

**BEFORE THE BOARD OF COMMISSIONERS
FOR MORROW COUNTY, OREGON**

AN ORDINANCE AMENDING THE MORROW)
COUNTY COMPREHENSIVE PLAN) ORDINANCE NO. ORD-2023-1
TO ADD A SIGNIFICANT AGGREGATE)
SITE TO THE GOAL 5 INVENTORY)

WHEREAS, ORS 203.035 authorizes Morrow County to exercise authority within the County over matters of County concern; and

WHEREAS, Morrow County adopted a Comprehensive Land Use Plan which was first acknowledged by the Land Conservation and Development Commission on January 30, 1986, with the Economic Element update acknowledged May 2016; and

WHEREAS, the Morrow County Planning Department accepted an application from Morrow County Public Works Department to amend the Goal 5 inventory and add the Ella Pit as a Significant Aggregate Resource; and

WHEREAS, the Morrow County Planning Commission held a public hearing on December 6, 2022 and voted unanimously to recommend the Board of Commissioners amend the Goal 5 Inventory of the Comprehensive Plan and to approve Conditional Use Permit CUP-N-457-22; and

WHEREAS, the Morrow County Board of Commissioners held a public hearing on February 8, 2023 and voted to adopt the Findings and amend the Ella Pit to the Goal 5 inventory as a significant aggregate resource and approve the Conditional Use Permit CUP-N-457-22.

NOW THEREFORE THE MORROW COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS: THAT THE MORROW COUNTY BOARD OF COMMISSIONERS AMENDS THE GOAL 5 INVENTORY OF SIGNIFICANT AGGREGATE RESOURCES IN THE COMPREHENSIVE PLAN.

Section 1 Title of Ordinance:

This Ordinance shall be known, and may be cited, as the “2023 Goal 5 Aggregate Resources Amendment – Ella Pit”

Section 2 Attached Documents:

1. Board of Commissioners Findings of Fact Plan Amendment (AP-141-22) and Comprehensive Plan Map Amendment AC-142-22 and Conditional Use Permit CUP-N-357-22
2. Comprehensive Plan (Updated) List of Significant Goal 5 Aggregate Resources

Section 3 Effective Date:

This Ordinance shall be effective 90 days from February 22, 2023, on June 15, 2023

Date of First Reading: February 8, 2023
Date of Second Reading: February 22, 2023

ADOPTED BY THE MORROW COUNTY BOARD OF COMMISSIONERS THIS 22nd DAY OF FEBRUARY 2023.


BOARD OF COMMISSIONERS OF MORROW COUNTY, OREGON



David Sykes, Chair

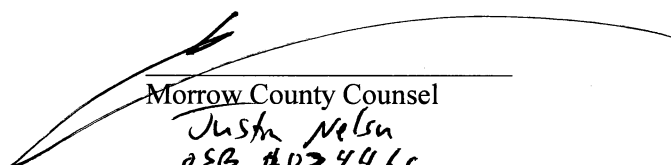


Jeff Wenholz, Commissioner



Roy Drago Jr., Commissioner

Approved as to Form:



Morrow County Counsel
Justin Nelson
OSB #074460

MORROW COUNTY, OREGON **CJ2023-0021**
Commissioners' Journal 02/22/2023 12:00:00 AM



2023-0021

I, Bobbi Childers, County Clerk for Morrow County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Bobbi Childers - County Clerk



Morrow County Board of Commissioners
Final Findings of Fact
AC(M)-141-22, AC(Z)-142-22, CUP-N-357-22
Goal 5 Aggregate Site

REQUEST: to amend the Comprehensive Plan to add a 20-acre aggregate resource to the county Goal 5 significant aggregate resource inventory, amend the Comprehensive Plan and Zoning Ordinance Maps to include the site within the Significant Resource Overlay Zone and approve mining activity.

APPLICANT: Morrow County Public Works Department
365 West Highway 74, PO Box 428
Lexington, OR 97839

OWNER: JJMC, LLC
PO Box 4
Ione, OR 97843

PROPERTY DESCRIPTION: Tax Lot 400 of Assessor's Map 1S 24

PROPERTY LOCATION: Proposed quarry is part of a large parcel (approximately 4,916 acres). Quarry site is located north and east of the city of Ione off Ella Road.

FINDINGS OF FACT:

I BACKGROUND INFORMATION:

Morrow County Public Works seeks to establish a new aggregate site to provide resource for rock crushing for material for county roads.

The quarry site is large enough to provide more than 500,000 tons of aggregate material and the applicant has applied for protection as a site that will produce more than 500,000 tons. The applicant has not yet submitted test results from a lab however, according to Public Works Director and staff the quarry will provide high quality material that will meet ODOT standards for abrasion, degradation and soundness. Public Works has arranged to have samples and will submit the results. The rock will be used by Morrow County Public Works Department for road maintenance and construction. County may choose to use the material for other needs in the future. The proposed location of the quarry is important in order to minimize hauling costs from outside the Ione area.

Surrounding Land Uses. The surrounding land uses is primarily agriculture although the city boundary abuts a portion of the subject parcel. The city limits are outside of the 1,500-foot impact area. City of Ione is just south and west of the proposed quarry site.

Quarry Site Operation and Reclamation. The applicant has provided information that indicates the area of extraction is approximately 20 acres in size and will be mined in phases as the aggregate is needed. Waste rock or overburden will be used for building and leveling the area for the processing site. Where the applicant is Morrow County an operating permit from DOGAMI is not required as county adopted Ordinance MC-C-3-98 which exempts Morrow County from Oregon mining permit requirements of ORS 517.702 to 517.987. County and contractors are otherwise required to comply with surface mining safety and reclamation.

II SUMMARY OF APPLICABLE CRITERIA To approve the request the Board of Commissioners will be required to adopt findings to show that the request meets the necessary criteria. Those criteria are presented below in bold print with responses in regular print.

Morrow County Zoning Ordinance Section 3.010 Exclusive Farm Use Zone CONDITIONAL USES PERMITTED. In an EFU Zone, the following uses and their accessory uses are permitted subject to demonstration of compliance with the requirements of Article 6 of this Ordinance and Section (G) below:

11. Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other mineral resources or other subsurface resources subject to ORS 215.298 and Article 6 of this Ordinance.

Morrow County Zoning Ordinance Section 3.200 Significant Resource Overlay Zone. The purpose of the Significant Resource Overlay Zone is to protect significant mineral resources, scenic areas, natural areas, and fish and wildlife habitat in Morrow County, and to permit development which is compatible with such protection.

A. Application. The Significant Resource Overlay Zone shall be applied to those sites designated as a Significant Resource Site on the Morrow County Comprehensive Plan Goal 5 Resource Map, and determined to be worthy of full protection or limited protection against conflicting uses.

If approved the proposed site would be identified as "significant" under Goal 5 and the Significant Resource Overlay Zone would be applied. Section 3.200 is attached.

B. Permissible Uses. If a use or activity permitted outright in the underlying zone, or a use or activity requiring a zoning permit in the underlying zone is listed in Section 3.200 E as a conflicting use or activity, it shall become a conditional use subject to the provisions of Article 6 and the provisions of this ordinance.

C. CATEGORIES.

1. Aggregate and Mineral Sites. The Zoning Map will be amended to apply the Overlay Zone to an approved mining site including an impact area. Mineral and aggregate sites approved in Morrow County may have an impact area of up to 1500 feet when permitted under certain Comprehensive Plan approval processes. Based on the Comprehensive Plan

analysis development in an Overlay Zone impact area is subject to the following standards:

- a. **Uses permitted Outright.** Uses permitted outright in the underlying zone, except conflicting uses described in the Comprehensive Plan Analysis may be permitted subject to the standards and criteria of the underlying zone.
- b. **Uses Allowed Conditionally.** Uses permitted conditionally in the underlying zone and conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone and the criteria listed in paragraph 4 below.
- c. **Prohibited Uses.** Uses identified through the Comprehensive Plan analysis as incompatible with mining in all instances shall not be permitted within the impact area.
- d. **Approval Criteria for proposed uses allowed conditionally in the impact area.** The applicant must demonstrate compliance with the following criteria:
 - i. **The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;**
 - ii. **The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this Section or County approval in the Comprehensive Plan;**
 - iii. **An application for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent extraction area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use. If deemed necessary by the Planning Director, the applicant for a new noise sensitive use shall submit an analysis prepared by an acoustical engineer, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the impact area.**
(MC OR-1-2013)

The above criteria would apply to future conditional uses located within the impact area. Given most of the land in the impact area is zoned Exclusive Farm Use there is a limited number of circumstances that may be restricted. The same is true for the very small area of residential zoned lands in the impact area.

- iv. **Mineral Resource Sites.** Lots or parcels which abut a significant mineral resource site (active or potential) may be required to establish dwelling setbacks in excess of those required in the underlying zone. The required setback shall be determined by the Planning Director after meeting with the applicant and the owner of the mineral resource land to ensure visual and

sound screening between present and future uses on the properties. Such setback shall be no less than 100 feet and no greater than 600 feet.

Parcels abutting the proposed site primarily include lands zoned EFU, however, city limits abut a portion of the tax lot. See attached map.

The quarry location is on a bluff above city limits which should provide visual and sound screening. Future allowed uses expected to be in conflict with the quarry are analyzed in the Oregon Statewide Planning Goals; Oregon Revised Statutes Division 23, Procedures and Requirements for Complying with Goal 5 660-023-0180(5) Section, below. For future dwellings that may be permitted on parcels located inside the impact area the property line setback will be 100 feet.

Morrow County Zoning Ordinance Article 8 Amendments Section 8.050 Burden and Criteria: The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Court in reaching their decision.

A. That conditions have changed since the adoption of the Comprehensive Plan and zoning map that warrant an amendment, or that there was a mistake in the original designation.

This amendment is required by the Oregon Revised Statutes and Oregon Administrative Rules. No conditions have changed or mistake was made in the original designation of the Comprehensive Plan.

B. That public services and facilities are sufficient to support a change in designation, including but not limited to, streets and roads (refer to the Transportation System Plan and Transportation Planning Rule).

The proposed Plan amendment to add a new aggregate site will not require changes to existing roadways. The mining activity and use is in compliance with the county TSP.

1. Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

- a. Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;**
- b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,**
- c. Altering land use designations, densities, or design**

requirements to reduce demand for automobile travel to meet needs through other modes.

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

- a. Changes the functional classification of an existing or planned transportation facility;**
- b. Changes standards implementing a functional classification;**
- c. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or**
- d. Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan. (MC-C-8-98)**

The proposed quarry will generate a modest volume of traffic only seasonally and will not cause change the functional classification of the primary and secondary access roads.

C. That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.

The proposed amendment is consistent with unamended portions of the Comprehensive Plan and otherwise supports adopted goals and policies. Morrow County Public Works has identified a need for aggregate material in the vicinity of Ione. The proposed quarry contains appropriate quality material for the long-term supply needs of the Public Works Department. Listing the site in the Comprehensive Plan's list of significant Goal 5 protected resources is appropriate to preserve the long-term use of this resource.

D. The factors listed in ORS 215.055 or others which relate to the public need for healthful, safe and aesthetic surroundings and conditions.

ORS 215.055 was repealed in 1977. This approval includes a condition to implement dust abatement measures.

III. OREGON REVISED STATUTES 215.298 Mining in exclusive farm use zone; land use permit. (1) For purposes of ORS 215.213 (2) and 215.283 (2), a land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than

one acre. A county may set standards for a lower volume or smaller surface area than that set forth in this subsection.

(2) A permit for mining of aggregate shall be issued only for a site included on an inventory in an acknowledged comprehensive plan.

This application will require a determination of Goal 5 significance by the Board of Commissioners in order for mining to be permitted. If approved the site will be included on Morrow County's inventory of significant aggregate sites in the Comprehensive Plan. This application includes approval of a Conditional Use Permit.

2. Oregon Case Law; Oregon Case Law LUBA Beaver State Sand and Gravel v. Douglas County, 43 or LUBA 140 (2002). The ORS 215.298 provision allows a mining operation on EFU-zoned lands if the site is on an "inventory" in a comprehensive plan. Because under the 1982 Goal 5 rule the term "inventory" referred to an inventory of significant mineral sites, ORS 215.209 allows mining in an EFU zone only if the site is on a comprehensive plan inventory of significant mineral sites, not if the site is on a separate list of non-significant sites. This action takes into account the LUBA Case described above. The aggregate mine will be placed on the Comprehensive Plan list of significant mineral sites.

3. STANDARDS OF THE OREGON ADMINISTRATIVE RULES, DIVISION 23 FOR GOAL 5 LARGE SIGNIFICANT SITES, OAR 660-023-0180(3)(5), (7), OAR 660-023-040 and OAR 660-023-050.

OAR 660-023-0180 Mineral and Aggregate

This application can be found to comply with Statewide Planning Goal 5 where it complies with OAR 660-023-0180(3) for Mineral and Aggregate Resources.

OAR 660-023-0180 Mineral and Aggregate Resources

(3) [Large Significant Sites] An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in subsections (a) through (c) of this section, except as provided in subsection (d) of this section:

(a) A representative set of samples of aggregate material in the deposit on the site meets applicable Oregon Department of Transportation (ODOT) specification for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 on the Willamette Valley, or more than 500,000 tons outside the Willamette Valley;

(b) The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section; or

(c) The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.

(d) Notwithstanding subsections (a) and (b) of this section, except for an

expansion area of an existing site if the operator of the existing site on March 1, 1006, had unenforceable property interest in the expansion area on that date, an aggregate site is not significant if the criteria in either paragraphs (A) or (B) of this subsection apply:

(A) More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on June 11, 2004; or

(B) More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps available on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds: (i) 60 feet in Washington, Multnomah, Marion, Columbia, and Lane counties; (ii) 25 feet in Polk, Yamhill, and Clackamas counties; or (iii) 17 feet in Linn and Benton counties.

Adequate information has been provided to the Planning Department regarding the quality, quantity and location of the aggregate and it does meet (a) above. The test results are attached. Based on the test results, the site can be deemed a significant resource. The quarry area is comprised of predominantly Gravel very gravelly loam, a class VII soil (USDA Soil Survey of Morrow County Area, 1983). According to Eric Imes, Public Works Director, the 20-acre site will produce approximately 650,000 tons of aggregate. The application complies with this standard.

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

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

An impact area map is attached to these findings. The existing uses within the impact area are agriculture, mainly grazing and dryland wheat farming as well as uses in the city of Ione.

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

(A) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;

The quarry site is located on a tall bluff north east of city of Ione. The 1500-foot buffer area applies to the subject parcel (tax lot 400) and other farm ground. The subject parcel is very large and abuts a residential subdivision known as the Emert Addition. However, the 1500-foot impact area is a significant distance from the Emert Addition and other residences. There are two farm buildings within the 1500-foot impact area but no dwellings. The quarry activities do not appear to create noise, dust or other discharges that would impact those structures or farm use in the impact area or outside of the parcel boundaries.

(B) Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan.

Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;

Access will be Ella Road to State Highway 74. Traffic will include mining and rock crushing equipment seasonally. Haul truck volumes will be very low except during peak season for road paving and applying gravel. Even then, truck traffic will average 10-12 truck trips per day, with a maximum of 25 truck trips at peak. There are no proposed mitigating measures. Also, see the discussion in Article 8 Amendments on page 5.

(C) Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR chapter 660, division 013;

There is no airport within the impact area, or anywhere nearby. The closes airport identified by the Comprehensive Plan is located at Lexington. There are no proposed mitigating measures.

(D) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

No significant resources have been identified on the site, or within the impact area. There are no proposed mitigating measures.

(E) Conflicts with agricultural practices; and

Agricultural use within 1,500 feet is primarily grazing. The property owner does not anticipate that mining activities will interfere with current farming practices.

(F) Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780; No other conflicts have been identified.

(c) [If conflicts exist, measures to minimize] The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.

For this application, the only conflict mentioned is the possibility of fugitive dust, which can be easily mitigated with a gravel surface on the haul roads. Reasonable and practicable measures are identified that will minimize the identified conflict and mining should be allowed at the site.

(d) [If conflicts cannot be minimized then conduct an Economic, Social, Environmental and Energy (ESEE) analysis.] The local government shall determine any significant conflicts identified under the requirements of subsection (c) of this section that cannot be minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. Local governments shall reach this decision by weighing these ESEE consequences, with consideration of the following:

(A) The degree of adverse effect on existing land uses within the impact area;

(B) Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and

(C) The probable duration of the mining operation and the proposed post-mining use of the site.

Mitigations can be added here in the future if conflicts are identified. Conflicting

uses have not been identified. Insert table of conflicting uses if applicable.

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

(A) For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;

(B) Not requested in the PAPA application; or

(C) For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.

The application review did not reveal any conflicts. Comprehensive Plan may be amended based on the Board of Commissioners adopted findings.

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

The present use of the site is grazing. The site will be reclaimed after the mining operation is no longer in operation

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

The proposed site is a new site.

V. COMPREHENSIVE PLAN GOAL 5 INVENTORY

This proposed amendment to the Morrow County Comprehensive Plan is to add the Ella Pit to the list of Goal 5 protected, significant resources aggregate sites. The following proposed changes will be made in Chapter Page 7 of 31, adopted

10-01-13

Open Space, Scenic and Historic Area Aggregate mines with Goal 5 Protection. A list of aggregate sites, attached, includes both those with protections under Goal 5 and those located on farmland required to be listed in the Comprehensive Plan. Some were declared significant when the Comprehensive Plan was adopted in 1980 and acknowledged in 1986, and others were on Morrow County's inventory of significant aggregate sites as of September 1, 1996, thus meeting the requirements of OAR 660-023-0180(3)(c). The remainder, approved since that date, were protected under the rules prescribes in OAR 600 Division 23, some being protected under Goal 5 with the majority being on farmland and meeting the requirements of listing in the Comprehensive Plan (MC OR-1-2013) See attached Inventory.

VI ARTICLE (6) CONDITIONAL USES, Morrow County Zoning Ordinance.

6. Operations for the exploration, mining and processing of geothermal resources as defined by subsection (4) of ORS 522.005, aggregate and mineral resources.

SECTION 6.020. GENERAL CRITERIA. In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.

The subject quarry area is a rocky hillside used for grazing. Stockpiling, screening, crushing and hauling of aggregate is located on land zoned for Exclusive Farm Use where mining and mining activities are allowed as a Conditional Use. This application also includes a Plan Amendment to add the aggregate resource to the Comprehensive Plan as a significant site and a Zoning Map Amendment to apply the Aggregate Resources Overlay Zone. With the adoption of the Plan and Map Amendments and the applicable criteria in the MCZO, the proposed quarry complies with this standard.

B. If located within the Urban Growth Boundary of a city, that said city has had an opportunity to review and comment on the subject proposal.

This requirement does not apply as the property is not located within the Urban Growth boundary of any city.

C. The proposal will not exceed carrying capacities of natural resources or public facilities.

The mining operation area is not located within a designated Critical Groundwater Area as defined in Administrative Rule by the Oregon Department of Water Resources (OWRD). Water for dust abatement and crushing was not addressed in the application but presumably water will be hauled in with a water truck. The applicant will use water from a permissible source. The mining operation area is

within the Ione Rural Fire Protection District and the District was mailed a copy of the preliminary Staff Report. The applicant has not stated how solid waste will be removed from the proposed site. There is no current sewage disposal method at the site, but a portable restroom may be set up for use during mining activity. Based on this the application can be found to not exceed carrying capacities of natural resources or public facilities and therefore complies with this standard.

SECTION 6.025 RESOURCE ZONE STANDARDS FOR APPROVAL

Note: These county standards are the same as ORS 215.298.

A. In the Exclusive Farm Use Zone, a conditional use may be approved only when the County finds that the use will not:

- 1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or**
- 2. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

The proposed mining activity is common throughout central and southern Morrow County and historically has been compatible with adjacent farming and grazing. Dust from mining activities can be a nuisance or negative impact to some farming operations and therefore dust abatement is recommended as a condition of approval.

Where these county standards are the same as ORS 215.298, the land use is found to comply with both state and local standards in this regard.

SECTION 6.030. GENERAL CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

The mining activities will remain within the boundaries of the permitted area and is expected to create minimal environmental effects.

If an air quality permit is required by the Department of Environmental Quality, for example for the operator or permittee of the portable rock crusher, said operator shall be required to secure appropriate permits from the DEQ. To ensure the discharges of contaminants and dust created by the mining operation comply with the applicable DEQ ambient air quality and emissions standards, this is listed as a condition of approval.

Hours of operation were not mentioned in the application. As noted above, Planning Department proposes that this permit not limit hours of operation unless complaints are filed.

This application can be found to be in compliance with this standard.

B. Establishing a special yard or other open space or lot area or dimension. Given the distance from neighboring lands and property lines, there does not appear to be a need to impose additional setbacks other than required in the underlying zone and to comply with reclamation requirements. The application can be found to comply with this standard.

C. Limiting the height, size or location of a building or other structure. There are no plans for a permanent structure at the mining site. If a structure is found to be needed, whether temporary or permanent, a zoning permit will be required.

D. Designating the size, number, location and nature of vehicle access points. Ella Road will provide the single point of access to the quarry area.

1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.

Although applicant is Morrow County Public Works, an Access Permit should be approved for the new use.

2. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

The application did not address traffic impacts or estimate traffic volume. However, based on estimates from Public Works, truck traffic during hauling will be far below the 400-passenger car equivalent trips per day. Identified road impacts are addressed below. No TIA is deemed necessary.

E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

Additional street dedication is not proposed and is not warranted. The mining activity will utilize a private roadway that connects to Ella Road.

1. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)

The subject site is in the Ione Rural Fire Protection District, which has been provided a copy of the Preliminary Findings.

F. Designating the size, location, screening, drainage, surfacing or other

improvement of a parking area or loading area.

The applicant provided a site plan that shows the general area for mining activity. A more specific site plan may be submitted in the future by the applicant or operator. The location is remote and parking will be provided on site. The applicant did not specify how dust will be controlled but presumably it will be water from a water truck on site. Drainage from the mining will need to be contained on site.

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

The application did not indicate whether signs will be used for the aggregate site. Safety signs such as “trucks crossing” may be installed temporarily during hauling periods.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

The application did not identify outdoor lighting. It is expected that, when needed, lights may be used during hours of operation. It is recommended that lighting be limited during non-operating hours.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

Morrow County will utilize these methods to mitigate impacts to nearby properties.

J. Designating the size, height, location and materials for a fence.

Signs are not proposed in the application. Any fence 6 feet in height or taller will require a Zoning Permit.

K. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

The mining area will occur within an area that has very limited vegetation. There are no existing trees; vegetation is minimal and includes limited forage for grazing. There are no known water resources on site; water for dust abatement and for processing will be hauled in with a water truck. This preliminary Staff Report will be provided to Oregon Department of Fish and Wildlife (ODFW) and Oregon Water Resources Department with an opportunity to provide comment and to recommend conditions of approval.

The County has been established as a Weed Control District and requires that noxious weeds be controlled by local landowners. It is the duty of the landowner (or operator if by contract) to destroy or prevent the establishment and spread of identified noxious weed species. It is therefore recommended and listed as a Condition of Approval that the landowner make diligent and practical effort to eradicate weeds at the aggregate site that have been listed as “weeds of economic importance” and to prevent their spread.

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

This mining operation will be subject to MC-C-3-98 the Morrow County Surface Mining Ordinance.

SECTION 6.050. STANDARDS GOVERNING CONDITIONAL USES.

A conditional use shall comply with the standards of the zone in which it is located and with the standards set forth in this subsection.

Local Permit Approval Criteria: An application for mineral or aggregate mining must address provisions found in Article 6 Conditional Uses Section 6.020 General Criteria, Section 6.025 Resource Zone Standards for Approval when in a Farm or Forest Zone, and the following:

1. Proposed hours and/or days of operation. The conditions as to when the mining and processing would be restricted to specific hours of operation or days when mining operations would be limited. For operations conducted after dark, limiting the location and intensity of outdoor lighting and requiring its shielding.

See above discussion under Criteria 6.030(A) above.

2. Limiting or otherwise designating the number, size, location, height, and lighting of signs. Signs other than safety signs must comply with the sign requirements in Section 4 of the Zoning Ordinance.

See above discussion under Criterion 6.030(G).

3. A rock crusher, washer or sorter shall not be located within 500 feet from a residential or commercial use unless it can be established that the use will meet DEQ performance standards for noise and not be expected to cause a noise nuisance at nearby residential or commercial uses. In farm or forest use zones the processing of rock, aggregate or minerals shall not be within one-half mile of a noise sensitive area if the operation operates more than nine hours per day or for more than five days per week. (ORS 467.120(2)).

The nearest dwelling is more than 1500 feet away.

4. All water necessary for the proposed operation shall be appropriated and legally available to the site.

There are no known water sources on site. Water will be supplied with a water truck. Oregon Water Resources Department has been identified as an affected agency and has been provided a copy of the Preliminary Findings of Fact and may submit comments. Otherwise, the quarry operation will obtain water from an appropriate source for use in dust abatement.

5. The discharge of airborne contaminants and dust created by mining

shall comply with applicable DEQ ambient air quality and emissions standards, or approval shall be conditioned to ensure that such standards will not be violated.

The application does not identify the name of the rock crushing company. However, Morrow County contracts with a private rock crushing company. Morrow County Public Works will do the hauling and excavating after rock crushing is stockpiled. The owner of the rock crusher is responsible to hold appropriate DEQ air permits.

6. A Reclamation Plan approved by DOGAMI will be required for mining operations. When reviewing an applicant's submittal regarding a proposed reclamation plan, Morrow County will review the plan against the following criteria:

- a. A description of the present land use and planned beneficial use of the site following the mining activity. The applicant must demonstrate that the planned beneficial use is compatible with the Comprehensive Plan and Zoning Ordinance.**
- b. Provisions for the backfilling, recontouring, topsoil replacement, seedbed preparation, mulching, fertilizing, selection of plant species, seeding or planting rates, and schedules;**
- c. Provisions for adequate setbacks and slopes to protect adjacent property and public safety;**
- d. A proposed time schedule for surface mining and reclamation procedures for the removal or disposal of all equipment, refuse, structures, and foundations from the permit area except permanent structures that are part of an approved Reclamation Plan.**

Morrow County is not required to comply with DOGAMI reclamation since county adopted Ordinance MC-C-3-98. Morrow County will comply with reclamation requirements set forth in ORD MC-C-3-98.

7. In accordance with the Transportation System Plan, the requirements of the Public Works Department or the Oregon Department of Transportation shall be complied with regarding the minimization of potential conflicts to local roads used for access and egress to the mining site.

Morrow County Public Works will design and permit an appropriate access for the quarry.

8. Designating the size, number, location and nature of vehicle access points.

- a. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.**

See above discussion under Criterion 6.030(D) above.

- b. In addition to the other standards and conditions set forth in**

this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

See above discussion under Criterion 6.030(D). Application does warrant a TIA. Application is in compliance with this standard.

9. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)

See above discussion under Criterion 6.030(E).

10. An application for a mining operation contiguous to an existing operation approved under this section shall be evaluated in conjunction with the existing site when it appears the sites will be managed and operated as one.

The proposed mining operation is not contiguous to an existing approved operation.

11. Ensuring adequate space for parking and loading.

See above discussion under Criterion 6.030(F).

12. Approvals for or that include operations that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. (one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed).

This criterion is not applicable as the subject property is not within two miles of a planted vineyard.

13. A plan for the control of noxious weeds. (MC OR-1-2013)

The applicant shall provide to the Morrow County Weed

Coordinator/Inspector a weed plan for the control of noxious weeds and "weeds of economic importance." This shall include a pre-mining weed survey. This is listed as a condition of approval.

VII AGENCIES NOTIFIED: Amanda PUNTON and Dawn HERT Department of Land Conservation and Development; Teresa Penninger, Oregon Department of Transportation; Nicholas Tatalovich, DOGAMI; Department of Environmental Quality, Bend Region Office, Air Quality Specialist; Mike Gorman, Morrow County Assessor; Eric Imes, Morrow County Public Works; Ione Rural Fire Protection District

VIII HEARING DATES:

Planning Commission
North Morrow Government Building
December 6, 2022

Board of Commissioners
February 8, 2023
Bartholomew Building, Heppner

IX FINAL DECISION.

Based upon the unanimous recommendation of the Planning Commission, Morrow County Board of Commissioners hereby makes the following decision:

1. Adopt the Findings.
2. Add the 20-acre aggregate site to the list of Goal 5 Significant Aggregate Resources in the Comprehensive Plan.
3. Apply the Aggregate Resources Overlay Zone.
4. Approve the Conditional Use Permit.

Decision includes allowing mining at the subject property subject to the following Conditions of Approval;

CONDITIONS OF APPROVAL:

1. The quarry operator shall comply with mining and operating permits in accordance with County Ordinance MC-C-3-98.
2. Quarry will be operated in accordance with state and federal Mine Safety regulations.
3. Operating hours shall be 7 Am to 4 PM. However, Public Works Director may request the Planning Director authorize extended hours for emergency or special circumstances.
4. The applicant and operator shall take appropriate measures to abate blowing dust and sand.
5. Once adopted, the Goal 5 protection and the Significant Resources Overlay Zone requires that any new use within 1,500 feet from the quarry that would have the potential to conflict with the protected mining site, such as a residential use, or uses that would cover or prevent access to the site, shall be evaluated as required and shown to not conflict with the mining use. For mitigation purposes, appropriate conditions of approval for the new use may be required.
6. Provide to the Morrow County Weed Coordinator/Inspector a weed plan for the

control of noxious weeds and “weeds of economic importance.” This shall include a pre-mining weed survey.

7. Provide verification from DEQ that the mining operation complies with applicable DEQ ambient air quality and emissions standards and submit the air permit, if applicable.
8. Provide water for dust abatement and mining.
9. Site shall remain free of garbage and debris and will otherwise comply with the Solid Waste Ordinance.
10. Upon reclamation, the site shall be returned to appropriate farm or grazing use or wildlife habitat.

MORROW COUNTY BOARD OF COMMISSIONERS



David Sykes, Chair



Jeff Wenholz, Vice Chair

Vacant, Commissioner

DATE: February 8, 2023

- Attachments:
- Vicinity Map
 - Soils Map
 - 1,500 Impact Study Area Map
 - Comprehensive Plan Goal 5 Significant Resource Inventory

Inventory of Natural Resources
Aggregate and Mineral Resources

Goal 5 Significant	Farmland Significant	Site Name	Owner	Map and Tax Lot	DOGAMI #	Other Number
	Yes	Zinter Quarry MP 60.45 Wasco-Hep Hwy	ODOT	3S 23 26 TL 3400	25-0043	ODOT #25-018
	Yes	Halverson Site	MC/Halverson	1S 23 27 TL 2300	25-0044	PW #217
	Yes	Rivercrest	Rivercrest Farms/Baker Produce South	2N 26 7 TL 500 or 501?	25-0046	Check against 25-0041!!!
	Yes	Albert Wright Pit	MC/Wright Century Farm	4S 25 28, 33 TL 3800	25-0050	PW #236
	Yes	Carlson	MCPW/4C Ranches	3S 24 7 TL 1401	25-0051	PW #237
	Yes	Little Butter Creek	MCPW/Currin Ranches	1S 28 TL 1600	25-0052	PW #209
	Yes	Hellberg-Wise Pit	Wesley Wise/Max Hellberg	5N 26 26 TL 203	25-0053	
	Yes	Turner	MCPW/Turner Ranch	2S 27 17 TL 1300	25-0054	PW #219
	Yes	Madison Section 16	Madison, Kent	3N 27 16 TL 1100	25-0056	
	Yes	Sand Lake	Boardman Tree Farm	3N 26 26 TL 1401	25-0059	
	Yes	Doherty-Juniper Pit	MCPW/Doherty	1N 25 3 TL 700	25-0061	PW #238
	Yes	L & M Pit	Miller & Sons/L&M Ranch	2S 26 23, 26, TL 3402, 3301	25-0062	
	Yes	Padberg Pit	Miller & Sons/Padberg	1S 24 27 TL 3501	25-0067	
	Yes	Heideman Quarry	Heideman/4DG Land Co.	1N 23 19 TL 3102	25-0068	
	Yes	Ely Canyon Quarry, Heideman II	WI Construction /Heideman	1N 23 28 TL 6001	25-0070	
	Yes		Wade Aylett	4N 27 28 TL 800	30-0129	
	Yes	Thompson Pit	MC/Brian Thompson	4S 27 TL 900		PW #240, CUP-S-105, MC-C-5-97
	Yes		Kevin Hagueewood	1N 23 28 TL 5900		CUP-N-284 AC-040-10 AC(M)-041-10
	Yes		John Kilkenny	2S 28 28 TL 1300		CUP-S-297 AC-057-12 AC(M)-058-12
	Yes		Madison Farms	3N 27 30 TL 1700		CUP-N 271 AC-018-09 AC(M)-017-09

**Inventory of Natural Resources
Aggregate and Mineral Resources**

Goal 5 Significant	Farmland Significant	Site Name	Owner	Map and Tax Lot	DOGAMI #	Other Number
Yes		Cecil Quarry, Cecil Rock Production	ODOT	2N 23 6, 7 TL 1100	25-0003	ODOT #25-007
Yes		Lexington Quarry MP 39 Heppner	ODOT	1S 25 35 TL 600	25-0017	ODOT #25-009
Yes		Walpole Gravel Pit	MC/ODOT	6N 27 20 TL 1504,2200	25-0018	ODOT #25-005
Yes		Britt Quarry	Marty Britt/Sid and Randy Britt	1N 27 TL 1400	25-0069	
Yes		Willow Creek Ranch	Willow Farms, LLC/Mark Zoller	2N 23 17 TL 1401	25-0071	
Yes		Hellberg Goal 5	Max Hellberg	5N 26 26 TL 203		DLCD# 001-04
	Yes	Six-Mile Pit	Three Mile Canyon Farms	4N 23 23, 24 TL102	25-0006	
	Yes	Kinzua Resources	Port of Morrow	2S 26 21 TL 2701	25-0004	
	Yes	Boardman	Eucon Corporation	4N 24 23 TL 402	25-0015	
	Yes	So Bombing Range Pit	MC/ Irvan Rauch	1N 26 18 TL 3200	25-0020	PW #210
	Yes	J. J. Aylett	Aylett, Jeddie & Juanita	4N 27 28 TL 300, 1101	25-0023	
	Yes	East Fork Dry Ck Quarry MP 59.6 Wasco-Heppner Hwy	ODOT	3S 23 27 TL 3001	25-0024	ODOT #25-056
	Yes	Cutsforth Quarry	Cutsforth	1S 25 20 TL 2000	25-0027	CUP-N-5(1983)
	Yes	Rhea Creek Quarry	MC/Melvin Hamett	3S 26 32 TL 3200	25-0029	PW #247/220
	Yes	Zinter Quarry	MC/Zinter Dev.	3S 23 27 TL 3400	25-0030	ODOT #30-018, PW #221, Check against 25-0043!!
	Yes	Clark Canyon Quarry	MC	2S 25 15 TL 1702	25-0031	PW #201
	Yes	Skinner's Fork Quarry	MC	3S 27 12 TL 400	25-0032	PW #228
	Yes	Butter Creek Quarry/Curmin Pit	MC/Curmin Ranch	1N 28 25 TL 700	25-0033	PW #239/224
	Yes	Dougherty Pit/Sandhollow	MC/Jerry Dougherty	1S 27 7 TL 505	25-0034	PW# 226
	Yes	Chick Quarry/Reitmann Pit North	MC/Bridston	1N 23 12 TL 3600, 2200	25-0035	PW #227
	Yes	Rugg Quarry/Road Canyon Pit	MC/James Martin	4S 26 22 TL 1502	25-0038	PW #230
	Yes	2011 Ruhl Quarry	Rich Ruhl	2S 24 10 TL 600	25-0039	PW #229
	Yes		Finley Buttes Landfill Company	2N, 3N 26 5, 32 TL 301	25-0040	
	Yes		Easy Way Contracting, Inc.	2N 26 7 TL 501	25-0041	CUP-N-34
	Yes	Hellberg Pit	MC	5N 26 26 TL 206	25-0042	PW #231/241



AGENDA ITEM COVER SHEET
Morrow County Board of Commissioners
(Page 1 of 2)

(For BOC Use)
Item #
5d

Please complete for each agenda item submitted for consideration by the Board of Commissioners
(See notations at bottom of form)

Presenter at BOC: Tamra Mabbott
Department: Planning
Short Title of Agenda Item: Second Reading of Ordinance adding the Ella Pit to the Comprehensive Plan Goal 5 Inventory,
(No acronyms please) applying the Significant Resources Overlay Zone to the quarry site.
Date submitted to reviewers: February 14, 2023
Requested Agenda Date: February 22, 2023

This Item Involves: (Check all that apply for this meeting.)
Order or Resolution
Ordinance/Public Hearing:
1st Reading [] 2nd Reading [x]
Public Comment Anticipated:
Estimated Time:
Document Recording Required
Contract/Agreement
Appointments
Update on Project/Committee
Consent Agenda Eligible
Discussion & Action
Estimated Time:
Purchase Pre-Authorization
Other

[] N/A
Contractor/Entity:
Contractor/Entity Address:
Effective Dates - From: Through:
Total Contract Amount: Budget Line:
Does the contract amount exceed \$5,000? [] Yes [x] No
Purchase Pre-Authorizations, Contracts & Agreements

Reviewed By:
Tamra Mabbott February 14, 2023 Department Director Required for all BOC meetings
County Administrator Required for all BOC meetings
Justin Nelson County Counsel *Required for all legal documents
Finance Office *Required for all contracts; other items as appropriate.
Human Resources *If appropriate
*Allow 1 week for review (submit to all simultaneously). When each office has notified the submitting department of approval, then submit the request to the BOC for placement on the agenda.

Note: All other entities must sign contracts/agreements before they are presented to the Board of Commissioners (originals preferred). Agendas are published each Friday afternoon, so requests must be received in the BOC Office by 1:00 p.m. on the Friday prior to the Board's Wednesday meeting. Once this form is completed, including County Counsel, Finance and HR review/sign-off (if appropriate), then submit it to the Board of Commissioners Office.

AGENDA ITEM COVER SHEET

Morrow County Board of Commissioners

(Page 2 of 2)

1. ISSUES, BACKGROUND, DISCUSSION AND OPTIONS (IF ANY):

On February 8, 2023 Board of Commissioners held a land use hearing on the Ella Pit rock quarry. On that date, Board voted unanimously to amend the Comprehensive Plan Goal 5 aggregate resource inventory, apply the Significant Resource Overlay Zone to the 20-acre quarry site and approve Conditional Use Permit CUP-N-357-22.

On February 8th the Board also held the First Reading of Ordinance ORD-2023-1.

February 22, 2023 will be the Second Reading of Ordinance ORD-2023-1.
Ordinance is attached.

2. FISCAL IMPACT:

N/A

3. SUGGESTED ACTION(S)/MOTION(S):

Hold the Second Reading of Ordinance ORD-2023-2, approve and finalize the land use actions. Comprehensive Plan amendment, Zoning Map amendment and Conditional Use Permit CUP-N-357-22.

Attach additional background documentation as needed.
