

WASCO COUNTY PLANNING COMMISSION

February 1, 2011

Meeting begins at 3:00p.m.

Columbia Gorge Discovery Center

Classroom, lower level

5000 Discovery Drive

The Dalles, OR 97058

I. CALL TO ORDER

II. ROLL CALL

COMMISSIONERS PRESENT

Don Hoffman
Vicki Ashley
Jill Amery
Russ Hargrave
Mike Omeg

COMMISSIONERS ABSENT

Chip Wood
Ron Archer

STAFF PRESENT

Gary Nychyk, Interim Planning Director
Dawn Baird, Associate Planner
Brenda Jenkins, Planning Coordinator

III. PUBLIC COMMENT: Maximum 15 minutes, limited to items not being heard or discussed elsewhere on the agenda.

Insert Comments

IV. APPROVAL OF PAST MINUTES- December 7, 2010

Commissioner Amery moved to approve the minutes as submitted.
Commissioner Hargrave seconded
Chair Hoffman called for discussion
None.
Chair Hoffman called for the vote

The motion was unanimously approved 4 to 0, 1 abstain (Vice Chair Ashley), 2 absent (Commissioners Archer and Wood). A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – abstain
Commissioner Hargrave – yes
Commissioner Omeg– yes
Commissioner Wood – absent
Commissioner Archer – absent
Commissioner Amery – yes

- V. QUASI-JUDICIAL HEARING: File # PLAQJR-10-10-0005. Request by owners Richard and Janie Dodge for: 1) Subject to Standards Review for a Significance Determination for an existing aggregate site; 2) Comprehensive Plan amendment to add the existing/expanded aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; 3) Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation; and 4) Conditional Use Permit to expand the existing aggregate operation. The subject property is located south of the intersection of Walters/Back Walters Road, approximately one mile south of Highway 216, approximately 12½ miles southwest of Maupin, Oregon. Review Authority: Chapter 2, Section 2.060.B.1., 2., and 14 of the Wasco County Land Use and Development Ordinance. Review Criteria: Chapter 2 – Physical Characteristics (G., Mineral & Aggregate Resources), Chapter 14 – Findings & Recommendations (G., Goal 5 Issues), and Chapter 15 – Goals and Policies (E., Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources) of the Wasco County Comprehensive Plan; Chapter 2 (Procedures); Chapter 3 (Basic Provisions), Section 3.210 (Exclusive Farm Use zone), Section 3.210.E.12. (Aggregate Operations), H. (Agricultural Protection), J.9. (Additional Standards), Section 3.800 (Mineral & Aggregate Overlay Zone), Chapter 5 (Conditional Use Review), Chapter 20 (Site Plan Review), Chapter 10 (Fire Safety Standards)

Chair Hoffman opened the hearing as follows:

The public hearing is now open for the purpose of considering PLAQJR-10-10-0005, a quasi-judicial request for the following applications:

- a. Subject to Standards Review for a Significance Determination for the existing aggregate site
- b. Comprehensive Plan amendment to add the existing/expanded aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site
- c. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation
- d. Conditional Use Permit to expand the existing aggregate operation.

The procedure for today is:

- a. Establishment of Party Status
- b. Reading of the Rules of Evidence
- c. Disclosure of Ex Parte Contact
- d. Planning Department Report
- e. Applicant's testimony
- f. Those who wish to speak in favor of the proposal
- g. Those who wish to speak in opposition of the proposal
- h. Applicant's rebuttal
- i. Close the hearing for questions, deliberation, and the decision

Party Recognition

Anyone can speak for or against the proposal. However, only those who have party status will be able to appeal a decision reached by this Commission.

A party is defined in Section 1.090 as

- a. The applicant and all owners or contract purchasers of record, as shown in the files of the Wasco County Assessor's Office, of the property which is the subject of the application.
- b. All property owners of record, as provided in (a) above, within the notification area, as described in section 2.080 A.2., of the property which is the subject of the application.
- c. A Citizen Advisory Group pursuant to the Citizen Involvement Program approved pursuant to O.R.S. 197.160.
- d. Any affected unit of local government or public district or state or federal agency.

- e. Any other person, or his representative, who is specifically, personally or adversely affected in the subject matter, as determined by the Approving Authority. (Revised 1/92)

The Rules of Evidence are as follows:

- a. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- a. Evidence received shall be of a quality that reasonable persons rely upon in the conduct of their daily affairs.
- b. Testimony and evidence must be directed toward the criteria applicable to the subject hearing.
- c. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission and parties an opportunity to respond to the issue precludes further appeal based on that issue.
- d. Failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow Wasco County to respond to the issue precludes an action for damages in circuit court.
- e. Any party of record may request that the record remain open for at least seven (7) days prior to the conclusion of the initial evidentiary hearing.

Disclosure of Interest of Ex Parte Contact:

Does any Planning Commission member wish to disqualify themselves for any personal or financial interest in this matter?

None.

Does any Planning Commission member wish to report any significant ex parte or pre-hearing contacts?

None.

Does any member of the audience wish to challenge the right of any Planning Commission to hear this matter?

None.

Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of Wasco County in this matter?

None.

Chair Hoffman called for the staff report.

Gary Nychyk, Interim Planning Director

Director Nychyk gave an overview of the request and the process of the review.

Request: As the Chairman indicated, today we will be discussing a request by Keith Mobley, on behalf of Richard & Janie Dodge, to expand an existing aggregate site. Specifically, the quasi-judicial request includes the following applications:

- e. Subject to Standards Review for a Significance Determination for the existing aggregate site
- f. Comprehensive Plan amendment to add the existing/expanded aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site
- g. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation
- h. Conditional Use Permit to expand the existing aggregate operation. I want to clarify in this portion of the request that the existing and proposed aggregate operation consists of aggregate extraction, crushing, screening, batching, stockpiling, and equipment storage. To

avoid confusion in the future, I will add this language to the request for a Conditional Use Permit when it is forwarded to the Board of Commissioners.

Location: The subject parcel is located south of the intersection of Walters/Back Walters Road, approximately one mile south of Highway 216, approximately 12½ miles southwest of Maupin, Oregon. The existing aggregate site is located approximately 1 mile southeast of the intersection on map 5S 12E 0, tax lot 8500, and 6S 12E 0, tax lot 1300. (Show Vicinity Map).

Staff Recommendation: The full Staff Recommendation was mailed in the Planning Commission's agenda packets. It was available for review at the counter one week prior to this hearing, and it is considered a part of the record.

Why the Request is Before the Planning Commission:

State law regarding aggregate operations is occasionally updated as the Legislature finds or sees a need to change the language in Statute. Current language in state law says that no new aggregate sites/expansion of existing aggregate sites may occur in an Exclusive Farm Use zone unless it is identified as a Significant Site in the Comprehensive Plan.

Chapter 2, Section 2.060.B.1. and 2. of the Wasco County Land Use & Development Ordinance requires the Planning Commission to hear Quasi-Judicial Plan Amendments and Zone Changes and make a recommendation to the Board of County Commissioners (Governing Body).

Prior to a recommendation on the plan amendment, zone change, and conditional use permit, the Planning Commission is first asked to make a decision on whether the aggregate source is a Significant Site. Though the Planning Department could issue a decision on this matter, staff chose to defer the decision regarding the Subject to Standards application as allowed by Section 2.060.B.14 (Matters which the Director elects not to review).

Stage in the Process: This application was submitted to the Planning Department on October 27, 2010, and the request was found to be complete on November 29, 2010 and was scheduled for this public hearing. All required public notice has been given. The Staff Recommendation, with findings, conditions and conclusions, was issued on January 25, 2011. The Staff Recommendation and Summary were provided to the Planning Commission. If the Planning Commission feels they have all the necessary information to make a decision, they will vote to do so today.

Criteria: The criteria used to evaluate this request include:

LAND USE & DEVELOPMENT ORDINANCE (LUDO) - APPLICABLE STANDARDS

1. 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 2.060.B.2. (Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment - Chapter 9)
- Section 2.060.B.14. (Matters which the Director elects not to review, pursuant to Section 2.060 (A)(1), (2), (3), (4), (5), (6), (7), and (8)).
- 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 3 – Basic Provisions

a. Section 3.210, A-1, Exclusive Farm Use zone

- Section 3.210.E.12. (Aggregate - Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources)
- Section 3.210.E.13. (Processing of aggregate into asphalt)
- Section 3.210.F. (Property Development Standards)
- Section 3.210.H. (Agricultural Protection)
- Section 3.210.J.9. (Additional Standards – Aggregate)

b. EPD-2, Geologic Hazard Overlay zone

- Section 3.750 (Division 2 – Geologic Hazards)

c. EPD-5, Mineral & Aggregate Overlay zone

- Section 3.810 (Application of Overlay Zone)
- Section 3.815 (Procedure for Applying the Overlay Zone)
- Section 3.825 (Pre-Existing and Nonconforming Uses)
- 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)

3. Chapter 5 – Conditional Use Review

- Section 5.020 (Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used)
- Section 5.030 (Conditions)

4. Chapter 9 – Zone Change and Ordinance Amendment

- 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)

5. Chapter 20 – Site Plan Review

- Section 20.040 (Approval Standards)

6. Chapter 10 – Fire Safety Standards

- Section 10.110 (Siting Standards)
- Section 10.120 (Defensible Space)
- Section 10.130 (Construction Standards for Dwellings and Structures)
- Section 10.140 (Access Standards)
- Section 10.150 (Fire Protection or On-Site Water Required)

WASCO COUNTY COMPREHENSIVE PLAN

1. Chapter 2 – Physical Characteristics

Section G., Mineral & Aggregate Resources

2. Chapter 11 – Revisions Process

Section E., Quasi-Judicial Revisions

Section H., General Criteria

Section I., Transportation Planning Rule Compliance

Section J., Procedure for the Amendment Process

3. Chapter 14 – Findings and Recommendations

Section B., Goal 5 Issues

4. Chapter 15 – Goals and Policies

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

Dawn Baird, Associate Planner

Planner Baird presented the staff report as follows:

DECISION #1 - Significance Determination – Subject to Standards Review

DECISION #2 – Zone Change, Comprehensive Plan Amendment, Conditional Use Permit

- A. Zone Change – The zone change requires application of the EPD-5, Mineral & Aggregate Overlay Zone, and review of Chapter 9 Zone Change and Ordinance Amendment. The zone change cannot be approved unless the Comprehensive Plan Amendment is also approved.
- B. Comprehensive Plan Amendment – The CPA requires amendment of the Wasco County Comprehensive Plan, Chapter 2 – Physical Characteristics, Section G., Mineral & Aggregate Resources, Table 8, #217 – Dodge Quarry, from a Potentially Significant Site to a Significant Site. This action also requires findings showing the request complies with Chapters 2, 11, 14 and 15
- C. Conditional Use Permit – A new aggregate operation, or expansion of an existing aggregate operation, and processing of aggregate material is allowed as a CUP, and includes review of the EFU zone, Geologic Hazard Overlay zone, Conditional Use criteria, Site Plan Review criteria, and Fire Safety Standards

1. Findings:

DECISION #1 - Significance Determination – Subject to Standards Review (P21): Staff has the authority to make this decision, however, for consistency and time concerns, staff has requested the Planning Commission make the decision for this request.

In order for the site to be considered “Significant”, it must two requirements:

- a. Must meet the minimum requirements of at least two of the following three standards. The Dodge Quarry met all three of the standards:
 - i. Abrasion: Loss of not more than 35% by weight;
Percent loss to abrasion @ 500 revs.: 19.8%
 - ii. Oregon Air Degradation: Loss of not more than 35% by weight:
Percent loss, 12.3%
 - iii. Sodium Sulphate Soundness: Not more than 17% by weight.
Course Aggregate, 2%
Fine Aggregate, 7%

Testing was provided by Carson Testing, Inc., on December 6, 2000. A previous test completed by J. Arlie Bryant in 1989 shows similar results as the 2000 testing.

- b. Information that the site meets at least one of the following two criteria:

2. Is located within an ownership or long-term lease containing reserves in excess of (Amended 7-94 and 1-95) 100,000 tons (69,000 cubic yards); however, an aggregate site is not significant if the criteria if it meets (1) or (2).

The estimated reserve on the property is 3,538,848 cubic yards, well over the 69,000 cubic yard requirement.

- a. The site is not significant if 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 the date of this rule; or
- b. The site is not significant if 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 the date of this rule. (Amended 11-96)

There is no class I or II soil, or Unique soil on the subject parcel (see map)

3. Is located on property owned by, or under long-term lease to a city, county, or state jurisdiction for the primary purpose of excavating, or processing of aggregate or stone materials for road maintenance or road construction. (Amended 7-94)
 - The subject parcel is owned by Richard & Janie Dodge, and is not under long-term lease to any governmental agency.
 - The Dodge Quarry meets the definition of Significant Site because it complies with the criteria listed in 1) and 2), therefore, staff recommends the Planning Commission approve the quarry as a Significant Site.

Chair Hoffman asked for clarification on what the significance determination provides.

Director Nychyk stated that typically you protect the surrounding uses from the quarry, however the significance determination allows for the quarry site to be determined significant which gives it Goal 5 protection. This protects the quarry from the surrounding uses.

Planner Baird further explained that it is very important to protect the significant quarries in order to protect the sources for the rock for the public roads.

Commissioner Hargrave asked if one decision depends on the other?

Planner Baird stated that if the Commission does not determine that the site is significant we are done. The applicant cannot receive approval of the conditional use permit without a significance determination.

DECISION #2 – Zone Change, Comprehensive Plan Amendment, Conditional Use Permit

The Zone Change and Comprehensive Plan Amendment are dependent upon each other. One cannot be approved without the other.

- Current State law in the Exclusive Farm Use zone allows establishment of a new rock source, or expansion of an existing source, when the source has been determined to be a Significant Site.
- The Dodge Quarry is included on the Wasco County Aggregate Inventory in the Comprehensive Plan as a Potential Site. In order for this quarry to expand, the Comprehensive Plan must be amended to show that it is a Significant Site.

- The County must apply the EPD-5, Mineral & Aggregate Overlay zone to all aggregate operations that are identified Significant Sites, so a Zone Change is required to add the EPD-5 zone to the 70.2 acre Permit Area, as well as all land within ¼ mile of the Permit Area.
- If the Zone Change and Comprehensive Plan Amendment requirements are met, the Planning Commission can approve the Conditional Use Permit.

Zone Change – Apply the EPD-5, Mineral & Aggregate Overlay Zone

1. EPD-5, Mineral & Aggregate Overlay zone

This Chapter apply to all lands designated Significant Mineral and Aggregate Overlay. Only sites deemed significant resource sites shall be zoned Mineral and Aggregate Overlay. The Mineral and Aggregate Overlay consists of two distinct areas: the Extraction area and the Impact area.

- Extraction Area is defined as the area within which mineral and aggregate extraction, processing and storage may take place under the provision of this Chapter. As proposed by the owners, the Extraction Area contains approximately 70.2 acres, with approximately 32.47 acres being excavated. (Page P21)
- Impact Area is defined as an area surrounding the extraction area within which sensitive uses are limited or regulated. The owners' ESEE Analysis identified the impact area as all land within ¼ mile of the proposed 70.2 acre Extraction Area.
- The EPD-5 zoning is applied to the Extraction Area and the Impact Area. The overlay zone is intended to protect the significant aggregate source from future potential sensitive uses in the Impact Area, such as a residence. The subject parcel contains over 3,000 acres and the owner has the ability to divide it into 160 acre farm parcels at any time. It is conceivable that dwellings could be built within the Impact Area in the future. Future sensitive uses in the Impact Area will not be protected from the aggregate site, rather, the aggregate site will be protected from the sensitive uses.
- The ESEE Analysis provided information showing the expansion would not have adverse impacts on the surrounding area.
- Conditions need to be applied to make sure all of the requirements of the Mineral & Aggregate Overlay zone are met. The conditions are found in Attachment B - Staff Recommendation, on pages P24 through P34. With these conditions, the request complies with the requirements of the EPD-5 zone:
 - Owners shall submit a map showing the Impact Area (P24)
 - Permitted Uses in Extraction Area include all uses listed in Section 3.830 (P25)
 - Excavated areas, processing & other equipment shall be screened from surrounding properties. (P27)
 - The hillside north of the existing and proposed expansion site must be preserved and maintained with natural vegetation (P27)
 - Provide adequate gravel on road to reduce dust during hauling (P28)
 - Provide on-site water to reduce dust during extraction (P28)
 - Must meet all DEQ air quality and emission standards (P29)
 - (P29) Hours of Operation – extraction and blasting/drilling are limited to:

- Drilling and blasting: 9 a.m. to 5 p.m., Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday.
- Extraction: Daylight hours, Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

Planner Baird submitted comments from the applicants attorney regarding their concerns on the limitations of the hours of operations. She then explained that The owner has concern about the limitation on the hours of operation and may request flexibility to operate as necessary when, for instance, a large road or other project is scheduled. The Planning Commission has the ability to change the hours of operation for the proposed operation, but will need to provide amended condition(s) and finding(s). Neighboring property owners will receive a copy of the PC recommendation, including proposed conditions of approval, and will have an opportunity to comment on this comment, if they desire, because it is new information.

Planner Baird then continued with her presentation of the staff report:

- Must meet all DOGAMI requirements – keep Operating Permit/Exemption Certificate current and a liability policy of at least \$1 million must be in place prior to expansion (P30)
- Submit amended Reclamation Plan (P31)
- Need water right if using over 5,000 gallons of water per day from well (P32)
- Termination of the use (P34).

1. Chapter 9 – Zone Change and Ordinance Amendment (P40)

Chapter 9 requires a property owner to make application for a zone change, comply with specific criteria, and also tells us the process to make the zone change happen.

- (P40) The property owners made application for a quasi-judicial zone change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed expanded quarry and Impact Area.
- Recommended findings on page P40 show that the application of the EPD-5 zone will conform to the Comprehensive Plan, the site is suitable to the proposed rezone, and staff points out that it has a 25 year history of being used as an aggregate site.
- (P42) The Zone Change process will be completed by forwarding the Planning Commission's recommendation to the Board of Commissions, and providing notice to all parties. The Board of Commissioners will hold a public hearing on March 2, 2011, to complete the decision making process.

Planner Baird submitted a Geological Hazard Assessment from Chinook GeoServices Inc. This Determined that there was not a geological hazard concern.

Comprehensive Plan Amendment (P44)

In order to amend the Comprehensive Plan Aggregate Inventory, the County must find that the request is consistent with applicable sections of the Comprehensive Plan.

- *Wasco County is one of two counties in Oregon which utilize OAR Chapter 660, Division 16. Other counties are required to apply Division 23. Wasco County can continue to apply Division 16 to aggregate sites, however, once the county applies Division 23 of OAR 660 to a site, they are required to utilize this division from that point forward.*
- The process and requirements in Section 3.800, EPD-5, Mineral & Aggregate Overlay zone , parallels the requirements of OAR 660, Division 16.

1. Chapter 2 – Physical Characteristics, Section G., Mineral & Aggregate Resources, Table 8 (P44)

- The Dodge Quarry is identified in the Wasco County Aggregate Inventory as Site #217 (Page 2-44 of the Comprehensive Plan). The proposed amendment would change this aggregate site from “Potentially Significant Site” to “Significant Site”, a Goal 5 site, and it would be provided protection from sensitive uses.

2. Chapter 11 – Revisions Process (P45)

The Comprehensive Plan for Wasco County is the primary document that guides and controls land use within Wasco County outside of incorporated areas. The plan is supposed to reflect the community's current thoughts on land use planning and should be responsive to the needs and desires of citizens. This means that the plan has to change with community attitudes and needs, and for unforeseen things that could affect the use of land in the future. It's the intent of Chapter 11 to allow amendments to the Plan periodically, and to describe the procedure for the amendment process.

- Finding addressing this section start on P45.
- Except for Wasco County or ODOT sites, no private rock source in Wasco County has been given a “significant” determination for over 25 years. The needs of the County have changed. The existing quarry is the only significant rock source within 20 miles in any direction. (P46)

3. Chapter 14 – Findings and Recommendations, Section B., Goal 5 Issues, 2., Mineral and Aggregate Resources

Generally, residential uses are the uses which come into conflict with the extraction of aggregate and mineral resources. The EPD-5 zone provides the protection necessary for all aggregate sites. Any sensitive use proposed in the Impact Area in the future will be made aware of the Goal 5 protection for this aggregate site and will be not be protected from impacts of the aggregate operation. Owners of proposed sensitive uses in the EPD-5 zone will be required to sign and record with the Wasco County Clerk, a restrictive covenant advising them that they cannot make a claim against the aggregate owner relating to noise, dust, visual, reclamation, traffic or any other similar impacts from surface mining activities lawfully conducted under and in conformance with DOGAMI standards on the Dominant Estate. (P52)

4. Chapter 15 – Goals and Policies (P51)

P51

- No other interim or permanent uses are proposed.

P52

- The request is for a Significance Determination, to be followed by application of the EPD-5 overlay zone, addition of the site as “Significant” in the CP Aggregate Inventory, and a CUP to allow the mining operation.
- The owners submitted an ESEE analysis which evaluated the quality and quantity of rock in the proposed Permit Area. Based on the findings of this analysis, a determination must be made whether the Dodge Quarry is a Significant Site.

P52

- Staff reviewed the ESEE analysis and agrees with the owners that there are no conflicting uses within ¼ mile of the proposed 70.2 acre Permit Area, and staff recommends that the aggregate site be fully protected from conflicting uses and supports application of the Mineral & Aggregate Overlay zone to the Permit Area and all property within ¼ mile of the Permit Area. Staff notes that the Permit Area and all property within ¼ mile is located entirely within the subject parcel.
- The proposed Permit Area will be located more than ¼ mile from all surrounding properties.
- The subject property has contained an approved quarry operation since 1987. The Planning Dept. has not received any complaints from farm operators in the area about impacts of the quarry on their farm use. Having said that, any nonfarm use could potentially change or increase the cost of accepted farm or forest practices if it creates interference with existing farm or forest practices by complaining about and/or threatening legal action over farm practices. To minimize potential conflicts between the proposed expanded Permit Area and surrounding farm uses, staff proposes application of a condition requiring the owners to sign a Farm Management Easement and record it in the County deed records. This notifies current and future property owners that common accepted farming and forest practices are allowed in the EFU zone, and prohibits them from filing a claim against farmers who are using common accepted farm and forest practices.
- A portion of the subject parcel is located within the Juniper Flat Rural Fire Protection District. A portion of the subject parcel is protected from wildfire by the Bureau of Indian Affairs. The entire parcel receives wildfire protection from the Oregon Dept. of Forestry.
- Fire risk in a rock quarry is low due the existence of fire extinguishers on crushing and other equipment. In addition, since rock is not combustible, it would be difficult to start fire in the quarry.
- Visual subordination of the expanded quarry operation was evaluated. It is difficult to see the existing operation with the naked eye from Back Walters Road. The area that will be dug out in the future is located primarily west of the existing excavation site. The hillside located north of the existing/proposed excavated area will stay in place and will hide the expanded quarry from surrounding properties. As excavation continues to the west, the expansion area will not be seen from surrounding roads or properties.

A. Conditional Use Permit

1. A-1 zone

- The owners request approval to expand an existing 10 acre aggregate site to a 70.2 acre aggregate site. As permitted by E.12, this consists of mining, crushing, stockpiling, and their associated uses. In addition, per E.13., the owners have requested approval for processing of aggregate into asphalt or Portland cement.
- The subject parcel was legally created by Major Partition 85-101. The aggregate operation was legally established by Conditional Use Permit 87-104A. (These criteria are discussed beginning on Page P15 of your packet)
- The owners were provided a copy of the “Protection for Generally Accepted Farming and Forestry Practices – Complaint & Mediation Process, to advise them of the process involved in resolving disputes between resource and nonresource use.

2. EPD-2 (P19)

- The purpose of Section 3.750, Geologic Hazards Overlay District is to protect the public health, safety and welfare by assuring that development in hazardous or potential hazardous areas is appropriately planned to mitigate the threat to man's life and property. Based on the most recent data available from DOGAMI, there is an existing geologic hazard – landslide, running east-west across the subject parcel.
- A Limited Engineering Geological Landslide Hazard Assessment was submitted by Chinook GeoServices, on January 27, 2011. A copy of this report was placed in front of each PC member prior to the hearing. The report concludes that there is no landslide hazard on land containing the existing quarry, and the proposed quarry expansion area.
- **Based on the results of the assessment, staff recommends deletion of proposed condition D.7. (P3) which requires submittal of a geo hazard report.**

1. **Chapter 5:** With proposed conditions, the request is consistent with Section 5.020, Authorization to Grant or Deny a Conditional Use Request. (P34)

Criterion b states: Taking into account location, size, design and operational characteristics of the proposed use, the proposal is compatible with the surrounding area and development of abutting properties by outright permitted uses.

- If hours of operation are changed from what is recommended in the staff report, please amend criterion b. in Chapter 5 to address hours of operation, or direct staff to do so.
- Staff recommends that the Planning Commission adopt specific conditions of approval to ensure compliance with Chapter 5:
 - Water sprays or other suppressive devices shall be operated at all times dust is created, and there shall be adequate numbers of them to suppress the dust. Another condition reminds the owners that a DEQ permit will be required if on-site rock crushing exceeds 5,000 tons per year. This permit addresses dust created by the rock crushing only.
 - Reclaim all disturbed land.
 - Mining equipment shall be removed from the site when not in use for more six months.
 - if outdoor lighting is used, it must comply with the lighting standards in the LUDO.
- 2. Chapter 20 – Site Plan Review (P42-43) The aggregate operation is arranged so that traffic congestion is avoided and pedestrian and vehicular safety and welfare are protected.
- 3. Chapter 10 – Fire Safety Standards (P44)
- Staff verified that the existing and expanded aggregate operation can comply with all fire safety standards.
- The property owners have completed a Fire Safety Standard Self-Certification Form, and it is located in the Planning Dept. file. A copy of this self-certification form is available for inspection at the Wasco County Planning Department under File # PLAQJR-10-10-0005. A condition making current and future owners aware of this is included.

That wraps up the findings, conditions, and conclusions for this report.

Planner Baird stated that Staff recommends deleting conditions C1 and C7 based on evidence submitted.

Planner Baird gave the Commission the following options:
The options of the Planning Commission are to:

- a. Approve the request with the findings, conclusions and conditions recommended by the Planning Department; or
- b. Approve the with amended findings, conclusions and conditions provided by the Planning Commission; or
- c. Deny the request with amended findings, conclusions and conditions provided by the Planning Commission; or
- d. If additional information is needed, continue the hearing to a date and time certain to allow the submittal of additional information.

Staff believes that the Planning Commission has sufficient information to make a decision on this request, and we recommend Option B. The owners' representative, Keith Mobley, has indicated that he would like to see the hours of operation amended. If the Planning Commission decides to amend this condition of approval, please provide the updated wording for the condition and the finding.

Commissioner Amery asked if there were any concerns with the additional use of the road? Planner Baird replied none. She stated that she spoke with Marty Matherly, Wasco County Road Master, and that he stated the road was built up to standard and he has no concerns about any additional wear from this use

Commissioner Hargrave asked for clarification on the number of people notified, Planner Baird stated that Staff notified everyone within 750 feet. Commissioner Hargrave asked if there were any comments received. Planner Baird stated that none were received.

Chair Hoffman called for additional questions from the Commission.
None

Chair Hoffman called for testimony from the applicant/applicant's representative

Keith Mobley, attorney for the applicant

Mr. Mobley stated that this is a significant site and that rock from this quarry has gone to projects with Bonneville Power, the Forest Service, City of Maupin, and Wasco County. He further stated that the reason these agencies use this rock is the quarry produces very high quality rock. Mr. Mobley asked if he could have a neighbor of the Applicant's testify. Chair Hoffman called for this testimony.

Sid Parman, Neighboring Property Owner

Mr. Mobley: Are you Sid Parman?

Mr. Parman: Yes.

Mr. Mobley: Where do you live?

Mr. Parman: Maupin.

Mr. Mobley: Specifically where? Your house is the closest to our site?

Mr. Parman: Correct.

Mr. Mobley: have you had problems with noise and/or dust?

Mr. Parman: No.
Mr. Mobley: How long have you lived in that location?
Mr. Parman: 25 years.
Mr. Mobley: Do you have concerns about this proposed expansion?
Mr. Parman: None.

Commissioner Hargrave asked Mr. Parman if he could hear all the activities that have been described. Mr. Parman replied that he has not heard the activities but he can feel the vibrations. Mrs. Jeri Parman (Neighboring Property Owner) also stated that they do not even notice it is there. She further explained that the only time they notice it is when there is a truck going by. They appreciate the quarry because it is putting people to work.

Chair Hoffman asked the Parmans if they could comment on the change in hours of operation as proposed by the Applicant. Mr. Parman stated that the hours wouldn't bother them. He agreed with Jeri Parman that they don't even realize it is there most of the time. Mr. Mobley asked again if they have no concerns with operating on the weekends or longer hours. Mr. Parman replied that they did not have any concerns.

Mr. Mobley stated that the Applicants were concerned regarding the items listed in the memo we submitted to the commission. Mr. Mobley then went through the memo document he submitted.

Chair Hoffman called for additional testimony from the applicant.
None.

Chair Hoffman called for testimony in opposition.
None.

Chair Hoffman closed the hearing for deliberation.

Vice Chair Ashley moved to find this a significant site for the Goal 5 protection
Commissioner Omeg seconded
Chair Hoffman called for discussion
None.
Chair Hoffman called for the vote

The motion was unanimously approved 5 to 0, 2 absent (Commissioners Wood and Archer). A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood – absent
Commissioner Omeg – yes
Commissioner Archer – absent
Commissioner Amery – yes

The Commission then discussed the conditional use permit, specifically the hours of operation, road approach condition, and the DOGAMI condition.

Chair Hoffman suggested hours of operation being from Daylight to 5 pm. Commissioner Hargrave stated that in the summer daylight is actually before 5 am. Commissioner Omeg stated that as a agricultural operator, one of the reasons for wanting to begin operation at daylight is to avoid being in the heat of the summer months. Commissioner Hargrave replied that it makes sense to go Daylight to 5pm. He stated that

if it is a significant site, then we should be protecting it as a significant site, shouldn't be limiting it by the hours of operation. Commissioner Omeg suggested a hybrid such as Daylight or 5 am whichever is sooner, keeping Sundays as an "off" day.

Consensus was reached on the following matters:

Condition C1 road approach requirement stating Receive final approval of a Road Approach Permit for the existing driveway approach onto Walters/Back Walters Road from the Wasco County Public Works Department

Condition D2 Hours of Operation being 5 a.m./dawn (whichever is earlier) to 5 p.m., Monday through Friday.
Condition D3 revised language as submitted by applicant
DOGAMI language will be an amended finding in the staff/Planning Commission Report.

Vice Chair Ashley moved to approve the request for a conditional use permit and to recommend approval of the Comprehensive Plan Amendment and Zone Change with the amended findings and conditions as discussed by Staff and Commission.
Commissioner Hargrave seconded
Chair Hoffman called for discussion
None.
Chair Hoffman called for the vote

The motion was unanimously approved 5 to 0, 2 absent (Commissioners Wood and Archer). A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood – absent
Commissioner Omeg – yes
Commissioner Archer – absent
Commissioner Amery – yes

VI. FUTURE AGENDA ITEMS:
Energy Updates

VII. OTHER BUSINESS

Interim Director presented the Long Range Planning Updates for the next year.

Planning Commission Position #6 vacancy

Chair Hoffman stated that it has been the procedure on the Planning Commission that when a Commissioner has only served one term, and wishes to be reappointed, we (the Commission) not interview other applicants. He then put it to the Commission to take action on whether the Commission interviews other applicants or recommend Commissioner Amery be reappointed.

Chair Hoffman moved to recommend that the Commission not interview other applicants but recommend Commissioner Amery for reappointment.
Vice Chair Ashley seconded.

Chair Hoffman called for discussion
None.
Chair Hoffman called for the vote

The motion was unanimously approved 1 to 0, 2 absent (Commissioners Wood and Archer), 1 abstained (Commissioner Amery). A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood – absent
Commissioner Omeg – yes
Commissioner Archer – absent
Commissioner Amery – abstained

Elections for the year were postponed to the April Hearing when Commissioner Archer will be back from his Leave.

VIII. ADJOURNMENT
Adjourned at 4:45

Respectfully submitted,

Donald Hoffman, Chair
Wasco County Planning Commission

Gary Nychyk, Interim Planning Director
Wasco County Planning & Development