policy Sections titled: 1) City, Special District and Agency Coordination and; 2) Amendments and Implementation. In the City, Special District and Agency Coordination Section of this Chapter, Policy 1.0 is applicable to this application. In the Amendments and Implementation Section, Policy 1.0 and 3.0 are applicable.

a. City, Special District and Agency Coordination Section

1. Policy 1.0; *Participate in interagency coordination efforts with federal, state, Metro, special purpose districts and cities. The County will maintain an updated list of federal, state and regional agencies, cities and special districts and will invite their participation in plan revisions, ordinance adoptions, and land use actions which affect their jurisdiction or policies.*

The findings addressing Statewide Planning Goal 2 identify the coordination efforts the County has completed in the review of this application and a list of all affected agencies which have been sent notice of the application. Those findings are adopted to address this policy by reference therein and demonstrate substantial compliance with this policy.

**This policy is met.**

b. Amendments and Implementation Section

1. Policy 1.0; *Assure that the Comprehensive Plan and County ordinances meet the goals of LCDC, the Region 2040 Urban Growth Management Functional Plan and the Metro Framework Plan.*"

Based on the findings in Part 1 of this report this proposal is consistent with the Statewide (LCDC) Planning Goals. The Urban Growth Management Functional Plan and Metro Framework Plan are not applicable to this application because the property is not located within an urban growth boundary or urban reserve area.

**This policy is met.**

2. Policy 3.0; *Amend the Comprehensive Plan pursuant to the following procedures and guidelines (listed in subpolicies 3.1 through 3.6). This is a quasi-judicial Comprehensive Plan map amendment and is subject to subpolicies 3.1, 3.3 and 3.4.*

a. Subpolicy 3.1; *A map amendment may be initiated only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.*



This application has been initiated by the property owner, Pacific Rock Products, LLC.

**This policy is met.**

b. Subpolicy 3.3; *All proposed Comprehensive Plan amendments are to be considered at advertised public hearings before the Planning Commission, in accordance with state law and County requirements.*

Both the Planning Commission and Board of County Commissioners will review this application through one or more public hearings. Notice of the hearings have been published in the local newspaper and advertised consistent with or exceeding all adopted ZDO notice requirements.

**This policy is met.**

e. Subpolicy 3.4; *If the proposed amendment is quasi-judicial, property owners will be notified as required. The Community Planning Organization in the affected area shall be notified at least 35 days prior to the first hearing.*

The property owners within 2,250 feet of the subject property were notified of this application on October 25, 2011, consistent with the requirement of Section 1302 of the ZDO. The Community Planning Organization for this area is South Canby. This CPO is inactive.

**This policy is met.**

**This application has been processed consistent with Chapter 11.**

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**PART 3. OREGON ADMINISTRATIVE RULE 660-023 – General Provisions and Requirements.**

A. General Process: Oregon Administrative Rule 660, Division 23 contains the procedures and requirements for complying with Statewide Planning Goal 5. Oregon Administrative Rule 660-23-0180 specifically relates to Mineral and Aggregate Resources. OAR 660-023-0180(2) outlines the general process for evaluating the PAPA. The application correctly summarizes this process on pages 6-8.

B. Individual Applications: OAR 660-23-180(2) requires local governments to amend acknowledged Comprehensive Plan inventories with regard to mineral and aggregate resources at periodic review or in response to an individual application for a Post Acknowledgement Plan Amendment (PAPA). This PAPA application has been submitted by an individual land owner.

C. Processing Time Line: Pursuant to OAR 660-023-0180(5) the County has 180 days after the receipt of the application to complete the review process and render a decision. The application was deemed complete on August 31, 2011. The 180 processing deadline is February 9, 2012. The Board of County Commissioners public hearing is scheduled on January 11, 2012.

D. Applicable Sections: The following Sections of OAR 660-023 are applicable to this application: Section 10 (Definitions), Section 60 (Notice and Land Owner Involvement) and Section 180 (Mineral and Aggregate Resources).

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**PART 4. OREGON ADMINISTRATIVE RULE 660-023-0060 - Notice and Landowner Involvement Requirements.**

A. OAR 660-023-0060: *Local governments shall provide timely notice to landowners and opportunities for citizen involvement during the inventory and ESEE process. Notification and involvement of landowners, citizens, and public agencies should occur at the earliest possible opportunity whenever a Goal 5 task is undertaken in the periodic review or plan amendment process. A local government shall comply with its acknowledged citizen involvement program, with statewide goal requirements for citizen involvement and coordination, and with other applicable procedures in statutes, rules, or local ordinances.*

1. Section 1302 and 1303 of the ZDO identifies the notice requirements and procedures for a quasi-judicial application and public hearings. This Section requires notice at least 35 days before the first evidentiary hearing to the CPO. The CPO is inactive in this case, and therefore notice was not provided.
2. Notice is also required at least 20 days prior to the hearing to the applicant, property owners of record within 750 feet of the boundary of the subject property and contiguously owned property, nearby airport owners, the Oregon Department of Aviation and dual interest organizations. Notice must also be provided in a newspaper of general circulation in the affected area at least 10 days prior to the hearing.
2. Paragraph F in the Background Section of this report includes a list of all the agencies sent notice of this application. This list includes all the affected dual interest area parties, including the Aurora Airport and the Oregon Dept. of Aviation. Notice was mailed to all these parties on October 26, 2011, approximately 32 days prior to the first scheduled hearing before the Planning Commission on November 28, 2011.
3. Notice of this application has also been provided to adjacent and nearby property owners within 2,250 of the subject property and contiguous property. The ZDO only requires notice to property owners within 750' feet of the property. In response to a general policy from the Planning Commission in a previous mining application, this area was expanded to provide notice to property owners within 750' of the boundary of the 1,500 foot impact area, or 2,250 feet. Notice was provided to property owners on October 25, 2011, approximately 33 days prior to the first public hearing. A notice of the public hearing was also provided to the Canby Herald newspaper on November 16, 2011 for general circulation.
4. Notice of the application has been provided consistent with State law, County Comprehensive Plan policies and ZDO requirements. The notice for this application was also provided well in advance of the minimum notice requirements and at the earliest possible opportunity.

**The Notice and Landowner Involvement Requirements are met.**

**Note:** the Determination of Completeness and Adequate Application (OAR 660-023-0180(8)) is discussed at Part 9, herein, so as to maintain numerical order of the OARs.

**PART 5. OREGON ADMINISTRATIVE RULE 660-023-0180(3) - Determination of Whether the Aggregate Resource Site is Significant (“Step 1”).**

A. OAR-660-23-180(3): *An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality and location of the resource demonstrates that the site meets any **one** of the criteria in subsections (a) through (c) of this section, except as provided in Subsection (d) of this Section.*

1. OAR-660-23-180(3)(a): *A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or more than 500,000 tons outside the Willamette Valley.*

a. This application includes a Geologic Investigation completed by H.G. Schlicker and Associates dated June 14, 2011. The Geologic Investigation was undertaken specifically to determine the location, quality and quantity of aggregate material on the subject property. The investigation included surficial reconnaissance, review of water well records, subsurface exploration, laboratory testing and a review of geologic literature in the area. The principal geologist who conducted the site investigation is J. Douglas Gless, a registered geologist, certified engineering geologist and licensed hydrogeologist.

b. The geology of the area is identified in Section 2.2 of the Geologic Investigation report. The subject property lies on a terrace formed by the Molalla and Pudding Rivers and in an area mapped as Quaternary alluvium. These areas generally consist of unconsolidated sand, gravel and cobbles with interbedded silt and clay. The subsurface exploration conducted on the property included 6 borings with depths of 37-77 feet and 5 test pits excavated to maximum depths of 22-23 feet. The location of the test pits are identified on Figure 2. Cross sections of the site including the location of test pits and materials are included in Figure 3.

c. The test pits and boring samples indicate the proposed mining site generally consists of a layer of topsoil approximately 0-7 feet deep. Below the topsoil is a layer of silty clay ranging from approximately 5-7 feet below the surface. The sand and gravel resource is located below this overburden. The depth of the sand and gravel resources ranges from approximately 5' to over 40' in some areas of the property. The sand and gravel resources are interspersed with some areas of clay. The subsurface resources identified on the property are consistent with those found in areas mapped as Quaternary alluvium.

d. The quantity of the resource is addressed in Section 2.5 of the Geologic Investigation report. Clackamas County is considered part of the Willamette Valley. Therefore this application is subject to the 2,000,000 ton threshold. The quantity of aggregate material is calculated based on the estimated cubic yards of material converted to tons. (1.54 tons /

cubic yard). The total cubic yards of material is estimated based on the size of the property (90 acres), depth of the mine (38 feet) and configuration of the actual mining site.

e. The volume estimate indicates there is approximately 3,675,366 cubic yards of fines, sand and gravel deposits available to mine. Based on these estimates there is approximately 5.6 million tons (3,675,366 cubic yards x 1.54) of usable mineral and aggregate materials on the subject property. The estimated quantity of material includes a 30-40 foot mining setback to property lines (100 for the BPA tower) and the Mine Slopes Configuration shown on Figure 5.

f. The quality of the mineral and aggregate resource is summarized in Section 2.5 of the Geologic Investigation report. Representative samples were submitted to Carlson Testing Inc. for air degradation, abrasion and soundness testing. The laboratory data sheets for this quality testing are included in Appendix E. The test results demonstrate the sand and gravel resource meets the applicable ODOT specifications for base rock.

g. In summary, the Planning Staff finds this location, quantity and quality standard is met for the following reasons:

1. The Geologic Investigation Report for this site was completed by an expert in the field of geology. Mr. Gless's experience working on the prior expansion site testing and other rock related projects demonstrates Mr. Gless has extensive experience in evaluating mineral and aggregate resources.

2. The Geologic Investigation includes a review and analysis of a number of different resources such as geologic mapping, well logs, boring samples and subsurface exploration.

3. The subsurface exploration includes 5 test pits and 6 borings. The test pits and borings are geographically dispersed across the property and provide a good representative sample of the mineral and aggregate resource potential.

4. There is an estimate of over 5.6 million tons of usable sand and gravel on the property.

5. Representative samples from the test pits were tested for quality. The quality of the mineral and aggregate resources satisfies the applicable ODOT specifications for base rock for air degradation, abrasion and soundness.

**The location, quality and quantity standards are met.**

2. OAR-660-23-180(3)(b): *The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section.*

Clackamas County has not adopted a separate standard establishing a lower threshold for significance. **This criterion is not applicable.**

3. OAR-660-23-180(3)(c): *The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.*

The subject property is not identified as a “Significant Sites” on Table III-2 - Inventory of Mineral and Aggregate Resource Sites in Chapter 3 of the Clackamas County Comprehensive Plan. **This criterion is not met.**

4. OAR-660-23-180(3)(d): *Notwithstanding Subsections (a) and (b) of this section, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996, had an enforceable property interest in the expansion area on that date, an aggregate site is not significant if the criteria in either paragraphs (A) or (B) of this subsection apply:*

a. OAR-660-23-180(3)(d)(A): *More than 35% of the proposed mining area consists of soil classified as Class I on Natural Resource Conservation Service (NRCS) maps on June 11, 2004; or*

b. OAR-660-23-180(3)(d)(B): *More than 35% 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, unless the average thickness of the aggregate layer within the mining area exceeds:*

1. *60 feet in Washington, Multnomah, Marion, Columbia, and Lane Counties*

2. *25 feet in Polk, Yamhill, and Clackamas counties; or*

3. *17 feet in Linn and Benton counties.*

There is no evidence in the record that the operator of the adjacent mining site had an enforceable property interest for this expansion area on March 1, 1996.

The application includes a map of the soils on the subject property. This map accurately identifies the soil types on the property as indicated in the NRCS Soil Survey of Clackamas County. The subject property consists of Chehalis silt loam (16), Cove silty clay loam (25), McBee silty clay loam (56) and Wapato silty clay loam (84) soils. The Legend on this soil map accurately identifies the soil types and agricultural capability rating of each soil. Approximately 78 acres or 77% of the mining site consists of the Cove soils (25), which are classified as a Class IV soil on the NRCS Soil Survey. The mining area does not consist of any soils which are classified as Class I soils on the NRCS maps. Nor does the mining area consists of more than 35% of soils classified as Class II, or a combination of Class II and Class I or Unique soils. Regardless of the soil types the Geologic Investigation Report demonstrates the average thickness of the aggregate layer within the mining area exceeds 25 feet. Therefore the proposed expansion area can considered a “Significant” site notwithstanding OAR 660-023-0180(3)(a) and (b). **This criterion is met.**

**CONCLUSION:** The proposed expansion area qualifies as a “Significant” site under OAR 660-023-0180(3) because it satisfies the location, quantify and quality standard in OAR 660-023-0180(3)(a) and satisfies OAR 660-023-0180(3)(d).

**PART 6. OREGON ADMINISTRATIVE RULE 660-023-0180(4) – Alternative Criteria to Determine if an Aggregate Resource Site on Farmland is Significant (“Step 1” Continued).**

A. OAR 660-023-0180(4): *Notwithstanding section (3) of this rule, a local government may also determine that an aggregate resource site on farmland is significant if subsections (a) and (b) of this section apply or if subsection (c) of this section applies:*

1. OAR 660-023-0180(4)(a): *The quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less for a site in the Willamette Valley, or 500,000 tons or less for a site outside the Willamette Valley; and*

2. OAR 660-023-0180(4)(b): *Not more than 35 percent of the proposed mining area consists of soil:*

a. OAR 660-023-0180(4)(b)(A): *Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or*

b. OAR 660-023-0180(4)(b)(B): *Classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds the amounts specified in paragraph (B) of subsection (3)(d) of this rule; or*

3. OAR 660-023-0180(4)(c): *A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination.*

Based on the findings in Part 5 of this report, the quantity of aggregate material proposed to be mined from the site exceeds 2,000,000 tons. The mining area does not consist of any soils which are classified as Class I soils on the NRCS maps. Nor does the mining area consist of more than 35% of soils classified as Class II, or a combination of Class II and Class I or Unique soils. A local land use permit to allow mining has not been issued on this site at any time.

**CONCLUSION: The proposed mining area qualifies as a “Significant” site under this alternative location, quantity and quality standard because the estimated amount of aggregate material exceeds 2,000,000 tons. (Based on these findings, OAR 660-023-1080(6) is not applicable to this application).**

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**PART 7. OREGON ADMINISTRATIVE RULE 660-023-0180(5) – Determination to Allow or Not Allow Mining (“Steps 2 through 5”).**

A. OAR 660-023-0180(5): *For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving an aggregate site determined to be significant under section (3) of this rule, the process for this decision is set out in subsections (a) through (g) of this section. A local government must complete the process within 180 days after receipt of a complete application that is consistent with section (8) of this rule, or by the earliest date after 180 days allowed by local charter.*

1. OAR 660-023-0180(5)(a) (“Step 2”): *The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.*

OAR 660-023-0010(3) defines the “Impact Area” as the geographic area within which conflicting uses could adversely affect a significant Goal 5 resource. The application includes a supplemental exhibit entitled “Noise Compliance Boundary” (Exhibit 14).

The applicant has proposed that the “Impact Area” be the same as the noise compliance boundary. The applicant has provided information in the record demonstrating that it does or can meet noise standards with mitigation measures beyond this “Noise Compliance Boundary.” Because noise from the proposed mining operation is the farthest reaching impact, the applicant argues that it does not make sense to identify the impact area beyond the area which there are no impacts.

This criterion does not require the buffer area to be extended around an existing mining site, only the proposed expansion area. Although the subject property is intended to be operated as an expansion of the existing site, the existing site does not qualify as an “Existing Site” as defined in OAR 660-023-0180(1). See Definitions in Exhibit 7. An “Existing Site” is defined as “...an aggregate site that meets the requirements of subsection (3)(a) of this rule and was lawfully operating, or was included on an inventory of significant aggregate sites in an acknowledged plan, on September 1, 1996.”

The adjacent mining site to the east was not acknowledged in the Clackamas County Comprehensive Plan or in operation on September 1, 1996. Therefore it is not considered an expansion site for purposes of identifying the impact area. As a result the impact area must be drawn around and measured from the boundaries of the proposed expansion area. The “Buffer” map in the application accurately incorrectly identifies the impact area as being around the adjacent site and the existing site. However, the supplemental “Noise Compliance Boundary” (Exhibit 14), correctly identifies the proposed impact area from the proposed mining site.

There is no information in the record which indicates there may be potential conflicts with existing and approved land uses beyond the “Noise Compliance Boundary,” which would warrant a larger buffer area. In the review of the PAPA application on the adjacent mining site, the County determined that an impact area boundary based on the noise impact was adequate for evaluating potential conflicts, as identified by the location of the MAO boundary around that site.

**This criterion is met.**

2. OAR 660-023-0180(5)(b) (“Step 3”): *The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:*

a. OAR 660-023-0180(5)(b)(A): *Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;*

I. Noise: The mining operation will generate noise from activities including removal of overburden, aggregate extraction and from vehicles and equipment. The mining will be completed by dewatering the mining cells to allow the removal of the mineral and aggregate materials by bulldozer, excavator and / or front end loaders. The mining operations will not require any blasting. A conveyor belt system is used to move mined mineral and aggregate material from the mining cells to the processing area on the east side of S. Barlow Road. At the processing area, sand and gravel are screened and washed.

a. The applicant has submitted a Noise Study to address noise impacts from the proposed mining operation. The Noise Study was completed by Daly-Standlee & Associates, Inc. and is dated June 13, 2011. The processing facility currently used in conjunction with the existing mining site to the east will be also be used for mining of the proposed expansion area. The location of the processing facility (in the northeast corner of the existing site) will not change. The types of equipment used in the mining operation include an excavators, dozers and loaders.

b. The noise study was conducted using the criteria in OAR 340-035-035 – Noise Control Regulations for Industry and Commerce. The study include a “worst case scenario” which evaluates potential noise assuming all the excavation equipment is operating simultaneously and continuously throughout each hour of the work day. According to DEQ rules the following uses and activities are exempt from noise standards:

1. Activities associated with stripping of overburden and building noise berms.
2. Warning devices not operating continuously for more than 5 minutes (i.e. sounds from equipment and vehicle back up alarms or beepers).

3. Sounds created by the tires and motors of licensed road vehicles, such as trucks entering and leaving the site.

c. There are 7 single family dwellings located within the 1,500 foot buffer area (“Noise” tab, Section 7 and Figure 5). There are no schools or other existing or approved noise sensitive land uses located in the 1,500 buffer area. The closest dwelling (R2) is located approximately 20-30 feet from the mining area, the farthest dwelling (R5) is approximately 1,450 feet. The Noise Study includes an evaluation of the most restrictive noise standard for the hours between 7 AM and 10 PM, which is L(50) dBA. Predicted noise levels were calculated to determine if this standard could be met at the nearby dwellings. The boundary of this noise level is identified in Exhibit 14. The DEQ noise standard of 55 dBA will be met at all residences without the use of any mitigation measures (Table 3 and Section 8 of the “Noise” tab).

d. Because noise is regulated by a State DEQ standard, any conflicts or impacts from noise generated from the mining area are deemed to be “minimized” if the applicable DEQ standard can be met. The Noise Study provides substantial evidence demonstrating the proposed mining operation, can satisfy the State of Oregon DEQ Noise Standards. There is no evidence to the contrary.

e. Noise from the Conveyor Belt: the applicant has identified best practices for the transfer points of the conveyor belt (See proposed Operating Condition N). The applicant proposes to line the transfer points with a rubberized polymer to absorb the energy and eliminate the gravel-on-metal clanging. The applicant presently utilizes this practice with success at the conveyor belt presently in operation at the existing site.

2. Dust: Dust will be potentially be generated from all aspects of the mining and processing operation, including overburden and aggregate extraction, berm building, processing, on and off-site truck and equipment movement. The application identifies several operational and management practices and mitigation measures which are currently used in the existing mining operation, where all of the procession will occur. Applicant states that extraction at the proposed site will be from below ground surface and will be moist eliminating dust in the extraction process, handling and conveying. The applicant concludes that they do not believe there are any significant dust vectors that accompany the proposed operations within the expansion site.

a. Water is required for adequate dust control. In the prior PAPA (File No. Z0756-06-CP / Z0767-06-CP) an on-site well and truck with water storage is available for water suppression. In this application, the processing of rock is performed on the existing site, not the proposed site. However, staff recommends a condition of approval that the on-site water storage truck for the existing site be made available for dust suppression on the proposed site, as needed. Staff believes this is adequate for the proposed mining area.

c. The processing facility (crushing and screening equipment) on the existing mining site will also be used to process sand and gravel resources from the proposed expansion area. This facility is currently operating under an approved General Air Contaminant

Discharge Permit (ACDP) from the Department of Environmental Quality. This location of this facility in the northeast corner of the property will not change. A condition of approval will require this ACDP to be maintained by the operator for processing of mineral and aggregate resources from the proposed expansion area.

d. Dust conflicts can be minimized on the subject property based on the following:

1. The existing processing facility is approved under a DEQ General Air Contaminant Discharge Permit which demonstrates dust from this facility is minimized. The location and operational characteristics of this facility will be used to process materials from the proposed expansion area.
2. The aggregate material is wet when extracted and does not generate significant dust.
3. The main access road for this facility is on the existing site and is paved to the middle of the site which limits dust from truck and equipment traffic.
4. The wet aggregate materials are transferred from the mining pits to the processing area utilizing a conveyor belt system which further limits truck traffic and dust.
5. Berms and landscaping around the mining site will assist in minimizing dust.
6. In the PAPA applications for the existing mine and prior expansion site, the County determined dust conflicts were minimized. The proposed expansion area will be operated utilizing the substantially same dust control practices for the proposed expansion area. The intensity of combined mining on the existing site and proposed site will not change because the 3 million ton extraction limit will remain in place.

3. Other Potential Discharges: The applicant has identified other potential discharges to include impacts on groundwater resources. The Planning Staff does not believe there are any other potential discharges other than groundwater impacts.

a. H.G. Schlicker and Associates has analyzed potential effects on groundwater from the operations at the proposed expansion site. The study indicates that with proper mining management and mining cell configuration, there will be no adverse effect on the groundwater in this area. Staff concurs with these findings and adopts a recommended condition that these recommendation be made a condition of approval, along with a condition similar to that in the prior expansion site approval, that the application be required to restore the water source for any well that is determined by DOGAMI to be damaged by operations on the proposed and existing sites. Existing monitoring wells and requirements are in place for the existing mine and will apply to the proposed expansion area.

b. OAR 660-023-0180(5)(b)(B): *Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation*

*shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;*

1. This criterion requires an analysis of “Potential conflicts to local roads.....” Two relevant legal opinions have been issued by the LUBA in regards to this criterion. The first opinion interpreted the word "local" to mean the classification of the road (i.e. local, collector, arterial, etc.), and not a geographical area. Under that opinion, conflicts with the transportation system could not be evaluated if the development takes access to a road classified something other than "local." A subsequent LUBA case found that although that is a correct interpretation of the language, the County is required to consider Goal 12 of the Statewide Planning Goals. The purpose of Goal 12 is "To provide and encourage a safe, convenient and economic transportation system." Therefore, the adequacy of the transportation system as a whole can be evaluated to ensure it is safe and adequate to accommodate the traffic impacts from the proposed mining operation.

2. The subject site has direct access to Barlow Road, which is classified as a minor arterial road in the Comprehensive Plan. The subject property is located approximately ½ mile from the Hwy. 99E / Barlow Road intersection and ½ mile from the Lone Elder / Barlow Road intersection. The Planning Staff and DTD, TE staff agree find that no other intersections within one mile of the subject property will be significantly impacted by this proposed and therefore do not need to be analyzed.

3. The findings addressing Statewide Planning Goal 12 – Transportation and Section 1202 of the ZDO (Zone Change criteria) address the adequacy of the transportation system including relevant site distance standards, road capacity and safety. Those findings demonstrate the road system is safe and adequate to accommodate the anticipated amount of traffic and type of truck traffic associated with the existing mining area and proposed expansion area. Those findings are adopted to address these criteria and demonstrate there are no significant conflicts to the local transportation system.

c. OAR 660-023-0180(5)(b)(C): *Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR Chapter 660, Division 013;*

1. There are no public airports located in the 1,500 buffer area. The closest public airport is the Aurora Airport which is approximately 2 miles (11,000+ feet) to the west. The subject property is located outside of the “Approach Corridor”, but within the “Conical Surface” and “Horizontal Surface” of this airport. This airport is considered an Instrument Approach airport. The proposed post mining use for this property includes ponds (water impoundment) for fish and wildlife habitat. OAR 660, Division 13 regulates Airport Planning. OAR 660-013-0080 identifies land use compatibility requirements for public use airports. OAR 660-013-0080(1)(f) requires the local government to regulate water impoundments of one-quarter acre or larger consistent with the requirements of ORS 836.623(2) through (6).

2. ORS 836.623(2)(a) prohibits new water impoundments of one-quarter acre or larger

within an Approach Corridor and within 5,000 feet from the end of a runway, or on land owned by the airport or airport sponsor where the land is necessary for airport operations. The subject property is not located within an Approach Corridor or within 5,000 feet of the end of the runway.

3. ORS 836.632(2)(b) allows the local government to adopt regulations that limit the establishment of new water impoundments of one-quarter acre or larger for areas outside a Approach Corridor and within 5,000 feet of a runway if the local government adopts findings that the water impoundment is likely to result in a significant increase in the hazardous movements of birds across the runway or Approach Corridor. The subject property is not located within 5,000 feet of a runway.

4. ORS 836.632(2)(c) allows the local government to adopt regulations that limit the establishment of new water impoundments of one-quarter acre or larger between 5,000 feet and 10,000 feet of a runway outside and Approach Corridor and between 5,000 feet and 40,000 feet within an Approach Corridor for an airport with an instrument approach only where the local government adopts findings that the water impoundment is likely to result in a significant increase in hazardous movements of birds across the runways or approach corridor. The Aurora Airport is an Instrument Approach airport and the subject property is located within 40,000 feet of the approach corridor. Therefore the County has the authority to regulate the proposed post mining use (water impoundment) if it determines the use will result in a significant increase in the hazardous movement of birds across the runway or Approach Corridor of the airport. Both the Aurora Airport and Oregon Department of Aviation were sent notice of this application.

5. The proposed mining operation and post mining use is consistent with OAR 660, Division 13 and ORS 836.623(2) through (6) because no water impoundments will be created within 5,000 feet of an Approach Corridor or runway. No comments have been received from the airport owner, the Oregon Department of Aviation or any other interested parties indicating the proposed post mining use would result in a significant increase in the hazardous movement of birds across the runway or approach corridor of the Aurora Airport. Therefore the proposed mining operation will not create any conflicts with this existing public airport.

d. OAR 660-023-0180(5)(b)(D): *Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;*

1. There are two Goal 5 resources located within the “buffer” area: the existing adjacent mining site and the Historic Barlow House.

a. Pacific Rock Mineral and Aggregate Site: The adjacent property to the east includes three tax lots which are designated as a Significant Goal 5 Mineral and Aggregate Resource Site in the Mineral and Aggregate Section of the Comprehensive Plan. The application does not include any findings addressing this Goal 5 resource. The Planning Staff does not believe mining of the proposed expansion area will conflict with the

existing Significant Mineral and Aggregate Resource for the following reasons:

1. They are the same type of Goal 5 resource.
2. The subject property is intended to be operated as an expansion site of the existing Goal 5 site.
3. The mineral and aggregate resources on the expansion site will be extracted as part of the same mining operation, utilizing the same processing facilities, access road, etc. as the existing mining site.

b. Historic Barlow House: This Goal 5 resource is located to the north of the subject property on Hwy. 99E. The property is zoned EFU / HL (Historic Resource Overlay). The historic resource is the dwelling and related accessory structures. The Planning Staff does not believe mining of the proposed expansion area will conflict with this Historic Resource for the following reasons:

1. The conflict analysis addressing noise and dust demonstrates the mining of the proposed expansion area will not generate any significant conflicts outside the buffer area.
2. No blasting or other activities which generate significant vibrations will occur in the mining area which would result in structural damage to the dwelling. The proposed expansion area is located farther away from the proposed expansion area than the existing mining area.
3. No agricultural uses are present on the Barlow House property which would be impacted from mining.

Although the Planning Staff does not believe the proposed mining operation will conflict with this historic resource, the PAPA application approved for the original site and prior expansion sites both included a condition requiring the mining operator to develop a plan for the annual exterior cleaning of the Barlow House in conjunction with other area mining operators. See Exhibit 7, condition no. 2(U). The Planning Staff believes the Planning Commission should recommend adoption of this same condition.

e. OAR 660-023-0180(5)(b)(E): *Conflicts with agricultural practices; and*

1. OAR 660-23-180(4)(c) requires ORS 215.296 to be followed when determining if conflicts to agricultural practices exist, and/or if they can be minimized. ORS 215.296 requires the local government to find the proposed use will not: 1) force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and 2) significantly increase the cost of accepted farm and forest practices on surrounding lands devoted to farm or forest uses.

2. The existing agricultural uses within the 1500 foot impact area are identified in the background section of this report, on pages 15-16 of the application, on the aerial photo in the application and in the aerial photo in “Maps/Pictures” tab.

3. The Planning Staff does not believe mining of the proposed expansion area will conflict with this Historic Resource for the following reasons:

1. For the reasons identified in the application on pages 15-16.
2. There are no significant livestock operations located on the adjacent properties or 1,500 buffer area which would be impacted by noise. In addition, the findings addressing noise conflicts demonstrate the mining operation can operate in compliance with DEQ Noise standards.
3. The findings addressing dust conflicts demonstrate the mining operation will not generate significant dust off the property.
4. The closest property to the east used for agricultural practices is tax lot 400 adjacent to the Molalla River. This property is located over 3,000 feet from the subject property and buffered from the proposed expansion area by the existing mining operation. In addition, the existing mining area was found to be compatible with this farm operation.
5. The mining operation will not increase surface waters on adjacent properties or affect groundwater.
6. The proposed expansion site is not located any closer to agricultural operations to the south and east than the existing mining operation which was determined to have no significant conflicts with agricultural uses and practices.
7. No comments have been received from any adjacent or nearby property owners indentifying potential conflicts with agricultural uses and practices.
8. The large nursery stock operations to the south are buffered from the subject property in elevation and distance. These farm operations are located on a terrace above the mining operations and separated by a significant vegetated bluff.
9. Hwy 99E, a state highway, provides a buffer from the mining site to the north and west.
10. Agricultural uses are currently and have historically been conducted on the subject property and adjacent mining site in conjunction with the existing mining operation. The proposed expansion area is currently in pasture and grass seed production and will remain as such until the commencement of mining on the proposed site.
11. The access road used for the existing mining operation and proposed expansion area is not shared or required for access to any adjacent farm operations.

f. OAR 660-023-0180(5)(b)(F): *Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780;*

The County has not adopted any ordinances that supersede the Oregon DOGAMI regulating mining activities pursuant to ORS 517.780. This criterion is not applicable.

3. OAR 660-023-0180(5)(c) (“Step 4”): *The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized,*



*subsection (d) of this section applies.*

The conflicts associated with the proposed expansion area are identified and addressed above in OAR 660-023-0180(5)(b). Based on this analysis, the off-site conflicts are limited to noise as identified in Figure 5 of the Noise Study. All the remaining conflicts can be minimized to the extent that the conflict is not significant off the subject property. All the identified conflicts, including the off-site noise impacts can be minimized with reasonable and practicable conditions, such as clearly identified setbacks and buffers, normal and customary mining processes, and compliance with applicable state standards. Therefore mining should be allowed at the subject site, and Subsection (d) of this Section is not applicable (i.e. an ESEE Analysis is not required). The reasonable and practical measures necessary to minimizing conflicts are identified in the application (pages 16-18) and included in recommended conditions of approval in Exhibit 12.

**This criterion is met.**

4. OAR 660-023-0180(5)(d) (“Step 5”): *The local government shall determine any significant conflicts identified under the requirements of subsection (c) of this section that cannot be minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. Local governments shall reach this decision by weighing these ESEE consequences, with consideration of the following:*

a. OAR 660-023-0180(5)(d)(A): *The degree of adverse effect on existing land uses within the impact area;*

b. OAR 660-023-0180(5)(d)(B): *Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and*

OAR 660-023-0180(5)(d)(C): *The probable duration of the mining operation and the proposed post-mining use of the site.*

Based on the findings in OAR 660-023-0180(5)(b) all the identified conflicts can be minimized with reasonable and practical measures and conditions. Therefore, an ESEE analysis is not required.

**This criterion is not applicable.**

5. OAR 660-023-0180(5)(e): *Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e.g., site plan review), if required by the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not provide opportunities to deny mining for reasons unrelated to these requirements, or to attach additional approval requirements, except with regard to mining or processing activities:*

- a. OAR 660-023-0180(5)(e)(A): *For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;*
- b. OAR 660-023-0180(5)(e)(B): *Not requested in the PAPA application; or*
- c. OAR 660-023-0180(5)(e)(C): *For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.*

Pursuant to the findings in OAR 660-023-0180(5)(c) mining is allowed on the property. The measures to minimize conflicts are identified in Exhibit 12. Noise conflicts do extend off the property, but meet DEQ standards at the nearby residential uses. The limit of the DEQ Noise standard in Figure 3 of the Noise Study. To ensure new conflicting uses are not established in the impact area, the location of the proposed Mineral and Aggregate Overlay boundary should correspond to the “Noise Compliance Boundary” (Exhibit 14).

The recommended conditions of approval in Exhibit 12 are clear and objective standards. Pursuant to Section 708 of the ZDO additional land use review of this proposal is required through a Mineral and Aggregate Operating Permit to ensure the site specific program and conditions are met prior to mining.

**This criterion can be met.**

6. OAR 660-023-0180(5)(f): *Where mining is allowed, the local government shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, local governments shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.213(1) or 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking. Local governments shall coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.*

The subject property is not located on Class I Soils. The proposed mining is located on a small amount of Class II Soils. Therefore the post-mining use is specifically limited to uses listed under ORS 215.283(1) and fish and wildlife habitat uses, including wetland mitigation banking. However, the applicant has proposed a post mining use for the proposed expansion area to include fish and wildlife habitat. This is an allowed use under this criterion and in the underlying EFU zoning district and is an appropriate use because it is the same post mining use authorized on the existing mining operation on the adjacent property.

A condition of approval will require coordination between Clackamas County and DOGAMI regarding final reclamation plans and activities for this mining site.

**This criterion is met.**

7. OAR 660-023-0180(5)(g): *Local governments shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the local government.*

An aggregate processing operation was authorized at the existing mining site located on the adjacent property to the east. There were no specific conditions on the existing processing operation which otherwise limit that processing facility or prohibit its use in conjunction with mining in the proposed expansion area. A condition of approval will allow the existing processing facility to be used in conjunction with the proposed expansion area subject to the same conditions as the original approval.

**This criterion is met.**

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**PART 8. OREGON ADMINISTRATIVE RULE 660-023-0180(7) – Determination to Allow, Limit, or Prevent Conflicting Use within the Impact Area.**

OAR 660-023-0180(7): *Except for aggregate resource sites determined to be significant under section (4) of this rule, local governments shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. (This requirement does not apply if, under section (5) of this rule, the local government decides that mining will not be authorized at the site.)*

The Mineral Aggregate Overlay (MAO) zoning district is the tool within the Clackamas County Comprehensive Plan used to identify an “impact area” and to protect a significant mineral and aggregate site from conflicting uses.

Based on the findings in OAR 660-023-0180(3), the proposed expansion area qualifies as a “Significant Mineral and Aggregate Site.” Therefore the Mineral Aggregate Overlay zoning district should be revised to protect this expansion site from conflicting uses. Based on the conflict analysis in OAR 660-023-0180(5) all the conflicts associated with the proposed expansion area are minimized with the exception of off-site noise conflicts. The noise conflicts can be minimized at the affected dwellings (residential land uses), but the conflict does extend outside of the existing MAO boundary to the south and west. Therefore, the MAO zoning district should reflect the area identified as the “Noise Compliance Boundary” (Exhibit 14).

The appropriate uses allowed and conditionally allowed within the impact area are those listed in the EFU zoning district, subject to the applicable review process in the EFU zoning district and in Section 708.08 of the ZDO. New residential land uses should be prohibited within the MAO zoning district because such a use would cause the mining operation violate DEQ Noise Standards. This will ensure that there are no conflicting uses within the impact area of this significant mineral and aggregate site. As a result an ESEE analysis to determine whether to allow, limit or prevent new conflicting uses within the impact area is not required.

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**PART 9. OREGON ADMINISTRATIVE RULE 660-023-0180(8) – Determination of a Complete and Adequate Application.**

A. OAR 660-023-0180(8): *In order to determine whether information in a PAPA submittal concerning an aggregate site is adequate, local government shall follow the requirements of this section rather than OAR 660-023-0030(3). An application for approval of an aggregate site following sections (4) and (6) of this rule shall be adequate if it provides sufficient information to determine whether the requirements in those sections are satisfied. An application for a PAPA concerning a significant aggregate site following sections (3) and (5) of this rule shall be adequate if it includes:*

1. OAR 660-023-0180(a): *Information regarding quantity, quality, and location sufficient to determine whether the standards and conditions in section (3) of this rule are satisfied;*

The narrative of the application titled “Quality & Quantity” includes a Geologic Investigation completed by H.G. Schlicker and Associates dated June 14, 2011. Part 2 of this report specifically addresses the standards regarding the quantity, quality and location of the resource as required in OAR 660-23-180(3). Those findings demonstrate the information in the report is adequate to determine the location, quantity and quality of the aggregate resource on the subject property.

**This submittal standard is met.**

2. OAR 660-023-0180(b): *A conceptual site reclamation plan;* (Final approval of reclamation plans resides with DOGAMI rather than local governments, except as provided in ORS 517.780)

The proposed reclamation use is fish and wildlife habitat. A conceptual reclamation plan is included in the application (“Conceptual Reclamation Plan”).

**This submittal standard is met.**

3. OAR 660-023-0180(c): *A traffic impact assessment within one mile of the entrance to the mining area pursuant to section (5)(b)(B) of this rule;*

The narrative of the application titled “Transportation” includes a traffic analysis completed by Associated Transportation Engineering and Planning, Inc. dated December 8, 2010. Section (5)(b)(B) of this rule requires an analysis of local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. The TA includes an analysis of the Lone Elder / Barlow Road intersection, Barlow Road / Site access intersection and Hwy. 99E / Barlow Road intersection.

The Lone Elder / Barlow Road and Hwy. 99E / Barlow Road intersections are located approximately 1/3 to 1/2 mile from the entrance of the mining site. The TA does not include an analysis of all roads within one-mile of the mining site. However, the

submitted traffic information provides an analysis of the closest intersections impacted by the proposed mining site. No other roads or intersections within a one mile radius will be significantly impacted and therefore an analysis of other roads or intersections within one mile is not required.

**This submittal standard is met.**

4. OAR 660-023-0180(d): *Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500 foot impact area; and*

The location of conflicts within the 1,500 buffer area is identified in the tab titled “Noise.” See Step 2 on page 34-35. The proposed impact area is identified as “Noise Compliance Boundary” (Exhibit 14).

A land use conflict analysis is provided in the section of the application titled “Narrative.” (Pages 11-18). See also PAPA Step 3 on page 35-42 of this report. This analysis includes an evaluation of conflicts with existing uses identified by the applicant. The evaluation includes impacts from noise, dust and impacts or conflicts with groundwater resources, storm water, roads, existing airports, other Goal 5 resources and agricultural land and practices.

Step 4 of the tab “Narrative” (pages 16-18) includes proposed mitigation and other measures to reduce or minimize potential conflicts.

**This submittal standard is met.**

5. OAR 660-023-0180(e): *A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses.*

The section of the application titled “Site Plan” includes a general site plan of the existing and proposed mining site. The application also includes other maps and aerial photos of the existing and proposed mining site which identify existing mined areas, the access road to the existing site (proposed access to the site is shown at Exhibit 13), location of processing areas and batch plant, monitoring wells, proposed landscape berms. The application also includes substantial information addressing hours of operation, mining activities, types of equipment, proposed berms and landscaping and other pertinent operational characteristics regarding the existing and proposed mining activities.

**This submittal standard is met.**

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## **PART 10. SUMMARY OF FINDINGS AND CONCLUSIONS ON THE PAPA**

Parts 1-9 of this report outlines and addresses all the policies, standards and criteria found to be applicable to this proposal in the Statewide Planning Goals, County Comprehensive Plan and Oregon Administrative Rules. In consideration of the findings in Parts 1-9, the Planning Staff finds that this proposal should be approved for the following reasons:

- 1. This proposal is consistent with the Statewide Planning Goals 1 - 3, 5, 6 - 9 and 11 - 13. Statewide Goals 4, 10, 14 - 19 are not applicable.**
  - 2. This proposal is consistent with the general policies in Chapters 2 - 5, 7 - 9 and 11 in the Clackamas County Comprehensive Plan. Chapters 1, 6 and 10 are not applicable.**
  - 3. The adequacy and safety of the transportation system is subject to the Statewide Planning Goal 12 and a number of Comprehensive Plan policies. The findings in this report demonstrate compliance with the Statewide Planning Goal 12 – Transportation, the implementing Transportation Planning Rule in OAR 66-012 and Roadway Policies in Chapter 5 of the Comprehensive Plan. Therefore, the affected State and County transportation facilities are adequate.**
  - 4. This proposal complies with OAR 660-023. Specifically:**
    - a. The findings in Part 9 demonstrate the PAPA application is complete.**
    - b. The findings in Part 4 demonstrate the application has been processed in compliance with the minimum notice and landowner involvement requirements.**
    - c. The findings in Part 5 demonstrate the mining site is “Significant” because it includes more than 2,000,000 tons of usable aggregate which meets ODOT’s specifications for base rock and the property is not located on more than 35% Class I, II or unique soils.**
    - d. The findings in Part 7 demonstrate all the potential conflicts associated with mining can be minimized subject to reasonable and practical measures, therefore mining of the site should be allowed.**
    - e. The findings in Part 8 demonstrate that no conflicting uses are located within the impact area, which has been determined to be the same as the “Noise Compliance Boundary” (Exhibit 13).**
    - f. The post mining use is fish and wildlife habitat which is an allowed use in the underlying EFU zoning district.**
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**SECTION 2- ZONE CHANGE TO APPLY MINERAL AGGREGATE  
OVERLAY ZONING DISTRICT (MAO)**

**PART 1: COMPLIANCE WITH SECTION 1202 OF THE ZDO**

A. The zone change criteria are listed in Section 1202 of the Clackamas County Zoning and Development Ordinance (ZDO). Section 1202.01 states that the Hearings Officer shall allow a zone change, after a hearing conducted pursuant to Section 1300, if the applicant provides evidence substantiating the following criteria:

1. Section 1202.01A: *Approval of the zone change is consistent with the Comprehensive Plan.*

Based on the findings in Section 1 of this report, the PAPA application is consistent with the Clackamas County Comprehensive Plan and the proposed expansion site qualifies as a “Significant” Mineral and Aggregate. The findings addressing the applicable Goal 5 requirements in OAR 660-023-0180 demonstrate mining should be allowed on the property. The proposed MAO zoning district implements the requirements of “Significant” Mineral and Aggregate sites where mining should be allowed. Therefore, the MAO zoning district is consistent with the Comprehensive Plan. In order to protect the significant mining site from offsite noise conflicts, the MAO zoning district is proposed to be the same as the “Noise Compliance Boundary” (Exhibit 14),

**This criterion is met.**

2. Section 1202.01B: *If development has a need for public sanitary sewer, surface water management and/or water service, a zone change may be approved if development under the new zoning designation can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.*

The subject property is not located in a public sewer, surface water or water district, nor is the extension of these services proposed or necessary to support the proposed mining operation.

**This criterion is not applicable.**

3. Section 1202.01C: *The transportation system is adequate, as defined in Subsection 1022.07(B) and will remain adequate with approval of the zone change. Transportation facilities that are under the jurisdiction of the State of Oregon are exempt from this subsection. For the purpose of this criterion:*

a) Section 1202.01C(1): *The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a twenty-year period beginning with the year that a complete land use application*



*is submitted.*

b) Section 1202.01C(2): *It shall be assumed that all improvements identified in the Clackamas County 20-Year Capital Improvement Plan, the Statewide Transportation Improvement Plan, and the capital improvement plans of other local jurisdictions are constructed.*

c) Section 1202.01C(3): *It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.*

d) Section 1202.01C(4): *Transportation facility capacity shall be calculated pursuant to Subsection 1022.07(C).*

e) Section 1202.01C(5): *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

The adequacy of the transportation system has been addressed under the discussion of Statewide Planning Goal 12 and the implementing Transportation Planning Rule. Those findings demonstrate the County transportation facilities are adequate to accommodate the proposed zone change. Those findings are adopted by reference to address this criterion.

**This criterion is met.**

4. Section 1202.01D: *The proposal, as it relates to transportation facilities under the jurisdiction of the State of Oregon, complies with the Oregon Highway Plan.*

The adequacy of the State transportation system has been addressed under the discussion of Statewide Planning Goal 12 and the implementing Transportation Planning Rule. Those findings are adopted by reference to address this criterion. Those findings demonstrate this proposal will have no significant effect on the State transportation facilities providing the combined traffic in both the AM and PM Peak Hour from the proposed expansion area and existing mining area does not exceed the allowable level of traffic authorized in the PAPA application for the existing mining site (154 AM Peak Hour and 120 PM Peak Hour Trips). A condition of approval is warranted to that effect.

**This criterion is met.**

5. Section 1202.01E: *Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.*

The Planning staff has concluded that the safety of the transportation system is adequate to serve the level of development anticipated by the zone change. This

conclusion is adopted as part of this report by reference therein and demonstrate the affected County road system is safe to accommodate traffic from the proposed expansion area. DTD, Traffic Engineering staff will submit additional comments at the Planning Commission hearing. See Exhibit 11.

The Planning Staff also finds the Barlow Road / Lone Elder Road intersection is safe because it includes an all way stop designed in compliance with County Roadway Standards.

The ODOT has not raised or identified any safety issues at the Hwy. 99E / Barlow Road intersection.

**This criterion is met.**

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## **PART 2: SUMMARY OF ZONE CHANGE CRITERIA**

This application satisfies the applicable criteria in ZDO Section 1202.

**Z0331-11-CP / Z0332-11-ZAP (PACIFIC ROCK)**

**CONDITIONS OF APPROVAL**

1. **GENERAL CONDITIONS:**

- A. Table III-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add "Pacific Rock / Paradis Property" to the list of Significant Sites.
- B. Mining shall be allowed on the property subject to the site specific program in the submitted application to the extent it is consistent with the remaining conditions of approval.
- C. The post reclamation use of the subject property shall be limited to fish and wildlife habitat uses consistent with the Clackamas County Comprehensive Plan, Clackamas County Zoning and Development Ordinance and specifically those uses listed under ORS 215.283(1). All plant species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
- D. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusion by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsible for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

2. **PROCESSING / OPERATING / MONITORING CONDITIONS:**

- A. Compliance with all operating conditions proposed in the submitted application, to the extent they are consistent with the remaining conditions of approval.
- B. The combined level of aggregate and mineral extraction for the Paradis properties, the Rodrigues site, and the existing Pac Rock site (e.g., Phases 1-3) shall not exceed 3 million tons per calendar year.
- C. All mining activities on Phase 3, except for routine maintenance, shall be limited to the hours of 7:00 A.M. to 6:00 P.M. Monday through Friday and from 8:00 A.M. to 5:00 P.M. on Saturday. No mining activities shall occur on Sundays and the following legal holidays: New Years Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. No loading and hauling activities are permitted. Loading, hauling, mining and processing hours on Phase 1 and Phase 2 shall remain unchanged.
- D. Prior to any land disturbance associated with the mining operation on Phase 3, the applicant shall submit to the County Planning Division a copy of an Operating Permit and approved

reclamation plan from the Oregon Department of Geology and Mineral Industries which covers Phase 3 (either as a separate permit or an expansion of the existing permit for Phase 1 and Phase 2). The mining operator shall maintain a State Department of Geology and Mineral Industries Operating Permit and all other applicable permits for the duration of this mining operation.

- E. A County Mineral and Aggregate Overlay District Permit shall be obtained before any land disturbance associated with this mining operation. This mining operation is subject to all the applicable standards in Section 708 of the ZDO, including Extraction Area uses, development standards and reclamation. All property owners within the Impact Area shall be notified of the County Mineral and Aggregate Resources District permit process and given the opportunity to participate and comment on the issue of screening, including berms and plantings.
- F. Prior to any land disturbance within the Bonneville Power Administration (“BPA”) right-of-way, the applicant shall submit to the County Planning Division a copy of a current Land Use Agreement between the applicant and the BPA authorizing mining within the BPA right-of-way. The applicant shall comply with any conditions included in such Land Use Agreement.
- G. The processing plant located on the existing mining operation (Phase 1) shall be used for processing mineral and aggregate materials from the Paradis properties. No new processing facilities shall be established on the Paradis properties.
- H. The Canby Fire District shall review and approve this mining operation to ensure it is acceptable for access by fire and emergency vehicles. The Fire District shall also review and approve any provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.
- I. Review and approval for this development by the Oregon Department of Water Resources, of any water resource issues that fall within their jurisdiction, including but not limited to obtaining a ground water right permit for industrial uses.
- J. Mining operations on Phase 3 shall comply with DEQ noise standards.
- K. All mining operator-owned mobile diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent. All non-operator owned equipment that will be utilized at this mining site shall be equipped with original equipment manufacturer muffler, or its equivalent.
- L. All mining operator-owned mobile diesel equipment shall have original equipment manufacturer engine compartment side panels.
- M. Subject to State and Federal warning signal requirements, all backup warning signal devices shall be selected or set to the minimum sound level possible, or shall be the ambient noise sensing type which adjust the sound level to the ambient noise off the rear of the vehicle. Back-up beepers that may be switched to light/strobe mode shall be installed and used on all

loading equipment and maintenance vehicles. The back-up beepers shall be switched to the light/strobe mode when allowed under State and Federal Warning Signal Requirements (e.g., After Dark).

- N. This mining operation shall utilize mining techniques approved by DOGAMI. Aggregate material shall be transferred to the processing facility by a conveyor system. Transfer points between the conveyors shall be treated to reduce noise. Rubber screens and noise reduction equipment commonly used in the industry shall be employed at this mining site.
- O. Blasting shall not be used for any purpose at this mining site.
- P. The mining site may be dewatered for mining individual cells. All water removed from the mining cell as part of dewatering operations shall be reintroduced into the water table by pumping the water to other onsite ponds at the Canby operation, or other onsite or offsite methods approved by DOGAMI.
- Q. Prior to any land disturbance associated with the mining operation on Phase 3, the applicant shall submit to the County Planning Division a copy of a 1200-C-General National Pollutant Discharge Elimination System Permit (storm water and erosion control for Phase 3) approved by DOGAMI or the Water Environment Services Department.
- R. If required for Phase 3, a Department of Environmental Quality, Air Contaminant Discharge Permit (ACDP) shall be obtained and maintained by the mining operator throughout the duration of this mining operation.
- S. A water truck shall be maintained at the Canby operations for dust control (and fire control) at Phases 1-3 of the mining operation. Access drive(s) for employee access and parking areas shall be graveled. Access onto County roads shall meet County Roadway standards.
- T. The mining operator shall be responsible for restoring the water source for any property within the final impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well or caused water quality to not meet health standards in place at the time this mining operation is approved.
- U. Prior to extraction within the Paradis properties, the operator shall install three additional monitoring wells in a south to north orientation, as shown on Figure 5 in the Hydrology Report. Installation of these three additional wells shall be completed at least 12 months in advance of dewatering operations on the Paradis site.
- V. The operator shall monitor all on-site monitoring wells (the three existing monitoring wells and the three additional wells described in Condition U) on a bi-weekly basis for one year before commencing dewatering operations on the Paradis properties. The purpose of this condition is to assure that there is a full year of accurate data before dewatering commences, and to provide real-time data on groundwater levels as mining progresses. The operator shall share this monitoring data with the City of Barlow and any other interested regulatory agency (e.g., DOGAMI and OWRD). If a trend is observed that could significantly affect

the City of Barlow well, the operator shall work with the City of Barlow and regulatory agencies to modify its mining plans to eliminate the problem. Strategies to accomplish this could include:

- establishment of a recharge area at the north end of the Paradis properties so that the recharge activity is directly between the mining activity and the City of Barlow well;
  - altering mining cell order and/or the size of the mining cells;
  - requiring wet mining for final lift on Cells 1 and 2 or the first or second lift of gravel on Cells 3 and 4 (i.e., further reduce or control dewatering per actual on-site conditions established by monitoring well data);
  - reducing mining depths.
- W. The operator shall mine the site from south to north utilizing four mine cells, beginning at Cell 1 as shown on Figure 3 in the Hydrology Report. On Cells 3 and 4, the operator shall dewater only for the first two lifts of aggregate removal (approximately 28 feet) and shall use an excavator and “wet” extraction for removal of the final lift of gravel.
- X. A minimum setback of 40 feet shall be maintained along Highway 99 (westerly boundary) of Phase 3. A minimum setback of 30 feet shall be maintained between the extraction area and the property lines on the remainder of the subject property. A greater setback shall be maintained if required by the DOGAMI or by Clackamas County in the review of the Mineral and Aggregate Operating Permit, if deemed necessary to protect the structural integrity of S. Barlow Road. Berms may be constructed in the set-back area. In addition, the operator shall maintain the setbacks required by BPA to protect the structural stability of the BPA transmission lines and towers, pursuant to the BPA Land Use Agreement (also discussed in Condition F).
- Y. In coordination with other sand and gravel operators in the area, the operator will consider joint efforts to periodically clean the exterior of the Barlow House. All mineral and aggregate operators in the general area must contribute an equal share to the cost of such cleaning, if any.
- Z. The permitted operations on Phase 1 and Phase 2, approved under File Nos. Z1826-97-MAR, Modification and Z0756-06-CP/ZO757-06-Z, may continue to operate subject to compliance with all conditions of the approvals in the relevant files. The asphaltic concrete batch plant approved under File No. Z0652-99-C may continue to operate on the Phase 2 property in the approved location subject to compliance with all conditions of approval in that file.
- AA. Topsoil shall only be removed from the new mining area between October and May, or at other times using approved dust suppression techniques. Seed and mulch all unvegetated stockpiled topsoil/overburden prior to October 1 of each year. The overburden from the Extraction Area shall be used for reclamation.

BB. The mining operator shall be responsible for incorporating Phase 3 into the existing spill prevention and response program. The program shall be reviewed and approved by Clackamas County Planning Department, DOGAMI and DEQ, if applicable, in order to ensure compliance with DEQ water quality standards.

3. VISUAL SCREENING CONDITIONS:

- A. The applicant shall provide adequate visual screening between any mining activity and Barlow Road and Highway 99E pursuant to Section 708.05B of the ZDO.
- B. All lighting on Phase 3, if any, shall be designed to direct light downward and shield adjacent properties from glare, pursuant to ZDO Subsection 1005.05.
- C. There shall be strict compliance with the Berm Landscaping Plans required for the Paradis properties. Dead or dying trees shall be replaced at least annually. The trees shall be planted in conformance with industry standards and planted during the fall or early spring to ensure high survival rates. The east side of the required berm along S. Barlow Road shall include in addition to the required trees, a combination of ground cover or shrubs planted to landscape industry standards.

4. NOISE RELATED CONDITIONS:

- A. Noise resulting from all mining activities within Phase 3 shall comply with the Department of Environmental Quality Noise Standards at all existing residences during the lifetime of this mining operation. All berms identified in the Noise Study shall be constructed to mitigate noise. At the operator's election, Cell 1 may be mined from East (Barlow Road) to West (Highway 99E), or from West to East. The remaining cells (Cell 2-4) must be mined West (Highway 99E) to East (Barlow Road). Before the beginning of any aggregate extraction on the Paradis properties, the applicant shall submit to the County Planning Division verification that all of the noise mitigation measures have been implemented.
- B. Within 45 days after extraction operations are commenced on the Paradis properties, the operator shall submit a noise study to demonstrate the extraction operations are in compliance with applicable DEQ standards. The report shall be provided to the County Planning Department.
- C. All vehicles and equipment used on the subject site shall meet required DEQ Noise Standards.

5. TRANSPORTATION RELATED CONDITIONS:

- A. All material from the Paradis properties shall be sent by conveyor under Barlow Road to the existing processing area in Phase 1. No trucks will be used to transfer gravel across Barlow Road. No loading or hauling shall be allowed from Phase 3.
- B. Employees shall generally cross Barlow Road via motorized vehicles except in emergency or unusual situations.

- C. Prior to final approval of a Mineral and Aggregate Operating Permit, the applicant shall renew the maintenance agreement with Clackamas County for the applicant's proportional share of the maintenance of Barlow Road between the access drive and Highway 99E.
- D. The applicant has indicated an interest in constructing a new driveway approach to Barlow Road via tax lot 41E07 00300. The applicant shall permanently close and remove the existing driveway approach to Barlow Road on tax lot 41E07 00300 with approval of a new driveway to this tax lot. The existing driveway approach shall be replaced with matching shoulder, ditch and landscaping. A new access meeting current drainage, sight distance, circulation, surfacing, etc. may be constructed at that time. The applicant shall apply for and obtain a Development Permit for those improvements.
- E. At such time that mining operations commence on tax lot 41E06 01900, the applicant will discuss with the gas pipeline company, the possibility of combining driveway access to Tax Lot 41E 06 1800 and 41E 06 1900 and the possibility of a mutual access easement. If applicant and gas company ultimately decide that the driveways can be combined, driveway access to Tax Lot 41E 06 1800 shall be permanently closed and the existing driveway approach to tax lot 41E 06 01900 shall be replaced with a matching shoulder, ditch and landscaping. In the event of a combination of these two driveway access points, the applicant shall apply for an obtain a Development Permit for the improvements.
- F. The Phase 3 mining operation, in combination with Phase 1 and Phase 2, shall not generate more than 154 weekday AM peak hour trips and 120 weekday PM peak hour trips.
- G. The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (i.e. dump trucks with pups, delivery trucks, fire apparatus, garbage and recycling trucks), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site and at the site driveway intersections with Barlow Road.
- H. Parking spaces shall meet minimum *ZDO* dimensional requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided. The applicant shall label all compact, carpool, disabled, and loading berth spaces on the plans.
- I. Parking spaces for disabled persons and the adjacent accessible areas shall be paved.
- J. The applicant shall generally not allow debris from the site to deposit onto Barlow Road. Should debris be deposited on Barlow Road, the applicant shall be responsible for cleanup of debris on a daily basis.
- K. The applicant shall provide and maintain adequate intersection sight distance and adequate stopping sight distance at the driveway intersections with Barlow Road. Adequate intersection sight distance for drivers turning left into the site shall also be provided and



maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance, at the driveway intersection with Barlow Road, shall be 665 feet along Barlow Road, measured 14.5 feet back from the edge of the travel lane. Minimum stopping sight distance shall be in accordance with AASHTO standards, appropriately adjusted for grades and measured along the middle of the individual travel lanes. Minimum intersection sight distance for drivers turning left into the site shall be 490 feet measured from the driver's location at the intersection to the middle of the oncoming travel lane.

- L. The applicant shall provide adequate corner vision. No sight-obscuring structures or plantings exceeding 30 inches in height, measured from the roadway surface, shall be located within a 20-foot radius of the lot corner nearest the intersection of two public, County, or State roads, or from the intersection of a private driveway, access drive, or private road and a public, County, or State road. Trees located within a 20-foot radius of such an intersection shall be maintained to allow eight feet of visual clearance below the lowest-hanging branches. The limits of a public, County or State road are defined by the entire right-of-way width.
- M. Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.
- N. The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned five feet above the pavement surface, at the driveway intersection with Morgan Road. (*Manual on Uniform Traffic Control Devices*)
- O. All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.
- P. Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:
  - 1. Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply as applicable. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
  - 2. Written approval from the appropriate surface water management authority for surface water management facilities and erosion control measures.
  - 3. A set of street and site improvement construction plan for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
  - 4. The permit will be for driveway, drainage, parking and maneuvering area, and other site improvements.

- a) The minimum fee is required for eight or fewer, new or reconstructed parking spaces. For projects with more than eight parking spaces, the fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.
  - b) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
- Q. Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD.
6. CONFLICTING USES WITHIN MAO BOUNDARY:
- A. Property within the Impact Area is subject to Subsection 708.09D of the ZDO.
  - B. No proposed use will be allowed which would cause the mining operation to violate noise control standards measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate compliance with the noise standards. Mitigation measures necessary to achieve compliance with the noise standards shall be the responsibility of the applicant for the proposed use.

# Memo



Daly • Standlee & Associates, Inc.

4900 S.W. Griffith Drive  
Suite 205  
Beaverton, Oregon 97005  
(503) 646-4420  
Fax (503) 646-3385

**Date:** November 17, 2011

**To:** Paul Hribernick

**Black Helterline LLP**  
1900 Fox Tower  
805 SW Broadway  
Portland, OR 97205

**From:** Valerie Smith, Acoustical Consultant  
Kerrie G. Standlee, P.E., Principal

**Re:** Noise Compliance Boundary for Paradis Property Operations

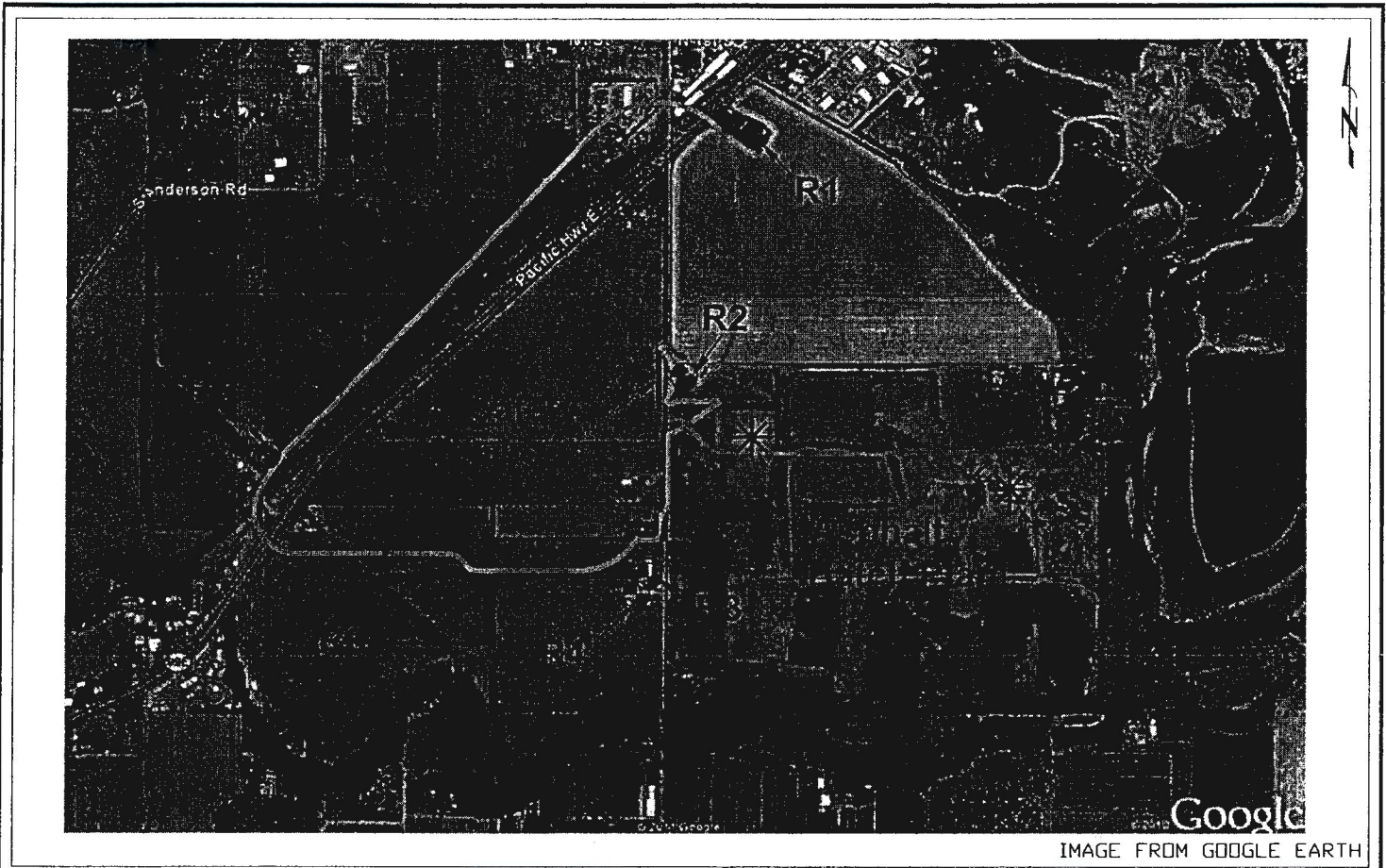
**DSA File #: 156083**

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**Paul:**

At your request, an additional figure has been generated to supplement our June 13, 2011 noise study report entitled "Noise Study for the Proposed Cemex USA Canby/Barlow Road Aggregate Mine, Phase 3 Mining Area". The attached Figure 7 shows the "DEQ Noise Compliance Boundary" for the operations that will occur solely on the Paradis expansion property (Phase 3 of the Canby/Barlow Road Aggregate Mine mining plan). Figure 6 in the 6/13/11 noise study report shows the "DEQ Noise Compliance Boundary" for the operations that could occur in all three phase areas of the site (the proposed Paradis expansion property operations and the existing permitted Phase 1 and 2 property operations).

The "DEQ Noise Compliance Boundary" shown in Figure 7 is defined as the boundary around the mining area within which noise radiating from operations in the mining area will exceed the DEQ noise regulation limits. Outside the boundary, the noise levels will be less than or equal to those specified by the DEQ noise control regulations. DSA considers the area inside the "DEQ Noise Compliance Boundary" as the area identified in the Goal 5 rule where noise impacts to noise sensitive receivers must be minimized. Since there are no noise sensitive receivers located within the "DEQ Noise Compliance Boundary" shown in Figure 7, DSA concludes the noise associated with operations in the proposed Paradis expansion area has been minimized as required in the Goal 5 rule.



Daly-Standlee & Associates, Inc. ph: 503-646-4420 fax: 503-646-3385 email: DSA@acoustechgroup.com		Canby/Barlow Road Aggregate Mine, Phase 3 Mining Area Analysis Noise Compliance Boundary for Paradis Property Operations	
PROJECT NO. 156082	Project Engineer: VCS	DATE: 11/17/11	FIGURE # 7



DEPT OF

MAR 28 2012

LAND CONSERVATION  
AND DEVELOPMENT

OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

March 27, 2012

Department of Land Conservation and Development  
Attention: Plan Amendment Specialist  
635 Capitol Street NE, Suite 150  
Salem, Oregon 97301

Re: Pacific Products PAPA

**Stephen L. Madkour**  
County Counsel

**David W. Anderson**  
**Kimberley Ybarra**  
**Kathleen Rastetter**  
**Scot A. Sideras**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Rhett C. Tatum**  
Assistants

Dear Plan Amendment Specialist:

Please find enclosed Form 2 – DLCDC Notice of Adoption for a PAPA request by Pacific Rock Products and a copy of the required attachments. As we discussed on the phone, the order was formally approved by our board on February 9, 2012 and should have been transmitted by February 29, 2012. However, due to a lapse in our workflow it was not. I apologize for the late submission.

Sincerely,

Rhett C. Tatum  
Assistant County Counsel



DEPT OF

MAR 28 2012

OFFICE OF COUNTY COUNSEL  
LAND CONSERVATION  
AND DEVELOPMENT

PUBLIC SERVICES BUILDING  
2051 KAEN ROAD OREGON CITY, OR 97045

**Stephen L. Madkour**  
County Counsel

**David W. Anderson**  
**Kimberley Ybarra-Cole**  
**Kathleen Rastetter**  
**Scot A. Sideras**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Rhett C. Tatum**  
Assistants

## CERTIFICATE OF MAILING

I hereby certify that the enclosed Board Order No. 2012-12, Local File No. Z0331-11-CP / Z0332-11-ZAP was deposited in the mail on March 27, 2012

Signed: \_\_\_\_\_

A handwritten signature in blue ink that reads "Cheryl J. Cornelison".

Cheryl J. Cornelison, Administrative Assistant  
Clackamas County Counsel's Office  
(503) 655-8619

  
**CLACKAMAS**  
COUNTY  
**PUBLIC SERVICES BUILDING**  
**OFFICE OF COUNTY COUNSEL**  
2051 KAEN ROAD | OREGON CITY, OR 97045



DEPT OF  
MAR 28 2012  
LAND CONSERVATION  
AND DEVELOPMENT

Attn: Plan Amendment Specialist  
Dept. of Land Conservation & Development  
635 Capitol Street NE, Ste. 150  
Salem, OR 97301-2540

