



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/09/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: Union County Plan Amendment
DLCD File Number 002-13

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: Wednesday, October 23, 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: Hanley Jenkins, Union County
Jon Jinings, DLCD Community Services Specialist
Grant Young, DLCD Regional Representative

<paa> YA

DLCD NOTICE OF ADOPTION

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

(See reverse side for submittal requirements)

DEPT OF

OCT 04 2013

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: Union County Local File No.: none (If no number, use none)

Date of Adoption: 10-02-13 Date Mailed: 10-02-13 (Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 06-19-13

- Comprehensive Plan Text Amendment
Comprehensive Plan Map Amendment
[X] Land Use Regulation Amendment
Zoning Map Amendment
New Land Use Regulation
Other: (Please Specify Type of Action)

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

The adopted amendment removed "aggregate & mineral mining" as a Conditional Use in the County's I-2 Heavy Industrial Zone.

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

Same

Plan Map Changed from: NA to NA

Zone Map Changed from: NA to NA

Location: I-2 Heavy Industrial Zone Acres Involved: all acres so zoned

Specify Density: Previous: NA New: NA

Applicable Statewide Planning Goals:

Was an Exception Adopted? Yes: No: [X]

DLCD File No.: 002-13 (19899) [17633]

BE IT REMEMBERED, that at a regular term of the Union County Board of Commissioners, for the County of Union, sitting for the transaction of County business, begun and held at the Joseph Building Annex in the City of La Grande, in said County and State, on Wednesday of said month and the time fixed by law for holding a regular term of said Court, when were present:

The Honorable	MARK DAVIDSON	Chairman
	STEVE MCCLURE	Commissioner
	WILLIAM ROSHOLT	Commissioner

WHEN, on Wednesday, the 2nd day of October, 2013, among others the following proceedings were had to-wit:

IN THE MATTER OF AMENDING THE I-2}	
HEAVY INDUSTRIAL ZONE IN THE }	
UNION COUNTY ZONING, PARTITION & }	ORDINANCE NO.
SUBDIVISION ORDINANCE & DECLARING}	2013-05
AN EMERGENCY }	

WHEREAS, Union County received a Land Use Regulation Amendment application to amend the I-2 Heavy Industrial Zone Section 13.03(7) removing "aggregate & mineral mining" as a Conditional Use;

WHEREAS, the Union County Planning Commission advertised and held a public hearing on August 19, 2013 to accept testimony and review the application;

WHEREAS, on August 19, 2013 the Union County Planning Commission recommended denial of the application to the Union County Board of Commissioners;

WHEREAS, the Union County Board of Commissioners advertised and held a public hearing on September 18, 2013 to review the Planning Commission's recommendation and receive additional public testimony.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, COUNTY OF UNION, STATE OF OREGON:

SECTION 1: AMENDMENT

Section 13.03(7) is amended to remove "aggregate & mineral mining" as follows:

7. Aggregate and mineral exploration and processing.

SECTION 2: SUPPORTING FINDINGS

This Ordinance is passed and adopted with the supporting findings included in Exhibit "C".

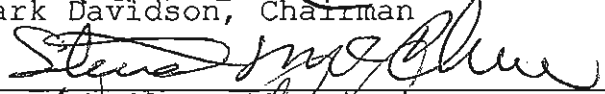
SECTION 3: EMERGENCY ADOPTION

An emergency does hereby exist for the immediate need to adopt the Amendment to the Union County Zoning, Partition and Subdivision Ordinance for immediate implementation.

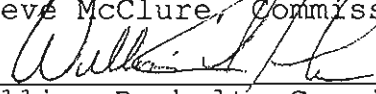
PASSED AND ADOPTED this 2nd day of October, 2013 by a vote of the following members of the Board of Commissioners voting therefore.



Mark Davidson, Chairman



Steve McClure, Commissioner



William Rosholt, Commissioner

Attest: _____

**UNION COUNTY ZONING PARTITION & SUBDIVISION ORDINANCE
I-2 HEAVY INDUSTRIAL ZONE AMENDMENT
REMOVAL "Aggregate & Mineral Mining"
SUPPORTING FINDINGS**

CRITERIA

Union County Zoning, Partition & Subdivision Ordinance Section 23.05(3) requires "A decision on a Land Use Plan text or map amendment by the Planning Commission and Board of Commissioners shall be based on the applicant's ability to meet all of the following:" (The County has also in practice applied these review criteria to land use regulation amendment requests.)

- A. Community attitudes and/or physical, social, economic, or environmental changes have occurred in the area or related areas since plan adoption and that a public need supports the change, or that the original plan was incorrect.
- B. Alternative sites for the proposed uses will be considered which are comparable with the other areas which might be available for the uses proposed.
- C. All applications to take an exception or exclude certain land from the requirements of one or more applicable statewide planning goals shall be reviewed against the requirements in OAR Chapter 660, Division 4.
- D. Determine whether the amendment significantly affects a transportation facility. The amendment shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
 - Limiting allowed land uses to be consistent with the planned function of the transportation facility;
 - Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
 - Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

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- The County has only four areas in the unincorporated County in I-2 Heavy Industrial Zoning- (1) La Grande Livestock Sale Yard & Eagle Truck, (2) Baum Industrial Park, (3) Crop Production Services, Inc. agriculture fertilizer business, and (4) former Peacock Mill site. Very few vacant and available acres are within these areas.
- Infrastructure investments have already been expended such as in the Baum Industrial Park- pressure centralized sewer,

2

18 inch La Grande waterline, natural gas, railroad access, and county and state owned roads.

- Other aggregate removal opportunities exist on resource lands in the unincorporated County such as agricultural zones. Alluvial aggregate is found in alluvial fans in agricultural zones at the mouths of the Grande Ronde River, Catherine Creek, Little Creek, Ladd Creek, Clarks Creek and Indian Creek.
- Once aggregate is removed, reuse of the site for heavy industrial purposes is very unlikely.
- Ability to identify new rural heavy industrial zoned land is limited to meeting a statewide planning Goal 2 Reasons Exception which is very difficult to justify. Oregon's land use program is designed to site heavy industrial opportunities inside city urban growth boundaries.

Testimony

1. Dan Stark, Executive Director of the Union County Economic Development Corporation, 102 Depot Street, La Grande, testified to the Planning Commission on August 19, 2013, in favor of the application. He said UCEDC is a 501c6 nonprofit corporation and is in total support of the proposed amendment. He said they have a very significant investment in the Baum Industrial Park. They partnered with Union County in purchasing 60 acres there and their share was \$300,000. He said they want to make sure they can market the property without any conflicts and they look at mining in that park or Industrial Zones as a significant conflict in use. He said Hanley mentioned what industrial land is available in the County. He said if you add that to what is inside the Urban Growth Boundaries this County is still very inadequate in terms of its industrial land inventory. He referred to the Baum Industrial Park and said it is property that would be considered Tier 1 land which means a developer could start development there within 180 days of securing the property. He said that is highly significant. The property also has rail access potential and they are looking at 2.5 million dollars of improvement to bring rail onto that property and market it.

Mr. Stark said last fall the City of Portland or Metro Area went through an inventory. They found 56 sites of industrial land 25 acres or larger in size that would be

considered ready to go and only two of those sites were considered Tier 1 because of irrigation issues, transportation issues and other issues that would have to be resolved. He said at the Baum Industrial Park they have a property that is Tier 1 and they are marketing it as a very assessable and ready to build piece of property. He said mining would provide conflicts not only with the use of that property, but they also have to look at if reclamation would actually bring it back to where it would be cost effective to build on in the future.

2. Jeff Hines, owner of HNS & USA Concrete, owns 14 acres in the Baum Industrial Park and has existing aggregate processing operations, crushing and concrete batching. Mr. Hines testified to the Planning Commission on August 19, 2013 and the Board of Commissioners on September 18, 2013, that he knew there was the opportunity to mine aggregate when he purchased the property. He said removing that opportunity would definitely affect his businesses.

Mr. Hines explained even though he did not own the mineral rights to his property he felt he could acquire a lease and pay royalties to the real estate section of Union Pacific Railroad.

Mr. Hines explained the Muilenburg pit he has used in the past is mined out and other alluvial aggregate sources are hard to find.

3. Ward King, president of Northwood Manufacturing, submitted written and oral testimony in opposition to the proposed amendment expressing concern that the amendment will detrimentally impact USA Concrete.

ULTIMATE FINDINGS

1. UCZPSO Section 23.05(3)-
 - A. Community attitude and economic changes have occurred in the area since plan adoption and public need supports the change because vacant and available I-2 Heavy Industrial zoned land in unincorporated Union County is in short supply. About 80 vacant acres at the Baum Industrial Park (in 2 parcels) is Tier I qualified for development within 180 days. Identifying new unincorporated I-2 Heavy Industrial zoned land would require satisfying a Statewide Planning Goal 2 Reasons Exception which is very

difficult to justify. Therefore, maintaining the existing vacant available I-2 Heavy Industrial Zoned land for industry other than "aggregate and mineral mining" is an important economic opportunity in Union County. The Board of Commissioners initiated the application because community attitudes have changed.

- B. Alternative sites for alluvial aggregate and mineral mining are available in the County's six alluvial fans which were identified around the Grande Ronde and Indian Valleys that include alluvial sands and gravel. Existing alluvial mining operations include sites on property owned by Muilenburg, RD Mac, Inc. and Mike Becker.
 - C. The application is not proposing to take an exception.
 - D. No affects to transportation facilities are anticipated from the amendment.
2. No prior mining has occurred on the HNS & USA concrete property. Alluvial aggregate material for their operations has come from off-site sources not in an I-2 Heavy Industrial Zone. These businesses do not own the mineral rights on the property where they operate, nor do they have a lease or negotiated contract with the owner to mine this property. HNS & USA Concreté are currently buying sand from an aggregate operator in the County. Other options to mine alluvial aggregate exist in EFU zones on six alluvial fans.

CONCLUSION

For the above reasons the County believes vacant and available I-2 Heavy Industrial zoned land should not be consumed for aggregate removal purposes and removes "Aggregate and mineral mining" from Section 13.03 Conditional Use (7).

BE IT REMEMBERED, that at a regular term of the Union County Board of Commissioners, for the County of Union, sitting for the transaction of County business, begun and held at the Joseph Building Annex in the City of La Grande, in said County and State, on Wednesday of said month and the time fixed by law for holding a regular term of said Court, when were present:

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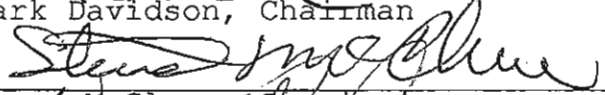
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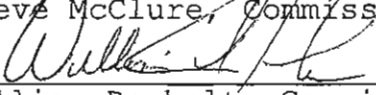
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A plan or land use regulation amendment significantly affects a transportation facility if it:

- Changes the functional classification of an existing or planned transportation facility;
- Changes standards implementing a functional classification system;
- Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
- Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

BASIC FINDINGS

The Union County Zoning, Partition & Subdivision Ordinance (UCZPSO) I-2 Heavy Industrial Zone includes in part in Section 13.03 Conditional Uses the following:

7. Aggregate and mineral exploration, mining and processing.

The County proposes to remove "aggregate and mineral mining" from the list of Conditional Uses for the following reasons:

- I-2 Heavy Industrial Zones in the County are limited to statewide planning Goal 2 Exception Areas where sites are already built and committed or a reasons exception was shown to exist. Therefore, lands in this zone are very limited and have unique characteristics to qualify them for this zoning.
- The County has only four areas in the unincorporated County in I-2 Heavy Industrial Zoning- (1) La Grande Livestock Sale Yard & Eagle Truck, (2) Baum Industrial Park, (3) Crop Production Services, Inc. agriculture fertilizer business, and (4) former Peacock Mill site. Very few vacant and available acres are within these areas.
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DEPT OF

OCT 04 2013

LAND CONSERVATION
AND DEVELOPMENT

**UNION COUNTY
PLANNING DEPARTMENT**

1001 4th Street, Suite C
LA GRANDE, OREGON 97850

TO

Attn: Plan Amendment Specialist
DLCD
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540



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