



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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NOTICE OF ADOPTED AMENDMENT

05/06/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: Linn County Plan Amendment  
DLCD File Number 004-12

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

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, May 16, 2013

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

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

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

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

<paa> YA



FORM 2

DLCD

# Notice of Adoption

In person  electronic  mailed

DATE STAMP

DEPT OF

APR 29 2013

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: **LINN COUNTY**

Local file number: **BC12-0003**

Date of Adoption: **04/24/13**

Date Mailed: **04/25/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 10/1/12

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

A *Comprehensive Plan* text amendment to include a 120.8-acre property in the Linn County aggregate inventory as a significant aggregate resource site, an Aggregate Resource Overlay (ARO) zone amendment, and a development permit for aggregate mining and processing on a 120.8-acre resource site. The property is identified as portions of T13S, R01W, Section 06, Tax Lot 401.

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

Plan Map Changed from:

to:

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

to: **F/F-ARO**

Location: **13s-01w-06-401**

Acres Involved: **120.8**

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

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

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

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

DLCD File No. 004-12 (19548) [17433]

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Local Contact: **OLIVIA GLANTZ**

Phone: (541) 967-3816 Extension: 2368

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

Fax Number: 541-967-2060

City: **ALBANY**

Zip: 97321-

E-mail Address:

**OGLANTZ@CO.LINN.OR.US**

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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).

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**  
**FOR LINN COUNTY OREGON**

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

**RESOLUTION &  
ORDER NO. 2013-088**  
(Planning and Building Department BC12-0003)  
(Findings and Conclusions)

**WHEREAS**, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on January 2, 2013 for the purpose of considering the matter of a proposed *Comprehensive Plan* text amendment and zoning map amendment that would amend the *Comprehensive Plan* text to include a 120.8-acre portion of the property identified as Tax Lot 401 on Assessor map T13S, R01W, Section 06, in the inventory of significant aggregate resource sites with all conflicts minimized; amend the Zoning Map to apply the Aggregate Resource Overlay (ARO) to the resource site; and permit the mining and processing of aggregate on the property;

**WHEREAS**, The proposed *Comprehensive Plan* text amendment and proposed zoning map amendment had been previously considered by the Linn County Planning Commission at a duly advertised hearing on December 11, 2012;

**WHEREAS**, The Board, held the record open for 41 days, until February 13, 2013 for new written testimony only;

**WHEREAS**, The Board, held the record open for an additional 7 days, until February 20, 2013, for the applicant's written rebuttal;

**WHEREAS**, The Board, reconvened on March 6, 2013 and after considering all testimony and evidence submitted, reached a consensus to adopt the proposed *Comprehensive Plan* text amendment and proposed Zoning Map amendment, and to permit the mining and processing of aggregate on the property;

**WHEREAS**, The findings in support of the proposed *Comprehensive Plan* text amendment and zoning map amendment are attached hereto as Exhibit 1 (Resolution and Order No. 2013-088; Planning File BC12-0003; Thomas Harrington; Decision Criteria, Findings and Conclusions);

**WHEREAS**, The Conditions of Approval are to minimize identified conflicts and to supplement the County's program to achieve Goal 5 compliance for the Site are attached hereto as Exhibit 2 (Resolution and Order No. 2013-088; Planning File BC12-0003; Conditions of Approval and Site-specific Program to Achieve Goal 5; Thomas Harrington); and now, therefore, be it

**RESOLVED**, That the Board of County Commissioners for Linn County approve the Findings and Conclusions as set forth in Exhibit 1 (Resolution and Order No. 2013-088; Planning File BC12-0003; Thomas Harrington; Decision Criteria, Findings and Conclusions) and Conditions of Approval in Exhibit 2 (Resolution and Order No. 2013-088; Planning File BC12-0003; Conditions of Approval and Site-specific Program to Achieve Goal 5; Thomas Harrington); and

**ORDERED**, That the applications be approved to include a 120.8-acre property in the Linn County aggregate inventory as a significant aggregate resource site with all conflicts minimized; to apply the aggregate resource overlay (ARO) to the resource site and the impact area; and to authorize mining consistent with the ARO, the Conditions of Approval, and other applicable regulations;

**ORDERED**, That the *Linn County Comprehensive Plan* text be prepared for Board adoption amending LCC Chapter 905, Appendix 6, entitled "*Inventory of Significant Sites With All Conflicts Minimized*" to include the 120.8-acre property identified on Linn County Assessor maps as Tax Lot 401 on Assessor map T13S, R01W, Section 06 containing a significant aggregate resource;

**ORDERED**, That *Linn County Comprehensive Plan* text be prepared for Board adoption amending LCC Chapter 905, Appendix 6A, entitled "*Analyses Justifying a Classification as a Significant Site With All Conflicts Minimized*" to include the conclusions of the Goal 5 resource and conflict analysis in support of adding the identified 120.8-acre property identified on Linn County Assessor maps as Tax Lot 401 on Assessor map T13S, R01W, Section 06, to the aggregate inventory as a significant site;

**ORDERED**, That the proposed Zoning Map amendment be prepared for adoption to apply the Aggregate Resource Overlay (ARO) mining area to the 120.8-acre property identified on Linn County Assessor maps as Tax Lot 401 on Assessor map T13S, R01W, Section 06 that is identified as a significant aggregate resource site, as delineated in Exhibit 1, Attachment A; and

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

**ORDERED**, That a development permit be issued to authorize aggregate mining and processing on the 120.8-acre property identified on Linn County Assessor maps as Tax Lot 401 on Assessor map T13S, R01W, Section 06, that is identified as a significant aggregate resource site, consistent with LCC Chapter 905, Appendix 6 and Appendix 6A; LCC Chapter 921; LCC Chapter 931; LCC Chapter 934; and the Conditions of Approval attached hereto as Exhibit 2.

Resolved this 24<sup>th</sup>, day of April, 2013.

BOARD OF COUNTY  
COMMISSIONERS FOR LINN COUNTY

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

  
\_\_\_\_\_  
John K. Lindsey, Vice-Chairman

**ABSENT**

\_\_\_\_\_  
William C. Tucker, Commissioner

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APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Robert Wheeldon  
Director, Linn County Planning & Building

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Eugene J. Karandy II  
Linn County Attorney

**EXHIBIT 1**  
Resolution and Order No. 2013-088  
Planning File BC 12-0003  
Thomas and Debra Harrington  
Thomas Harrington Site  
Decision Criteria, Findings, and Conclusions

**I. APPLICATION SUMMARY**

Applicant seeks the following actions:

- A. A Comprehensive Plan (Plan) text amendment application to include a 120.8 acre property in the Linn County aggregate inventory as a significant aggregate resource site.
- B. An aggregate resource overlay (ARO) zone amendment application to apply the ARO to the 120.8 acre resource site and the associated mining impact area. Mining and processing is an allowed use in the ARO.
- C. A development permit application for aggregate mining and processing on the resource site consistent with the adopted provisions in the Plan and the ARO.

A copy of the complete application, the supplemental materials submitted by the Applicant and others in connection with this proceeding, together with the Staff Report prepared by the Linn County Planning and Building Department can be found in the record.

**II. DECISION CRITERIA**

The proposed aggregate inventory Plan text amendment is reviewed and decided using the applicable criteria and procedures in Linn County Code (LCC) 921.872 and LCC 939. Because the property is included in the aggregate inventory, the mining and processing development permit is subject to the criteria in LCC 921.540 to 921.569.

The Board finds that the Plan text amendment, to include the 120.8 acre subject property in the Linn County aggregate inventory as a significant aggregate resource site, complies with the criteria in Linn County Code (LCC) 921.872; LCC 939.010 to 939.200; and LCC 921.540 to 921.569.

When the resource site is determined to be a significant site that is approved for mining, the Aggregate Resource Overlay (ARO) is applied to the site. Mining and processing aggregate is an allowed use in the ARO. If the site were determined to be a non-significant site, the mining and processing development permit application would be reviewed using the criteria in LCC 933.310.

The Board finds that the application of the aggregate resource overlay (ARO) zone amendment to apply the ARO to the 120.8-acre resource site and the associated impact area complies with the criteria in LCC 939.010 to 939.200.

The operating standards that govern aggregate mining and processing are identified in LCC 934.350 to 934.359. The applicable decision criteria, Plan elements, and development standards are attached to the staff report and incorporated by reference herein.

The Board finds that development permits comply with the Plan and the criteria in LCC 933.310 and the operating standards in LCC 934.350 to 934.359 by application of the conditions of approval attached as Exhibit 2 to this Order.

### **III. FINDINGS**

The staff report dated January 2, 2013, as modified herein, is incorporated by reference into these findings. In the event of a conflict, this Exhibit 1 and Order control.

#### **A. Proposal Summary**

The subject property is owned by Thomas and Debra Harrington. The quarry is operated by Thomas Harrington. The property is identified on Linn County Assessor maps as T13S-R1W-Section 6, Tax Lot 100; is zoned Farm/Forest (F/F); and is located on the north side of Harrington Drive just east of its intersection with Sodaville Mountain Home Road.

The site is currently listed on the Plan as a privately owned aggregate site (An Existing Site with significance not determined – formerly referred to as a “5A” Site). An existing conditional use permit authorizes extraction and processing of a portion of the 120.8 acre subject property. The applicant seeks authorization to expand the existing approximately 20-acre quarry to include the 120.8-acre subject property and to amend the Comprehensive Plan designation of the 120.8-acre resource site to include the site in the aggregate inventory as a significant site with all conflicts minimized.

Based on the findings contained herein, the Board designates the subject property as a “significant” aggregate resource site under OAR 660-023-0180(3) and LCC 939.120. An aggregate resource site is “significant” if a representative set of samples of aggregate material in the deposit on the site meet applicable Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley. The record contains evidence and reports from a certified civil engineer demonstrating that the amount of aggregate materials at the site exceed the threshold for a significant site. In addition, the record contains evidence taken from the sampling of materials on the site that demonstrates that aggregate materials exceed all required ODOT specifications.



The Planning Commission (Commission) conducted a public hearing on the application on December 11, 2012. The Commission unanimously adopted a motion to recommend that the Board of Commissioners approve the application and include the resource site in the "Inventory of Significant Sites with all Conflicts Minimized (Appendix 6)," apply the Aggregate Resource Overlay to the site, and approve an operating permit to mine the property subject to compliance with the conditions of approval intended to minimize conflicts with surrounding land uses.

A public hearing was held before the Linn County Board of Commissioners (Board) on Wednesday, January 2, 2013 at 10:00 a.m. in Room 200 of the Linn County Courthouse in Albany Oregon. The meeting was continued for additional written testimony only. The Board further considered the application at a meeting held March 6, 2013, and afterwards reached a preliminary oral decision approving the application.

Based on the findings referenced herein, the Board concludes the subject property is a "Significant Site with all Conflicts Minimized (Appendix 6)." The Board finds that the conditions of approval specified in Exhibit 2 of this Order are reasonable and practical measures that would minimize any conflicts between the mining and processing operations and existing and approved land uses within the impact area.

#### **B. Inventory Classification (LCC939.120)**

The subject property is identified on Linn County Assessor maps as tax lot 400, Section 6, T13S, R01W. The site is located on the north side of Harrington Drive just east of Sodaville Mountain Home Road. The resource site is approximately 120.8 acres and contains the existing quarry, haul road, buffer areas, and processing and storage areas. The quarry is currently operating under existing conditional use permits. The record shows that the quarry has been operating at the site since 1962 and its operation predates the adoption of County and State rules governing the extraction and processing of aggregate resources.

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

The application contains a report prepared by Brian Vandetta, a certified civil engineer, stating that approximately 20.2 million tons of aggregate material could be mined from the site utilizing the setback and operational requirements and limitation specified for the site. This amount is greater than the threshold for significance of two million tons in LCC 939.120(B)(2) to include the property in the inventory as a significant resource site.

The property contains soils that are classified as predominantly class VI by the NRCS/SCS. Evidence in the record demonstrates that the significance criteria in LCC 939.120(C) do not apply to this property.

The applicant has established the location, quantity and quality of the resource as meeting the requirements of the Goal 5 rule and County Code. The site meets the significance criteria in LCC 939.120.

### C. Impact Area (LCC939.130)

After determining that the aggregate resource is significant, the area impacted by the proposed mining use must be determined. Existing and potential conflicts between the proposed mining related activities and land uses within this impact area must then be evaluated.

Oregon Administrative Rules (OAR) and LCC 939.130(A)(1) require that the County "Identify an impact area for the purpose of identifying conflicts with proposed mining and processing activities. LCC 939.130(A)(1)(a) establishes that "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 proposed mining area, except where factual information is adequate to indicate significant potential conflicts beyond this distance.**" (emphasis added)

The City of Sodaville and other nearby property owners requested that the impact area be expanded beyond the 1,500-foot presumed distance. The party requesting expansion of this 1,500-foot impact area must support its request with "factual information" that is "adequate" to indicate "significant potential conflicts beyond 1,500 feet." The Board has reviewed all factual information submitted into the record and concludes that opponents to the application have not submitted factual information adequate to indicate significant potential impacts beyond 1,500 feet from the resource site boundary. The Board's review and analyses follows.

1. Request by the City of Sodaville relating to potential impacts to City water wells.

The applicant has submitted substantial evidence in the form of data and analyses from various sources and professional conclusions from a hydrogeologist certified by the State of Oregon. This evidence demonstrates that:

- (a) The City of Sodaville's wells are outside the 1,500-foot impact area.
- (b) The water capture zones of City wells 1, 4 and 5 fall within the 1,500-foot impact area.
- (c) Available evidence indicates that the water capture zones of the City's wells are not hydrologically linked to the proposed resource site.
- (d) It is unlikely that the proposed mining related activities will have any impact on the City's wells.
- (e) The applicant has proposed and the conditions of approval require monitoring of the groundwater hydrology in the area of the resource site and the City's wells. The monitoring system, the "Groundwater Elevation Monitoring Network"

(GEMN), consists of monitoring wells that will provide timely detection of any impacts in the surrounding area. The monitoring network includes three new wells to be developed by the Applicant. The opponents' expert concurs that these are sufficient for detecting impacts.

- (f) Using the proposed monitoring system and other data sources (e.g. City well information), any impacts to test wells in the water capture zones of the City's wells will be detected long before potential impacts to the City's wells themselves.
- (g) Any potential impact upon the water capture zones of the City's wells is at a minimum several years and more likely several decades in the future.
- (h) Any potential impact on the water capture zones for City wells would occur, at a minimum, several years before any potential impact to the wells themselves, which are located outside the impact area.
- (i) This delay allows the Applicant and City adequate time to establish baseline data on subsurface water levels, flow patterns, recharge rates and other relevant information, as required in the conditions of approval.
- (j) Detection of potential impacts within the water capture zones of the City's wells based on the required monitoring of test wells will enable the Applicant and City to develop appropriate mitigation measures.
- (k) The Applicant's mitigation and monitoring plan, described in Exhibit 2 to this Order, will detect potential future impacts on the water capture zones and allows a considerable time—years or decades—to mitigate any potential impact.
- (l) Appropriate mitigation measures, as provided in the conditions of approval will prevent any significant impact on the city's wells.

The Board finds that the City has not provided factual information to indicate any significant potential impacts to its wells. The Applicant, through his hydrogeologist's report and other sources (City well log records, etc.), has provided substantial factual evidence that the nature of the proposed operation and the monitoring and mitigation plan required as conditions of approval will prevent significant potential impacts to City wells.

The Board finds that the evidence in the record is credible and that the required monitoring and mitigation measures will protect the City's water resources and prevent any significant impacts from occurring outside the 1,500-foot impact area.

In a letter dated February 12, 2013 (see email of Steven LaFranchi, Exhibit A, p. 1 to February 13, 2013 letter of city attorney James Brewer) the City requests further study of the potential impacts of the aggregate mining on City wells. The required GEMN fulfills this request in a manner that will provide timely notice of any potential impact both inside and outside the 1,500-foot impact zone. Further conditions require that potential impacts be addressed if and when they are discovered. Neither LCC Chapter 939, nor OAR 660-023-0180, on mineral and aggregate resources (nor even OAR 660-023-0141 on groundwater resources) requires complete information of all possible future impacts. They require reliance on

existing information. Prudence dictates monitoring to collect information so that actual and potential impacts will be mitigated.

## 2. Other surrounding property owners

Some area property owners requested expansion of the impact area beyond 1,500 feet based on assertions that dust, noise, odor and vibration from the site will create significant potential conflicts outside this area. The Board finds there is substantial evidence in the record that there will not be substantial impacts or conflicts due to these factors outside the 1,500-foot impact area. The Board's review and analyses follows.

- (a) The amount of mining and processing at the site is controlled by market factors, primarily the amount of road construction, road repair and residential and commercial development in the immediate service area of the resource site.
- (b) Approximately 20 acres have been mined at the site in the last 50 years.
- (c) Evidence in the record demonstrates that mining related activity at the site is expected to continue at about the same level as it has for the last 50 years.
- (d) The proposed mining operation will produce about the same levels of dust, odor, noise, and vibration as the existing operation has over the last 50 years.
- (e) Current and historic mining use of site has not produced significant impacts or conflicts due to dust, odor, noise or vibration outside the 1,500-foot impact area.
- (f) The purpose and effect of the present application is to establish a long-term source of high quality aggregate resource for the local area for public and private uses.
- (g) Conditions of approval requiring vegetative buffers between the resource site and nearby land uses; dust control measures; limits on times of operation; and monitoring of blasting effectively mitigate and minimize impacts from dust, odor noise or vibration to nearby properties within the 1,500-foot impact area.
- (h) No factual information adequate to indicate significant potential conflicts beyond 1,500 feet from the proposed mining area has been presented.

Based on these facts, the Board finds there is not factual evidence in the record that is adequate to indicate that significant conflicts exist beyond the 1,500-foot impact area.

Based on the information contained in the record, the Board finds that the 1,500-foot impact area specified in OAR 660-023-0180(5) and LCC 939.130(A)(1) fulfills the purpose of identifying conflicts with proposed mining and processing activities. The Board finds that factual information contained in the record does not indicate significant potential conflicts with the proposed mining and processing operation beyond the 1,500-foot impact area specified by rule and ordinance. The Board finds that the designated impact area is consistent with these provisions.

#### D. Conflicts with Surrounding Land Uses

The proposed development plan and the specific operating plan for the existing and proposed mining area operation are described in detail in the application materials and staff report prepared by the Linn County Planning and Building Department. Based on a review of those documents, the correspondence submitted by neighboring property owners and testimony provided at hearings before the Planning Commission and Board, the Board identified the following potential conflicts that are associated with the existing and proposed mining operation on the subject property:

1. Conflicts due to noise and vibration;
2. Conflicts due to dust or other discharges;
3. Potential conflicts to local roads;
4. Conflicts with agricultural practices; and
5. Conflicts with other Goal 5 resources

As referenced below, the Board finds that the identified conflicts are minimized by the application of the permit conditions specified in Exhibit 2 and required by this Order. The findings and operating conditions are described below.

##### 1. Noise and vibration

The record indicates the potential noise sources from the site are the following: mining activity, aggregate crushing and processing operations, truck/equipment operations, and blasting. The record indicates that noise impacts associated with the application will be consistent with the noise levels generated at the site under the existing conditional use permit.

The only potential additional noise source is asphalt batching. The conflicts with batching arise from noise and air emissions. Batching is necessary for construction and maintenance of public roads and private drives. As a result, batching is needed locally only on an intermittent basis. The conditions of approval limit batching to no more than 21 days in any 90-day period. Loading and hauling activities are limited to the hours of 6:00 am to 8:00 pm Monday through Friday, and 8:00 am to 6:00 pm Saturdays, with extended hours only upon demonstration to the Linn County Planning and Building Director that unusual contract demands require such extension. As set forth below, vegetative screening will aid in noise reduction near ground level by absorption of sound.

Furthermore, the record indicates that noise impacts are likely to decrease for some surrounding property owners to the south and west as the mining operations move to the north and east into the existing hillside.

As to potential effects of blasting, which result from vibrations and air pressure, the record indicates that blasting activity conducted at the site potentially conflicts with surrounding land uses. There was conflicting evidence about times blasting occurred, and ways to mitigate the vibrations and air pressure from blasting. The evidence submitted by applicant and his experts is more credible.

Letters and testimony cited to blasting that occurred late at night or other inappropriate hours. Testimony of and on behalf of Applicant contested this. The blaster stated that he maintains accurate blasting logs that indicate no such events (e.g. at 9:00 pm) occurred. See the email of Kris Jeremiah dated February 6, 2013. Regardless, other neighbors made no complaints and stated that the quarry was a good neighbor.

Blasting creates two types of effects: ground vibration and air pressure waves. Both propagate from the blast. The concentration of energy decreases rapidly with increased distance from the blast. Therefore, the greater the distance the lesser the effects of ground vibration and air pressure waves. Applicant has submitted an accepted standard—that developed by the US Bureau of Mines and National Fire Protection Association (NFPA 495)—as the appropriate standard for adoption in this application to mitigate impacts on conflicting uses. The Board adopts NFPA 495 as the best, and reasonable scientifically supported standard to govern blasting in this matter, based on the testimony and evidence offered in the record. That standard has been utilized to date by applicant under the previous conditional use approvals, and is appropriate.

There has been no substantial evidence offered that blasting has damaged property. Therefore, the record supports a determination that the NFPA 495 standard will mitigate conflicts with other uses.

Other requirements and mitigation measures to address the impacts of noise and vibration are set forth below:

#### Vegetative Screening

- Bordering land owned by the applicant will continue to be managed for forestry.
- A vegetative (tree) screen will be maintained in the 75-foot wide perimeter setback area on the north, south, and west sides of the property and in the 100-foot wide perimeter setback area on the east side of the property, adjacent to any areas that are being actively mined.
- A minimum of a 200-foot wide vegetative (tree) buffer will be maintained between the mined area and Sodaville – Mountain Home Road to the southwest along Oak Creek, south of the truck egress point.
- A minimum of a 245-foot wide vegetative (tree) buffer will be maintained to the south of the mined area.

Operating Days and Hours - Mining and processing may be conducted Monday through Saturday. Mining and processing will not be conducted on Sundays or New Year's Day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving Day or Christmas Day.

Mining, stockpiling, loading and hauling activities may be conducted between the hours of 6:00 a.m. and 8:00 p.m. Monday through Friday and

6:00 a.m. to 6:00 p.m. on Saturday. Crushing may be conducted between 7:00 a.m. and 6:00 p.m. Monday through Saturday. Blasting may be conducted between 10:00 a.m. and 4:00 p.m., Monday through Friday. Drilling may be conducted Monday through Friday between 8:00 am and 5:00 pm. Batching may be conducted Monday through Saturday 7:00 a.m. to 6:00 p.m. Property owners living within 1,500 feet of the ARO mining area and others who request advance notice of blasting will be provided written notice at least four days prior to each blast event. Notice will provide the date and approximate time of blasting. Changes to the notice shall be given at least 24 hours in advance, by mail, phone, or hand delivery, to each residence in the notice area.

The Linn County Planning and Building Department Director will be authorized to grant an exception allowing additional hours of operation upon a demonstration that such hours are needed to address damage to public roads or structures that require immediate repair; or road construction or repair that is scheduled during nighttime hours or weekends to reduce traffic conflicts.

Blasting – Planned and measured ground vibration and air overpressure shall not exceed the limits specified in the National Fire Protection Association, NFPA495 Explosive Materials Code.

Access – Access will be from the existing access on Harrington Drive. Egress will be from the existing egress point onto Sodaville-Mountain Home Road. There will be a stop sign for vehicles exiting the property. Entrance and exit points are paved. Truck traffic will comply with the provisions and limitations identified by the Linn County Roadmaster.

In addition to these mitigating measures, the following factors and measures will further reduce potential impacts to specific uses within the 1,500-foot impact area.

#### North

There are 17 residences and one school within 1,500 feet north of the proposed resource area. All of the residences are within the city limits of Sodaville. They are separated from the resource area by 1,000 to 1,500-feet of forested land. Properties located to the north and east of the resource site are further buffered by the large rock wall that is the subject of the ongoing mining operation. Potential conflicts with these uses from noise and vibration will be mitigated by the forested land, the mining headwall, and other measures discussed in Exhibit 2 to this Order (days and hours of operation, vibration limits, access, etc.).

#### East

There is one residence within 1,500 feet east of the proposed resource area. It is buffered from noise impacts by the intervening forested land and the large rock wall that is the subject of the ongoing mining operation. Potential noise conflicts with uses to the east will be mitigated by the forested land, the mining headwall, and other measures discussed in Exhibit 2 to this Order (days and hours of operation, vibration limits, access, etc.).

## South

There are 19 residences within 1,500 feet south of the proposed resource area. The proposed mining activity will be moving to the north and east, farther away from these residences than the existing mining activity. A 245-foot or greater vegetative buffer to the south is required as a condition of approval of the development permit. Potential conflicts from noise with uses to the south will be mitigated by the activity on the site moving away from these uses, the required vegetative buffer, and other measures discussed in Exhibit 2 to this Order (i.e. days and hours of operation, vibration limits, and access).

## West

There are ten residences within 1,500 feet west of the proposed resource area. Potential conflicts with these uses from noise will be mitigated by the required 200-foot buffer along Oak Creek, the 75-foot perimeter site buffer and other measures discussed in Exhibit 2 to this Order (days and hours of operation, vibration limits, access, etc.).

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

The Board finds that residential dwellings, the charter school and other land uses within the designated impact area are adequately buffered from operations on the subject property.

## 2. Dust and air discharges

### 2.a *Dust*

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



use permit, along with the conditions of approval of this Order, have been and will remain effective in minimizing any potential conflicts associated with dust.

To maintain acceptable levels of dust and air discharges the Board adopts the Conditions of Approval specified in Exhibit 2 attached hereto. The applicant shall use water or another dust palliative and shall conform to Department of Environmental Quality (DEQ) standards to mitigate dust on the stockpiles, on-site haul roads, and vehicle circulation areas as needed. In addition, the applicant shall be required to obtain and maintain all permits necessary of the operation of the site, including but not limited to a permit issued by the DEQ, the Oregon Department of Geology and Mineral Industries (DOGAMI), and other state or federal permits needed in connection with the ongoing operation of the facility.

The following apply generally to the site and will mitigate potential dust and air discharge impacts. All the descriptions below are subject to the precise terms of Exhibit 2 to this Order.

#### Compliance with Governmental Regulations and Standards

- Operations are subject to compliance with governmental regulations and standards to minimize and mitigate dust and other air discharges, including:
  - DEQ: mitigation of all air, water, and other discharges, including those created by batching, crushing, loading, hauling, stockpiling, and similar activities.
  - EPA: air and water discharges including those created by batching, crushing, loading, and similar activities.
  - DOGAMI: reclamation and habitation restoration.
  - National Fire Protection Association: NFPA 495
  - Oregon Department of Fish and Wildlife

#### Vegetative Screening –

- Bordering land owned by the applicant will continue to be managed for forestry.
- A vegetative (tree) screen will be maintained in the 75-foot wide perimeter setback area on the north, south and west sides of the property and in the 100-foot wide perimeter setback area on the east side of the property, adjacent to any areas that are being actively mined.
- A minimum of a 200-foot wide vegetative (tree) buffer will be maintained between the mined area and Sodaville – Mountain Home Road to the southwest along Oak Creek, south of the truck egress point, to protect fish and habitat.
- A minimum of a 245-foot wide vegetative (tree) buffer will be maintained to the south of the mined area.

Operating Days and Hours - Mining and processing may be conducted Monday through Saturday. Mining and processing will not be conducted on

Sundays or New Year's Day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving Day or Christmas Day.

Mining, stockpiling, loading and hauling activities may be conducted between the hours of 6:00 a.m. and 8:00 p.m. Monday through Friday and 6:00 a.m. to 6:00 p.m. on Saturday. Crushing may be conducted between 7:00 a.m. and 6:00 p.m. Monday through Saturday. Blasting may be conducted between 10:00 a.m. and 4:00 p.m., Monday through Friday. Batching may be conducted Monday through Saturday 7:00 a.m. to 6:00 p.m. Nearby property owners who request advance notice of blasting will be provided written notice at least three days prior to each blast event.

The applicant requests that the Linn County Planning and Building Department Director be authorized to and the Board agrees to grant an exception allowing additional hours of operation upon a demonstration that such hours are needed to address damage to public roads or structures that require immediate repair; or road construction or repair that is scheduled during nighttime hours or weekends to reduce traffic conflicts.

Access – Access will be from the existing access on Harrington Drive. Egress will be from the existing egress point onto Sodaville-Mountain Home Road. There will be a stop sign for vehicles exiting the property. Entrance and exit points are paved. Truck traffic will comply with the provisions and limitations identified by the Linn County Roadmaster.

Blasting Activity – to the extent blasting activity impacts air quality, the Board incorporates herein the above discussion of blasting activity and mitigation, by compliance with NFPA 495.

#### 2.b *Other discharges from site—asphalt batching*

The record demonstrates that the only other potential air discharges from the site are associated with the asphalt batching plant that is authorized under this decision. As above, asphalt batching is necessary for construction and maintenance of public roads and private drives. As a result, batching is needed locally only on an intermittent basis. The conditions of approval limit batching to no more than 21 days in any 90-day period. Loading and hauling activities are limited to the hours of 6:00 am to 8:00 pm Monday through Friday, and 8:00 am to 6:00 pm Saturdays, with extended hours only upon demonstration to the Linn County Planning and Building Director that unusual contract demands require such extension.

Opponents of asphalt batching submitted several statements into the record. However, the Board cannot identify grounds to base a decision on these statements. First, several witnesses appear to have gleaned information about asphalt from the Internet, but have not related the information to impacts from batching that will actually occur at Applicant's quarry. The statements do not explain how they address the same batch plant types, the same air quality apparatus, nor the same volumes.

Applicant has requested the Board adopt DEQ Air Discharge Permit standards for this application, and the Board does so. Opponents fail to demonstrate how DEQ's mandatory permitting (with which Applicant is required to comply) is somehow deficient. The record contains a typical draft DEQ permit. As that document explains, asphalt batching is regulated to limit the following characteristics, among others:

- opacity of omissions;
- particulates;
- pollutant emissions;
- burner operation standards; and
- emissions of volatile organic compounds.

Opponents also fail to demonstrate that a batching operation at Mr. Harrington's quarry would be incapable of operation within DEQ limits. While applicant notes that some witnesses complained of batching practices used in 2006, that is not evidence that batching is flawed or in violation of DEQ standards. It is more accurate to say, that the DEQ process exists precisely so the public has a recourse if, at some future time, an air quality permittee (such as an asphalt plant) falls short of performance expectations. Conditions of approval can and will ensure that Applicant batches asphalt within state and federal air quality guidelines.

The Board also notes that some opponents suggested that there are techniques available for use of asphalt that is heated to temperatures less than the "hot mix" temperatures in use today and that is called "warm mix." The Board finds that these "warm mix" products and procedures have not been approved by any Oregon agencies. Specifically, Oregon Department of Transportation has not approved warm mix for use on public roads. The Board cannot rest a decision on technology that has not been generally studied or approved in this state.

The Board directs the following conditions as reasonable and practical measures that will minimize potential conflicts with discharges from operating a batch plant at the site.

- The applicant shall be required to comply with all applicable Oregon DEQ air and water quality standards related to the operation of a batch plant, including operation within permit limits.
- The hours of operation of the batching facility shall be limited as provided in Exhibit 2 to this Order. Limiting the hours of operation will allow persons who wish to avoid contact with any fumes from batching to leave during the day (whether to work or elsewhere) and to return home in the evening. This minimizes the contact that sensitive individuals may have, while allowing paving of public and private facilities.

### 3. Potential Conflicts to Local Roads

#### 3.a. *Potential roads conflicts*

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

Ingress to the site is from Harrington Drive and egress is onto Sodaville Mountain Home Road. Both of these are county roads. There are no issues relating to sight distances at the ingress or egress points. The nearest arterial road is Hwy 20 which is 2.1 miles north of the quarry site. County roads along the haul route have more than sufficient capacity for the proposed truck traffic from quarry operations. The site operates continuously throughout the day and does not generate a concentrated number of peak hour trips, either in the morning or evening.

Questions have been raised about conflicts with safety on County roads, damage to roads, and traffic on roads. All questions have been addressed and reasonable standards and conditions imposed to mitigate the conflicts.

A traffic study has been discussed in testimony as not accounting for a "cut off" on shortcuts taken by vehicles. Applicant has stated an intent to require trucks to use only appropriate roads, and not residential streets. Any conflict is mitigated by requiring Applicant to comply with all directions given by the County roadmaster and requiring no ore loading on residential streets. The County roadmaster opined that the truck traffic generated by the mining operation can be adequately handled by the roads affected. In addition, no damage is expected to the roads from the trucks.

The truck traffic has been limited to 350 vehicles per day. This restriction aids safety and potential congestion.

Conflicts with the children of Sodaville school were raised by parents and others. These conflicts are mitigated by requiring compliance with the lowered speed limit in the school zone, and compliance with all laws including the vehicle driving code and vehicle safety and inspection laws.

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

#### 3.b. *Safety conflicts with public airports*

No safety conflicts with public airports have been identified.

#### 4. Conflicts with Agricultural Practices

Several neighbors expressed concerns that the dust and other air emissions could conflict with the organic farming of other persons (not themselves) by making it more difficult to maintain organic certification.

While the concerns are more anecdotal and not well, the testimony on conflicts contain in themselves some solutions. In addition, the conditions of approval mitigate the conflicts.

Dust conflicts are mitigated by requiring water or other dust palliatives. This reduces the possibility that dust could be deposited on crops. Limiting the operation of batching to small numbers of consecutive days (21) and hours of operation limits the potential time during which any potential contaminant could contact fruits on the trees and plants on which they grow. Requiring compliance with all DEQ and other air release standards also reduces the possible conflicts by reducing the possible contact with contaminants. The potential conflicts with agricultural uses are minimized and properly mitigated by conditions of approval.

The only agricultural practices within the 1,500 foot impact area are a few small cattle grazing operations to the south and west. Dust control measures will insure that dust does not conflict with surrounding agricultural uses. Noise from the site will not conflict with grazing. The Board finds that all potential conflicts with surrounding agricultural practices are minimized.

#### 5. Conflicts with Other Goal 5 Resources

The impact area is within a Peripheral and Developed Wildlife Habitat area. The proposed expansion will not create substantial additional noise and traffic. Traffic currently travels on established roads. No new roads are proposed. Future mining will not create significant impacts to wildlife habitat within 1,500 feet of the resource area boundary. The aggregate resource area will be restored for forestry and wildlife habitat uses after mining is completed.

Oak Creek is a perennial stream located in the south west portion of the resource area. A 200-foot buffer zone (100 feet on either side of the creek) is required as a condition of approval. No mining related activity of any kind is permitted within the buffer zone. The 200-foot buffer zone adequately protects the stream and minimizes any potential conflicts with mining related activity on the site.

Well capture zones are addressed separately above, which discussions are incorporated herein.

There are no other Goal 5 resource sites within 1,500 feet of the proposed resource area boundaries that are identified on an inventory in the Comprehensive Plan and for which the requirements of Goal 5 have been completed. The Board finds the application does not create any conflicts with other Goal 5 resources.

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

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

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

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

**G. Natural and/or Geologic Hazards**

The Board finds that there are no areas subject to Natural Disasters and Hazards identified on the site or in the impact area.

**H. Plan Consistency (LCC 921.872(A))**

The proposal would add a 120.8 acre resource site to the County's inventory of significant aggregate resource sites without conflicting uses; apply the ARO to the property; and authorize a development permit for aggregate extraction and processing on the site. To approve an aggregate inventory Plan amendment, the amendment must be consistent with the intent of the applicable section(s) of the Plan. LCC 921.872(A).

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

The following specific Plan statements and policies support the application (Plan language is shown in italicized type):

*LC Comprehensive Plan 905.800 - Aggregate Resources - Background*

*The Linn County Comprehensive Plan recognizes that, "Sand, gravel, crushed rock and riprap are vital elements in the economy of any region. Road, bridge and home construction rely on a steady, dependable and low-cost supply of these aggregates." ...*

*... .. "Per capita aggregate consumption tends to be higher in rural areas than in cities. Road maintenance, nonresidential construction and farm related use account for a significant percentage of aggregate consumption." ...*

... .. "Land containing aggregates that can be economically and safely mined and that are located close to where the resource can meet future needs must be set aside for future mining." ... ..

LC Comprehensive Plan 905.810 - Linn County Goals for Aggregate Resources

- (A) *Recognize aggregate resources as a non-renewable resource vital to community development.*
- (B) *Promote wise management and efficient use of aggregate resources to meet the present and future needs of people.*
- (C) *Coordinate the development of mineral and aggregate resources with other uses of land to minimize conflicts.*
- (D) *Minimize the environmental and aesthetic impact of extraction and processing areas.*
- (E) *Develop means that will assure the protection and use of significant mineral aggregate resource sites.*
- (F) *Seek to make aggregate resources available at reasonable costs for the overall development of Linn County.*

LC Comprehensive Plan 905.820 - Linn County Policies for Aggregate Resources

- (1) *Linn County shall consider mineral and aggregate resource extraction and processing as a resource use of land in Agricultural Resource, Farm/Forest and Forest Resource plan designations.*
- (4) *An aggregate resource site shall be considered significant if the site meets the significance criteria in the Goal 5 administrative rule.*
- (5) *Linn County shall apply an Aggregate Resource Overlay to: (a) significant aggregate resource sites where no conflicting uses are present; and ... ..*
- (10) *Where a new aggregate extraction site or expansion of an existing site is proposed, a site development plan shall be submitted for review by Linn County.*
- (11) *Proposals for extraction and processing of aggregate resources in the Agricultural Resources, Farm/Forest and Forest Resource plan designations shall incorporate as a final use, agricultural or forest resource production, recreational sites, wildlife habitat or other similar open space land uses. ... ..*

The Linn County Comprehensive Plan acknowledges the importance of significant aggregate resource sites to the well-being of county residents.

The review procedures and criteria in LCC Chapter 939 have been implemented by the County and acknowledged by LCDC to insure that the County's goals and objectives are met. These procedures and criteria:

- Promote wise management and efficient use of aggregate resources;
- Coordinate the development of aggregate resources with other uses to minimize conflicts;
- Develop means that assure the protection and use of significant aggregate resource sites;
- Make aggregate resources available at reasonable costs; and
- Otherwise assure compliance with Linn County's goals and policies.

The Board finds that the facts in the record demonstrate that the proposal complies with the criteria in LCC Chapter 939. The area is a significant aggregate resource site. It meets the Oregon Administrative Rules and Linn County standards for a significant aggregate site in that it contains 10.9 million cubic yards (20.2 million tons) of material that meets applicable ODOT specifications for base rock for air degradation, abrasion and soundness. The site is located in a rural area that is zoned Farm/Forest. Potential conflicts with land uses within the impact area are minimized as previously described. A development plan has been submitted to the County for review. The final, reclaimed use of the site is for forestry and wildlife habitat.

The proposal is consistent with the intent of the applicable sections of the Linn County Comprehensive Plan.

## **I. Statewide Planning Goals**

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

### Statewide Planning Goal 1: Citizen Involvement

Goal 1 requires that the county have a citizen involvement program that ensures all citizens have the opportunity to participate at all stages of the planning process. The proposed Plan amendment was reviewed by the Planning Commission and Board of Commissioners at public hearings. Affected property owners were notified of the hearings and provided an opportunity to participate. This process has been acknowledged by the LCDC as being in compliance with the requirements of Goal 1. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 1.

### Statewide Planning Goal 2: Land Use Planning

Linn County has an acknowledged comprehensive plan and implementing code. The Plan and Code establish procedures to amend the Linn County Comprehensive Plan, including amendments to the Aggregate Resource Inventory. The County has determined the application is complete and in compliance with Chapter 921 and Chapter 939 of the Linn County Code.



### Statewide Planning Goal 3: Agricultural Lands

The area is zoned Farm/Forest. The aggregate resource area is not high-value farmland pursuant to OAR 660-33-0020(8). It is comprised 100% of soils classified as Agricultural Capability Class IV through VI. The proposed aggregate resource site is not suitable for agricultural use due to slope and soil characteristics. The reclamation of the property for forestry and wildlife habitat uses is consistent with Goal 3. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 3.

### Statewide Planning Goal 4: Forest Lands

Goal 4 requires that the county conserve forest land by maintaining the forest land base. ORS 527.722 and OAR 660 Division 6 have been adopted by the Legislature and LCDC to implement Goal 4. OAR 660-006-0025 specifies authorized uses in Goal 4 areas and includes, "mining and aggregate and mineral resources." The proposed Plan amendment would allow mining of a "significant" aggregate resource site consistent with all provisions of state law and local ordinances. The reclamation of the property for forestry and wildlife habitat uses is consistent with Goal 4. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 4.

### Statewide Planning Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

Goal 5 requires that the county protect natural resources and lists mineral and aggregate resources as being subject to Goal 5. The proposed Plan amendment would allow mining of a "significant" aggregate resource site. OAR 660-023-0180 specifies that, "An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality and location of the resource demonstrates that ... (a) A representative set of samples of aggregate material in the deposit on the sites meets the applicable Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion and soundness and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley ... ..".

The application demonstrates that the aggregate material at the site meets ODOT's specifications and that there is more than 2,000,000 tons of material at the site. Therefore, the site is a significant Goal 5 resource pursuant to OAR660-023-0180. A 1,500 foot "impact area" around the proposed aggregate resource site has been identified and potential conflicts with existing surrounding uses, potentially permitted uses, and Goal 5 resources have been reviewed. No potential conflicts with Goal 5 resources within the impact area have been identified. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 5.

### Statewide Planning Goal 6: Air, Water and Land Resources Quality

The proposed aggregate resource operation will comply with all applicable air and water discharge standards specified by Oregon DEQ. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 6.

### Statewide Planning Goal 7: Areas Subject to Natural Disasters and Hazards

There are no potential geologic hazards identified on the proposed resource site (Environmental Geology of Western Linn County Oregon). Slope stabilization measures undertaken during mining and reclamation are regulated by Oregon DOGAMI and are indicated on DOGAMI inspection reports as part of the operating permit and reclamation procedures. The operation will comply with all DOGAMI requirements. There are no other areas subject to Natural Disasters and Hazards identified on the site. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 7.

#### Statewide Planning Goal 9: Economy of the State

The proposed operation would provide an economical source of aggregate material for road, bridge, home, business and other construction in the area. It would also provide employment. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 9.

#### Goal 11: Public Facilities and Services

Statewide Planning Goal 11: "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."

The only public facility or services in the vicinity of the proposed resource site are the Linn County road system and the City of Sodaville's municipal water supply system. The charter school north of the proposed resource area is a quasi-public facility and is also addressed in this section of the Findings and Conclusions.

#### Potential Impacts to the County Road System

The County Roadmaster has submitted a letter concluding that mining at the site, as proposed, will not have an adverse impact on county roads. The County Roadmaster reviewed the applicant's Truck Haul Plan and found that it meets the requirements of the County Road Department. The Board finds that the proposed use at the resource site will not have an adverse impact on the county road system.

#### Potential Impacts to the City of Sodaville's Water System

The City of Sodaville's water supply system is comprised of five groundwater wells located north of the proposed resource site. All five wells are located more than 1,500 feet from the boundary of the proposed resource site. Portions of the well water recharge areas for City wells 1, 4 and 5 are within the 1,500-foot impact area as shown on documents submitted by the applicant.

The applicant has submitted substantial evidence in the form of data and analyses from various sources and professional conclusions from a hydrogeologist certified by the State of Oregon. This evidence demonstrates that:

- (a) The City of Sodaville's wells are outside the 1,500-foot impact area.

- (b) The water capture zones of city wells 1, 4 and 5 fall within the 1,500-foot impact area.
- (c) Available evidence in the record indicates that the water capture zones of the City's wells are not hydrologically linked to the proposed resource site.
- (d) It is unlikely that the proposed mining related activities will have any impact on the City's wells.
- (e) The applicant has proposed and the conditions of approval require monitoring of the groundwater hydrology in the area of the resource site and the City's wells. The monitoring system, the "Groundwater Elevation Monitoring Network" (GEMN), consists of monitoring wells that will provide timely detection of any impacts in the surrounding area. The monitoring network includes three new wells to be developed by the Applicant. The opponents' expert concurs that these are sufficient for detecting impacts.
- (f) Using the proposed monitoring system and other data sources (e.g. City well information), any impacts to test wells in the water capture zones of the City's wells will be detected long before potential impacts to the City's wells themselves.
- (g) Any potential impact on the water capture zones of the City's wells is at a minimum several years and more likely several decades in the future.
- (h) Any potential impact on the water capture zones for City wells would occur, at a minimum, several years before any potential impact to the wells themselves, which are located outside the impact area.
- (i) This time delay allows the Applicant and City adequate time to establish baseline data on subsurface water levels, flow patterns, recharge rates and other relevant information, as required in the conditions of approval.
- (j) Detection of potential impacts within the water capture zones of the city's wells based on the required monitoring of test wells will enable the Applicant and City to develop and implement appropriate mitigation measures.
- (k) The Applicant's mitigation and monitoring plan, described in Exhibit 2 to this Order, will detect potential future impacts on the water capture zones and allows a considerable time—years or decades—to mitigate any potential impact.
- (l) Appropriate mitigation measures will prevent any significant impact on the city's wells.

Comments were received from the Department Land Conservation and Development (DLCD) stating "The applicant has not provided evidence (a factual basis) that supports their conclusion regarding Goal 11..." (comments included in Exhibit 7). In a letter dated February 12, 2013 (see email of Steven LaFranchi, Exhibit A, p. 1 to February 13, 2013 letter of city attorney James Brewer) the City requests further study of the potential impacts of the aggregate mining on City wells. The required GEMN fulfills this request in a manner that will provide timely notice of any potential impact to the City's water supply system. Further conditions require that potential impacts be addressed if and when they are discovered.

The Board finds that the City has not provided factual information to indicate any significant potential impacts to its wells. The Applicant, through his hydrogeologist's report and other sources (City well log records, etc.), has provided substantial factual evidence that the monitoring and mitigation plans required as conditions of approval will prevent impacts to City wells.

#### Potential Impacts to Charter School

Sand Ridge Charter School's Sodaville Campus is within 1,500 feet to the north of the proposed resource area. The school is a K-8 public school contracted with the Sweet Home School District. It is operated by People Involved in Education, Inc., a non-profit corporation. The school's buildings are 1,489 feet from the proposed resource area. The school's southern property line is about 1,080 feet from the resource area.

Several conditions of approval have been adopted that will minimize potential conflicts from noise, traffic, odor, dust, vibration and other activities associated with the proposed mining activity. The applicant is required to maintain an excavation setback from property lines of no less than 75 feet. The applicant's operation is limited to specified hours for mining, processing, crushing, blasting and batching activities. See Exhibit 2. The designated operating days and hours will minimize noise conflicts on the school. The applicant's operation is required to adhere to the applicable noise standards regulated by the Oregon Department of Environmental Quality. Under both state and local law, the applicant's adherence to applicable legal standards is sufficient to minimize an identified conflict in connection with the Goal 5 process by conformance with applicable legal standards. See, OAR 660-023-0180(1)(g). See also, LCC 939.030(N).

The County Roadmaster has reviewed the application and the proposed Haul Plan and has not identified any significant traffic or safety issues created by the proposed use. The Applicant's operation as embodied in this Order will impact the school in a manner similar to the historic impact of the resource mining on the school, with occasional increases in truck traffic when large projects are contracted. At these times, the school (or parents) may contact the Roadmaster if any increased safety or other concerns are noted, and the Roadmaster is authorized to mitigate any such concerns by requiring the operator to utilize the roads as directed.

Any impact of asphalt batching will be mitigated by limiting days and hours of operation.

The Board finds that the charter school is adequately buffered from operations on the subject property and protected from adverse impacts by the nature of the proposed use and the conditions of approval.

The facts in the application demonstrate that the proposed operation will not adversely impact any existing or future public facilities or services in the area. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 11.

### Statewide Planning Goal 12: Transportation

Goal 12 requires that the county provide a safe, convenient and economic transportation system. The proposed haul plan for the aggregate site has been reviewed by the County Roadmaster. The Roadmaster has concluded that the proposed aggregate resource operation will not significantly affect any transportation facilities under Goal 12. The proposed Plan amendment will not change the functional classification of an existing or planned transportation facility; will not allow land uses or levels of development that would result in traffic that is inconsistent with the functional classification of an existing or planned roadway; will not reduce the performance of an existing or planned roadway below the minimum standard specified in the County's Transportation System Plan; and will not decrease the performance of an existing or planned roadway that is or is projected to be performing below the minimum standard specified in the County's TSP. Therefore, the proposed Plan amendment complies with Statewide Planning Goal 12.

### Statewide Planning Goal 13: Energy Conservation

Economic factors, specifically the energy and capital costs of hauling aggregate, dictate that the aggregate resources are normally chosen that are closest to the point of consumption. The primary market for aggregate in this area is for rural uses, such as road construction and maintenance, farm and forest uses, and construction markets in Lebanon, Sweet Home and Albany. Aggregate from this site would promote energy conservation when compared to hauling building materials to these areas from sites farther from the point of consumption. Therefore, the proposal is consistent with Goal 13.

### Statewide Planning Goal 14: Urbanization.

The subject property is not proposed or available for urbanization. Goal 14 is not directly applicable to this application and review. The local communities of Lebanon, Sweet Home and Albany are typical urban markets for aggregates produced from this site. The proposal supports urbanization by providing building materials that are a necessary component of urbanization in nearby communities. Therefore, the application complies with Goal 14.

### Other Statewide Planning Goals

Statewide Planning Goal 15, Willamette River Greenway; Goal 16, Estuarine Resources; Goal 17 Coastal Resources; and Goal 18, Beaches and Dunes do not apply to this application.

The Linn County Comprehensive Plan and Development Code have been acknowledged by LCDC as being in compliance with the Statewide Planning Goals. The provisions in the Plan and Code implement the State Goals. The Board finds the proposal is consistent with the applicable statewide planning goals.

#### IV. CONCLUSION

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

1. The 120.8-acre subject property is a significant aggregate resource site pursuant to the criteria in LCC 939.120.
2. There are no existing or potential conflicts between the proposed mining area and land uses within the impact area that cannot be minimized by the reasonable and practical measures identified as conditions of approval to this decision. The binding Conditions of Approval attached to this Resolution and Order as Exhibit 2 constitute a supplemental, site-specific program to achieve Goal 5 compliance for the site, and ensure all identified conflicts are minimized.
3. The 120.8-acre resource site shall be identified in LCC Chapter 905, Appendix 6, entitled, "Inventory of Significant Sites with All Conflicts Minimized" pursuant to LCC 939.200.
4. The conclusion of the Goal 5 analysis shall be included in LCC Chapter 905, Appendix 6A, entitled "Analysis Justifying a Classification as a Significant Site with All Conflicts Minimized."
5. The zoning map shall be amended to apply the Aggregate Resource Overlay (ARO) to the 120.8-acre resource site and to the designated impact area pursuant to LCC 939.200(B).
6. A development permit shall be issued authorizing aggregate mining and processing on the 120.8-acre resource site subject to the applicable provisions of LCC Chapter 921; LCC Chapter 931; LCC Chapter 934; and the conditions of approval specified in this Order.

**EXHIBIT 2**  
**Resolution and Order No. 2013-088**

**Planning File BC12-0003**  
**Thomas Harrington**

**Conditions of Approval and**  
**Site-specific Program to Achieve Goal 5**  
**Thomas Harrington**

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

**Requirements:**

1. The mining, processing and sale of rock produced on-site shall be authorized within the 120.8-acre resource site, identified on **Exhibit 3** of this Resolution and Order, subject to limitations set forth in the development permit. Primary processing activities including drilling, excavating, crushing, blasting, batching, stockpiling and hauling are permitted uses as provided herein.
2. The property owner shall survey and mark the property and permit boundary. The survey must be conducted by a registered land surveyor and the resulting survey coordinates must be capable of being converted to the state plane coordinate system. The permit boundary and setbacks (property line, river, and north boundary of pasture) must be clearly visible by equipment operators. Other features, such as processing areas, stockpiles, access roads and excavation boundaries must be staked.
3. The quarry operator shall maintain an excavation setback from property lines of no less than 75-feet.
4. Aggregate extraction may occur year-round, in conformance with these conditions and other applicable law.
5. The quarry operator shall obtain and maintain all permits necessary for operation and reclamation of the site. Prior to commencing mining operations, the operator shall submit to the County:
  - a. A copy of a DOGAMI approved operating permit and reclamation plan for the site;
  - b. Relevant documents demonstrating that the operator's DOGAMI reclamation bond is in full force and effect;
  - c. Copies of any and all NPDES, Fill and Removal, or other state or federal permits required for operation of the facility.
6. The quarry operator shall obtain and maintain all required permits from the Department of Environmental Quality.
7. The aggregate site shall comply with the applicable noise standards regulated by the Department of Environmental Quality.
8. The operation shall at all times remain in compliance with the Aggregate Site standards in LCC 934.350-359.

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

**Reasonable and Practical Measures to Minimize Conflicts:**

1. The quarry shall operate only if the vegetative (tree) screen is maintained in the 75-foot setback area on all sides of the property adjacent to any areas that are being actively mined. This buffer area is allowed to be managed with thinning and replanting consistent with the State of Oregon Department of Forestry suggested best practices.
2. The quarry shall operate only if a minimum 200-foot wide vegetative (tree) buffer is maintained between the mined area and Sodaville – Mountain Home Road to the southwest along Oak Creek, south of the truck egress point. This buffer area is allowed to be managed with thinning and replanting consistent with the State of Oregon Department of Forestry suggested best practices.
3. The quarry shall operate only within the approved mining area if the 245-foot forested buffer between the mined area and the nearest residence to the south is intact. This buffer area is allowed to be managed with thinning and replanting consistent with the State of Oregon Department of Forestry suggested best practices.
4. Mining, stockpiling, loading and hauling activities are permitted between the hours of 6:00 a.m. and 8:00 p.m. Monday through Friday and 6:00 a.m. to 6:00 p.m. on Saturday. Crushing is permitted between 7:00 a.m. and 6:00 p.m. Monday through Saturday. Mining and processing shall not be conducted on Sundays, New Years' day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving day or Christmas Day. The Planning and Building Director may grand extended operating hours upon demonstration that unusual contract demands required such extension.
5. Blasting shall be limited to Monday through Friday, between the hours of 10:00am to 4:00pm. Written notice of blasting shall be provided to the residents of properties within 1500-feet of the ARO mining area boundary and others who request notification. Notice letters shall be postmarked at least four days prior to blasting and shall indicate the date and estimated time of the scheduled blast. Any alteration to the blast schedule shall require a minimum 24 hour notice by mail, phone or hand-delivered to each residence within that notice area.
  - a. Drilling shall be limited to Monday through Friday, between the hours of 8:00am to 5:00pm.
  - b. So that the operator can ensure blasting impacts are minimized, both the



planned and measured ground vibration and air overpressure shall not exceed the limits specified in the National Fire Protection Association NFPA 495, Explosive Materials Code.

6. The Linn County Planning and Building Department Director may grant an exception allowing additional hours of operation upon a demonstration that such hours are needed to address damage to public roads or structures that require immediate repair; or road construction or repair that is scheduled during nighttime hours or weekends to reduce traffic conflicts.
7. All required back-up alarms shall be "smart" alarms (or equivalent) and shall comply with the Mining Safety Health Administration (MSHA) standards.
8. A Permanent asphalt batching plant is not an approved use under this Plan amendment and mining permit. Operation of a temporary batching plant is permitted upon written notification to the Linn County Planning and Building Department Director, for a period not to exceed 21 days in any 90 day period.
9. The Planning Director shall approve temporary asphalt batching to exceed the 21 days within a 90 day period upon demonstration that such use is needed to address a natural disaster, damage to public roads, or damage to structures that require immediate repair; or road construction or repair that is scheduled during nighttime hours or weekends to reduce traffic conflicts.
10. The operator must construct and operate the following Groundwater Elevation Monitoring Network to monitor and mitigate potential impacts on wells of the City of Sodaville.
  - a. The operator shall construct three (3) new water monitoring wells to monitor water quantity as provided for on page 3, of the Feb 5<sup>th</sup> 2013 letter from David King. The first well shall be completed within the first year of approval of this application. The next two wells shall be completed the following year.
  - b. Water level measurements shall be taken from all monitoring wells in accordance with good hydro-geological practices. The monitoring dates shall be coordinated as much as possible with the City of Sodaville.
  - c. All recorded quarterly data from the operator shall be delivered to a registered hydrogeologist. The registered hydrogeologist shall provide summary reports to the City, the quarry operator and Oregon Department of Water Resources of their continued analysis
  - d. All interested parties may comment to the hydrogeologist for analysis and the hydrogeologist may incorporate such comment in a report, or modify a report, as warranted in his or her best professional judgment.
  - e. The operator shall follow the recommendations in the registered hydrogeologist report regarding quarry expansion with the goal of minimizing the impact to the existing City wells. The hydrogeologist shall not be limited in any way from recommending any action, including closing the quarry if warranted.
  - f. The quarry operator shall incorporate a Spill Prevention, Control and Countermeasure (SPCC) plan as provided on page 5 of the Feb 5<sup>th</sup> 2013 letter from David King to address water quality testing relating to possible release of contaminants.

11. The quarry operator shall utilize water or another dust palliative conforming to DEQ standards to mitigate dust on the stockpiles, on-site haul roads and vehicle circulation areas as needed.
12. The following restrictive covenant shall be made part of the chain of title to the 120.8-acre parcel:

Grantees and their heirs, legal representatives, assigns and lessees hereby acknowledge by the placement of this covenant, or the acceptance and recording of this instrument, that the property herein described is situated in a Farm/Forest zoning district of Linn County, Oregon. As such, they may be subjected to common, customary and accepted farm or forest management activities for the operation of a commercial farm or forest that includes management and harvesting of agricultural products or timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, and any other accepted and customary farm or forest management activity conducted in accordance with federal and state laws. The above practices ordinarily and necessarily produce noise, dust, smoke and other types of visual, odor or noise impacts which grantees accept as normal and necessary farming or forestry management activities and as part of the risk of building a residential dwelling in a Farm/Forest zoning district.
13. Prior to the issuance of development permits or any mining activity within the resource site, the property owner shall supply proof that the deed covenant identified in condition 12 has been incorporated into the chain of title and recorded in the Linn County Clerk's Office.
14. The property owner and quarry operator shall comply with all requirements of the Linn County Road Department.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**  
**FOR LINN COUNTY**

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

**ORDINANCE NO. 2013-089**  
**(Amending Code)**  
(Planning & Building Department BC12-0003)

**WHEREAS**, The Linn County Planning Commission held a duly advertised public hearing on December 11, 2012 to make a recommendation to the Board of Commissioners (Board) regarding proposed amendments to the Linn County *Comprehensive Plan* text and zoning map;

**WHEREAS**, At 10:00 a.m., on January 2, 2013, the Board conducted a regularly scheduled and duly advertised public hearing and considered the proposed amendments to the Linn County *Comprehensive Plan* text and the zoning map;

**WHEREAS**, The Board continued the hearing to March 6, 2013 and allowed any interested party to provide written testimony by February 13, 2013 at 5:00pm and allowed the applicant to respond in writing by February 20, 2013 at 5:00pm.

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

**WHEREAS**, The findings in support of this ordinance are attached to Resolution and Order No. 2013-088 and entitled Exhibit 1, (Resolution and Order No. 2013-088; Planning File BC12-0003; Thomas Harrington; Decision Criteria, Findings and Conclusions); and, now, therefore, be it

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

**Section 1. Text Amendment.** The Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 5, entitled *Inventory of Significant Sites Without Conflicting Uses (Privately Owned Aggregate Sites)* be amended to **delete** the following subsection and text:

5513 Harrington      T13S R01W S6, TL 400

**Section 2. Text Amendment.** The Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6, entitled *Inventory of Significant Sites With All Conflicts Minimized*, be amended to add the following subsection and text:

6007 Harrington T13S R01W S6, TL 401; Acreage: 120.5 acres

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

**905.6006 Weber Pit**

(A) Goal 5 analysis.

(1) Findings of Fact.

The findings of fact in support of this resource site analysis are contained in Resolution and Order No. 2013-088. The record supporting this analysis is located in the office of the Linn County Clerk. Copies of the application, evidence and decision documents are contained in Planning and Building Department case file number BC12-0003.

(2) Inventory Information.

(a) The resource site is a 120.5-acre property identified on Linn County Assessor maps as T13S R01W S6, TL 401. The site is in a Farm/Forest zoning district, and located on the east side of Sodaville Mountain Home Drive approximately 0.24 mile north of its intersection with Harrington Drive, Lebanon. The 120.5-acre extraction area included in the inventory is a new Goal 5 resource site and processing facility, located at 38325 Sodaville Mountain Home Drive, Lebanon, Oregon.

(b) The resource site contains more than 2,000,000 tons, of aggregate material that meets the Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness. The 120.5-acre aggregate resource site is a significant site as set forth in the *Comprehensive Plan* and the Goal 5 rule for aggregate.

(c) Impact Area

To determine conflicts associated with the proposed mining of this resource site, an impact area including land within 1500 feet from the boundaries of the site is established and conflicts have been analyzed. The findings in resolution 2013-088 show there is no substantive evidence of potential significant impacts or conflicts beyond the 1500-foot impact area boundary.

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

(1) The truck haul route and intersection between Berlin Road and the interior haul road were evaluated by the Linn County Road Master. The Linn County Road Master reviewed the applicant's Traffic Impact Analysis and

found that the truck haul route will have no significant impact to Linn County roads. The applicant is required as a condition of the mining permit to improve the access and driveway to minimize the dust and tracking onto Sodaville Mountain Home Drive. The conflicts identified with the haul road due to noise, dust or other discharges have been minimized.

- (2) The mining and processing on the property is a new noise source on a previously unused site. The operator shall meet DEQ noise standards for all regulated mining activities. The operator shall retain the existing 75-foot vegetative buffer on all sides of the property as long as the aggregate resource area is active. A minimum 200-foot wide vegetative buffer shall be maintained between the mining area and Sodaville-Mountain Home Drive to the southwest along Oak Creek. The 245-foot forested buffer between the mining area and residence to the south shall be retained while the mining permit is in effect.
- (3) The findings adopted in Resolution and Order 2013-088 establish that all identified potential conflicts with the resource site are prevented or minimized. Measures to minimize conflicts adopted in that resolution are included in the County's program to achieve Goal 5 compliance for the site. Mining at this site, as proposed, will not cause significant conflicts with any land uses that are sensitive to noise, dust, or other discharges when mining is conducted in compliance with the adopted measures to minimize conflicts. All potential conflicts will be minimized such that they are not significant.

Potential dust conflicts with dwellings within the impact area are minimized through compliance with DEQ standards and by the application of water and dust palliatives on the site as necessary to prevent the generation of fugitive dust. Potential noise impacts are minimized by maintaining the required vegetative buffers and by compliance with DEQ noise standards.

No conflicts with the City of Sodaville Municipal wells are identified. To prevent potential conflicts with the municipal wells, the operator shall construct and operate the following Groundwater Elevation Monitoring Network to monitor and mitigate potential impacts on the City of Sodaville wells. The operator shall construct three (3) new water monitoring wells to monitor water quantity. Water level measurements shall be taken from all monitoring wells in accordance with good hydrogeological practices. The monitoring dates shall be coordinated as much as possible with the City of Sodaville. All recorded quarterly data from the operator shall be delivered to a registered hydrogeologist. The registered hydrogeologist shall provide summary reports to the City, the quarry operator and Oregon Department of Water Resources of their continued analysis. The operator shall follow the recommendations in the registered hydrogeologist report regarding quarry expansion with the goal of minimizing the impact to the existing City wells. The hydrogeologist shall not be limited in any way from recommending any action, including

closing the quarry if warranted. The quarry operator shall incorporate a Spill Prevention, Control and Countermeasure (SPCC) plan to address water quality testing relating to possible release of contaminants.

*(C) Other Potential Conflicts*

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

*(D) Measures to Minimize Identified Conflicts*

Potential conflicts are identified with some residential uses within the 1500-foot impact area boundary. Resolution and Order No. 2013-088 provides reasonable and practical measures found to minimize all identified existing and potential conflicts. The development permit to mine the site shall require compliance with all the conditions and requirements set forth in Resolution and Order No. 2013-088.

The program to protect the resource is contained in the Plan policies for aggregate resources in LCC 905.820(B); by the application of the Aggregate Resource Overlay (ARO) pursuant to LCC 939.200(B) and LCC 931.700 to 931.755; by the provisions set forth in this resource site analysis; and by the Conditions of Approval adopted as part of Resolution and Order 2018-088.

(E) Post-mining Use and Reclamation.

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

*(F) Potential Future Conflicting Uses.*

The mining operation is designed and permitted to minimize all potential conflicts with surrounding uses such that they are not significant. New uses permitted within the identified impact area will not be significantly impacted by extraction area activities and will not significantly impact those activities. Land uses within the impact area are not restricted beyond limitations already contained in the code. The plan establishes conditions for operations within the mining area to prevent impacts to existing and potential future uses within the impact area.

**Section 3. Map Amendment.** Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to apply the Aggregate Resource Overlay (ARO) mining area designation to the significant 120.5-acre resource site identified as portions of Linn county Assessor maps T13S R01W S6, TL 401. (Exhibit 1)

**Section 4. Map Amendment.** Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to designate the land that is within 1500 feet of the identified ARO mining area boundaries as Aggregate Resource Overlay (ARO)

impact area, with no additional restrictions other than those established by existing code. (Exhibit 1)

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

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

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

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


Public reading held \_\_\_\_\_, 2013.  
Adopted and passed \_\_\_\_\_, 2013.  
The effective date of this Ordinance shall be \_\_\_\_\_, 2013.

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

Signed 4 24, 2013

Steve Druckenmiller,  
Linn County Clerk  
Recording Secretary

By \_\_\_\_\_


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

  
\_\_\_\_\_  
John K. Lindsey, Vice Chairman

**ABSENT**

  
\_\_\_\_\_  
William C. Tucker, Commissioner


Voting  
For Against

 \_\_\_\_\_

X \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Robert Wheeldon

Linn County Planning and Building Director




APPROVED AS TO FORM:

  
\_\_\_\_\_  
Eugene J. Karandy II

Linn County Attorney

# Linn County Planning & Building Department



-  ARO-Extraction
-  taxlots
-  ARO-Impact

BC12-0003  
13S01W06 00401  
HARRINGTON THOMAS & DEBRA  
120.53 acres

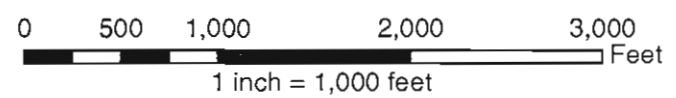


EXHIBIT 1

4/17/2013





# LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

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

## NOTICE OF ADOPTION

**RESOLUTION NO:** 2013-088  
**ORDINANCE NO.** 2013-089  
**PLANNING FILE NO:** BC12-0003  
**APPLICANT** Thomas and Debra Harrington

### PROPOSAL

**BC12-0003;** concurrent applications by Thomas and Debra Harrington for a *Comprehensive Plan* text amendment to include a 120.8-acre property in the Linn County aggregate inventory as a significant aggregate resource site, an Aggregate Resource Overlay (ARO) zone amendment, and a development permit for aggregate mining and processing. The proposed development permit would authorize the mining, crushing, processing, batching, stockpiling, blasting and hauling of aggregate within the proposed 120.8-acre resource site. The property is identified as portions of T13S, R01W, Section 06, Tax Lots 400, 401, 402, 405 410 also described as parcel 2 of partition plat 2012-35; and is zoned Farm/Forest (F/F). The proposed mining site is located on the east side of Sodaville Mountain Home Drive approximately 0.24 mile north of its intersection with Harrington Drive, Lebanon.

### Board Action: Resolution and Order No. 2012-088

The Linn County Board Of Commissioners approved *Resolution and Order No. 2012-088* to: (1) Approve the Findings and Conclusions supporting the Board decision; (2) Order that the applications be approved as proposed to include the identified 120.8-acre property in the Linn County aggregate inventory as a significant aggregate resource site with all conflicts minimized; (3) apply the aggregate resource overlay (ARO) to the mining site and the impact area; and (4) Authorize mining consistent with the ARO and other applicable regulations.

### Board Action: Ordinance No. 2012-089

The Linn County Board Of Commissioners approved *Ordinance No. 2013-088* to: (1) Amend the Linn County *Comprehensive Plan* text to include the subject 120.8-acre resource site in the Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6, entitled *Inventory of Significant Sites With all Conflicts Minimized*; and (2) Amend the Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6A, entitled *Inventory of significant Sites With all Conflicts Minimized* to add the adopted subsection and text (3) apply the aggregate resource overlay (ARO) to the mining site and the impact area.

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

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

Resolution and Order No. 2013-088 and Ordinance No. 2013-089 may be reviewed at the office of the Linn County Clerk, Room 205, Linn County Courthouse; that office is open from 8:30 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. A copy of the ordinance is available in the office of the Linn County Clerk. A fee to cover copying costs will be charged.

Robert Wheeldon

4/24/13

Robert Wheeldon  
Director

Date

c: Tom Harrington, Jordan Ramis, PC et.al., DLCD, DOGAMI, DEQ, DSL, Linn County EHP, Linn County Road Department, State Fire Marshal, ODOT, SMITH, STANLEY & JUDY, BARTON KENNETH R & LINDA L, LOWEN VINCENT D & JANET I, REDMAN KENNETH E, ENGEN DAVID R & AMY C, BREWER, JIM, SODAVILLE CITY OF, ISRAEL BODIE, WARD, RYAN, HILL, DONALD & HEIDI, GOODMAN CHARLES J, ARMSTRONG, GAIL, KNIGHTEN, THEDA & KIMO, HALEY DWIGHT W & PHYLLIS J, PEARCE SUSAN M, OGDEN JOAN M, WARD MARK & CONNIE M, VANDIVER WILLIAM W & KATHLENE J TR, MAJURE, WALTER, ALVIN, JOHN, WARD, ROBERT & EILENE, HEINECK, NICK, GARDNER, ALISON, WILSON, JANEY, FORBES, GREG & DIANA, VANDIVER, JEFF, DAVIES, ANNE, SPEAKER, BOB, VANATTA, BRAIN, HARRINGTON, TOM AND DEBRA, BRADSHAW, RANDY & ELANOR, HEDDINGER, JAMES & LINDA, MOORE, ED, COOPER, WARREN, QUINE, EMILY, NELSON, ROD. MCCLLOUD, MAC & GERI, WARD, MARK, BESSER, GERALD, DELANEY, JENNIFER, MCARLEY, TIM, ECO NORTHWEST, C/O KRISTIN LEE, JEREMIAH, KRIS, DANIELS, KERY, DANIELS, BARBARA, MCKAY, KETURAH & EDWIN, DAVIS, SCOTT, OHLING, LISA, AHART, ALLAN, KALER, ROSE, KUSHNER, JOHN, KUSHEER, BETTE, TONKIN, LINDA & FRED, FLORY, BRUCE, COOK, KENT & TAMMY, SCHNEIDER, MARK, WOLF, ZACK & SARAH, DLCD, C/O ED MOORE, EWING, MARYANNE, YATES, FRED, HILL, HEIDI, CARTER, WILLIAM, CARTER, DEBRA

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ADDRESS  
SERVICE  
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PRESORTED  
FIRST CLASS



Hasler

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Oregon DLCD

L-P Plan Amendment

Specialist