

ATTACHMENT D – STAFF REPORT

File Number: 921-18-000129-PLNG

Applicant/Owner: Oregon Department of Transportation (ODOT)

Request: Expedited Review to install a 108”L x 18”D culvert pipe under a driveway at its approach onto Highway 30W within the highway right-of-way. Excess soil will be placed behind an existing berm in the existing ODOT-owned Chenoweth Quarry (also known as the “Shooting” Quarry).

Decision: **Approved** with Conditions

Decision Date: August 23, 2018

Appeal Deadline: September 4, 2018

Location: The development site is located west of Highway 30W, approximately 0.5 mile north of the overpass for Exit 82 on Interstate 84, approximately 0.4 mile north of the City Limits of The Dalles, Oregon, more specifically described as:

<u>Map/Tax Lot</u>	<u>Acct. #</u>	<u>Acres</u>
2N 13E 20 800	13760	10.86

Zoning: A-1 (160), Large Scale Agriculture in the General Management Area of the Columbia River Gorge National Scenic Area

Past Actions: PLASAR-16-09-0013, Chenoweth Quarry clean-up; and PLASAR-08-11-0013, Chenoweth Quarry restoration

Procedure Type: Administrative

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I. APPLICABLE STANDARDS

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. Chapter 3 – Basic Provisions

Section 3.110, Expedited Review

Section 3.110.A.17., Uses Permitted Subject to Expedited Review – New underground utility facilities

Section 3.110.B., Expedited Development Review Process

B. Chapter 11 – Fire Safety Standards

Section 11.110, Siting Standards – Locating Structures for Good Defensibility

Section 11.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break

Section 11.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure

Section 11.140, Access Standards – Providing Safe Access to and Escape From Your Home

Section 11.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response)

II. BACKGROUND

A. Legal Parcel: The subject parcel was created by Deed Volume 82, Page 490, recorded with the Wasco County Clerk on October 11, 1930. The property is consistent with the definition of “Legal Parcel” in Section 1.090 of the NSA-LUDO because it was created by deed prior to September 4, 1974.

B. Site Description: The development site begins at a location approximately 50’ north of the northern boundary of the access road for the Munsen rock quarry, and ending approximately 85’ south of the southern boundary of the access road. The development site is located on the northwest side of Highway 30W and is in an area of dirt and gravel within the highway right-of-way. The Munsen access road has a paved surface. The area north of the access road contains some natural grass and vegetation, as well as some large boulders for slope stability.



The area located south of the access road contains disturbed earth with rock and gravel mixed into the earth. An earthen berm constructed by ODOT to block off access to the Chenoweth Quarry, also known locally as the “Shooting” Quarry. The berm is located on ODOT property. Excess material excavated for the project will be placed at the eastern end of the property inside the berm so that the material cannot be seen. Portions of the berm in the project area contain shrubs and natural grass but portions of the berm located to the southwest only contain natural grass.



- C. Surrounding Land Use:** There are four tax lots adjacent to the proposed development site. North and west: the Munsen rock quarry. This is an active quarry whose access road blocks the proper flow of water down the ditch to Chenoweth Creek. East: The third property is located east of Highway 30 W and is owned by Northwest Aluminum. It lies between Highway 30W and Interstate 84 (I-84). This property is vacant and contains natural grasses. The remaining property is owned by Spee Dee Haulers, Inc. This property was approved in 1989 by the Gorge Commission for a recreational vehicle park. Though much of the infrastructure was installed, this permit has expired. This property is located primarily north of Chenoweth Creek.

III. FINDINGS:

Wasco County National Scenic Area Land Use & Development Ordinance (NSALUDO)

A. *Section 3.110, Expedited Review*

A. *Uses Permitted Subject to Expedited Review*

The following developments may be allowed on a legal parcel subject to the expedited development review process listed in Chapter 2, provided they comply with the resource protection and procedural guidelines listed below.

- 17. New underground utility facilities, except in Agriculture Special, located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no ditch for linear facilities would be more than 36 inches wide and no excavation for non-linear facilities would exceed 20 cubic yards.*

FINDING: The request is to install a 108’L x 18”D culvert pipe under a driveway at its approach onto Highway 30W within the highway right-of-way, and place excess soil behind an existing berm in the existing ODOT-owned Chenoweth Quarry.

Chapter 1, Section 1.200, Definitions, defines Utility Facility:

Utility Facility - Any structure which provides for the transmission or distribution of water, sewer, fuel, electricity, communications.

ODOT maintenance crews continue to address a drainage issue located at the Munsen quarry driveway approach onto Highway 30 W. Without any existing cross drainage system under the access road, stormwater runoff pools up on the south side of the highway causing deterioration of the shoulder of the highway and extends into the travel lane. The proposed solution is to install the culvert pipe under the driveway approach with two Type G-2 inlets, regrade the shoulder and ditch, and resurface the road to original grade.

The requested culvert will transmit the water under the driveway approach onto Highway 30 W. Staff finds that the request complies with Criterion 17.

B. Expedited Development Review Process

Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

1. Scenic

- a. In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.*

FINDING: The request is to place a culvert under an existing driveway approach onto Highway 30 W and is not to place woven-wire fencing for agricultural use. Staff finds that the request complies with Criterion a.

- b. Except signs, the colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. This guideline shall not apply to additions, which may match the color of existing buildings.*

FINDING: The request is to place a culvert under an existing driveway approach south of Highway 30 W leading to the Munsen quarry. The excess excavated soil will be deposited into ODOT's Chenoweth Quarry located adjacent to the work site. The culvert will not be visible from Highway 30 W, Interstate 84, or any other Key Viewing Area (KVA). Staff finds that the request complies with Criterion b.

- c. Except signs, structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.*

FINDING: The proposed culvert will not be visible from any KVA. Excess soil placed in the Chenoweth Quarry is non-reflective. Staff finds that the request complies with Criterion c.

- d. Outdoor lights shall be directed downward and sited, hooded, and shielded such that they are not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.*

FINDING: The new culvert will not result in the need for any outdoor lighting. Staff finds that Criterion d. is not applicable to this request.

- e. *Structures within ½-mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g., visual subordination, not visually evident).*

FINDING: The proposed culvert is in a location that is topographically visible from multiple KVAs however it will not be visible from any KVA because the culvert will be placed under the ground. The request will be visually subordinate as seen from any KVA. Staff finds that the request complies with Criterion e.

2. Cultural

- a. *The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey. The cultural resources in Section 14.500 shall be used to determine if a reconnaissance and/or historic survey is required for a proposed development.*

FINDING: Section 14.500.B.1.a. states:

- a. *A reconnaissance survey shall be required for all proposed uses, except:

(4) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed depth and extent of existing ground disturbance.

(a) To qualify for this exception, a project applicant must demonstrate that land disturbing activities occurred in the project area.

(b) Land disturbing activities include grading and cultivation.*

The proposed culvert will occur within the right-of-way of Highway 30W. The south side of the highway has been graded and regraded many times as a result of water pooling on the north side of the Munsen quarry driveway. The water ponds up on the south side of the highway causing deterioration of the shoulder of the highway and extending into the travel lane. The application states that *“the project area has been highly disturbed from previous construction of the Historic Columbia River Highway and the entrance road.”* The proposed culvert will be above the ditch which is the depth of ground disturbance

Staff finds that the proposed site has been disturbed by human activities and the proposed use will not exceed the depth and extent of existing ground disturbance. The request complies with Criterion a.

- b. *The requirements of 14.500(G), “Cultural Resources Discovered After Construction Begins”, shall be applied as conditions of approval for all development approved under the expedited development review process.*

FINDING: Section 14.500.G. explains the process to follow if cultural resources are found during development. If cultural resources are found during construction, all construction within 100’ of the

discovered cultural resource shall cease and the resource shall remain as found; further disturbance is prohibited. In addition, the owner shall notify the Wasco County Planning Department, Gorge Commission and four Indian tribal governments within 24 hours of discovery. **Conditions** of approval are included in the Notice of Decision requiring compliance with these requirements. Staff finds that the request complies with Criterion b.

3. *Recreation*

The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.

FINDING: There are no recreation sites on adjacent properties. The Columbia River, located approximately 0.7 mile east of the development site, is the closest recreation site. Based on distance the development will not detract from the use and enjoyment of established recreation sites on adjacent parcels. Staff finds that the request complies with Criterion 3.

4. *Natural*

a. *Wetlands, Streams, Rivers, Ponds, and Lakes:*

The development is outside buffer zones for wetlands, streams, rivers, ponds, and lakes. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

FINDING: The development site is not located within any buffer zone for wetlands, streams, rivers, ponds, or lakes. The closest feature is an unnamed wetland located approximately 0.4 mile east of the development site. Staff finds that the request complies with Criterion a.

b. *Sensitive Wildlife and Sensitive Plants*

(1) *The development meets one of the following:*

(***)

(b) *The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or*

FINDING: The request is to place a culvert under an existing driveway approach onto Highway 30 West. The development site is located within the right-of-way of Highway 30W which has been previously disturbed and regularly maintained by the Oregon Department of Transportation. Staff finds that the request complies with Criterion (b).

(2) *Development eligible for expedited review shall be exempt from the field surveys for sensitive wildlife or sensitive plants in Section 14.600.*

FINDING: The request to place a culvert within an existing highway right-of-way is eligible for an expedited review therefore it is exempt from the field surveys for sensitive wildlife or sensitive plants. Staff finds that the request complies with Criterion (2).

C. *Treaty Protection Rights*

Proposed developments reviewed using the expedited review process shall comply with the following treaty rights protection guidelines:

1. *Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.*

FINDING: The proposed development will not affect or modify any treaty or other rights of any Indian tribe because the proposed use is to place a culvert in a previously disturbed highway right-of-way. Staff finds that the request complies with Criterion 1.

2. *The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.*

FINDING: A **condition** of approval is included in the Notice of Decision stating that the expedited review process shall cease and a full review will be conducted if an Indian tribe submits substantive written comments during the appeal period identifying how existing treaty rights would be affected or modified by the proposed development. With the proposed **condition** of approval staff finds that the request complies with Criterion 2.

B. Chapter 11 – Fire Safety Standards

Section 11.110, Siting Standards – Locating Structures for Good Defensibility

Section 11.120, Defensible Space – Clearing and Maintaining a Fire Fuel Break

Section 11.130, Construction Standards for Dwellings and Structures – Decreasing the Ignition Risks by Planning for a more Fire-Safe Structure

Section 11.140, Access Standards – Providing Safe Access to and Escape From Your Home

Section 11.150, Fire Protection or On-Site Water Required – Ensuring Dwellings Have Some Fire Protection Available Through Manned or Unmanned Response)

FINDING: The Fire Safety Standards, adopted by the Wasco County Court and effective February 5, 2007, require property owners to be aware of potential fire risks in areas outside of urban areas of Wasco County, and requires compliance with siting standards, fuel break requirements, construction standards, access standards, and on-site water storage requirements.

As part of a complete application, the property owners completed a Fire Safety Standard Self-Certification Form. By signing the self-certification form, the owners have acknowledged that they understand these standards and commit to achieve compliance with them within one year of the date of approval and maintain them through the life of the development. This certification further commits all future property owners to this same requirement. A copy of this self-certification form is available for inspection at the Wasco County Planning Department under File 921-18-000129-PLNG. A **condition** of approval stating this is included in the Notice of Decision.

The subject property is located within the boundaries of Mid-Columbia Fire & Rescue and has structural fire protection.

The proposed culvert will be located underground and will not create any potential for fire hazard. The additional excavated material (dirt) is non-flammable and will also not create any potential for fire.

The site is located south of, and adjacent to, Highway 30W. This road is paved and complies with all road requirements in Chapter 11.

Staff finds that the request complies with Chapter 11 – Fire Safety Standards.