



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

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www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: May 18, 2015
Jurisdiction: Wasco County
Local file no.: PLACUP-15-01-0002
DLCD file no.: 002-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/14/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Notice of the proposed amendment was submitted to DLCD 43 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

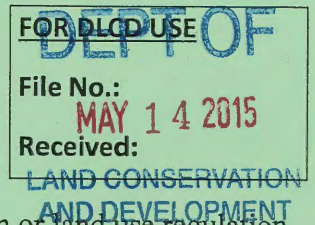
DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us

DLCD FORM 2



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION



Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: Wasco County

Local file no.: **PLACUP-15-01-0002**

Date of adoption: 5/6/15

Date sent: 5/12/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): X

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Dawn Baird, Associate Planner

Phone: 541-506-2560

E-mail: dawnb@co.wasco.or.us

Street address: 2705 E Second Street

City: The Dalles

Zip: 97058-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Wasco County Comprehensive Plan Aggregate Inventory; Goal 5; 50 acre aggregate site added as a "Significant Site"

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 6S 17E 0 2400, 2200

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: DEQ, DOGAMI

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.



Wasco County Planning Department

"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058
(541) 506-2560 • wcplanning@co.wasco.or.us
www.co.wasco.or.us/planning

NOTICE OF DECISION Wasco County Board of Commissioners

FILE # PLACUP-15-01-0002

HEARING DATE: May 6, 2015
NOTIFICATION DATE: May 7, 2015

REQUESTS: Expand an existing 21.5 acre aggregate operation (rock quarry) to 50 acres in size.
Applications include:

1. Comprehensive Plan Amendment to add a significant aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and
2. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation.

APPLICANT:

Jon Justesen
59720 Twin Lakes Road
Grass Valley, OR 97029

OWNER:

Jonnie L. Justesen, et. al.
Same

PROPERTY INFORMATION:

Zoning: A-1(160), Exclusive Farm Use Zone in Wasco County

Location: The aggregate site is located east of Highway 97, approximately 3.4 miles northeast of Shaniko, Oregon; more specifically described as:

<u>Existing Tax Lot</u>	<u>Previous</u>	<u>Acct#</u>	<u>Acres</u>
6S 17E 0 2200	None	12710	714.74
6S 17E 0 2400	6S 17E 0 1901	12707	2,493.63

ATTACHMENTS:

Prepared by Dawn Baird, Associate Planner

- A. Conditions of Approval
- B. Time Limits & Appeal Information
- C. Maps
- D. Planning Commission Report
- E. Lighting Standards
- F. Farm Management Easement

ATTACHMENT A

CONDITIONS OF APPROVAL

A. Comprehensive Plan Amendment:

1. The owners shall submit a map identifying the 50 acre Permit Boundary and the 1,500 foot Impact Area to the Planning Department prior to any excavation into the expansion area.
2. All operations, including but not limited to, aggregate extraction, crushing, screening, batching, stockpiling, equipment storage, etc., shall only occur within the Permit Boundary.
3. The Impact Area for the proposed quarry includes all land within 1,500 feet of the 50 acre boundary of the aggregate site.

B. Zoning Map Amendment:

1. Prior to any excavation, the following conditions shall be met:
 - a. The 5' tall earthen berm shall be constructed and seeded with natural grasses.
 - b. The owner shall submit a copy of an approved DEQ permit showing conformance with air quality and emissions standards.
 - c. The owner shall submit a copy of a DOGAMI operating permit or exemption certificate, and a DOGAMI-approved Reclamation Plan.
 - d. County approval and DOGAMI approval are both required prior to any mining activity.
 - e. Check dams shall be installed to control prevent sedimentation into Buck Hollow Creek.
2. Miscellaneous Conditions:
 - a. All processing equipment and equipment stored on the site shall be screened from view of Highway 97.
 - b. Hours of drilling and blasting are limited to 9 a.m. to 5 p.m., Monday – Friday. No blasting or drilling shall occur on Saturdays, Sundays, or recognized legal holidays.
 - c. Hours of operation for extraction are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.
 - d. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.
 - e. The aggregate site operator shall maintain applicable DOGAMI permits or exemption certificates in effect.
 - f. Any mining operator shall carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least \$1 million.

- g. All vegetation within 100' of Buck Hollow Creek shall be retained.
- h. The Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate site will release all restrictions, easements or waivers of remonstrance and indemnity.
- i. The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:
 - a. The owner of the mineral and aggregate resource site submits evidence showing a significant resource no longer exists on the site; and
 - b. The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and
 - c. The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

SIGNED THIS 6th day of May, 2015, at The Dalles, Oregon.

Scott Hege, Chair
Wasco County Board of Commissioners

State of Oregon
County of Wasco

Signed or attested before me on May 6, 2015, by Scott Hege, Chair, Wasco County Board of Commissioners.

Kathleen Rochelle White
Notary Public – State of Oregon



NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: Oregon Revised Statutes, Chapter 215, requires that if you receive this notice, it must promptly be forwarded to the purchaser.

ATTACHMENT B
TIME LIMITS & APPEAL INFORMATION

No ground disturbance shall occur until the appeal period has expired, and conditions of approval are adhered to.

Per Section 2.125 of the Wasco County Land Use and Development Ordinance, this approval shall expire: (1) when development has not commenced within two (2) years of the date of approval, or (2) the use approved is discontinued for any reason for twelve (12) continuous years or more. If the approval expires, a new application shall be made.

Please Note!

No guarantee of extension or subsequent approval either expressed or implied can be made by the Wasco County Planning Department. Please take care in implementing your proposal in a timely manner.

APPEAL PROCESS:

The decision date for this land use review is **Wednesday, May 6, 2015**. The decision will be mailed to affected property owners and agencies on **Thursday, May 7, 2015**. The decision of the Board of Commissioners shall be final unless an appeal to the State Land Use Board of Appeals from an aggrieved party is received within twenty-one (21) days of the mailing date of this decision, **Thursday, May 28, 2015**. A complete record of the matter is available for review upon request during regular business hours or copies can be ordered at a reasonable price at the Wasco County Planning Department.

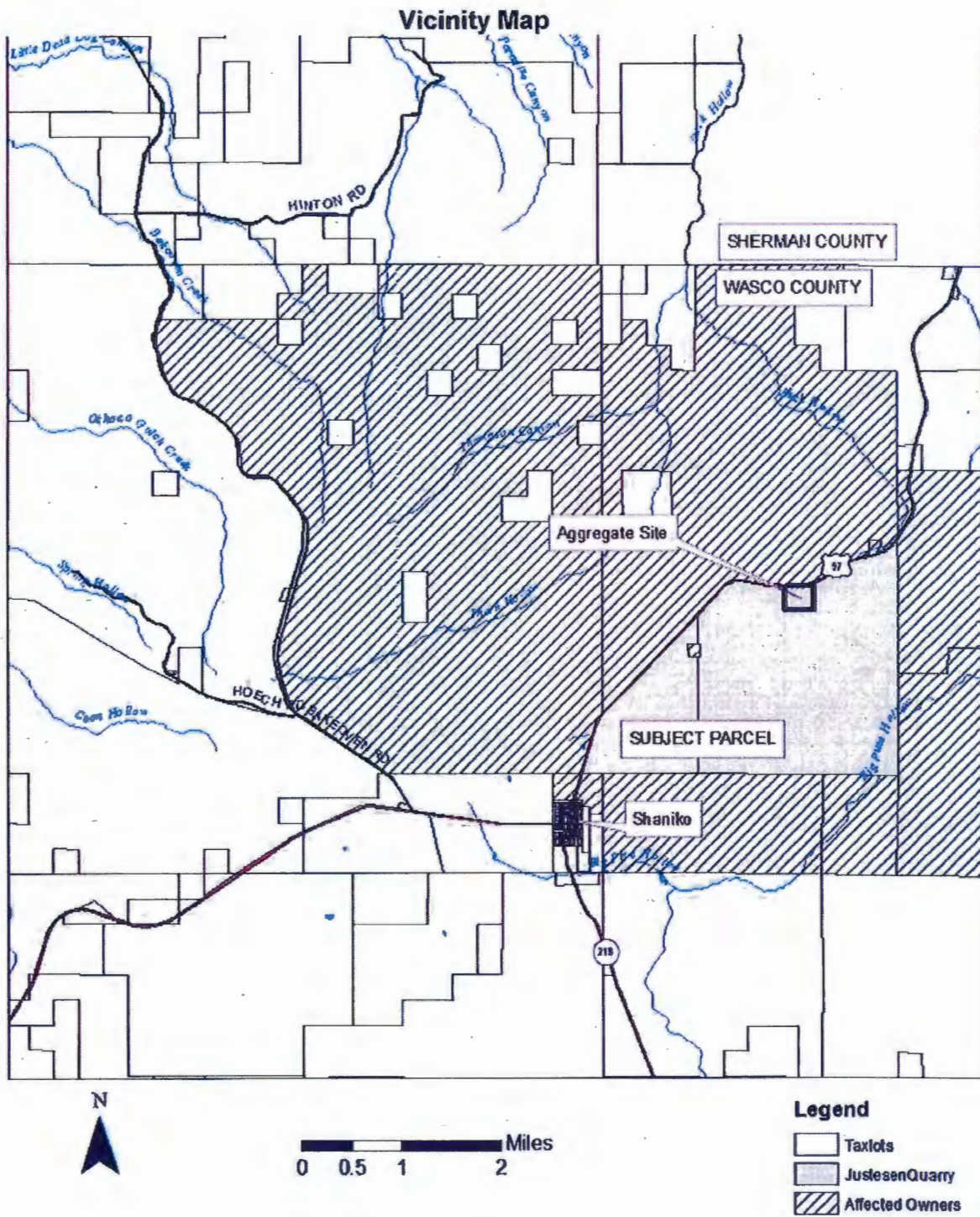
FINDINGS OF FACT:

Findings of fact approving this request may be reviewed at the Wasco County Planning Department, 2705 East Second Street, The Dalles, Oregon, 97058, or are available for purchase at the cost of \$0.25 per page. These documents are also available online at: <http://co.wasco.or.us/planning/>. Click on Pending Land Use Actions. The table is sorted alphabetically by the name of the applicant. The information will be available until the end of the appeal period.

ATTACHMENT C - MAPS

Applicant/Owner: Jon Justesen et. al.

6S 17E 0, Tax Lots 2200 & 2400

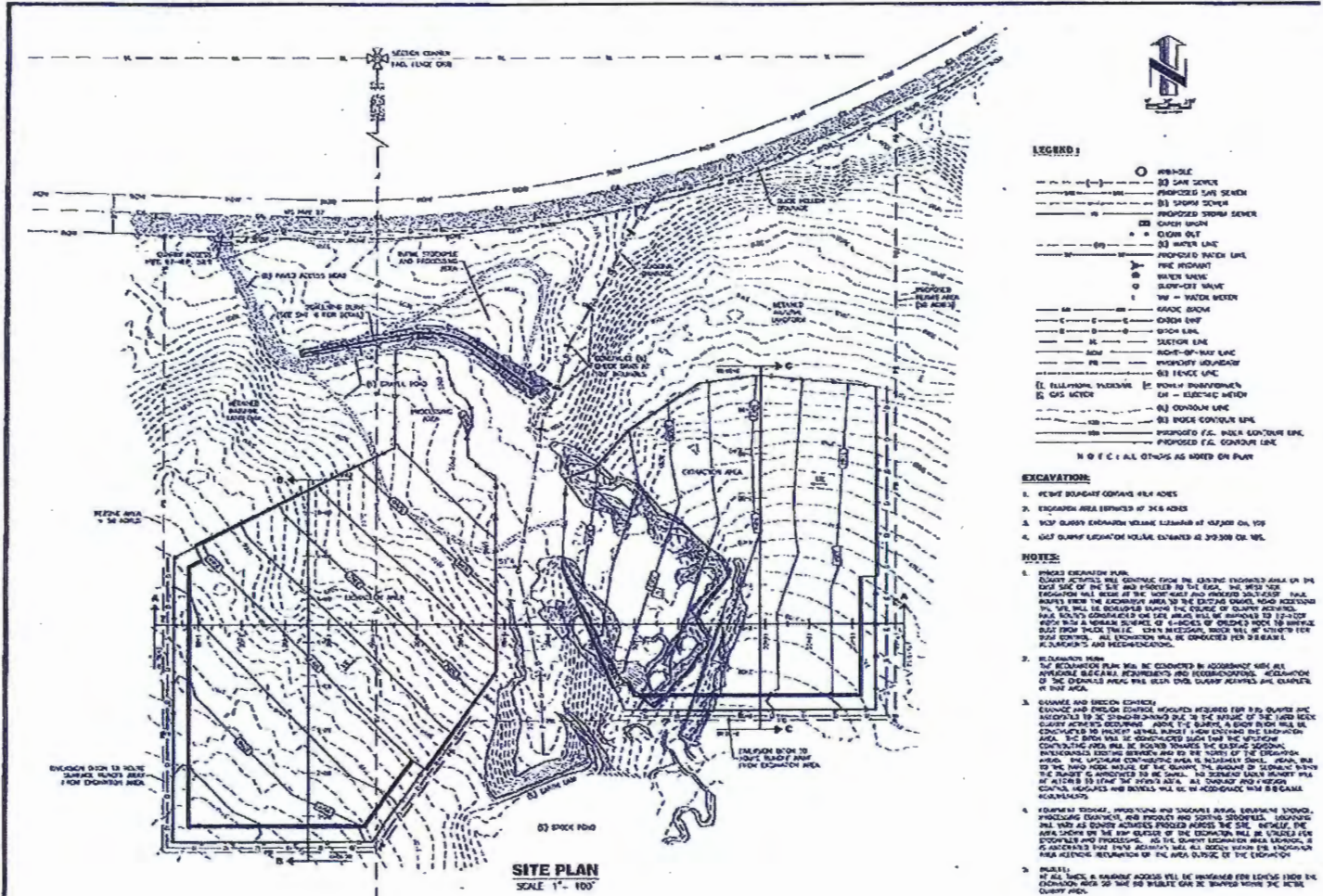


ATTACHMENT C - MAPS

Applicant/Owner: Jon Justesen et. al.

6S 17E 0, Tax Lots 2200 & 2400

Site Plan



LEGEND:

- WINDMILE
 - PROPOSED SWAMP SEWER
 - PROPOSED SWAMP LINE
 - PROPOSED SWAMP AREA
 - PROPOSED SWAMP SEWER
 - CATCH BASIN
 - CLEAN OUT
 - WATER LINE
 - PROPOSED SWAMP LINE
 - PROPOSED SWAMP AREA
 - WATER SHAFT
 - SLOPE-OFF VALVE
 - WATER METER
 - GRADE BENCH
 - CATCH LINE
 - SWAMP LINE
 - SECTION LINE
 - RIGHT-OF-WAY LINE
 - PROPERTY LINE
 - FENCE LINE
 - E. ELEVATION POINTS
 - E. GAS METER
 - E. CONTOUR LINE
 - E. SWAMP CONTOUR LINE
 - PROPOSED E. SWAMP CONTOUR LINE
 - PROPOSED E. CONTOUR LINE
- N O F C & A L OTHERS AS SHOWN ON PLAN

EXCAVATION:

1. WEST BOUNDARY CONDUIT 48" DIA
2. EXCAVATION AREA 20' X 20' X 4'
3. 10' X 10' X 4' EXCAVATION UNDER EXISTING 12" DIA. 10' DIA. 10' DIA.
4. 10' X 10' X 4' EXCAVATION UNDER EXISTING 12" DIA. 10' DIA. 10' DIA.

NOTES:

1. PROPOSED EXCAVATION PLAN. EXCAVATION SHALL BE CONDUCTED FROM THE EXISTING EXCAVATION AREA TO THE EAST SIDE OF THE SWAMP AND PROTECTED BY THE SWAMP. THE SWAMP SHALL BE EXCAVATED TO THE DEPTH OF THE EXISTING EXCAVATION AREA. THE SWAMP SHALL BE EXCAVATED TO THE DEPTH OF THE EXISTING EXCAVATION AREA. THE SWAMP SHALL BE EXCAVATED TO THE DEPTH OF THE EXISTING EXCAVATION AREA. THE SWAMP SHALL BE EXCAVATED TO THE DEPTH OF THE EXISTING EXCAVATION AREA.
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3. EXCAVATION AND PROTECTION. EXCAVATION AND PROTECTION SHALL BE CONDUCTED IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS AND REQUIREMENTS. EXCAVATION AND PROTECTION SHALL BE CONDUCTED IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS AND REQUIREMENTS.
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ATTACHMENT D
Final Report
WASCO COUNTY BOARD OF COMMISSIONERS

File Number: PLACUP-15-01-0002

Requests: Expand an existing 21.5 acre rock quarry to 50 acres in size. Applications before the Board of Commissioners include:

1. Comprehensive Plan Amendment to add the aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and
2. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the aggregate operation.

Prepared For: Wasco County Board of Commissioners

Procedure Type: Quasi-Judicial Hearing

Hearing Date: May 6, 2015

Decision: Approval, with findings and conditions recommended by the Planning Commission

Applicant: Jon Justesen

Owners: Jonnie L. Justesen, et al.

Location: The aggregate site is located east of Highway 97, approximately 3.4 miles northeast of Shaniko, Oregon; more specifically described as:

<u>Existing Tax Lot</u>	<u>Previous</u>	<u>Acct#</u>	<u>Acres</u>
6S 17E 0 2200	None	12710	714.74
6S 17E 0 2400	6S 17E 0 1901	12707	2,493.63

Zoning: A-1(160), Exclusive Farm Use Zone

Past Actions: 6S 17E 0, tax lot 2200: None
6S 17E 0, tax lot 2400: PLAMNN-10-06-0015, MIN-07-165, LOC-02-WAA11-LUCS-A, CUP-00-124-WAA11-P, CUP-00-120-WAA11-A, CPA-99-104-WAA1-P, CUP-99-105-WAA1-P, PLA-99-111-WAA16-A, PLA-97-105-WAA1-A, LOC-96-WAA18-WR, MIP-80-114-WAA1, CUP-79-114-WAA1-H.

Prepared by: Dawn Baird, Associate Planner

I. APPLICABLE STANDARDS

A. Comprehensive Plan Amendment

1. Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

- Section 2.060.B.1. (Recommendation to County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan))
- Section 2.080.A. (Notice)
- Section 2.090 (Contents of Notice)
- Section 2.140 (Hearing Procedure)
- Section 2.150 (Official Notice)
- Section 2.190 (General Conduct of Hearings)

2. Wasco County Comprehensive Plan

a. Chapter 2 – Physical Characteristics

- Section G. (Mineral & Aggregate Resources)

b. Chapter 11 – Revisions Process

- Section B. (A Comprehensive Plan may take the following forms)
- Section C. (Who may apply for a plan revision)
- Section E. (Quasi-Judicial Revisions)
- Section H. (General Criteria)
- Section I. (Transportation Planning Rule Compliance)
- Section J. (Procedure for the Amendment Process)

c. Chapter 14 – Findings and Recommendations

- Section B. (Goal 5 Issues)

d. Chapter 15 – Goals and Policies

- Section E. (Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources)

B. Zoning Map Amendment

Wasco County Land Use & Development Ordinance

1. Chapter 2 – Development Approval Procedures

- Section 2.060.B.2. (Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment - Chapter 9)
- Section 2.080.A. (Notice)
- Section 2.090 (Contents of Notice)
- Section 2.140 (Hearing Procedure)
- Section 2.150 (Official Notice)
- Section 2.190 (General Conduct of Hearings)

2. Chapter 9 – Zone Change and Ordinance Amendment

- Section 9.010 (Application for Zone Change)
- Section 9.020 (Criteria for Decision)
- Section 9.030 (Transportation Planning Rule Compliance)

Section 9.040	(Conditions Relative to the Approval of a Zone Change)
Section 9.060	(Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance)
Section 9.070	(Notice of Planning Commission Recommendation)
Section 9.080	(Action by County Governing Body)

3. Chapter 3 – Basic Provisions

Section 3.800	(Division 5 – Mineral and Aggregate Overlay)
Section 3.830	(Permitted Uses - Extraction Areas)
Section 3.835	(Development Standards - Extraction Area)
Section 3.845	(Impact Area - Uses and Standards)
Section 3.850	(Designation of Overlay Zone)
Section 3.855	(Termination of Mineral and Aggregate Overlay Zone)

II. BACKGROUND

- A. Legal Parcel:** The subject parcel was legally created by Property Line Adjustment 99-111-WAA16-A, recorded with the Wasco County Clerk on September 6, 2000. It is consistent with the definition of Legal Parcel in LUDO Chapter 1, Section 1.090, Definitions because it was created by a duly recorded property line adjustment.
- B. Site Description:** Staff made a site inspection of the subject parcel on February 19, 2015. The existing 21.5 acre proposed aggregate site contains 2-20% western facing slopes with sage brush vegetation and scattered juniper trees. Approximately 3 acres of the site have been excavated in a horseshoe shaped fashion, open to the north. Stockpiles from the Oregon Dept. of Transportation's prior road project remain between the south wall and U.S. Highway 97. The previously excavated portion of the site has vertical walls 20-25 feet in height. At the southwestern edge of the site is a pond with a man-made dam approximately 14 feet in height. The natural drainage of this pond, an intermittent draw, runs along the entirety of the western border of the development site.
- The remaining 2,490.7 acres of the subject parcel consist of rolling terrain with predominantly 2-20% slopes, scattered Juniper trees, sage brush vegetation and 406 acres of dry crop fields (oat and barley), registered with Farm Services Agency. The parcel is principally used for livestock grazing (200 mother cows/200 calves) from late fall through late spring.
- C. Surrounding Land Use:** Surrounding properties are used for cattle grazing. Property to the east contains some planted fields (hay). These properties contain similar slopes as the subject parcel. Properties contain scattered juniper trees, sage brush, and natural grasses. The closest residence is 2.3 miles to the northwest.

III. SUMMARY OF PLANNING COMMISSION HEARING (APRIL 7, 2015)

An aggregate site in the Exclusive Farm Use Zone generally requires four applications:

- Subject to Standards Review
- Comprehensive Plan Amendment
- Zoning Map Amendment
- Conditional Use Permit

In the Exclusive Farm Use Zone, creation of a new aggregate site, renewal of a permit for an existing aggregate site, or expansion of an existing aggregate site, can only occur if the rock source has been determined to be a "Significant Site". This determination is done through a Subject to Standards Review. If a site is determined to be significant, the three remaining applications will be processed:

A Comprehensive Plan Amendment is required to add the "Significant Site" to the Wasco County Comprehensive Plan Aggregate Inventory.

A Zoning Map Amendment is required to protect the significant rock source by placing the EPD-5, Mineral & Aggregate Overlay Zone on the aggregate site and a specific area around the boundary of the aggregate site.

The remaining application is a Conditional Use Permit. Aggregate operations and batch plants are regulated by the Conditional Use Review requirements to ensure there are no conflicts with surrounding farm or forest uses, for the protection of fish & wildlife habitat, cultural and historic resources, public facilities including roads, fire, electricity, sewer, water, etc.

The Planning Director has the authority to make a decision on the Subject to Standards request, and the Conditional Use Permit request, however, to expedite the process, the Director chose to have to the Planning Commission make a decision on these two applications, as well as a recommendation to the Board of Commissioners for a Comprehensive Plan Amendment and Zoning Map Amendment.

The results of the Planning Commission hearing were:

- Subject to Standards Review: Approval, with conditions, to determine the Justesen rock source to be a Significant Site.
- Comprehensive Plan Amendment: Recommendation of approval, with conditions, to add the Justesen rock source to the Comprehensive Plan Aggregate Inventory as a Significant Site.
- Zoning Map Amendment: Recommendation of approval, with conditions, to apply the EPD-5, Mineral & Aggregate Overlay Zone to the proposed 50 acre Permit Boundary and all land within 1,500 feet.
- Conditional Use Permit: Approval, with conditions, to allow an aggregate operation and include drilling, shooting, crushing, stockpiling crushed aggregate, and a batch plant.

The Board of Commissioners May 6, 2015, public hearing will consider the Comprehensive Plan Amendment and Zoning Map Amendment. All applicable standards are addressed in IV.

IV. FINDINGS:

A. Comprehensive Plan Amendment

1. Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.060.B.2., Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)

FINDING: The request is for a Comprehensive Plan Amendment to add the 50 acre aggregate site to the Aggregate Inventory as a “Significant Site”. A proposed or expansion site in the Exclusive Farm Use Zone, must be determined to be a significant site before it can be added to the Aggregate Inventory as a Significant Site. The Planning Commission approved the quarry as a Significant Site on April 7, 2015. Upon completion of the Comprehensive Plan Amendment portion of the hearing on April 7th, the Planning Commission voted unanimously to forward a recommendation of approval, with conditions, to the Board of Commissioners for the Comprehensive Plan Amendment application.

Section 2.080.A., Notice

Section 2.090, Contents of Notice

Section 2.140, Hearing Procedure

Section 2.150, Official Notice

Section 2.190, General Conduct of Hearings

FINDING: The above sections establish the requirements for providing notice of public hearings and the general conduct of hearings. A ten day pre-notice is required for a second quasi-judicial hearing. This hearing is being held on May 6, 2015. The public hearing notice was published in The Dalles Chronicle on April 21, 2015, and notice was provided to agencies and property owners within 750’ of the subject parcel, on April 21, 2015, fifteen days before the hearing. Posting of the hearing notice in public places occurred more than fifteen days before the hearing.

2. Wasco County Comprehensive Plan

Chapter 2 – Physical Characteristics

(***)

G., Mineral & Aggregate Resources

FINDING: The request is consistent with the requirements of Chapter 2, Section G., which provides general information about rock sources in Wasco County, instructions on how to apply for the Mineral & Aggregate Overlay zone, the requirements of an ESEE (Economic, Social, Environmental & Energy) Analysis, as well as Table 8, Wasco County Aggregate Inventory.

Prior to the Planning Commission hearing, the existing site was identified as Wasco County Aggregate Inventory #233, a “Potential Site”, not a “Significant Site.” Upon expiration of the Planning Commission appeal period on Tuesday, April 21, 2015, the site is identified as a “Significant Site.”

Requirements in OAR 660-16-005 and 660-16-010 direct local jurisdictions to analyze the ESEE consequences of (a) allowing mining on a significant site, and (b) allowing conflicting uses to displace mining on a significant site. The owners submitted an ESEE analysis with the Subject to Standards Review. The ESEE analysis identified conflicting uses in the area and discussed impacts of the aggregate site.

If the request is approved, staff will update Table 8, Wasco County Aggregate Inventory.

Chapter 11 – Revisions Process

The Comprehensive Plan for Wasco County is the primary document which guides and controls land use within Wasco County excluding incorporated areas. The plan is intended to reflect the community's current thoughts on land use planning and to be responsive to the needs and desires of citizens. In order to achieve this, the plan must respond to changing community attitudes and needs and to unforeseen circumstances which may affect the use of land in the future. It is, therefore, the intent of this section to permit the amendments of the Comprehensive Plan on a periodic basis and to describe the procedure for the amendment process.

(***)

B. A Comprehensive Plan Amendment May Take the Following Forms:

- 1. Amendment of one or more policies of the plan. (Legislative)*
- 2. Amendment to the text, inventories, maps or figures of the plan. (Legislative or Quasi-Judicial)*
- 3. Amendment of a portion of the Comprehensive Plan Land Use Designation map. (Legislative or Quasi-Judicial)*
- 4. Amendment to the urban growth boundary. (Legislative or Quasi-Judicial)*
- 5. A combination plan change/zone amendment. (Legislative or Quasi-Judicial)*

FINDING: The request is for a quasi-judicial amendment to the Comprehensive Plan Mineral and Aggregate Inventory, as permitted by B.2.

C. Who May Apply For a Plan Revision

A Comprehensive Plan Revision may be initiated by:

- 1. Wasco County Governing Body. (Legislative)*
- 2. Planning Commission by majority vote confirmed by the Wasco County Governing Body. (Legislative)*
- 3. Property owner or his authorized representative. (Quasi-Judicial)*

FINDING: A request for a revision to the Wasco County Aggregate Inventory to amend the proposed quarry designation from “Potentially Significant Site” to “Significant Site.” The request was made for the property owners by their engineer (authorized representative).

(***)

E. Quasi-Judicial Revisions

Section E. states that quasi-judicial revisions are those which do not have significant effect beyond the immediate area of the change, i.e., narrow in scope and focusing on specific situations.

Each plan change or revision will first be heard by the Planning Commission on a first-come, first-serve basis. Such hearing shall be conducted in accordance with the Wasco County Planning Commission "Rules and Regulations".

FINDING: The request is consistent with criterion c. The proposed amendment focuses on an existing aggregate operation. The proposed amendment will not affect any other quarry in Wasco County except the quarry on the subject parcel.

(***)

H. Section H. establishes general criteria which must be considered before approval of an amendment to the Comprehensive Plan is given.

- 1. Compliance with the statewide land use goal as provided by Chapter 15 or further amended by the Land Conservation and Development Commission, where applicable.*

FINDING: Chapter 15 lists the goals and policies for each Statewide Planning Goal. Goal 5, Policy 1 – Mineral and Aggregate Resources, helps to protect and utilize appropriately the mineral and aggregate resources in Wasco County, and minimize conflict between aggregate uses and surrounding land uses. The request is consistent with Statewide Land Use Goal 5 and implementing policies in Chapter 15, as discussed below.

- 2. Substantial proof that such change shall not be detrimental to the spirit and intent of such goals.*

FINDING: As discussed below in Chapter 15 (page 12 of 30 of the Planning Commission Recommendation), the request complies with the goals and policies related to aggregate operations.

- 3. A mistake in the original comprehensive plan or change in the character of the neighborhood can be demonstrated.*

FINDING: A change in the character of southern Wasco County has resulted in the request for the Comprehensive Plan Amendment.

The character of southeastern Wasco County has evolved significantly resulting in the request for a Comprehensive Plan Amendment. The County Comprehensive Plan inventories were compiled in the late 1970's and early 1980's. Since the inventories were compiled, many things have happened and the character of the county has changed. Items include the Rajneesh era in Antelope, declining timber harvest due to Spotted Owl concerns, and the closure of area lumber mills and aluminum plants. Stimulus money has been made available from the federal government for transportation system projects. This has resulted in an increased need for aggregate resources. New methods for generating electricity have been found to be cost effective resulting in placement of many wind turbines in adjacent Oregon and Washington counties. Wasco County hopes to be the next location of wind turbines, additionally there is future potential for solar power generation. These projects will also require considerable aggregate resources. There are no active private quarries in this vicinity of Wasco County.

4. *Factors which relate to the public need for healthful, safe and aesthetic surroundings and conditions.*

FINDING: These factors were addressed in the Planning Commission hearing, primarily through the Conditional Use Review which requires compliance with criteria that require: maintenance of wildlife areas, riparian habitat, cultural and historic areas, the protection of farm and forest uses, the ability to maintain or provide public services, including but not limited to police protection, fire protection, road maintenance and safety, pedestrian safety, and protection of water, land and air resource quality. With proposed conditions in the Conditional Use Permit approval, the request provides healthful, safe and aesthetic surroundings and conditions for the public.

5. *Proof of change in the inventories originally developed.*

FINDING: Proof of change in the originally developed Aggregate Inventory was addressed above in H.3.

6. *Revisions shall be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change must be established.*

FINDING: The request complies with H.6.. The request is to amend the existing quarry from "Potentially Significant Site" to "Significant Site."

Wasco County and Oregon Department of Transportation (ODOT) have quarries 0.9 mile and 1.2 mile, respectively, from the proposed aggregate site, however, they are not extraction sites, but only stockpile sites, and they do not sell rock to private individuals or companies. There is no privately owned quarry within 17 miles of the subject parcel that contains a rock source identified as "Significant." Though it does not sound like a long distance to haul rock, considering the terrain consisting of steep hills and extreme curves, it is slow going and the trucks must use a lot of fuel to transport the rock. If quality rock is needed in this part of the County, the cost will not be economically feasible due to transportation costs.

Based on distance to existing available private rock sources, the public need and justification for the quarry expansion has been established.

The owners submitted results from six separate tests conducted by ODOT in 1999 for the rock in the quarry. It was determined the rock quality is very good; these reports serve as the factual basis to support the change.

I. Transportation Planning Rule Compliance

1. *Review of Applications for Effect on Transportation Facilities - A proposed plan amendment, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR"). "Significant" means the proposal would:*
 - a. *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

- b. *Change standards implementing a functional classification system; or*
- c. *As measured at the end of the planning period identified in the adopted transportation system plan:*
 - 1) *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - 2) *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or*
 - 3) *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

FINDING: OAR-660-012-0005(30), Definitions, states: "Transportation Facilities" means any physical facility that moves or assist in the movement of people or goods including facilities identified in OAR 660-012-0020 but excluding electricity, sewage and water systems.

An e-mail dated February 5, 2015, from Scott Peters, ODOT Permit Specialist, states that "this site has been used for aggregate extraction for over 16 years. The existing and expanded area is located in a rural location. The driveway accessing the aggregate site has good site distance onto Highway 97. If the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., the proposed use will not unduly impair traffic flow or safety in the area." A **condition** requiring this is recommended.

A **condition** is recommended requiring the owner to ensure all trucks hauling aggregate from the site be properly contained to avoid the spillage of rock and debris onto public roads. The owner shall keep Highway 97 and adjoining routes of travel clear of rock spillage.

Other conditions related to roads, such as maintenance of on-site roads, providing water to reduce dust, etc., were applied in the review of the Conditional Use Permit, and are included as conditions of approval.

- 2. *Amendments That Affect Transportation Facilities* - *Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:*
 - a. *Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
 - b. *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section -0060 of the TPR.*

- c. *Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.*
- d. *Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*

FINDING: According to Scott Peters, ODOT Permit Specialist, the request will not significantly affect Highway 97 because the aggregate site has been in operation periodically for the past 20+ years and has not produced any additional wear and tear on the road. There are no alternate methods of transporting rock in this area because there are no railroad lines.

3. *Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a plan amendment application pursuant to Section 4.140 Traffic Impact Analysis (TIA) of the Land Use and Development Ordinance.*

FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system from a Comprehensive Plan Amendment. The mineral extraction operation is an existing use. If the expansion is approved, the use will continue as it has for the past 16+ years, and no change to the use will occur. According an e-mail dated February 5, 2015, Scott Peters, ODOT Permit Specialist, there will be no impact on Highway 97 if the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., therefore, no Traffic Impact Analysis is required.

J. Procedure for the Amendment Process

1. *A petition must be filed with the Planning Offices on forms prescribed by the Director of Planning.*

FINDING: The owners' engineer made application to the Planning Department for a Comprehensive Plan Amendment to amend the Aggregate Inventory to identify the proposed quarry as a Significant Site.

2. *Notice of a proposed revision within, or to, the urban growth boundary will be given to the appropriate city at least thirty (30) days before the County public hearing.*

FINDING: The proposed amendment is not within or adjacent to an urban growth boundary, therefore, 2. does not apply.

3. *Notification of Hearing:*
 - a. *Notices of public hearings shall summarize the issues in an understandable and meaningful manner.*
 - b. *Notice of a legislative or judicial public hearing shall be given as prescribed in ORS 215.503. In any event, notice shall be given by publishing notice in newspapers of general circulation at least twenty (20) days, but not more than forty (40) days, prior to the date of the hearing.*

FINDING: Public notice summarizing the proposed request was published in The Dalles Chronicle and was provided to all property owners on April 21, 2015, 15 days prior to the May 6, 2015, Board of Commissioners hearing.

- c. *A quorum of the Planning Commission must be present before a public hearing can be held. If the majority of the County Planning Commission present cannot agree on a proposed change, the Commission will hold another public hearing in an attempt to resolve the difference or send the proposed change to the County Governing Body with no recommendation.*

FINDING: Six members of the Planning Commission were present at their April 7, 2015, hearing. The Commissioners unanimously (6-0) voted to recommend approval of the Comprehensive Plan Amendment, with conditions, to the Board of Commissioners.

- d. *After the public hearing, the Planning Commission shall recommend to the County Governing Body that the revision be granted or denied, and the facts and reasons supporting their decision. In all cases the Planning Commission shall enter findings based on the record before it to justify the decision. If the Planning Commission sends the proposed change with no recommendation, the findings shall reflect those items agreed upon and those items not agreed upon that resulted in no recommendation.*

FINDING: The Planning Commission recommendation and report are part of the Board of Commissioners record and is attached to this report. The Planning Commission, on April 7, 2015, voted 6-0 to forward a recommendation of approval, with conditions to the Board of Commissioners.

- e. *Upon receiving the Planning Commission's recommendation, the County Governing Body shall take such action as they deem appropriate. The County Governing Body may or may not hold a public hearing. In no event shall the County Governing Body approve the amendment until at least twenty (20) days have passed since the mailing of the recommendation to parties.*

FINDING: The Planning Commission notice of decision and recommendation was sent to owners, agencies, and affected property owners, on April 9, 2015, 27 days prior to the Board of Commissioners hearing. This is consistent with e., which requires a minimum of 20 days between the Planning Commission notice of decision and the Board of Commissioners notice of hearing.

Chapter 14 – Findings and Recommendations

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B.2., Goal 5 Issues – Mineral and Aggregate Resources

As stated in the Goals and Policies under Goal #5, rock and aggregate resources will be identified and protected by placement of the Environmental Protection District zone.

Extraction of these resources is a conditional use in the agricultural and forestry zones and a permitted use in the manufacturing zones.

Generally, residential uses are the uses which come into conflict with the extraction of aggregate and mineral resources. The provisions of the Environmental Protection District Division 5 overlay zone provide the protection necessary for all aggregate sites.

FINDING: The request complies with Chapter 14 of the Comprehensive Plan.

The property owners have made application to expand an existing aggregate operation, and have requested that the EPD-5, Mineral & Aggregate Overlay zone be applied to the expanded Permit Boundary, and all land (Impact Area) within 750 feet of the Permit Area, to protect the aggregate resource. Through discussions with Amanda Punton, Goal 5 Specialist, Department of Land Conservation & Development, staff learned that the state of Oregon uses 1,500 feet as their standard protection area. Though the County LUDO requires a minimum of 750 feet, the County can decide to use a larger distance. The Planning Commission concurred that if the State is using 1,500 feet as their distance to protect aggregate sites, and it may become the State requirement in the future, therefore, it is appropriate to use 1,500 feet in this request.

Most of the 1,500 foot Impact Area lies on the Justesen parcel, however, a small portion of the 5,175 acre property to the north will be limited in the placement of future sensitive uses, but will not render the property unusual. The placement of the EPD-5 Overlay on this property will not prohibit any existing uses or proposed uses in the future because the land is large enough to easily find an alternate building site.

Findings in this report show that there are no existing Sensitive Uses within 1,500 feet of the proposed expansion boundary. The EPD-5 zone will protect the aggregate resource from future Sensitive Uses within the Impact Area.

Chapter 15 – Goals and Policies

Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources

Policy 1 – Mineral Resources

Protect and utilize appropriately the mineral and aggregate resources of Wasco County, and minimize conflict between surface mining and surrounding land uses.

Implementation

- A. *The development of new rock and aggregate resource sites shall be consistent with the State Planning Goal 5 and Oregon Administrative Rules Chapter 660, Division 16 process to balance conflicts between mining operations and new and existing surrounding conflicting uses.*

FINDING: The request is consistent with Policy A.

Wasco County updated all sections of the Wasco County Comprehensive Plan relating to Goal 5 – Mineral and Aggregate Resources, during its 1994 Periodic Review project.

Conflicts between mining operations and existing surrounding uses was evaluated in the ESEE Analysis submitted by the owners. Considering existing farm uses in the area, and the distance from existing Sensitive Uses, no conflicting uses were identified in the Impact Area.

Application of the Mineral & Aggregate Overlay zone will protect the significant aggregate site and its Impact Area from future potential conflicting uses.

- B. Sites identified as significant aggregate resource sites shall not support interim or permanent uses which may jeopardize the future availability of the resource.*

FINDING: The request complies with criterion B. The request is to expand an existing aggregate resource. No other interim or permanent uses are proposed or considered as part of this request.

- C. Mining and processing of gravel and mineral materials may only be allowed at sites included on the "Other Site" inventory or "Significant Sites" inventory.*
- 1. Mining at sites on the "Other Sites" inventory may be allowed by a conditional use permit.*
 - 2. Mining at sites on the "Significant Sites" inventory may only be permitted in accordance with the Mineral Resources Overlay.*

FINDING: Current State law allows new or expanded aggregate sites in an Exclusive Farm Use Zone on sites designated as "Significant Sites." The owners submitted an ESEE analysis which evaluated the quality and quantity of rock in the proposed Permit Area. Based on the findings of the staff analysis, a determination was made by the Planning Commission (April 7, 2015) that the quarry is a Significant Site. The appeal period for this significance determination expired at 4 p.m., April 21, 2015. No appeal was submitted to the Planning Department, therefore, the aggregate site has been determined to be a Significant Site.

- D. For each site determined to be significant, the County shall complete the remainder of the County Goal 5 process identifying conflicting uses, analyzing the ESEE consequences of the conflicting use(s), and designating a level of protection from conflicting uses. If the final decision concerning the site is to preserve fully or partially protect the resource from conflicting uses, the County shall zone the site with the Mineral Resources Overlay.*

FINDING: The quarry was found to be a Significant Site during the Subject to Standards Review at the April 7, 2015, Planning Commission hearing. An ESEE analysis was submitted for the aggregate site. This analysis identified the closest Sensitive Site, a residence, as being 2.3 miles northwest of the aggregate operation. Currently the aggregate operation is not protected from future potential conflicting uses, however, the site has been determined to be significant, and will now be protected through application of the Mineral & Aggregate Overlay Zone. The Planning Commission recommends this in IV.B., Zoning Map Amendment.

Policy 2 – Mineral Resources

The County shall maintain an inventory of mineral and aggregate resource sites. The comprehensive plan inventory shall consist of three parts:

- An inventory of "Significant Sites" identified through the Goal 5 process as important resources that will be protected from conflicting uses;*
- An inventory of "Potential Sites" for which sufficient information concerning the location, quality, and quantity of a resource site is not adequate to allow the County to make a determination of significance;*

- *An inventory of "Other Sites" for which available information demonstrates that the site is not a significant resource to be protected.*

Implementation

- A. *The significance of non-aggregate mineral resources shall be judged on a case-by-case basis, taking into account information concerning the commercial or industrial use of the resource, as well as the relative quality and relative abundance of the resource within at least the County.*

FINDING: An Aggregate Inventory is maintained as part of the Comprehensive Plan. An ESEE analysis was submitted by the owners evaluating the quality and quantity of rock on this specific parcel. Additional on-site information for the subject parcel was submitted by the owners' engineer. The proposed quarry has been evaluated according to the significance criteria, and was found to be significant.

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- D. *For sites on the "Potential Sites" inventory, the County shall review available information about mineral and aggregate resources, and if the information is sufficient, determine the site to be significant when one of the following conditions exist:*

1. *As part of the next scheduled Periodic Review;*
2. *When a landowner or operator submits information concerning the potential significance of a resource site and requests a Comprehensive Plan amendment;*
3. *When resolution of the status of a potential resource site is necessary to advance another planning objective.*

FINDING: The landowner and his representative requested approval of a Comprehensive Plan Amendment to add the expanded quarry to the Comprehensive Plan Aggregate Inventory as a Significant Site. On April 7, 2015, the Planning Commission reviewed a Subject to Standards Review to determine if the site was a significant rock source. The Commission, on a vote of 6-0, voted to determine that the Justesen rock source was a Significant Site, and recommended approval of the Comprehensive Plan Amendment to the Board of Commissioners.

- E. *In order to approve surface mining at a site zoned for exclusive farm or forestry use, the County shall find, as part of the ESEE analysis, that the proposed activity will not: 1) force a significant change in, or significantly increase the cost of, accepted farming or forestry practices on surrounding lands, and 2) will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*

FINDING: There is no forest use identified on surrounding lands. Existing farm use on surrounding lands consists primarily of grazing. Planted fields on property to the east are approximately 1.4 miles from the quarry operation. Due to distance and intensity of farm uses on surrounding lands, the expanded quarry will not increase the cost of accepted farm practices on surrounding lands, nor will it change how surrounding owners farm their land.

The County initially approved this quarry operation in 1999, but it was used by the owner prior to that time. The Planning Department has never received any complaints from farm operators in the area about impacts of the quarry on their farm use.

To minimize potential conflicts between the proposed expanded Permit Area and surrounding farm uses, a **condition** is recommended requiring the owners to sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 prior to receiving zoning approval on a building permit.

F. The County may establish and impose conditions on operation of a surface mine when deemed necessary as a result of a site-specific Goal 5 analysis. Where such conditions conflict with criteria and standards in the Mineral and Aggregate Resources Overlay, the conditions developed through the Goal 5 analysis shall control.

FINDING: It is noted that if any conditions of approval imposed as a result of the Comprehensive Plan Amendment are in conflict with conditions in the Zoning Map Amendment (Section IV.B.), the conditions in the Comprehensive Plan Amendment section shall control.

G. No surface mining or processing activity, as defined by the zoning ordinance, shall commence without land use approval from the County, and approval of a reclamation plan and issuance of an operating permit by DOGAMI.

FINDING: The applicant submitted a request for an Operating Permit and a proposed Reclamation Plan to the Oregon Department of Geology & Mineral Industries (DOGAMI). During the Planning Commission hearing it was pointed out that permits are required by Wasco County and the state of Oregon (DOGAMI). A **condition** in IV.B. specifically requires DOGAMI approval prior to any excavation.

H. Aggregate sites shall be subordinate to the landscape setting as seen from travel corridors when such travel corridors have been determined to be significant by the ESEE analysis.

FINDING: Highway 97 is located along the western side of the aggregate site. This site has been in operation for over 20 years. The landscape setting in the area is large open fields with many rock outcrops east of the highway. There is a large Oregon Department of Transportation stockpile site located approximately 1 mile southwest of the Justesen quarry. The current extraction site left a strip of land intact between the quarry and Highway 97 to screen the majority of the operation from the road. The view from Highway 97 of the proposed expanded extraction site south of the existing site will be similar to the existing view. However, processing equipment could be visible from the highway. The applicant has proposed to establish a 5' tall seeded, earthen berm to screen processing areas and eliminate any direct view into the extraction area. This condition is required in IV.B. With the proposed condition, the expanded aggregate site will be subordinate to the landscape setting as seen from Highway 97.

B. Zone Change Request

Wasco County Land Use & Development Ordinance

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.060, Application/Completeness, Section B.

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1. Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)

FINDING: The request is for a Zone Change to add the Mineral & Aggregate Overlay to the 50 acre Permit Boundary, and its Impact Area. On April 7, 2015, the Planning Commission voted 6-0 to forward a recommendation of approval, with conditions, to the Board of Commissioners, who will make the final decision on the Zone Change.

Section 2.080.A., Notice

Section 2.090, Contents of Notice

Section 2.140, Hearing Procedure

Section 2.150, Official Notice

Section 2.190, General Conduct of Hearings

FINDING: The above sections establish the requirements for providing notice of public hearings and the general conduct of hearings. The first evidentiary hearing provided a twenty day pre-notice before the Planning Commission held their April 7, 2015, quasi-judicial public hearing. A ten day pre-notice is required for a second quasi-judicial hearing. This hearing is being held on May 6, 2015. The public hearing notice was published in The Dalles Chronicle on April 21, 2015, and notice was provided to agencies and property owners within 750' of the subject parcel, on April 21, 2015, fifteen days before the hearing. Posting of the hearing notice in public places occurred more than fifteen days before the hearing.

Chapter 9 – Zone Change and Ordinance Amendment

Section 9.010, Application for Zone Change

Section 9.010.C. states that an application for a zone change may be initiated by an application being filed with the Director of Planning on the appropriate forms, containing information required to establish the criteria for the change (quasi-judicial only).

FINDING: Jon Justesen's engineer applied for a quasi-judicial zone change to apply the EPD-5, Mineral & Aggregate Overlay to the proposed expanded quarry and Impact Area, as required by Section 9.010.C. Application of the EPD-5 Overlay will not change the underlying Exclusive Farm Use zoning.

Section 9.020, Criteria for Decision

The Approving Authority may grant a zone change only if specific circumstances are found to exist:

A. The original zoning was the product of a mistake; or

FINDING: The original zoning was not the product of a mistake.

B. It is established that:

1. The rezoning will conform with the Comprehensive Plan; and,

FINDING: The request is consistent with B.1. The applicant provided an analysis of the Statewide Planning Goals in the ESEE analysis on page P72 of staff's report and recommendation to the Planning Commission. The Statewide Goals are the basis for the Comprehensive Plan, which was determined to be consistent with these goals on August 25, 1983. The analysis provided by the applicant shows that the application of the Mineral & Aggregate Overlay will conform to the Comprehensive Plan.

2. *The site is suitable to the proposed zone; and*

FINDING: The request complies with B.2. The owners have requested application of the EPD-5, Mineral & Aggregate Overlay zone to an aggregate site determined to be significant by the Planning Commission on April 7, 2015. The site has been listed as a Potential Site in the Aggregate Inventory in the Comprehensive Plan. The site is suitable for the proposed use because it lacks top soil, is composed entirely of agricultural capability class VII soils (considered unsuitable by the State of Oregon for commercial farm use in eastern Oregon), there is an abundance of high quality aggregate material, and there is sufficient distance between the aggregate site and sensitive uses such as residences.

3. *There has been a conscious consideration of the public health, safety and welfare in applying the specific zoning regulations.*

FINDING: The request is consistent with B.3. The quarry site is located in a manner which blends with the surrounding land uses and retains natural landforms to shield the operation from surrounding ownerships and passing traffic. The quarry will operate in compliance with all applicable regulations for noise, dust, odor, and hours of operation. The site is remote from any existing residential improvements. The quarry has operated in the past, and is anticipated to operate harmoniously with surrounding land uses.

Section 9.030, Transportation Planning Rule Compliance

A. *Review of Applications for Effect on Transportation Facilities - A proposed zone change or land use regulation change, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR").*

FINDING: Staff contacted Scott Peters, Permit Specialist, Oregon Department of Transportation on February 5, 2015, to seek his input regarding effect of the request on transportation facilities. Mr. Peters stated that the quarry has been in operation for many years, and the continuation of the quarry will not result in any significant impact to Highway 97.

Trucks hauling aggregate must follow weight, length and height requirements. If they are hauling legally, the road should wear normally, therefore, there will not significantly affect a transportation facility. A **condition** requiring compliance with these requirements was included in the Planning Commission's Conditional Use Permit approval. Another **condition** requires truck drivers to comply with normal traffic laws.

B. *Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP.*

FINDING: Application of the Mineral & Aggregate Overlay zone to the subject property will not affect any transportation facility. According to ODOT, Highway 97 can handle the additional 10 +/- trips per day that the quarry will generate.

C. *Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a zone change application pursuant to Section 4.140 Traffic Impact Analysis (TIA))*

FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system from a Zone Change. The mineral extraction operation is an existing use. If the expansion is approved, the use will continue as it has for the past 16+ years, and no change to the use will occur (no additional vehicular traffic). In an e-mail dated February 5, 2015, Scott Peters, ODOT Permit Specialist, said that the current request is a continuation of an existing use, and there will be no impact on Highway 97 if the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., therefore, no Traffic Impact Analysis is required.

Section 9.040, Conditions Relative to the Approval of a Zone Change

Reasonable conditions may be imposed, pursuant to Section 2.110(D) as are necessary to insure the compatibility of a zone change to surrounding uses and as are necessary to fulfill the general and specific purposes of this Ordinance.

FINDING: **Conditions** have been recommended throughout this report to insure the compatibility of the aggregate area with surrounding uses.

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Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance

After hearing information presented at the hearing, the Approving Authority shall recommend that the proposed zone change or amendment to the Zoning Ordinance be granted or denied. The Director of Planning or his assistants shall reduce to writing the Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based.

FINDING: With **conditions** throughout this report, the request is consistent with all of the requirements of the LUDO. The Planning Commission's recommendation to the Board of Commissioners is to recommend approval of the Zone Change to add the EPD-5 Overlay Zone to the 50 acre Permit Boundary, and all land within 1,500 feet of the boundary (as explained under Chapter 14 on page 12 of 30).

Section 9.070, Notice of Planning Commission Recommendation

Within ten (10) days of the final Planning Commission hearing, the Director of Planning or his assistants shall give notice thereof to any persons who signed in and testified at the hearing and to such other persons as may have requested the same in writing.

FINDING: Notice was provided on April 9, 2015, as required by Section 9.070.

Section 9.080, Action by County Governing Body

Upon receipt of the Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Governing Body act until at least twenty (20) days after the Notice of Planning Commission Recommendation has been mailed.

FINDING: The Planning Commission held a public hearing on April 7, 2015, and provided notice of their decision/recommendation to all affected parties on April 9, 2015. The decision became final 12 days later, at 4 p.m., April 21, 2015. The Board of Commissioners hearing, held on May 6, 2015, is 27 days after the Planning Commission decision/recommendation was mailed.

Chapter 3 – Basic Provisions

Section 3.800, EPD-5, Mineral & Aggregate Overlay

Section 3.830, Permitted Uses - Extraction Areas

The following uses may be permitted in the Extraction Area subject to Site Plan approval in accordance with Section 3.840:

- A. *Any permitted use allowed in the underlying zone, may be allowed subject to the underlying zone criteria and as otherwise authorized through the ESEE analysis.*
- B. *Conditional uses shall be reviewed against the approval criteria of Section 3.845.*
- C. *Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.*
- D. *Stockpiling and storage of mineral and aggregate materials.*
- E. *Processing of:*
 - 1. *Materials, including crushing, washing, milling, screening, sizing, or batching of portland cement; and*
 - 2. *Batching or blending of mineral and aggregate into asphaltic concrete, except within 2 miles of a planted commercial vineyard.*
- F. *Buildings (not including residences), structures and equipment directly related to the above permitted aggregate uses.*
- G. *Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.*
- H. *Sale of products extracted and processed on-site from a mineral and aggregate operation.*

FINDING: Section 3.840 is addressed below. The owner proposes to process the aggregate material, including extraction, crushing, washing, milling, screening, sizing, and batching, which are all uses permitted in the approved Extraction Area.

Section 3.835, Development Standards - Extraction Area

A development plan shall be submitted to the Wasco County Planning Department for any permitted activity allowed in Section 3.830. The following requirements apply to mining and processing unless other standards are adopted in the County process. Such standards shall be clearly identified in the ESEE analysis. The applicant shall demonstrate that the following standards or site specific replacement standards adopted in the County process, are met or can be met by a specified date.

- A. Screening

1. *Mining Activities to be Screened.*
 - a. *All excavated areas except areas where reclamation is being performed, internal on-site roads existing of the effective date of this ordinance, new roads approved as part of the site plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation which provides natural screening;*
 - b. *All processing equipment;*
 - c. *All equipment stored on the site.*
2. *Types of Screening.*
 - a. *Natural Screening.* *Existing vegetation or other landscape features which are located within 50 feet of the boundary of the site, and which screen the view of mining activities from screened uses, shall be preserved and maintained.*
 - b. *Supplied Screening.* *Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied screening shall not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.*

FINDING: With **conditions**, the request complies with Section 3.835.A. The owner amended his original site plan to include a 5' tall earth berm for screening purposes. Overburden (topsoil) from the aggregate site will be moved to a location east of the existing driveway, approximately 150-200' south of Highway 97 and Buck Hollow Creek. The addition of the berm will minimize visibility into the expanded extraction area. With the proposed amendment adding an earthen berm, seeded with natural grasses, processing equipment, and equipment stored on the site will be screened from view of Highway 97. Criterion 2.b. above, allows earthen screening consisting of berms covered with earth and stabilized with ground cover (generally seeded with grass). A **condition** is recommended requiring construction of the berm, as proposed, a minimum of 5' tall, seeded with natural grasses prior to any extraction on the site. In addition, a **condition** is recommended requiring the owner to screen all processing equipment and equipment stored on the site. This can be accomplished by the proposed berm.

B. Access

1. *On-site roads used in mining, and access from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards.*
 - a. *All access roads intersecting a paved county road or state highway shall be paved thirty feet from the paved county road or state highway unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;*

FINDING: The request is consistent with 1.a. There is existing pavement over 30' long on the western end of the access road approaching Highway 97. The on-site road was constructed

approximately 15 years ago, and has accommodated mining vehicles and equipment for over 20 years.

- b. *All on-site roads within the Extraction Area, and access roads, shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date;*

FINDING: The request complies with 1.b. The proposed quarry was previously used as an extraction site (1999, 2000-2010) and internal access roads are constructed with rock from the quarry, with little dust created by trucks. There are no buildings or structures within 2.3 miles of the quarry, and the noise created by trucks on-site is similar to noise created by trucks going along Highway 97 at 55 m.p.h. An on-site 2,500 gallon water truck will be available for dust control.

- c. *All on-site roads within the Extraction Area, and access roads, shall be paved at all points within 250 feet of a noise or dust sensitive use existing on the effective date of this ordinance.*

FINDING: No noise or dust sensitive uses exist within 2.3 miles of the aggregate site, therefore, it is consistent with 1.c.

2. *Improvements to substandard public roads outside of the Extraction Area may only be required as necessary to comply with a road improvement program adopted as part of transportation element of the Comprehensive Plan. Payment for public road improvements shall not be a condition of approval for mining at significant sites.*

FINDING: The subject parcel has direct access to Highway 97, a State-maintained road. No improvements to public roads are required.

3. *Improvement fees in lieu of improvements of public roads, county roads and state highways may be required when the Planning Director or hearings body, in consultation with the appropriate road authority, determines that the increased traffic on the roads resulting from the surface mining activity will damage the road sufficiently to warrant off-site improvement. If the fee in lieu of improvements is required, the amount of the fee shall reflect the applicant's pro-rata share of the actual total cost of the capital expenditure of the road construction or reconstruction project necessitated by and benefiting the surface mining operation. Discounts for taxes and fees already paid for such improvements, such as road taxes for vehicles and for property already dedicated or improved, shall be applied.*

FINDING: According to Scott Peters, Permit Specialist, Oregon Department of Transportation (ODOT), in an e-mail dated February 5, 2015, stated that the owner met ODOT standards in his prior request for an aggregate site. No additional permits or improvements are required by ODOT.

4. *An effective vehicular barrier or gate shall be required at all access points to the site.*

FINDING: There is an existing gate across the driveway which provides access to the site.

C. Hours of Operation

1. *Drilling and blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday.*

FINDING: With a recommended **condition**, the request is consistent with C.1. A **condition** is recommended limiting the hours of drilling and blasting to 9 a.m. to 5 p.m., Monday-Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any recognized legal holiday.

2. *Mineral and aggregate extraction, processing and equipment operation within 750' or as established by the ESEE analysis of any Sensitive Use existing of the effective date of this ordinance is restricted to the hours of 7:00 am to 6:00 pm, Monday through Friday. All other sites are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.*

FINDING: The Impact Area was identified by the Planning Commission as all land within 1,500 feet of the Permit Boundary. There are no sensitive uses within 1,500 feet (as established by the ESEE analysis) of the quarry site. The Planning Commission recommends requiring a **condition** limiting the hours of operation to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

D. Environmental Standards

1. *DEQ Standards. Mineral and aggregate extraction, processing and other operations shall conform to all the applicable environmental standards of the County and applicable DEQ air quality and emissions standards. The applicant shall provide a copy of an approved DEQ permit(s) prior to commencement of the operation.*

FINDING: A **condition** is recommended requiring the owner to submit a copy of an approved DEQ permit prior to commencement of operation.

- E. Equipment Removal. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.*

FINDING: The Planning Commission recommends requiring equipment removal as stated in E., as a **condition** of approval.

F. Performance Agreement

1. *The operator of a mineral and aggregate site shall keep applicable DOGAMI permits or exemption certificates in effect.*

FINDING: A **condition** is recommended requiring the aggregate site operator to keep applicable DOGAMI permits or exemption certificates in effect.

2. *The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$1,000,000.00.*

FINDING: A **condition** is recommended requiring any mining operator to carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least \$1 million.

G. *Significant Resource Area Protection.* Conflicts between inventoried mineral and aggregate resource sites and significant fish and wildlife habitat, riparian areas and wetlands, significant scenic viewpoints or vistas, and ecologically and scientifically significant natural areas protected by the Significant Resource Areas Overlay Zone in accordance with Section 3.910 (Natural Areas Overlay) and 3.770 (Cultural, Historical and Archeological Overlay) of this Ordinance and identified on the Significant Resource Areas Map, shall be balanced as determined by the program and as determined by the County process.

FINDING: Buck Hollow Creek is located approximately 450 feet north of the extraction area. It is not a fish-bearing stream. Though it provides some wildlife habitat and riparian areas, it is not located in an identified natural area and does not contain cultural, historical, or archaeological features. A **condition** is recommended requiring the maintenance of all vegetation within 100 feet of Buck Hollow Creek.

H. *Site Reclamation.*

1. *No mining shall commence without providing the County a copy of a DOGAMI operating permit, approved reclamation plan, or exemption certificate.*

FINDING: A **condition** is recommended requiring the owner to provide a copy of a DOGAMI operating permit/exemption certificate, and approved reclamation plan to the Planning Department prior to the commencement of mining.

2. *A reclamation plan shall be submitted concurrently with the development plan required in Section 3.835. The reclamation plan shall include a schedule showing the planned order and sequence of reclamation, shall assure that the site will be restored or rehabilitated for the land uses specified in the underlying zone including subsequent beneficial uses identified through the County process.*

FINDING: The owner has provided a draft reclamation plan, however, it has not yet been approved by DOGAMI. A **condition** is recommended requiring the owner to submit a DOGAMI-approved reclamation plan prior to commencement of mining.

3. *The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County. When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.*
 - a. *If site plan approval is required, the County shall require that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.*

FINDING: In order to operate an aggregate extraction site, the owner must satisfy the requirements of Wasco County and DOGAMI. The Planning Commission recommends a **condition** advising the owner that County approval and DOGAMI approval are both required prior to any new mining activity.

I. Water Management

1. *All surface water shall be managed to provide protection against sediment discharge into streams, rivers and lakes. Existing natural drainage on the site shall not be changed in a manner which interferes with drainage patterns on adjoining property, or which drains waste materials or waste water onto adjoining property or perennial streams. Where the mineral and aggregate operation abuts a lake, river, or perennial stream, all existing vegetation within 100 feet of the mean high water mark shall be retained unless otherwise authorized in accordance with the ESEE analysis and the development plan.*

FINDING: The natural drainage of the northern portion of the subject parcel is south to north, and water drains into Buck Hollow Creek. All mining and processing areas are over 150' from the creek. The owner proposes a series of 5 check dams in the natural south-north drainage way. These dams allow any sediment from the aggregate operation to be caught in a basin, which will spill over to the next check dam when it is full. The dams allow sediment to be caught while allowing water to move along to Buck Hollow Creek. Existing vegetation within 150' of Buck Hollow Creek will be retained. A **condition** is recommended requiring the installation of the proposed check dams, and retention of all vegetation within 100' of Buck Hollow Creek.

2. *All water required for the mineral and aggregate operation, including dust control, landscaping and processing of material, shall be managed: (a) in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements, or (b) shall be legally available and appropriated for such use. The applicant shall provide written documentation of water rights from the State Department of Water Resources and/or local water district prior to the commencement of any site operation.*

FINDING: The owner's plan includes placement of a 2,500 gallon water truck on-site. The availability of this water will allow the request to meet all DEQ and DOGAMI requirements. No water right is required for an on-site water truck.

- J. Flood Plain. *Any extraction Area located wholly or in part in a Flood Hazard Area shall receive approval in accordance with Chapter 22 of this Ordinance prior to any site operation.*

FINDING: The Extraction Area is not in a Flood Hazard Area.

- K. Compliance with Special Conditions. *The applicant shall demonstrate that all special conditions or requirements adopted as part of the County process have been satisfied or will be satisfied by a specified date.*

FINDING: This report recommends many conditions of approval to ensure all applicable requirements have been met. Some conditions must be met after expiration of the appeal period, but prior to operation. Some conditions do not require any action, and some actions must be met after the aggregate operation ceases.

- L. Security. *Fencing of site boundaries shall be required on the boundary between a significant site and a parcel zoned to allow dwellings as an outright permitted use. Fencing shall be a cyclone type fence, shall be earth tone color, and shall be a minimum of six feet high.*

FINDING: A dwelling is not an outright permitted use in the Exclusive Farm Use zone, therefore, L. is not applicable to this request.

Section 3.840, Application Process

Final development plan approval is required prior to the beginning of any mineral and aggregate activity listed in Section 3.825 (A), and before any expansion of a pre-existing or nonconforming site. The applicant shall provide the following at the time of application:

A. *A site plan demonstrating that the development standards required in Section 3.835 can be met, and any requirements adopted as part of the County process, including:*

1. *Screening and Fencing;*
2. *Access;*
3. *Hours of Operation;*
4. *Environmental Standards;*
5. *Equipment Removal;*
6. *Performance Agreement;*
7. *Significant Resource Area Protection;*
8. *Site Reclamation;*
9. *Water Management; and*
10. *Flood Plain.*

B. *A map or diagram showing the location and setbacks of all proposed mineral and aggregate activities and operations and the location and distance to all Sensitive Uses within the Impact Area.*

FINDING: A site plan containing this information was provided by the applicant at the time of application.

C. *The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.835 and any other requirements adopted as part of the County process.*

FINDING: The Planning Commission recommends approval of the request to the Board of Commissioners, with recommended conditions.

Section 3.845, Impact Area - Uses and Standards

A. *Any permitted use allowed in the underlying zone may be allowed in the Impact Area subject to the underlying zone criteria and as otherwise authorized by the County process.*

FINDING: The subject parcel is zoned Exclusive Farm Use, A-1(160). This zone allows farm and forest use as an outright permitted use, so grazing of the land can continue, as well as the establishment of other uses allowed in the underlying zone.

B. *Uses allowed Conditionally.*

1. Any conditional use in the underlying zone(s) which are not noise sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the underlying zone criteria.

FINDING: Section 3.815C.3.b) lists noise sensitive uses and uses that conflict with aggregate extraction operations. Uses that are listed as conditional uses in the Exclusive Farm Use Zone that are not noise sensitive/conflicting uses shall be reviewed as a conditional use subject to the underlying zone criteria.

2. Noise sensitive uses and conflicting uses shall be reviewed as conditional uses subject to criteria D, Approval Criteria.

FINDING: In the future, noise sensitive/conflicting uses shall be reviewed as a conditional subject to Section 3.815.D.

- C. Prohibited Uses. Uses identified through the County process as incompatible with mining shall not be permitted within the Impact Area.

FINDING: Uses listed below are considered to be incompatible with mining, and shall not be permitted in the Impact Area.

1. An outdoor gathering
2. Dwellings
3. Winery
4. Model Aircraft take-off and landing sites
5. Churches and cemeteries
6. Propagation, cultivation, maintenance, and harvesting of aquatic or insect species
7. Farm ranch recreation
8. Commercial utility facilities (Wind, Hydroelectric or Other)
9. A site for disposal of solid waste
10. Personal use airports
11. Fire service facilities, and community centers owned by a government agency or nonprofit organization
12. Parks and playgrounds
13. Public or private schools for kindergarten through grade 12
14. Home Occupation
15. Dog Kennels
16. Private parks, playgrounds, and campgrounds
17. Golf courses
18. Commercial activities such as roadside stands that are in conjunction with farm use.

- D. Review Criteria. To approve uses allowed conditionally in the Impact Area the applicant must demonstrate compliance with the following criteria...

FINDING: All of the uses proposed in the Impact Area (drilling, shooting, extraction, crushing and stockpiling crushed aggregate) are permitted in the Mineral & Aggregate Overlay Zone. No other uses are requested, therefore, D. is not applicable to this request.

(***)

- F. Waiver of Remonstrance and Indemnity.

1. The owner of a proposed new Sensitive Use shall sign and record in the County Deed Records an Aggregate Operation Easement, Waiver of Remonstrance

and Indemnity which shall declare that the applicant and his successors or heirs will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site.

FINDING: If a new Sensitive Use is proposed within the EPD-5 Overlay, the affected owner shall record documents listed in F.1.

2. *The Aggregate Operations Easement and Waiver of Remonstrance and Indemnity shall run with the land, until such time as the site is exhausted and the site is reclaimed in accordance with the approved reclamation plan or the operator releases these restrictions, easements or waivers or remonstrance and indemnity.*
3. *It shall be a requirement of the mineral and aggregate operator to release any restrictions, easements or waivers of remonstrance and indemnity.*

FINDING: A **condition** is recommended advising the owner that the Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate owner will release all restrictions, easements or waivers of remonstrance and indemnity.

Section 3.850, Designation of Overlay Zone

The Mineral and Aggregate Overlay Zone may be applied through the plan update process, or through individual application for an Aggregate Overlay zone/ Comprehensive Plan amendment pursuant to Section 2.060 (B)(15) of this Ordinance. The approving authority shall approve the overlay zone designation if the provisions of Chapter 3, Section 3.800 - 3.850 of this Ordinance have been met. (Amended 9-93)

The boundary of the Overlay Zone shall be all property contained in the Mineral and Aggregate Extraction Area and Mineral and Aggregate Impact Area.

FINDING: The application of the Mineral & Aggregate Overlay Zone has been requested by the applicant through Section 2.060.B.2. The overlay zone shall be applied to all land within the 50 acre boundary, and all land within 1,500 feet of the Permit Boundary.

Section 3.855, Termination of Mineral and Aggregate Overlay Zone

The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

- A. *The owner of the Mineral and Aggregate resource site submits evidence showing a significant resource no longer exists on the site; and*
- B. *The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and*
- C. *The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.*

FINDING: A **condition** is recommended advising the owner that the termination of the Mineral & Aggregate Overlay zone shall occur when one of the above criteria has been met.

V. CONDITIONS OF APPROVAL: The following conditions of approval were adopted:

A. Comprehensive Plan Amendment:

1. The owners shall submit a map identifying the 50 acre Permit Boundary and the 1,500 foot Impact Area to the Planning Department prior to any excavation into the expansion area.
2. All operations, including but not limited to, aggregate extraction, crushing, screening, batching, stockpiling, equipment storage, etc., shall only occur within the Permit Boundary.
3. The Impact Area for the proposed quarry includes all land within 1,500 feet of the 50 acre boundary of the aggregate site.

B. Zoning Map Amendment

1. Prior to any excavation, the following conditions shall be met:
 - a. The 5' tall earthen berm shall be constructed and seeded with natural grasses.
 - b. The owner shall submit a copy of an approved DEQ permit showing conformance with air quality and emissions standards.
 - c. The owner shall submit a copy of a DOGAMI operating permit or exemption certificate, and a DOGAMI-approved Reclamation Plan.
 - d. County approval and DOGAMI approval are both required prior to any mining activity.
 - e. Check dams shall be installed to control prevent sedimentation into Buck Hollow Creek.
2. Miscellaneous Conditions:
 - a. All processing equipment and equipment stored on the site shall be screened from view of Highway 97.
 - b. Hours of drilling and blasting are limited to 9 a.m. to 5 p.m., Monday – Friday. No blasting or drilling shall occur on Saturdays, Sundays, or recognized legal holidays.
 - c. Hours of operation for extraction are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.
 - d. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.
 - e. The aggregate site operator shall maintain applicable DOGAMI permits or exemption certificates in effect.

- f. Any mining operator shall carry a Comprehensive General Liability policy for mining, processing, and incidental activities, with an occurrence limit of at least \$1 million.
- g. All vegetation within 100' of Buck Hollow Creek shall be retained.
- h. The Aggregate Operations Easement and Waiver of Remonstrance & Indemnity shall run with the land until such time as the site is exhausted and the site is reclaimed consistent with the approved reclamation plan. At this time, the owner of the mineral and aggregate site will release all restrictions, easements or waivers of remonstrance and Indemnity.
- i. The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:
 - 1) The owner of the mineral and aggregate resource site submits evidence showing a significant resource no longer exists on the site; and
 - 2) The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and
 - 3) The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

ATTACHMENT E – OUTDOOR LIGHTING STANDARDS

Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND SKY & TELESCOPE.

What is good lighting?

Good outdoor lights improve visibility, safety, and a sense of security, while minimizing energy use, operating costs, and ugly, dazzling glare.

Why should we be concerned?

Many outdoor lights are poorly designed or improperly aimed. Such lights are costly, wasteful, and distractingly glary. They harm the nighttime environment and neighbors' property values. Light directed uselessly above the horizon creates murky skyglow — the "light pollution" that washes out our view of the stars.

Glare Here's the basic rule of thumb: If you can see the bright bulb from a distance, it's a bad light. With a good light, you see lit ground instead of the dazzling bulb. "Glare" is light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers.

Light Trespass Poor outdoor lighting shines onto neighbors' properties and into bedroom windows, reducing privacy, hindering sleep, and giving the area an unattractive, trashy look.

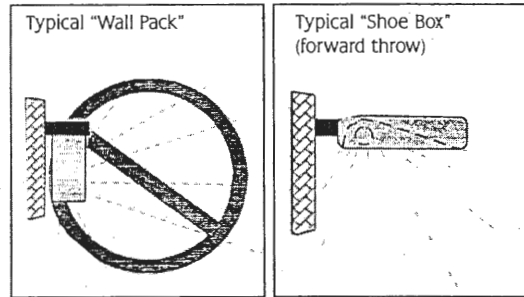
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. Each year we waste more than a billion dollars in the United States needlessly lighting the night sky.

Excess Lighting Some homes and businesses are flooded with much stronger light than is necessary for safety or security.

How do I switch to good lighting?

- 1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate

Some Good and Bad Light Fixtures

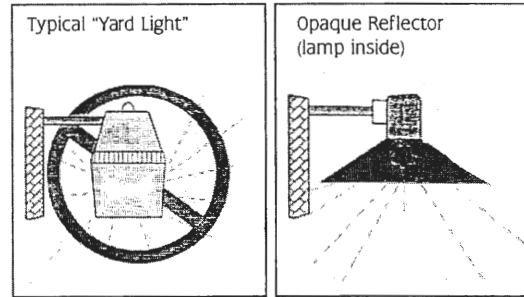


BAD

Waste light goes up and sideways

GOOD

Directs all light down

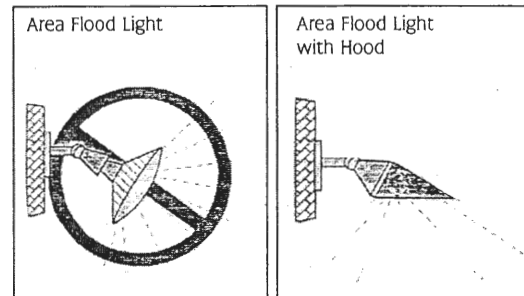


BAD

Waste light goes up and sideways

GOOD

Directs all light down



BAD

Waste light goes up and sideways

GOOD

Directs all light down

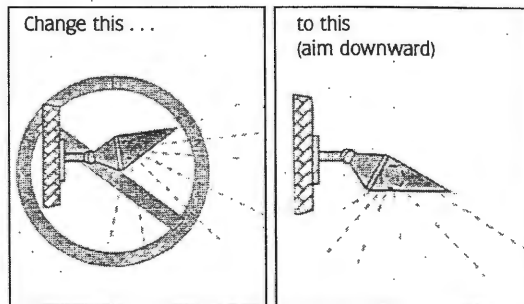
areas 100 times more brightly than the full Moon! More importantly, by choosing properly shielded lights, you can meet your needs without bothering neighbors or polluting the sky.

- 2 Aim lights down. Choose "full-cutoff shielded" fixtures that keep light from going uselessly up or sideways. Full-cutoff fixtures produce minimum glare. They create a pleasant-looking environment. They increase safety because you see illuminated people, cars, and terrain, not dazzling bulbs.
- 3 Install fixtures carefully to maximize their effectiveness on the targeted area and minimize their impact elsewhere. Proper aiming of fixtures is crucial. Most are aimed too high. Try to install them at night, when you can see where all the rays actually go. Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as well as a wasteful light does with a high-wattage bulb.
- 4 If color discrimination is not important, choose energy-efficient fixtures utilizing yellowish high-pressure sodium (HPS) bulbs. If "white" light is needed, fixtures using compact fluorescent or metal-halide (MH) bulbs are more energy-efficient than those using incandescent, halogen, or mercury-vapor bulbs.
- 5 Where feasible, put lights on timers to turn them off each night after they are no longer needed. Put home security lights on a motion-detector switch, which turns them on only when someone enters the area; this provides a great deterrent effect!

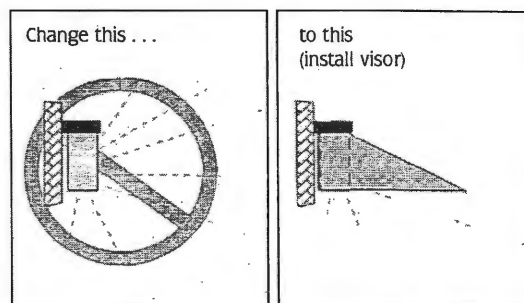
Replace bad lights with good lights.

You'll save energy and money. You'll be a good neighbor. And you'll help preserve our view of the stars.

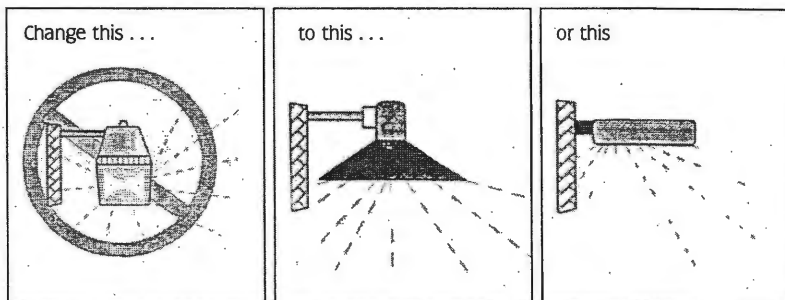
What You Can Do To Modify Existing Fixtures



FLOOD LIGHT



WALL PACK



YARD LIGHT

OPAQUE REFLECTOR

SHOE BOX

Presented by the **New England Light Pollution Advisory Group (NELPAG)** (<http://cfa-www.harvard.edu/cfa/ps/nelpag.html>)

and **Sky & Telescope** (<http://SkyandTelescope.com/>).

NELPAG and *Sky & Telescope* support the International Dark-Sky Association (IDA) (<http://www.darksky.org/>).

We urge all individuals and groups interested in the problems of light pollution and obtrusive lighting to support the IDA and subscribe to its newsletter. IDA membership costs \$30 per year; send your check to IDA, 3225 N. First Avenue, Tucson, AZ 85719, U.S.A.



Sky Publishing Corp.
49 Bay State Road
Cambridge, MA 02138
SkyandTelescope.com

GNF01

Owner Name: _____
Mailing Address: _____

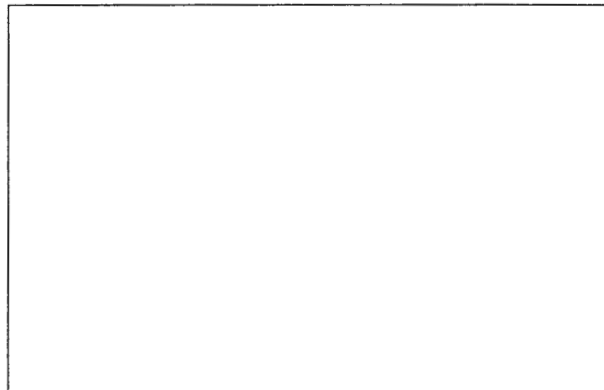
Jonnie L. Justesen, et. al., herein called the Grantor, is the owner of real property described as follows:

Township 6 South, Range 17 East W.M., Tax Lots 2200 and 2400; Accounts 12710, 12707

In accordance with the conditions set forth in the decision of Wasco County Board of Commissioners, dated _____, approving aggregate operation (File PLACUP-15-01-0002), Grantor hereby grants to the Owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

1. The Grantors, their heirs, successors, and assigns hereby acknowledge by granting of this easement that the above described property is situated in an Exclusive Farm Use zone in Wasco County, Oregon, and may be subjected to conditions resulting from farm or forest operations on adjacent lands. Farm operations include, but are not limited to, the raising, harvesting and selling of crops or the feeding, breeding, management and sale of livestock or poultry, application of chemicals, road construction and maintenance, and other accepted and customary farm management activities conducted in accordance with Federal and State laws. Forest operations include, but are not limited to reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals and disposal of slash, and other accepted and customary forest management activities conducted in accordance

After recording, please return original to:
Wasco County Planning Department



with Federal and State laws. Said farm or forest management activities ordinarily and necessarily produce noise, dust, odor, and other conditions, which may conflict with Grantors' use of Grantor's property for residential purposes. Grantor hereby waives all common law rights to object to normal and necessary farm or forest management activities legally conducted on adjacent lands which may conflict with grantors' use of grantor's property for residential purposes and grantor hereby gives an easement to adjacent property owners for such activities.

2. Grantors shall comply with all restrictions and conditions for maintaining residences in the Exclusive Farm Use zone that may be required by State and local land use laws and regulations.

This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors and assigns.

IN WITNESS WHEREOF, the Grantor has executed this easement on

_____, 201____.

Titleholders Signature

Titleholders Signature

STATE OF OREGON)
COUNTY OF WASCO)

Personally appeared the above named _____, and acknowledged the above easement to be his voluntary act and deed.

Notary Public for Oregon

TY PLANNING
PMENT
OND ST.
OR 97058

neopost[®]

05/12/2015

US POSTAGE

FIRST-CLASS MAIL

\$03.29



ZIP 97058
041L1124714

DEPT OF

MAY 14 2015

LAND CONSERVATION
AND DEVELOPMENT

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