

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – First Reading and First Public Hearing
Land Use & Transportation; County Counsel (All CPOs)

Agenda Title: **CONSIDER PROPOSED ORDINANCE NO. 824, AN ORDINANCE AMENDING THE RURAL/NATURAL RESOURCE PLAN AND THE COMMUNITY DEVELOPMENT CODE RELATING TO MINERAL AND AGGREGATE MINING AND PROCESSING IN THE EXCLUSIVE FOREST AND CONSERVATION DISTRICT**

Presented by: Andrew Singelakis, Director of Land Use & Transportation
Alan Rappleyea, County Counsel

SUMMARY:

Ordinance No. 824 proposes to amend the Rural/Natural Resource Plan and the Community Development Code to allow Special Use (SU) mineral and aggregate operations in the Exclusive Forest and Conservation (EFC) district. A stable aggregate supply is essential to public and private development. The ordinance is part of efforts to increase access to local mineral and aggregate sources, especially for construction, upkeep and repair of roads and other transportation facilities throughout the county.

The proposed ordinance is posted on the County's land use ordinance webpage at the following link:

www.co.washington.or.us/landuseordinances

At its August 2, 2017 hearing, the Planning Commission (PC) conducted a public hearing for this ordinance. The PC unanimously recommended that the Board adopt Ordinance No. 824. The staff report will be provided to the Board prior to the hearing and posted on the above land use ordinance web page. Copies of the report will be available electronically and at the Clerk's desk prior to the hearing.

Consistent with Board policy, testimony about the ordinance is limited to three minutes for individuals and 12 minutes for a representative of a group.

Clerk's Desk Item: Staff Report (*click to access electronic copy*)

DEPARTMENT'S REQUESTED ACTION:

Read Ordinance No. 824 by title only and conduct the first public hearing. At the conclusion of the hearing, adopt Ordinance No. 824 and related findings.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

ADOPTED

| | |
|-----------------|-------------|
| Agenda Item No. | 5.f. |
| Date: | 09/05/17 |

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 824

An Ordinance Amending the Rural/Natural Resource Plan and the Community Development Code Relating to Mineral and Aggregate Mining and Processing in the Exclusive Forest and Conservation District

The Board of County Commissioners of Washington County, Oregon (“Board”) ordains as follows:

SECTION 1

A. The Board recognizes that the Rural/Natural Resource Plan (Volume III) was readopted with amendments, by way of Ordinance No. 307, and subsequently amended by Ordinance Nos. 342, 383, 411, 412, 458, 459, 462, 480, 482, 499, 539, 547, 572, 574, 578, 588, 598, 606, 609, 615, 628, 630, 631, 637, 643, 648, 649, 653, 662, 671, 686, 733, 740, 753, 764, 772, 776, 796, 809, and 813-814.

B. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732, 735, 739,

1 742-745, 754-758, 760, 762, 763, 765, 766, 769-776, 782-788, 791, 792, 797-802, 804, 809-
2 811, and 813-815.

3 C. As part of its ongoing planning efforts, Washington County staff has
4 identified the need for updates to elements of the Comprehensive Plan related to mineral and
5 aggregate mining and processing in the Exclusive Forest and Conservation (EFC) District to
6 provide an additional avenue to allow mining operations in this district. The Board
7 recognizes that such changes are necessary from time to time for the benefit and welfare of
8 the residents of Washington County, Oregon.

9 D. Under the provisions of Washington County Charter Chapter X, the
10 Department of Land Use and Transportation has carried out its responsibilities, including
11 preparation of notices, and the County Planning Commission has conducted one or more
12 public hearings on the proposed amendments and has submitted its recommendations to the
13 Board. The Board finds that this Ordinance is based on that recommendation and any
14 modifications made by the Board, as a result of the public hearings process.

15 E. The Board finds and takes public notice that it is in receipt of all matters and
16 information necessary to consider this Ordinance in an adequate manner and finds that this
17 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan
18 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington
19 County Charter, the Washington County Community Development Code, and the Washington
20 County Comprehensive Plan.

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1 SECTION 2

2 The following exhibits, attached hereto and incorporated herein by reference, are
3 adopted as amendments to the designated documents as follows:

4 A. Exhibit 1 (1 page), amends the Rural/Natural Resource Plan:

- 5 1. Policy 7 (Mineral and Aggregate Resources); and
6 2. Appendix A (Glossary).

7 B. Exhibit 2 (15 pages), amends the following Sections of the Community
8 Development Code:

- 9 1. Section 110 – Transition to Development Code;
10 2. Section 203 – Processing Type I, II and III Development Actions;
11 3. Section 300 – Introduction;
12 4. Section 342 – Exclusive Forest and Conservation District (EFC);
13 5. Section 379 – Mineral and Aggregate Overlay District; and
14 6. Section 430 – Special Use Standards.

15 SECTION 3

16 All other Comprehensive Plan provisions that have been adopted by prior ordinance,
17 which are not expressly amended or repealed herein, shall remain in full force and effect.

18 SECTION 4

19 All applications received prior to the effective date shall be processed in accordance
20 with ORS 215.427.

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1 SECTION 5

2 If any portion of this Ordinance, including the exhibit, shall for any reason be held
3 invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be
4 affected thereby and shall remain in full force and effect.

5 SECTION 6

6 The Office of County Counsel and Department of Land Use and Transportation are
7 authorized to prepare planning documents to reflect the changes adopted under Section 2 of
8 this Ordinance, including deleting and adding textual material and maps, renumbering pages
9 or sections, and making any technical changes not affecting the substance of these
10 amendments as necessary to conform to the Washington County Comprehensive Plan format.

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1 SECTION 7

2 This Ordinance shall take effect on November 24, 2017.

3 ENACTED this 5th day of September, 2017, being the 1st reading
4 and 1st public hearing before the Board of County Commissioners of Washington
5 County, Oregon.

6 BOARD OF COUNTY COMMISSIONERS
7 FOR WASHINGTON COUNTY, OREGON

8 **ADOPTED**

9 Andy Oser
CHAIRMAN

10 Barbara Hejtmanek
RECORDING SECRETARY

11 READING

PUBLIC HEARING

12 First September 5, 2017
13 Second _____
14 Third _____
15 Fourth _____
16 Fifth _____
17 Sixth _____

12 First September 5, 2017
13 Second _____
14 Third _____
15 Fourth _____
16 Fifth _____
17 Sixth _____

16 VOTE: Aye: Dujck, Rogers, Terry,
Schouten, Malinowski

Nay: _____

17 Recording Secretary: Barbara Hejtmanek Date: September 5, 2017

The RURAL/NATURAL RESOURCE PLAN is amended to reflect the following:

POLICY 7, MINERAL AND AGGREGATE RESOURCES

It is the policy of Washington County to protect identified Significant Mineral and Aggregate Resource sites from incompatible uses, and to minimize potential impacts from of resource extraction at these sites upon adjacent uses, and to protect identified Mineral and Aggregate Resource sites from incompatible uses. ~~Additionally, the County shall identify a process to address other mineral and aggregate resource sites.~~

APPENDIX A

Glossary

Significant Mineral and Aggregate Resources. Lands with mineral and aggregate deposits identified as significant resources based on Statewide Planning Goal 5.

Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

1. SECTION 110 – TRANSITION TO DEVELOPMENT CODE

110-3 Transition Provisions for Approval Granted Under Article III of the 1973 Community Development Ordinance and Article VI, Subdivision and Partitioning

110-3.5 ~~Notwithstanding any other provision~~Except as specified for particular uses by other Sections of this code, conditional use permits shall continue to be valid for a period of five (5) years from the dates set forth in 110-3.1, except for home occupations which shall be valid for one (1) year. Holders of conditional use permits may seek a development permit if the use is permitted, or continue beyond expiration as a nonconforming use. Nonconforming conditional uses shall continue to be subject to all conditions imposed at the time of approval.~~This provision shall not apply to the Mineral and Aggregate Overlay District, which shall be governed by Section 379.~~

2. SECTION 203 – PROCESSING TYPE I, II AND III DEVELOPMENT ACTIONS

203-4 Application

203-4.2 A complete application is one which contains the information required to address the relevant standards of this Code and the applicable standards and requirements of the Comprehensive Plan as specified by this Code. It shall consist of the following:

- E. A site plan of the property illustrating the property boundaries, proposed and existing: structures and improvements, easements, driveways, water and sewer lines, septic tanks and drain fields, and all drainage courses and structures within two hundred fifty (250) feet of a drainage course...

203-5 Application Submittal and Acceptance

203-5.3 Except as provided in Sections 203-5.6 and 203-5.7, after the application is deemed complete consistent with the requirements of ORS 215.427, the Review Authority shall take final action on Type II and III applications for development, including resolution of appeals within:

- A. One hundred twenty (120) days for applications inside the UGB and mineral aggregate extraction; and

B. One hundred fifty (150) days for applications (except mineral aggregate extraction) outside the UGB, except as noted in C., below;

C. One hundred twenty (120) days for Mineral and Aggregate uses that are governed by Section 379 whether inside or outside the UGB, after the application is deemed complete consistent with the requirements of ORS 215.427.

3. SECTION 300 – INTRODUCTION

Article III of the Washington County Community Development Code consists of the primary and overlay districts which apply to the unincorporated areas of Washington County. These districts are provided to implement the goals and policies of the Comprehensive Plan. In addition to the standards listed in each District, all development is subject to all other applicable provisions of this Code, including Article IV, Development Standards; Article V, Public Facilities; and Article VI, Land Divisions. Additionally, all development is subject to the applicable requirements and standards of the Community Plans, the Rural/Natural Resource Plan, and the Transportation Plan listed below.

In addition to the standards of the land use districts, all development, including land divisions, shall comply with the following applicable standards and requirements of the Community Plans, the Rural/Natural Resource Plan, and the Transportation Plan:

300-1.1 Community Plan provisions:

~~E. Mineral and Aggregate Resource Designations (District A and B designations);~~

300-1.2 Rural/Natural Resource Plan Provisions:

~~C. Mineral and Aggregate Resource Designations (District A and B designations);~~

4. SECTION 342 – EXCLUSIVE FOREST AND CONSERVATION DISTRICT (EFC)

342-1 Intent and Purpose

The Exclusive Forest and Conservation District is intended to provide for forest uses and to provide for the continued use of lands for renewable forest resource production, retention of water resources, recreation, agriculture and other related or compatible uses, as set forth in Statewide Planning Goal 4, OAR 660-006 and ORS 215.

The purpose of this District is to encourage forestry as the dominant use of such lands, to conserve and manage efficiently the forest resources of the county and to prohibit uses of land which are not compatible with the management and development of forest resources, in order to minimize the potential for damage from

fire, pollution, soil erosion and conflict caused by development. This District is suited for application to forest land as well as associated scenic lands, recreation land, wildlife habitat or other sensitive land forms or watershed areas.

The EFC District is provided to meet Oregon statutory requirements for forest lands. Forest practices in the EFC district that are protected from local regulation Uses permitted by the Forest Practices Act (ORS 527) are not subject to the requirements of this Section.

For all permitted uses, the property owner shall sign and record an agreement form, in the Department of Assessment & Taxation, Recording Division, a statement which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act. In this district, site development and All new buildings, including accessory buildings, in this District shall comply with the Fire Structure Siting and Fire Safety Standards of Section 428.

342-3 Uses Permitted Through a Type II Procedure

The uses listed in Section 342-3.1 and 342-3.2 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 342-3.3.

342-3.2 Permitted Uses which are subject to Section 342-3.3

W. Mining and processing of aggregate and other mineral and subsurface resources on a site that is designated with a District A overlay on the Rural/Natural Resource Plan – subject to CDC Section 379.

342-3.3 The proposed use will not:

- A. Force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; nor
- B. Significantly increase fire hazard or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel.

342-4 Uses Which May be Permitted Through a Type III Procedure

The uses listed in Section 342-4.1 may be permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 342-4.2.

342-4.1 Uses which may be allowed:

D. Mining and processing of:

(1) Oil, gas, or other subsurface resources, as defined in ORS Ch. 520, and not otherwise permitted by Section 342-3.1 C. or Section 342-3.1 G.;

(2) Minerals and aggregate in the EFC District, subject to Section 430-130 (Special Mineral/Aggregate Mining and/or Processing in the EFC District), on a site that does not meet the minimum quantity threshold under OAR 660-023-0180(3)(a) that applies to significant aggregate resource sites in the Willamette Valley.

342-4.2 Required findings:

- A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and
- B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

5. SECTION 379 – MINERAL AND AGGREGATE OVERLAY DISTRICT

379-1 Intent and Purpose

379-1.1 The purpose of the Mineral and Aggregate Overlay District is to protect significant mineral and aggregate resources for future use, to provide for the development and utilization of resources currently needed for economic development consistent with the requirements of LCDC statewide Goal 5 and to regulate resource extraction and processing activities to balance their impact on existing adjacent land uses.

Section 379 does not apply to Special Mineral/Aggregate Mining and/or Processing in the EFC District, addressed under Sections 342-4.1 D.(2) and 430-130.

6. SECTION 430 – SPECIAL USE STANDARDS

430-130 Special Mineral/Aggregate Mining and/or Processing in the EFC District

Special Mineral/Aggregate Mining and/or Processing may be approved in the EFC district on a site that does not meet the minimum quantity threshold under OAR 660-023-0180(3)(a) that applies to significant aggregate resource sites in the Willamette Valley.

Section 430-130 provides associated standards intended to protect against undesirable impacts to neighboring properties and to ensure site reclamation for future reuse in a manner compatible with surrounding uses and consistent with provisions of the EFC district.

Standards and protections of CDC Section 379 and Statewide Planning Goal 5 that relate to significant mineral/aggregate resources do not apply to this use.

430-130.1 Exclusions

A land use permit is not required for mining operations meeting exclusion/exemption provisions outlined in OAR 632-030 and ORS 517. An exclusion certificate, issued by the Oregon Department of Geology and Mineral Industries (DOGAMI), is required for mining activity that removes less than five thousand (5000) cubic yards and affects less than one (1) acre of land within a twelve (12)-month period. Operators of mineral and aggregate operations who do not have a land use permit may be asked to provide evidence of an exclusion certificate. DOGAMI operating permits and County land use approval are required for mining activities that don't meet exclusion requirements noted above.

430-130.2 The following may be permitted through a Type I or II procedure, depending on and subject to criteria under Sections 342-2.8 or 342-3.1 D.:

One (1) detached dwelling unit for a caretaker or watchman and associated residential accessory structures, subject to the Fire Structure Siting and Fire Safety Standards of Section 428.

430-130.3 The following may be permitted through a Type III procedure:

A. Special Mineral/Aggregate Mining and/or Processing in the EFC District (including mining or quarrying operations for the extraction of rock, clay, soil, sand, gravel or other minerals) subject to the following:

- (1) Evidence from a certified geologist, mining engineer or qualified engineering testing firm verifying that mineral and aggregate supply within the subject site totals two (2) million tons or less;

- (2) Aggregate supply may, but is not required to, meet minimum Oregon Department of Transportation (ODOT) specifications for base rock air degradation, abrasion, and soundness;
- (3) In all cases, mining shall be limited to two (2) million tons of aggregate material over the duration of the operation when approved under a permit for Special Mineral/Aggregate Mining and/or Processing in the EFC District;
- (4) Through review and approval of a permit under 430-130.3 A., the following may be allowed:
 - (a) Crushing, washing and screening of mineral and aggregate materials;
 - (b) Stockpiling of mineral and aggregate materials and earth products;
 - (c) Storage of equipment or machinery and supplies necessary for mineral and aggregate extraction or processing;
 - (d) Sale of products produced from a mineral and aggregate extraction and processing operation; and
 - (e) An office, shop or other accessory structure used for the management and maintenance of mineral and aggregate extraction and processing equipment.

B. On a Special Mineral/Aggregate Mining and/or Processing site in the EFC district, but requiring review and approval as an additional land use action, the following may be allowed:

- (1) Batching and/or blending of mineral and aggregate (batch plant), subject to evidence that no planted vineyard is present within a two (2)-mile radius (ORS 215.301). Batch plants approved on or before October 3, 1989 and renewals of existing batch plant approvals are exempt from this limitation.

Site development and all new buildings, including accessory buildings, allowed through 430-130.3 shall comply with the Fire Structure Siting and Fire Safety Standards of Section 428.

430-130.4 An applicant shall submit plans for Special Mineral/Aggregate Mining and/or Processing in the EFC District that demonstrate compliance with plan requirements of CDC Sections 203-4.2 E., 403 and 404 and the following standards. Plans shall be prepared by a combination of certified professionals qualified to address plan requirements below (such as engineers including mining engineers, engineering testing firms, surveyors, geologists, and surveyors). Where the following standards exceed those of Sections 203-4.2 E., 403 and 404, the following standards shall prevail:

A. Plan details illustrating subject property boundaries, existing and proposed features onsite and within one thousand (1000) feet of the site, including but not limited to, dwellings, structures and other improvements, easements, driveways, water and sewer lines, wells, septic tanks and drain fields, flood plains and drainage hazard areas subject to Section 421 and all other drainage courses/streams/water areas, and significant natural resources identified by the Rural/Natural Resource Plan and Section 422, and information required under 430-130.4 B. through H., below.

B. Minimum Setbacks (except as increased by required compliance with Forest Structure Siting and Fire Safety Standards of Section 428)

(1) For mineral and aggregate extraction

(a) One hundred (100) feet from the subject site boundary, except as follows:

(i) Five hundred (500) feet from the nearest existing offsite noise sensitive use (see definition under Section 106-139);

(ii) Reduction of setbacks specified above may be considered as necessary to accommodate slope, geology, or other conditions of the site or vicinity. Consideration of the reduction shall be based on evidence that the proposed lesser setback is the minimum necessary, will not increase safety risks, and will not increase noise impacts to neighboring noise sensitive uses;

(iii) When abutting another approved quarry site, no setback is required from the common boundary line within the extraction area.

(2) For processing of mineral and aggregate materials

(a) One hundred (100) feet from exterior property lines, except as follows:

(i) Seven hundred fifty (750) feet from the nearest existing offsite noise sensitive use;

(ii) For any batch plant, two (2) miles from the nearest planted vineyard (ORS 215.301).

(3) Office, shop or other accessory structure serving the Special Mineral/Aggregate Mining and/or Processing operation

(a) Fifty (50) feet from exterior property lines;

(b) One hundred (100) feet from the nearest existing offsite noise sensitive use.

- (4) Detached dwelling unit or manufactured dwelling and related residential accessory structures for a caretaker or security guard: Subject to setbacks as required by CDC Section 342-7.2
- (5) Storage of operational or non-operational equipment for the production and/or processing of mineral and aggregate materials
 - (a) Fifty (50) feet from exterior property lines;
 - (b) One hundred (100) feet from the nearest existing offsite noise sensitive use.
- (6) Storage of overburden to be saved for reclamation uses may be allowed within setbacks, subject to conformance with a reclamation plan approved by DOGAMI (See 430-130.4 H. below)
- (7) All Special Mineral/Aggregate Mining and Processing, and associated improvements or activities, shall maintain a setback of at least one hundred (100) feet from significant natural resources and riparian corridors. Where setback requirements of other applicable CDC Sections, departments or agencies exceed this, the larger requirement shall apply.

C. Maximum Height: For all structures except mineral and aggregate processing equipment, thirty-five (35) feet.

D. Maximum Sign Area: Thirty-five (35) square feet per entrance.

E. Screening and Fencing

- (1) Screening and buffering shall be provided to screen the view of the site and all related equipment from any public road, any neighboring land use district other than EFC, AF-20 or EFU, and any existing noise sensitive use located within one thousand (1000) feet of the site as follows:
 - (a) The appropriate screening and buffering type in Section 411 shall be determined by the Review Authority. For the purpose of determining the appropriate type, mineral and aggregate extraction shall be considered an industrial use; and
 - (b) Indigenous plantings shall be preserved or established to contribute toward required screening and buffering wherever possible.
- (2) Fencing shall be required to eliminate any safety hazards that Special Mineral/Aggregate Mining and/or Processing uses may create for adjacent land uses. When fencing is required to eliminate a safety hazard, it shall be of cyclone type, a minimum of six (6) feet high. The location of fencing to eliminate a safety hazard shall be determined by the Review Authority, and the Review Authority may determine that material, height, and/or

design exceeding minimum specifications is required to address particular concerns.

F. Access

- (1) Plans and plan notes shall show the haul route within the site and between the site and the nearest paved public highway, including but not limited to:
 - (a) Identification as to public or private ownerships for all roads and bridges along the route. For any that are private, evidence of recorded easement rights in favor of the subject property is required;
 - (b) Width and surface material of existing and proposed roadways, with provisions for maintenance as described in Section 430-130.5 D.(2);
 - (c) Locations of all bridges and their weight restrictions;
 - (d) Locations of any water areas (including but not limited to rivers, creeks, streams) within two hundred fifty (250) feet of the route, and proposed sedimentation controls to protect them. Haul route sedimentation plans may be subject to review and approval by other agencies (including but not limited to DOGAMI or Department of Environmental Quality as part of their review);
 - (e) Locations of any Significant Natural Resource areas identified on the Rural/Natural Resource Plan within two hundred fifty (250) feet of the route; and
 - (f) Compliance with Section 428-4.5, Fire Safety Design Standards for Roads and Driveways.
- (2) Plans are subject to review by the County Operations and Traffic Engineering Divisions to determine whether roads and bridges within haul routes are adequate to support hauling as proposed, and conditions related to associated maintenance and/or repair needs. (See additional requirements under Section 501-9).

G. Sufficient onsite parking/storage areas, or evidence of alternate Code-compliant off-road storage, for all hauling vehicles and trailers. (See Section 413 for parking standards).

H. Site Reclamation

A copy of the site reclamation plan, required as part of the application for a surface mining operating permit from Oregon Department of Geology and Mineral Industries (DOGAMI), shall be submitted. The plan shall demonstrate that the site will be reclaimed for land uses specified in the EFC district other than mining. The plan shall be prepared by the applicant or the applicant's agent and approved by the State of Oregon Department of Geology and Mineral

Industries pursuant to ORS 517 and the standards and procedures contained in OAR 632-030 or 035, whichever is applicable. If the reclamation plan is not approved by DOGAMI prior to submission of the land use application to Washington County, the applicant shall include in the land use application a preliminary version of the plan, and shall provide Washington County with evidence of DOGAMI's plan approval prior to operation of the Special Mineral/Aggregate Mining and/or Processing use.

DOGAMI reclamation plan requirements generally call for the following at minimum, on a stamped survey, prepared by a professional land surveyor on a topographic base map (consult DOGAMI for complete specifications):

- (1) Tax lot number(s);
- (2) Permit boundary;
- (3) Location of plant, office, and maintenance facilities;
- (4) Locations of all intermittent water courses, perennial streams, springs, wetlands, and wells;
- (5) Present mine areas and future mining blocks;
- (6) Areas for topsoil and overburden storage or spoil locations, including berms;
- (7) Location of all proposed access roads;
- (8) All property lines within five hundred (500) feet of the permit boundary;
- (9) Location of processing and stockpile areas, plus visual and sound berms or screens;
- (10) Setbacks from property lines, streams;
- (11) Utility poles, gas line rights-of-way; and
- (12) Storage location of chemicals and petroleum products.

430-130.5 Special Mineral/Aggregate Mining and/or Processing in the EFC District shall be subject to the following:

A. Hours of Operation

- (1) General business operations, including hauling:
 - (a) Limited to 7 a.m. to 7 p.m. Monday through Sunday, except as indicated in 430-130.5 A.(1)(b) through (5), below;

- (b) Not permitted on Sunday if a noise sensitive use exists within one thousand (1000) feet of the property boundary;
- (c) Not permitted on the following holidays:
 - (i) January 1;
 - (ii) Memorial Day;
 - (iii) July 4;
 - (iv) Labor Day;
 - (v) Thanksgiving Day;
 - (vi) December 25.
- (2) Extraction and processing work, including but not limited to ripping, drilling, crushing, and batching, but excluding blasting:
 - (a) Limited to 7 a.m. to 7 p.m. Monday through Friday;
 - (b) Not permitted on Saturday, Sunday, or holidays listed under 430-130.5 A.(1)(c).
- (3) Blasting:
 - (a) Limited to 9 a.m. to 6 p.m. Monday through Friday;
 - (b) Not permitted on Saturday, Sunday, or holidays listed under 430-130.5 A.(1)(c);
- (4) The Review Authority may grant exceptions to the restrictions under 430-130.5 A.(1) through (3) via a Type II procedure pursuant to the following:
 - (a) There are no noise sensitive uses located within one thousand (1000) feet of the mining site; or
 - (b) If noise sensitive uses are located within one thousand (1000) feet of the mining site, the increased activity will not exceed noise standards established by the Department of Environmental Quality; or
 - (c) In the case of blasting, the operator shall be responsible for notifying noise sensitive uses within one thousand (1000) feet by first class mail which is mailed at least ninety-six (96) hours prior to the date and approximate time of the blasting activity for which the operator receives an exception.

- (5) The Review Authority may grant exceptions to the restrictions under 430-130.5 A.(1) through (3) via a Type I procedure when additional hours of operation are needed to accommodate increased production to alleviate a public emergency. A public emergency includes damage to a public road/structure that requires significant amounts of aggregate for repair or rebuilding.

B. Environmental Standards

- (1) Special Mineral/Aggregate Mining and/or Processing in the EFC District shall conform to the applicable standards as set forth in Section 423 Environmental Performance Standards; and
- (2) The applicant shall submit a report from a certified geologist, engineer or hydrologist examining the potential impact of mineral and aggregate resources on groundwater supplies and wells in the surrounding area.

C. Safety Standards

- (1) All buildings, structures, and equipment associated with Special Mineral/Aggregate Mining and/or Processing shall be maintained in a manner that assures they will not become hazardous; and
- (2) Access to all Special Mineral/Aggregate Mining/Processing sites shall be gated and locked when not in operation.

D. Other

- (1) The applicant must provide evidence and findings demonstrating that:
- (a) The proposed use will be compatible with and have minimal impact on the livability and allowable development/use of nearby property;
- (b) A septic system or other means of sewage management will be provided that is acceptable to the Washington County Department of Health & Human Services. Approved septic/sewage management shall be available onsite prior to commencement of mining operations;
- (c) Rights have been obtained for an adequate supply of potable water from an approved water source if needed for the use;
- (d) The site is not located within a mapped geologic hazard area unless it is demonstrated that the proposal can be designed and engineered to comply with accepted hazard mitigation requirements;
- (e) The site is not located within a mapped 100-year flood plain or drainage hazard area unless it is demonstrated that the proposal can be designed and engineered to comply with Section 421; and

- (f) The proposal will not have a significant adverse impact on sensitive fish or wildlife habitat. See CDC Section 422 if site development/operation will occur within two hundred fifty (250) feet of a Significant Natural Resource identified on the Rural/Natural Resource Plan.
- (2) The Special Mineral/Aggregate Mining and/or Processing site operator shall ensure that:
- (a) All private access roads from the site to public highways, roads or streets are paved or graveled. If graveled, the site operator shall grade and oil access roads as needed during the period from June to September to minimize dust;
- (b) If access from a Special Mineral/Aggregate Mining and/or Processing site uses graveled public highways, roads or streets, the site operator shall grade and oil these roadways regularly to the extent needed to minimize impacts on adjacent land uses.
- (3) A land use permit does not constitute authorization to proceed without required approval of other agencies, including but not limited to DOGAMI and the Department of Environmental Quality (DEQ). It is the applicant's responsibility to obtain other necessary permits and approvals.

E. Performance Agreement

- (1) The operator of a Special Mineral/Aggregate Mining and/or Processing site shall provide the County sufficient evidence on an annual basis that the operator has in full force and effect the bond or security deposit required by ORS 517.810 to assure conformance with the state-required reclamation plan.
- (2) A Special Mineral/Aggregate Mining or Processing operation shall at all times carry commercial general liability insurance in dollar amounts of at least one (1) million per occurrence, two (2) million aggregate, and five (5) million excess coverage, or industry standard (whichever is higher). The policy shall be renewed annually with proof of such submitted annually to the Current Planning Section.
- (3) Failure to maintain compliance with (1) and (2), above, shall constitute a violation of the permit for Special Mineral/Aggregate Mining and/or Processing in the EFC District.

F. Initiation of Mining

- (1) The operator shall initiate mining approved under a permit issued pursuant to Section 430-130 within two (2) years of the date the land use permit is

issued, unless an application for an extension is approved pursuant to Section 201-5.

- (2) When mining approved via Section 430-130 has not been initiated within the time period set forth in Subsection (1), above, no mining may be initiated unless a new land use application has been submitted and approved.

G. Periodic Review and Enforcement

(1) Six (6)-Month Review (Type II)

- (a) Within six (6) months of commencing a Special Mineral/Aggregate Mining/Processing operation, the operator shall submit appropriate evidence, prepared by qualified personnel, documenting that the operation conforms to the standards contained in Section 430-130 and other applicable standards imposed by the Review Authority.
- (b) Should the documentation required by (1)(a), above, fail to establish that the operation conforms to the applicable standards, the operator shall be given sixty (60) days in which to make necessary modifications. Should the operator fail to make the necessary modifications within the allotted sixty (60) day period, the Planning Director shall begin revocation proceedings as outlined in Section 201-7.

(2) Five (5)-Year Reviews (Type II)

- (a) In addition to the review required in Section 430-130.5 G.(1), above, any permit issued for Special Mineral/Aggregate Mining and/or Processing in the EFC District shall be reviewed every five (5) years from the date of its initial approval, to determine whether additional conditions are necessary to bring the operation into compliance with applicable land use regulations. The applicant shall submit an application for this review every five (5) years, prior to the date of initial approval, including evidence of compliance with conditions of approval.

Notwithstanding this periodic review, the permit may be reviewed by the Director at any time deemed necessary if evidence exists that the operation is not in compliance with conditions of approval or otherwise generates impacts in conflict with standards of Section 430-130. If an operation is determined not in compliance with the conditions of approval, revocation and enforcement proceedings as outlined in Sections 201-7 and 215 apply.

The applicant is responsible for submitting an application prior to expiration of the most recent approval every five (5) years.

(b) The Director shall notify the operator no less than sixty (60) days prior to the date of each scheduled five (5)-year review.

H. The Review Authority may, at its discretion, apply additional performance or development standards to the permit and operations associated with this use.

I. Enforcement

The Director or his/her authorized designee, or a duly authorized peace officer, may issue a Uniform Citation for violation of Section 430-130, as provided for in Section 215, Enforcement.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action – Land Use & Transportation (All CPOs)

Agenda Title: ADOPT FINDINGS FOR ORDINANCE NO. 824

Presented by: Andrew Singelakis, Director of Land Use & Transportation

SUMMARY:

Ordinance No. 824 amends the Rural/Natural Resource Plan and the Community Development Code to allow Special Use (SU) mineral and aggregate operations in the Exclusive Forest and Conservation (EFC) district. A stable aggregate supply is essential to public and private development. This ordinance is part of the County's effort to increase access to local mineral and aggregate sources, especially for construction, upkeep and repair of roads and other transportation facilities throughout the County.

Ordinance No. 824 is posted on the County's land use ordinance webpage at the following link:

www.co.washington.or.us/landuseordinances

Post acknowledgment comprehensive plan amendments are amendments made to the County's Comprehensive Plan after it was acknowledged by the State Department of Land Conservation and Development as complying with the Statewide Planning Goals. ORS 197.615 requires such amendments be accompanied by findings to set forth the facts and analysis showing the amendments are consistent with the applicable Statewide Planning Goals, Oregon Revised Statutes, State Administrative Rules and the applicable provisions of Washington County's Comprehensive Plan.

Attached is the Resolution and Order to adopt the findings for Ordinance No. 824. Prior to the September 5, 2017 meeting, the proposed findings will be provided to the Board, posted on the above land use ordinance webpage, and available at the Clerk's desk.

Attachment: Resolution and Order

RO Exhibit A (Ordinance Findings) is linked online.

DEPARTMENT'S REQUESTED ACTION:

Adopt the findings for Ordinance No. 824 and authorize the Chair to sign the Resolution and Order memorializing the action.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

RO 17-95

| | |
|-----------------|-------------|
| Agenda Item No. | <u>6.b.</u> |
| Date: | 09/05/17 |

IN THE BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

In the Matter of Adopting) RESOLUTION AND ORDER
Legislative Findings in Support)
of Ordinance No. 824) No. **17-95**

This matter having come before the Washington County Board of Commissioners at its meeting of September 5, 2017; and

It appearing to the Board that the findings contained in "Exhibit A" summarize relevant facts and rationales with regard to compliance with the Statewide Planning Goals, Oregon Revised Statutes and Administrative Rules, and Washington County's Comprehensive Plan relating to Ordinance No. 824; and

It appearing to the Board that the findings attached and herein incorporated as "Exhibit A" constitute appropriate legislative findings with respect to the adopted ordinance; and

It appearing to the Board that the Planning Commission, at the conclusion of its public hearing on August 2, 2017, made a recommendation to the Board which is in the record and has been reviewed by the Board; and

It appearing to the Board that, in the course of its deliberations, the Board has considered the record which consists of all notices, testimony, staff reports, and correspondence from interested parties, together with a record of the Planning Commission's proceedings, and other items submitted to the Planning Commission and Board regarding this ordinance; it is therefore,

RESOLVED AND ORDERED that the attached findings in "Exhibit A" in support of Ordinance No. 824 are hereby adopted.

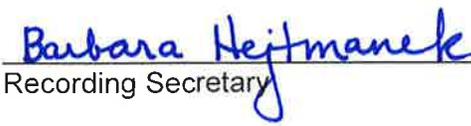
DATED this 5th day of September, 2017.

BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

| | AYE | NAY | ABSENT |
|------------|-----|-----|--------|
| DUYCK | ✓ | — | — |
| SCHOUTEN | ✓ | — | — |
| MALINOWSKI | ✓ | — | — |
| ROGERS | ✓ | — | — |
| TERRY | ✓ | — | — |


Chairman

APPROVED AS TO FORM:



Recording Secretary

County Counsel
For Washington County, Oregon

EXHIBIT A

FINDINGS FOR ORDINANCE NO. 824

AN ORDINANCE AMENDING THE RURAL/NATURAL RESOURCE PLAN AND THE COMMUNITY DEVELOPMENT CODE RELATING TO MINERAL AND AGGREGATE MINING AND PROCESSING IN THE EXCLUSIVE FOREST AND CONSERVATION DISTRICT

September 5, 2017

Part 1 – General Findings

Part 2 – Statewide Planning Goal Findings

Part 3 – Urban Growth Management Functional Plan Findings

Part 4 – Metro Regional Transportation Plan Findings

Part 1:

GENERAL FINDINGS

Ordinance No. 824 amends the Community Development Code (CDC) to allow a new Special Use (SU): Special Mineral/Aggregate Mining and/or Processing in the Exclusive Forest and Conservation (EFC) District. The ordinance also makes minor clarifications in the CDC and Rural/Natural Resource Plan (RNRP).

The County and state recognize that a stable supply of aggregate, available from sources relatively near worksites, is necessary for maintaining adequate public transportation infrastructure. Existing CDC standards for mineral/aggregate operations address only large sites meeting basic quantity and quality thresholds specified by the state for determination as “significant” protected resources. Washington County lacks sites that are known to meet these thresholds. Statewide Planning Goal 4 [Forest Lands – OAR 660-006-0025(4)(g)] allows approval of quarries on forest lands through a conditional use process that differs from the process required for significant quarries. Consistent with that OAR, Ordinance No. 824 is intended to provide a conditional use review process for quarries that do not meet state minimums for significance and protection, but may still provide feasible alternative sources of needed aggregate. The ordinance also serves to increase potential for a better distribution of aggregate sites.

Key Ordinance Provisions

Ordinance No. 824 amends the CDC and the RNRP as follows:

- Provides a Type III SU process for conditional approval of Special Mineral/Aggregate Mining and/or Processing in the EFC District (hereafter referred to as SU quarries), as allowed by state law and similar to practices of other Oregon counties, on EFC sites where aggregate material does not meet state thresholds for protection as a significant Goal 5 resource

- Limits SU quarries to 2 million tons of aggregate supply over the life of the operation
- Provides minor clarifications to distinguish new CDC provisions for SU quarries from existing provisions that apply to quarries considered significant Goal 5 resources
- Requires that the SU quarry not significantly elevate fire risk or the expense of fire suppression on surrounding lands, or the cost of nearby farm/forest operations
- Applies other approval criteria and conditions intended to determine compatibility with nearby land uses; and to protect surrounding lands, water sources, natural resources, and transportation improvements from impacts of the SU quarry

Amendments to the RNRP affect Policy 7 (Mineral and Aggregate Resources) and Appendix A (Glossary). Amendments to the CDC affect Sections 110 (Transition to Development Code), 203 (Processing Type I, II and III Development Actions), 300 (Introduction), 342 (Exclusive Forest and Conservation District/EFC), 379 (Mineral and Aggregate Overlay District), and 430 (Special Use Standards).

Because the ordinance would make changes that do not affect compliance with Oregon's Statewide Planning Goals (Goals), it is not necessary for these findings to address the Goals with respect to each amendment. The Washington County Board of Commissioners (Board) finds that the Goals apply to amendments covered by these findings only to the extent noted in specific responses to individual applicable Goals, and that each amendment complies with the Goals. Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Shorelands), 18 (Beaches and Dunes), and 19 (Ocean Resources) and related Oregon Administrative Rules (OAR) are not addressed because these resources are not located within Washington County.

The County is also required to make findings that the amendments are consistent with the requirements of Metro's Urban Growth Management Functional Plan (UGMFP) and Regional Transportation Plan (RTP). These findings are addressed in this document.

The Board finds that Statewide Planning Goal 14 (Urbanization) is not applicable because the land use district (EFC) affected by this ordinance applies to land outside the urban growth boundary. Additionally, Statewide Planning Goal 3 (Agricultural Lands) does not apply because proposed changes are not applicable to resource farmlands (EFU and AF-20).

Part 2:

STATEWIDE PLANNING GOAL FINDINGS

The purpose of the findings in this document is to demonstrate that Ordinance No. 824 is consistent with Statewide Planning Goals (Goals), Oregon Revised Statutes (ORS), Oregon Administrative Rule (OAR) requirements, Metro's Urban Growth Management Functional Plan (UGMFP), and Washington County's Comprehensive Plan (Plan). The County's Plan was adopted to implement the aforementioned planning documents and was acknowledged by the State of Oregon. The County follows the post-acknowledgement plan amendment (PAPA) process to update the Plan with new state and regional regulations as necessary and relies in part upon these prior state review processes to demonstrate compliance with all necessary

requirements. No goal compliance issues were raised in the hearing proceedings described below. Ordinance No. 824 makes no amendments to maps within the Plan, and changes to Plan text do not implicate a goal compliance issue. The following precautionary findings are provided to demonstrate ongoing compliance.

Goal 1 - Citizen Involvement

Goal 1 addresses Citizen Involvement by requiring the implementation of a comprehensive program to stimulate citizen participation in the planning process. Washington County has an acknowledged citizen involvement program that provides a range of opportunities for citizens and other interested parties to participate in all phases of the planning process. In addition, Chapter X of the County's Charter sets forth specific requirements for citizen involvement during review and adoption of land use ordinances. Washington County has followed these requirements for the adoption of Ordinance No. 824.

In addition to providing standard notice that invites public comment/participation, staff gathered perspectives from an array of stakeholders who are knowledgeable about and/or affected by mineral and aggregate operations, including the County's Rural Roads Operations and Maintenance Advisory Committee, several quarry operators and residents who live near existing quarries, and representatives from two timber companies, a number of state agencies, and various Oregon counties. Ordinance No. 824 was also described on the County's website, where a comment box was provided.

Goal 2 - Land Use Planning

Goal 2 addresses Land Use Planning by requiring an adequate factual base to support a decision as well as coordination with affected governmental entities. Washington County has an acknowledged land use planning process that provides for the review and update of the various elements of the Plan, which includes documents such as the RNRP, Comprehensive Framework Plan for the Urban Area (CFP), Community Plans, CDC, and Transportation System Plan (TSP). Washington County utilized this process to adopt Ordinance No. 824.

Notice was coordinated with all affected governmental entities. Comments relevant to Ordinance No. 824 were considered/addressed either as part of the proceedings or with subsequent staff coordination. Comments relevant to a potential 2018 ordinance addressing Goal 5 quarries have been retained for further reference next year.

Goal 4 – Forest Lands

Goal 4 (OAR 660-006) addresses the conservation of forest lands by maintaining the forest land base and protecting the state's forest economy by making possible economically efficient forest practices. Policy 16, Implementing Strategies (a) and (c) of the RNRP include provisions for the conservation and maintenance of forest lands.

A provision of Goal 4 [OAR 660-006-0025(4)(g)] allows aggregate mining in forest zones as a conditional use, subject to evidence of compatibility with surrounding uses and findings that the operation will not significantly elevate fire risk, the expense of fire suppression, or the cost of nearby farm/forest operations. This is subject to the land owner's recorded written

acknowledgement of the rights of nearby land owners to conduct forest operations consistent with the Forest Practices Act (ORS 527). Standards within Ordinance No. 824 provide for a conditional use/special use process that addresses these requirements. The Forest Practices Act allows mineral and aggregate operations on forest land and does not prohibit local governments from regulating such operations when they are not auxiliary to forest practices [ORS 527.722 (2)(e)]. Ordinance No. 824 therefore maintains compliance with Goal 4 Forest Land provisions.

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

Goal 5 addresses the protection of natural resources and the conservation of scenic, cultural, and historic areas and open spaces by requiring local programs to protect these resources in order to promote a healthy environment and natural landscape that contributes to Oregon’s livability for present and future generations.

In addition, OAR 660-023-0250 requires application of current Goal 5 provisions to post-acknowledgment plan amendments (PAPAs) when the PAPA 1) creates or amends a resource list or a portion of an acknowledged plan or land use regulation that protects a significant Goal 5 resource, or 2) allows new uses that could be conflicting uses with a particular Goal 5 site.

Policies 10, 11 and 12 of the CFP, Policies 7, 9, 10, 11, 12 and 13 of the RNRP, various portions of the Community Plans, and sections of the CDC include provisions for the protection of Goal 5 resources.

Consistent with Goal 4, Ordinance No. 824 provides for conditional use/special use review of mineral and aggregate operations on forest land. Proposed standards apply only to EFC sites where aggregate supply does not meet basic state thresholds for review and protection as a significant Goal 5 resource in the Willamette Valley. No PAPA is required since mineral/aggregate operations reviewed through the proposed process are not eligible for Goal 5 aggregate resource protections, and therefore would not be shown on the County’s CFP as protected resource areas. Despite lack of Goal 5 protection for aggregate at the subject site, a mineral/aggregate operation reviewed through the proposed conditional use process would still be subject to standards protecting against its potential impacts on Goal 5 resources otherwise identified in the area (per CDC Section 422 and the RNRP). Ordinance No. 824 therefore maintains compliance with Goal 5 provisions.

Goal 6 - Air, Water and Land Resources Quality

Goal 6 requires the maintenance and improvement of the quality of the air, water and land resources of the state through the implementation of local plans that address discharge and waste. Policies 4, 5, 6 and 7 of the CFP and Policies 4, 5, 6, and 7 of the RNRP provide for the maintenance and improvement of the quality of air, water and land resources.

Mineral/aggregate operations require permits from the Department of Geology and Mineral Industries (DOGAMI). Department of Environmental Quality (DEQ) permits, in many cases issued by DOGAMI, addresses discharge and sedimentation. Ordinance 824 includes provisions intended to ensure protection of Flood Plain and Drainage Hazard Area Development and Significant Natural Resources through CDC Sections 421 and 422, and to facilitate protections

applied through above noted (and other) regulatory agencies. Existing CDC Section 423 (Environmental Performance Standards) further mandates compliance with air quality, drainage and wastewater requirements of DEQ. Additionally, the proposed ordinance includes a number of related requirements aimed at ensuring compatibility of the proposed use with surrounding lands and resources. Ordinance No. 824 therefore complies with Goal 6 provisions.

Goal 7 - Areas Subject to Natural Hazards

Goal 7 requires the implementation of local land use programs that reduce the risk to people and property from natural hazards such as floods, landslides and earthquakes. Policy 8 of the CFP and Policy 8 of the RNRP set out the County's policy to protect life and property from natural disasters and hazards. Existing CDC Sections 410 (Grading and Drainage) and 421 (Flood Plain and Drainage Hazard Area Development) apply related standards. Ordinance 824 does not affect application of above noted requirements, and therefore maintains compliance with Goal 7 provisions.

Goal 8 - Recreational Needs

Goal 8 requires local jurisdictions to satisfy the recreational needs of citizens and visitors by planning and providing for the siting of necessary recreational facilities. Policies 33, 34 and 35 of the CFP, Policy 24 of the RNRP and the individual Community Plans address the recreational needs of Washington County's residents and visitors.

Ordinance No. 824 does not affect the County's ability to plan for recreational sites or facilities. Since SU quarries are not treated as significant Goal 5 aggregate resources, this ordinance does not require amendments to the County's Comprehensive Plan to identify their locations as protected areas, and rural land is not formally removed from eligibility for recreational planning. The ordinance establishes a conditional use process for review of individual SU quarries. The process requires compatibility with nearby uses, which would include recreational uses. Ordinance No. 824 maintains compliance with Goal 8.

Goal 9 – Economic Development

Goal 9 requires the provision of adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of citizens. Policy 20 of the CFP and Policies 15, 16, 20 and 21 of the RNRP set out the County's policies to strengthen the local economy. The CDC contributes to a sound economy by providing standards that facilitate development in an orderly and efficient fashion.

The 2007 Governor's policy briefing on Aggregate Resources in Oregon recognizes that a stable source of quality aggregate for maintaining adequate public transportation infrastructure is vital to economic growth. Additionally, a 2005 projection by the OSU Institute for Natural Resources suggested that 50 percent of statewide demand for aggregate would be needed within the urbanizing Willamette River Basin. Consistent with Goal 9, Ordinance No. 824 is part of efforts to increase access to local mineral and aggregate sources needed for ongoing transportation infrastructure projects, and residential and commercial development in and around Washington County during a time of vigorous economic growth.

Goal 10 - Housing

Goal 10 requires the provision of housing, including adequate numbers of units within a range of prices, types and densities that provide realistic options to meet citizen needs. Policies 21, 22, 23 and 24 of the CFP, and Policies 19 and 25 of the RNRP address the provision of housing in the urban and rural areas of the County. The CDC contributes to the provision of adequate housing by establishing standards that facilitate development in an orderly and efficient fashion.

Since SU quarries are not treated as significant Goal 5 aggregate resources, this ordinance does not require amendments to the County's Plan to identify their locations as protected areas that would preclude other types of development allowed in the district; and does not require restrictions against "noise sensitive uses" such as housing along the boundaries of SU quarry sites. Further, the ordinance does not preclude establishment of a home on a site approved for an SU quarry when CDC standards applicable to a new home on an EFC site can be met. The ordinance establishes a conditional use process for review of individual SU quarries, and a proposal must establish compatibility with nearby uses, including residential uses. Ordinance No. 824 maintains compliance with Goal 10.

Goal 11 - Public Facilities and Services

Goal 11 requires a plan for the orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Policies 15, 25, 26, 27, 28, 29, 30 and 31 of the CFP, and Policy 22 of the RNRP address the provision of public facilities and services in the urban and rural areas of unincorporated Washington County. The CDC requires that adequate public facilities and services be available for new development.

Ordinance No. 824 does not amend the applicable Plan policies or CDC standards relating to public facilities and services. Consistent with Goal 11, the ordinance may increase access to aggregate necessary for all new development, and for construction and maintenance of public transportation facilities needed to serve new development. Further, given no requirement for a plan amendment (as described under Goal 10, above), Ordinance No. 824 does not preclude establishment of public facilities or services to serve new development near an SU quarry site. See also, findings under Goal 9, above.

Goal 12 - Transportation

Goal 12 requires the provision and encouragement of a safe, convenient, multimodal and economic transportation system. Policy 32 of the CFP, Policy 23 of the RNRP, and in particular the Washington County Transportation System Plan (TSP), describe the transportation system necessary to accommodate the transportation needs of Washington County. Implementing measures are contained in the TSP, RNRP, Community Plans, and the CDC.

Ordinance No. 824 does not amend transportation provisions of the TSP, RNRP, Community Plans, or the CDC. The ordinance could, however, facilitate maintenance and construction of transportation system elements because it may increase the supply of aggregate needed for such projects and allow for sources nearer to various transportation facility construction sites.

The amendments are consistent with the County’s acknowledged policies and strategies for the provision of transportation facilities and services as required by Goal 12 (the Transportation Planning Rule or TPR, implemented via OAR Chapter 660, Division 12). A brief summary of the applicable TPR provisions and related findings of compliance follows:

OAR 660-012-0060 sets forth requirements for plan and land use regulation amendments.

The amendments in Ordinance No. 824 do not significantly affect the transportation system as described by the criteria in OAR 660-012-0060. The amendments in Ordinance No. 824 do not change the functional classification of an existing or planned transportation facility; change standards implementing a functional classification system; result in types or levels of travel or access that are inconsistent with the adopted functional classification system designated by the acknowledged TSP for any existing or planned transportation facility; or degrade the performance of any existing or planned transportation facility. Therefore, the amendments in Ordinance No. 824 are consistent with the TPR.

Goal 13 - Energy Conservation

Goal 13 requires developed land uses to be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles. Policies 36, 37, 38, 39 and 40 of the CFP, and Policy 25 of the RNRP address energy conservation in the urban and rural areas of unincorporated Washington County. The CDC implements the energy conservation policies by establishing standards that promote energy efficient development, especially in Article IV.

Ordinance No. 824 does not relate significantly to energy-efficient development on SU quarry sites, but does provide potential for energy conservation. Currently, locations to obtain aggregate are not well dispersed geographically throughout the county. Heavy aggregate must often be hauled, primarily from locations in the southeastern part of Washington County and in Columbia County, to County road improvement sites that are a significant distance away. In part, Ordinance No. 824 seeks to increase access to aggregate sources nearer to worksites, especially in the western part of the county, which could significantly reduce related fuel consumption consistent with the energy conservation intent of Goal 13.

Part 3:

URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN FINDINGS

Section 3.07.810 of Title 8 of Metro’s Urban Growth Management Functional Plan (UGMFP) requires that County comprehensive plan changes be consistent with the UGMFP. The following Ordinance No. 824 findings have been prepared to address Title(s) 3, 8 and 12 of the UGMFP.

Title 3 - Water Quality and Flood Management

Title 3 protects beneficial water uses and functions and values of resources within Water Quality and Flood Management Areas by limiting or mitigating impacts from development activities and protecting life and property from dangers associated with flooding. See findings within Part 2 under Goal 7, above, which also establish compliance with Title 3 of the UGMFP.

Title 8 - Compliance Procedures

Title 8 sets forth Metro's procedures for determining compliance with the UGMFP. Included in this title are steps local jurisdictions must take to ensure that Metro has the opportunity to review amendments to comprehensive plans. Title 8 requires jurisdictions to submit notice to Metro at least 35 days prior to the first evidentiary hearing for a proposed amendment to a comprehensive plan.

Consistent with Title 8, a copy of proposed Ordinance No. 824 was mailed June 27, 2017, to Metro, 36 days prior to the first evidentiary hearing. Metro provided no comments on Ordinance No. 824.

Title 12 – Protection of Residential Neighborhoods

Title 12 protects existing residential neighborhoods from air and water pollution, noise and crime, and provides adequate levels of public services.

Ordinance No. 824 applies only to lands designated EFC. All EFC sites are outside the urban growth boundary. An EFC site that is the subject of an application for a mineral/aggregate operation through SU quarry provisions of Ordinance No. 824, however, may be in the vicinity of residential uses, urban or rural, depending on its proximity to the urban growth boundary. As a Type III conditional use, the County may determine whether a proposal is appropriate for a site and neighborhood or not, and attach conditions if approved, to minimize off-site impacts and preserve assets of community interest. Consistent with Title 12, standards of the ordinance focus largely on compatibility issues and protections from impacts of a proposed mineral/aggregate operation on surrounding uses, including residential uses, considering possible effects on livability, water sources, natural resources, roads, hours when noise generating activities may occur, and other factors important to residential neighborhoods.

Part 4: REGIONAL TRANSPORTATION PLAN FINDINGS

This section addresses the consistency of Ordinance No. 824 with the applicable policies of Metro's Regional Transportation Plan (RTP). The Board finds that the RTP applies to the amendments covered by these findings only to the extent noted in specific responses to the applicable elements of this plans, as provided below, and that the amendments comply with the applicable goals and policies of the RTP.

Ordinance No. 824 will only allow Special Mineral/Aggregate Mining and/or Processing outside the UGB in the EFC district. Truck traffic associated with such activities may traverse the urban area and may impact urban roadways. These activities are expected to remain consistent with the adopted and acknowledged TSP. As described above under Goal 12, Ordinance No. 824 does not make amendments to transportation system designations. Furthermore, the amendments adopted by Ordinance No. 824 do not significantly affect the transportation system as described by the criteria in OAR 660-012-0060 or the Regional Transportation Functional Plan. Ordinance No. 824 maintains compliance with the RTP based on these findings and related findings in Part 2 under Goals 9, 11 and 12.