August 29, 2017

To: Washington County Board of Commissioners
From: Andy Back, Manager Planning and Development Services

Subject: PROPOSED LAND USE 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

STAFF REPORT

For the September 5, 2017 Board of Commissioners Hearing
(The public hearing will begin no sooner than 10:00 a.m.)

I. STAFF RECOMMENDATION

Conduct the public hearing; at the conclusion of the hearing adopt Ordinance No. 824 as filed.

II. PLANNING COMMISSION RECOMMENDATION

At the August 2, 2017 Planning Commission (PC) hearing, the PC voted 9-0 to recommend approval of Ordinance No. 824.

III. OVERVIEW

Ordinance No. 824 proposes adoption of Community Development Code (CDC) standards to allow Special Use (SU) mineral and aggregate operations in the Exclusive Forest and Conservation (EFC) district. Ordinance No. 824 also provides minor clarifications in the CDC and Rural/Natural Resource Plan (RNRP) to distinguish between proposed SU standards and existing mineral/aggregate-related provisions that would not apply to SU operations. The ordinance is part of efforts to increase access to local mineral and aggregate sources for construction, upkeep and repair of roads and other transportation facilities throughout the County.

This report provides background on the ordinance, important considerations and stakeholder input that went into its development, discussion of existing and proposed provisions related to mineral/aggregate operations, an outline of PC discussion topics, information on public testimony with staff responses, and a summary of proposed changes.

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning
155 N. First Ave., Suite 350, MS14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us
IV. BACKGROUND

The state’s Planning for Aggregate guide describes aggregate as sand, gravel, and crushed rock used to construct roads, foundations, buildings and other structures. The state and the County recognize aggregate as essential to development, both public and private. To ensure adequate provision of transportation infrastructure needed to support economic growth, state policy prioritizes development of a stable aggregate supply, available from sources near worksites.

Existing CDC standards for mineral/aggregate operations were created in 1983. They address only large quarries that meet quantity and quality thresholds specified by the state\(^1\) for determination as significant protected resources. For the purposes of this report these are considered “significant quarries.”

County standards for significant quarries apply a complex review process, requiring:
1. A Type IV legislative amendment to the County’s Comprehensive Plan, to show the quarry site as a protected (Goal 5) resource, and to show bordering lands where uses that might impact quarry activities may be restricted; and
2. A subsequent land use application to permit operation of the quarry.

Currently Washington County gets most of its aggregate from a significant quarry in the Cooper Mountain area and from Columbia County. Early requests for this ordinance came from the Department of Transportation (ODOT) in 2009 and owners of Manning Rock in 2011. Both had aggregate sites well west of current suppliers, but not eligible for approval under existing County standards. The ODOT site could not meet the quality threshold for consideration as a significant quarry. Reports on the Manning Rock site indicated slightly less quantity than required for significant quarry approval, but high quality material.

ODOT and Washington County Department of Land Use & Transportation’s Engineering and Construction Services (ECS) Division have raised concerns that supply and locations of significant quarries are inadequate to meet the needs of ongoing regional road and bridge projects. They report a particular need for new aggregate sources in westerly parts of the county.

Addressing these issues is a challenge, in part because Washington County lacks:
- New sites known to meet thresholds for approval as significant quarries, particularly a required aggregate minimum of 2 million tons; and
- Standards by which to approve quarries, such as Manning Rock, that can’t qualify as significant.

\(^1\) Related to an inquiry at the August 2, 2017 PC hearing, the state’s minimum quality and quantity specifications that are prescribed by OAR 660-023-0180 are applicable to the land use review. After a local jurisdiction grants land use approval, an operation and reclamation permit is required from DOGAMI for mining that exceeds one acre and/or 5,000 cubic yards of new disturbance in a consecutive 12-month period. Besides the threshold triggering permit requirement, DOGAMI does not apply a minimum quality/quantity requirement for approval.
Statewide Planning Goal 4 [Forest Lands – OAR 660-006-0025(4)(g)], however, allows approval of quarries on forest lands through a **conditional use** process that differs from the process required for significant quarries. Quarries addressed through the conditional use process will be called “special use quarries” or “SU quarries” for the purposes of this report.

After several years on the Work Program, mineral/aggregate ordinance work has been elevated by the Board from a Tier 2 to a Tier 1 task based on growing concerns over demand in a vigorous economy.

The current ordinance proposing SU quarry standards is the first of two potential phases intended to increase access to needed aggregate. A potential Phase 2 is intended for consideration in the 2018 Work Program, to analyze existing County standards for significant quarries in relation to current state law, and to propose related updates. That phase may also provide opportunity to refine the new SU standards based on what is learned from their application to specific cases, and as considered practical after continued evaluation of state provisions.

**Ordinance Notification**

Ordinance No. 824 and an accompanying summary were mailed June 30, 2017 to community participation organizations (CPOs) and interested parties. A display advertisement regarding the proposed ordinance was published July 14, 2017 in *The Oregonian* newspaper. Individual Notice 2017-05 describing proposed Ordinance No. 824 was mailed July 14, 2017 to 327 people on the General Notification List. A copy of this notice was also mailed to the Planning Commission at that time. Ordinance No. 824 was also described on the County’s website, where a comment box was provided.

V. **ANALYSIS**

Consistent with OAR 660-006-0025(4)(g), Ordinance No. 824 is intended to provide a conditional use/special use review process for quarries, only in the EFC district, that do not meet state minimums for significance and protection. Such quarries may still provide feasible alternative sources of needed aggregate. As previously noted, these are referred to as SU quarries within this report.

**Important Considerations**

A number of challenges are inherent to development of mineral/aggregate standards, mostly due to competing concerns:

- The need to increase access to aggregate materials through allowance of quarries in new locations; and
- The difficulty of ensuring that their locations and operations will be compatible with surrounding natural environments and uses, especially residential.
An analysis of aggregate mining in Oregon led by the Institute for Natural Resources at Oregon State University² notes:  
*Predictions of aggregate demand are poorly constrained due to the limited information regarding actual demand... While the data distribution is less than ideal, projected [yearly] aggregate demand ranges from 60 million to 90 million tons by 2040... an average annual demand of 52 million tons... with over 50% of this demand needed to meet the demands of the urbanizing Willamette River Basin.*

A 2007 Governor’s policy briefing on Aggregate Resources in Oregon states:  
*Ensuring economic development in Oregon and maintaining adequate public transportation infrastructure are primary issues for the Governor and the state... A balanced approach consistent with state and federal laws directed towards protecting resources and water quality while recognizing the needs of local communities and regions is necessary to have a stable source of quality aggregate for public and private projects.*³

The Oregon Department of Geology and Mineral Industries (DOGAMI) explains:  
*Oregon’s mineral resources are vital to economic growth. In recent years, the annual production of mines has averaged over $275 million. Every Oregon community benefits directly from reliable sources of aggregate... and secondary products such as concrete and asphalt. Developing aggregate resources near urban areas, where the demand for these materials is the greatest, can be controversial. It can also significantly reduce the overall cost of many construction projects, including taxpayer costs of public projects, by eliminating costly transportation.*⁴

The state’s informational document, *Planning for Aggregate: A Guide to Land Use Planning for Aggregate Resources in Oregon,*⁵ notes, “…Odds of an aggregate mining decision being appealed have been much higher than for most other types of land use,” and explains that by far, most appeals of these decisions are by neighbors or other concerned citizens. The guide notes that over a 10-year period, a yearly average of five or six LUBA cases and two Court of Appeals cases involved mining.⁶ While this average may seem low, the guide suggests it is high considering that few mineral/aggregate-related land use approvals are granted at the local level in the first place. It further notes that, of aggregate mining cases from the 1990s, about two-thirds of LUBA and Court of Appeals decisions were adverse to mining.

Litigation and related delays or denials can therefore clearly impact the ability to increase aggregate mining opportunities. Land use provisions that take a balanced approach to community concerns and potential impacts, practical needs of mine operators, and good interagency

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² Preliminary Summary of Aggregate Mining in Oregon with emphasis in the Willamette River Basin (2005), http://ir.library.oregonstate.edu/xmlui/bitstream/handle/1957/13914/PreliminarySummaryofAggregateMininginOregonwithemphasisintheWillametteRiverBasinInstituteforNatural.pdf?sequence=1
⁴ http://www.oregongeology.org/sub/portof/portoffice.htm
⁵ Guide prepared by the Oregon Department of Transportation (ODOT) and the Department of Land Conservation and Development (DLCD).
⁶ Responds to a question asked by the PC at the August 2, 2017 hearing.
coordination, as the proposed ordinance seeks to do, may help to reduce the incidence of litigation.

**Stakeholder Input**

During development of draft SU quarry standards, staff gathered perspectives from stakeholders knowledgeable about and/or affected by mineral and aggregate operations. Staff spoke with:

- The Washington County Rural Roads Operations & Maintenance Advisory Committee (RROMAC);
- Various quarry operators (including some interested in pursuing SU quarry approval);
- Four residential neighbors to existing quarries;
- Representatives of two timber companies; and
- Staff from other counties and from state agencies including ODF, DLCD, ODOT, DEQ and DOGAMI.

Viewpoints of each stakeholder/group are outlined below to provide the Board with context on the complex issues inherent to potential expansion of mineral/aggregate allowances.

**Perspectives and Key Points Shared by Stakeholders**

**RROMAC**

- Believes demand for aggregate has not been adequately addressed for some time;
- Points out that because aggregate sources are not well-dispersed geographically, heavy aggregate must be hauled over long distances from quarries to roadwork/development sites, which:
  - Accelerates public roadway deterioration, creating maintenance concerns; and
  - Increases supplier costs for fuel/vehicle upkeep, leading to aggregate price increases;
- Recognizes that inherent conflicts exist between mineral/aggregate operations and nearby residential uses;
- Some members suggested there should be no minimum requirement for aggregate quality, and that lower grade rock could serve purposes other than roads/building;
- Some members view the existing County review process for mineral/aggregate operations as overly onerous, including a requirement for periodic reviews intended to ensure ongoing compliance with regulations.

**Quarry Operators**

- Several:
  - Believe adoption of SU quarry provisions could provide a path to allow quarry operations where they are needed, especially in the western part of the county (north of Banks and Highway 26), and facilitate public and private roadwork and development underway in that area;
  - Suggested that existing setback requirements for crushing can to be too restrictive on sites of less than 40 acres – and that setback and noise mitigation requirements should be flexible and allow alternatives based on topography and other site/operation/vicinity characteristics.

- Others (two representatives of an existing high-producing operation):
  - Do not agree that aggregate supply in the county is particularly lacking;
o Suggested demand will likely drop and aggregate availability increase when Nike and Intel projects, now utilizing a sizable share of local aggregate, are completed;
o Believe that all mineral/aggregate operations should be subject to the requirements for significant quarries but that if SU quarries are allowed they should be:
  ▪ Capped at extraction of 2 million tons of rock over the life of the operation; and
  ▪ Required to undergo significant quarry review if operation reveals more than 2 million tons (despite lesser preliminary estimates).

- **All:** Emphasize that good communications with neighbors and proactive mitigation for community concerns (to the extent practicable) are critical to any successful quarry.

**Timber Company Representatives**

- **Stimson:**
o Believes that adoption of SU quarry provisions could be a benefit, as long as they make economic sense and don’t impact forest use;
o Suggested that primary demand is for high-grade rock for roads/construction, but recommends not regulating quality because lesser quality rock serves other uses such as nursery/landscaping.

- **Weyerhaeuser:**
o Explained that Weyerhaeuser’s geologic analyses and due diligence on sites throughout Washington County revealed conditions that did not support the company’s commercial expansion of mineral/aggregate operations in the county – lack of aggregate quantity and quality, and poor access;
o Emphasized that:
  ▪ Mining experiences a high level of public opposition; and
  ▪ Establishing relationships with neighbors and hearing and mitigating their concerns are critical from the start;
o Suggested that most potential impacts can be mitigated or negotiated with nearby property owners, but issues regarding truck traffic and road impacts are difficult – rural road infrastructure and its ability to handle weight and number of haul trucks are important considerations.

**Residents (one from Helvetia near several defunct or minimally operational quarries; three from Cooper Mountain near a high-producing quarry)**

- Agreed on need for additional aggregate to supply road building and repair, but shared a number of concerns about potential impacts affecting:
o Aquifers that supply well water to area residents;
o The environment, including but not limited to streams and native fish;
o Roads/traffic and how to keep local access roads clean and functional (daily quarry truck trips can exceed 900 in Cooper Mountain area according to one resident, with potential to create significant mud/dust); and
o Levels and hours of noise.

**Public Agencies**

During development of standards, staff also sought input from other counties and state agencies such as ODF, DEQ, and DOGAMI. In some cases this led to development of provisions that
primarily support work of partner agencies – such as that related to sedimentation control and protection of nearby wells – while still allowing a high-level review of such issues at the land use stage.

Standards reflected within ordinance exhibits acknowledge key considerations from initial stakeholder conversations, including provisions relating to wells; traffic, noise and related hours of operation; road damage/maintenance; and stream sedimentation.

Subsequent to development of standards, staff had additional discussions with state agencies particular to groundwater protection issues raised in a public comment letter. Related information is included at the end of this report in response to that letter.

**Existing Provisions for Mineral and Aggregate Operations**

The County’s existing mineral/aggregate provisions address only large quarry sites meeting minimum quantity and quality specifications of the state for determination as “significant” natural resources – significant quarries. When quarries are approved as significant, they are protected under Statewide Planning Goal 5, “Open Spaces, Scenic and Historic Resources, and Natural Resources,” from surrounding land uses. Differing from other resources protected by Goal 5, aggregate resources are not intended to be preserved. Rather protections apply to the use – the ability to mine/extract rock, until such time as the resource is depleted and the site must be “reclaimed.” This means that the site must be restored to a state that would accommodate uses commonly allowed in the underlying district.

Consistent with state provisions, existing County requirements for new or expanded significant quarries (CDC Section 379) call for identification of the quarry boundary on the County’s Comprehensive Plan (Plan) through a Type IV legislative plan amendment, along with identification of bordering lands where uses that might impact quarry operations may be restricted. Per Section 379 significant quarries are indicated with a “District A” overlay on the Plan, and surrounding restricted areas with a “District B” overlay. The plan amendment process involves significant analysis and discretion.7 Contingent on approval of the plan amendment, a land use application is required thereafter.

State rules for new significant quarries in the Willamette Valley apply minimum quality standards and generally call for over 2 million tons of mineral/aggregate per site in order to be considered significant.8 To provide an idea of scale, consider that 2 million tons of aggregate is:

- The total tonnage produced by Washington County in 2010; or
- About 67,000 to 100,000 truckloads based on a 30 or 20-ton capacity per truck.9

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7 Related to discussion at the August 2, 2017 PC hearing, OAR 660-023-0180(5) lays out procedures and requirements for complying with Goal 5, applicable to plan amendment applications for significant quarries, including analysis of an impact area identified by the local government that is “limited to 1,500 feet.”
8 Rules allow a local jurisdiction to adopt a lower threshold, which may be considered as part of potential 2018 updates to the CDC standards for significant quarries.
9 Common truck capacities vary from about 12 to 33 tons. Many operations advertise 20-ton truckloads for estimation purposes. Related to a PC question on August 2, 2017, truck weight range was obtained from a local high-producing significant quarry operator. He reports his operation as one of the largest in the state, with outbound
Given that quarries elsewhere in Oregon need a supply exceeding only 500,000 tons to be deemed significant, operations of a similar scale in Washington County might prove useful to the region as alternative aggregate sources despite lack of a “significant” status. Existing CDC provisions don’t provide for approval of these lesser quarries, but state rules particular to forest lands allow the County to adopt standards for their review through a different process than used for significant quarries – the conditional use process (discussed below).

**Proposed Provisions for EFC Mineral and Aggregate Operations that are not Significant Quarries**

This ordinance proposes Special Use standards to allow mineral/aggregate operations, only in the EFC district, that don’t meet the basic tonnage minimum (over 2 million tons) set by the state for significant quarries in the Willamette Valley. Proposed Type III SU provisions are consistent with Statewide Planning Goal 4 [Forest Lands – OAR 660-006-0025(4)(g)], which allows aggregate mining in forest zones as a **conditional use**, subject to:

- Evidence of compatibility with surrounding uses;
- Findings that the operation will not significantly elevate fire risk, the expense of fire suppression, or the cost of nearby farm/forest operations; and
- Recorded written acknowledgement of the rights of nearby land owners to conduct forest operations consistent with the Forest Practices Act (ORS 527).

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)].

In its guide for land use planning, the Oregon Department of Land Conservation and Development (DLCD) describes a conditional use as:

> A use that may [emphasis added] be allowed if it meets prescribed conditions in the zoning ordinance or additional conditions set forth by the decision-making body. These are subject to discretionary criteria and a local government may deny the land use... A conditional use permit allows the local government to (1) determine whether the proposed use is appropriate for the site and neighborhood, and (2) attach conditions to an approval to assist in reducing the impact of the proposed use on the surrounding area... Typically, the criteria will provide that the proposal... have a minimal adverse impact on abutting properties and the surrounding area compared to the impact of development that is permitted outright...[and] preserve assets of particular interest to the community...

Proposed provisions in Ordinance No. 824 would provide a path by which the County may approve smaller quarries that can’t meet requirements for treatment as “significant” under the current CDC or Plan. Consistent with the 2007 Governor’s policy on Aggregate Resources, these regulations seek to take a balanced approach aimed at recognizing the needs of local communities and regions, and protecting the environment and water quality. The proposed daily truck trips varying seasonally from 147 to 363, carrying an average load of 30 tons. Considering return trips as well, daily trips from his operation would be about 294 to 726. Returning trucks often carry dirt excavated from worksites.

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process and associated standards closely follow the state’s description of a “conditional use” (CU), above, which allows the County a high level of discretion in determining:

- Whether or not the use is appropriate for a particular location;
- Whether or not to approve it; and
- If the use is to be approved, what standards/conditions of approval are needed to minimize potential off-site impacts of the use and preserve assets of community interest.

This high level of discretion is consistent with the Type III review process and treatment of other uses within the CDC that require a similar level of discretion. As compared to the less discretionary Type II Director’s Decision, which does not require a hearing and accommodates testimony only in written form, Type III reviews provide additional opportunity for public participation through a required public hearing that allows for oral testimony. Proposed CDC amendments related to special use/conditional use quarries are discussed below.

**Proposed CDC provisions are intended to require demonstration that the SU quarry will meet important overarching standards – that it will be compatible with and not significantly impact surrounding lands, uses, and the environment.** Required evidence (plans, narrative and supporting documentation) submitted in support of this must show:

- Ability to comply with basic criteria that apply to SU quarries in general (such as those regarding setbacks and hours);
- Examination of potential for on-site and off-site impacts that may be site/operation/vicinity-specific (such as those regarding proximity to wells and streams, and potential road impacts); and
- Preparation for requirements of other agencies, including Operating and Reclamation Permit requirements of DOGAMI, which include but are not limited to DEQ permit requirements for groundwater protection. DOGAMI permits are issued only after land use approval is granted by the local jurisdiction.

Many of the proposed SU requirements, allowances and restrictions were adapted from those of other counties and from current CDC provisions for other Type III uses and for significant quarries. Others were drafted in response to particular concerns raised by staff of various County divisions and partner agencies, quarry operators, mineral/aggregate and timber specialists, and residents living near existing quarries. Some simple amendments are intended only to make distinctions between standards that are unique to either significant or SU quarries.

Proposed amendments to CDC Section 342-4 (Exclusive Forest and Conservation District/EFC) reflect the new proposed use – Special Mineral/Aggregate mining and/or processing in the EFC District (or SU quarry) as a Type III land use procedure, subject to standards within Section 430-130.

Consistent with state law, Section 342 requires findings that the use won’t elevate fire risk, fire suppression cost, or cost of farm/forest practices on nearby lands. As with all EFC uses, Section 342 also calls for compliance with Fire Structure Siting and Fire Safety Standards of Section 428, and a recorded acknowledgement of the rights of nearby landowners to practice forest operations as allowed by the Forest Practices Act.
Proposed CDC Section 430-130 lists uses that *may* be allowed at an SU quarry, and lays out specific criteria for application submittal, approval, and ongoing compliance.

Section 430-130.3 allows potential approval of the following Type III uses/activities:
- Extraction, crushing, washing, screening, sale and stockpiling of materials;
- Equipment/machinery storage;
- An office or shop; and
- Batching/blending of mineral/aggregate which requires a separate permit.

Potential for an on-site dwelling is also reflected (Section 430-130.2), but is subject to either a Type I or II process per existing CDC standards for review of any proposed dwelling in the EFC district.

Table 1, below, reflects restrictions/allowances proposed within Section 430-130.4 and 430-130.5 regarding operational hours/days and setbacks applicable to various quarry activities/uses that may be allowed through a Type III review. Hour/day restrictions are based on conditions of past significant quarry approvals and are primarily intended to manage impacts to neighbors, including but not limited to noise.\(^\text{11}\) Setbacks are the same as those that apply to significant quarries – except that the CDC applies a minimum 500-foot setback to significant quarries for processing, while proposed standards require only a 100-foot setback for processing at SU quarries and potential for flexibility in certain cases. This is due to considerations raised by quarry interests that a greater setback could affect operational feasibility of smaller SU sites with conceivably much less acreage in which to work than significant quarries. Where offsite homes exist nearby, however, both significant and SU quarries are subject to the same minimum setback for processing (750 feet).

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\(^{11}\) Related to a question asked by the PC at the August 2, 2017 hearing, legal holidays on which the ordinance proposes restrictions against various activities are based on existing County standards for significant quarries and the standards of other Oregon counties including but not limited to Clackamas, Marion, Klamath, and Josephine.
Table 1: Activities/Uses on SU Quarry Sites – Hours and Setbacks

<table>
<thead>
<tr>
<th>Sec. 430-130: Activities/Uses</th>
<th>Hours</th>
<th>Setbacks</th>
<th>From House</th>
<th>Reductions Considered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extraction</td>
<td>7-7 M-F; Not holidays</td>
<td>100’</td>
<td>500’</td>
<td>✓</td>
</tr>
<tr>
<td>Processing (except as otherwise indicated for uses below)</td>
<td></td>
<td></td>
<td>750’</td>
<td></td>
</tr>
<tr>
<td>Batching</td>
<td></td>
<td>100’ but 2 mi. from vineyard</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blasting</td>
<td>9-6 M-F; Not holidays</td>
<td>100’</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office/Shop/Accessory Structure</td>
<td></td>
<td></td>
<td>50’</td>
<td>100’</td>
</tr>
<tr>
<td>Equipment Storage</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Allowed Activities/General Business</td>
<td>Expects as above: 7-7 M-S; Not Sun. if a home is w/in 1000’; Not holidays</td>
<td>100’ from water areas/resources</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Proposed CDC Section 430-130.4 lays out plan requirements for an SU quarry that aid in supporting findings of compatibility of an SU quarry with its surroundings. For the site and offsite areas within 1,000 feet, plans must include:

- Dwellings/structures, wells, roads/driveways, water & sewer lines, and septic systems;
- Flood plains, drainage hazard areas, other water areas, and significant natural resources;
- Locations and setbacks for onsite uses/activities; and
- Access, parking, and buffering along site boundaries to obscure views of the site from nearby homes, public roads and non-resource lands (districts besides EFU, EFC and AF-20).

Within and beyond that plan area, applicants must also show:

- Roads and bridges along the proposed haul routes between the site and the nearest paved public highway. These are subject to review by County Operations and Traffic Engineering personnel and conditions for maintenance and repair per Sections 430-130.4 and 430-130.5;
- Easements for any private road segments; and
- Natural water areas in the vicinity of haul routes, both to aid the County in ensuring their protection pursuant to CDC Sections 421 (Flood Plain and Drainage Hazard Area Development) and 422 (Significant Natural Resources), and to facilitate related protections applied through partner agencies.

Additionally, applicants must provide a preliminary copy of the plan for operation and site reclamation/ restoration that is required by DOGAMI.
Proposed standards of CDC Section 430-130.5 require the following as evidence that the SU quarry will not create significant impacts:

- A specialist’s report examining potential well and groundwater impacts from proposed mineral/aggregate operations;
- Evidence/findings demonstrating that:
  - The site is not in a geologic hazard area or flood plain, unless operations are designed to adequately withstand/mitigate hazards and flooding;
  - The proposed use will be compatible with and have minimal impact on livability and allowable development/use of nearby property; and have no significant impact on native fish or wildlife habitat; and
  - Septic/sewage management is acceptable to the Washington County Department of Health & Human Services.

Intending to ensure ongoing compatibility and protection against impacts, Section 430-130.5 further requires:

- Reviews for compliance six months after commencing operation and every five years from the date of approval (subject to revocation of the permit if noncompliant for over 60 days and Code Compliance actions authorized by CDC Section 215);
- Yearly submittal of proof of liability insurance and state-required bond/security deposit assuring conformance with the DOGAMI approved reclamation plan; and
- Maintenance of access roads.

As described earlier, proposed SU quarry provisions are similar to those that other Oregon counties apply to quarries through conditional use reviews, and similar to existing CDC provisions for other Type III special uses and significant quarries. Despite similarities, requirements and allowances proposed for SU quarries differ from those that the County applies to significant quarries in several ways. Key differences are highlighted in the Table 2, below.

**Table 2: Proposed SU Quarry Provisions vs. Significant Quarry Provisions – Key Differences**

<table>
<thead>
<tr>
<th>Special Use (SU) Quarry</th>
<th>Significant Quarry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allowed only in EFC [based on OAR660-006-0025(4)(g)]</td>
<td>Allowed in all rural districts except R-COM; Allowed in urban districts FD-20, FD-10, IND</td>
</tr>
<tr>
<td>Aggregate: 2 million ton max</td>
<td>Aggregate: Over 2 million tons</td>
</tr>
<tr>
<td>No plan amendment required (not considered a protected resource so not shown as one on County plan)</td>
<td>Legislative plan amendment (IV – most discretionary) to identify site as Goal 5 Significant Natural Resource</td>
</tr>
<tr>
<td>Intent to protect nearby uses from quarry</td>
<td>Intent to protect quarry from nearby uses</td>
</tr>
<tr>
<td>Land use review type – III: (high discretion; may or may not be found appropriate/approved)</td>
<td>Land use review (after plan amendment) type – Most districts: II (assumed appropriate/allowed); EFU/AF-20 (farm): III</td>
</tr>
</tbody>
</table>

Statewide Planning Goal 4 [Forest Lands – OAR 660-006-0025(4)(g)], allows the County to permit SU quarries in the EFC district through a conditional use process as proposed, subject to
evidence of compatibility with surrounding uses. Accordingly, provisions of Ordinance No. 824 have been designed within a conditional use framework intended to increase opportunity for aggregate extraction while providing protections for citizens and the environment, consistent with state policy on aggregate and typical procedures for highly discretionary County decisions.

**PC Discussion**

After presentation of the staff report at the August 2, 2017 PC hearing, various PC members asked made comments or asked questions related to the following:

- Aggregate shortage impacts on housing costs;
- Now in peak demand stage of cyclical aggregate market;
- Current reliance on one or two quarries is problematic;
- Need operations that can provide crushed rock and allow dirt storage;
- Concern about prospective quality of operations at smaller sites;
- Lack of aggregate for general public because of roadwork demands;
- Viewpoints on allowance of SU quarries in EFC district vs. further restriction by particular areas; and
- Thoughts on proposed phasing of ordinance work.

Topics about which PC members asked questions or requested additional information have been addressed throughout the analysis portion of this report and/or in footnotes. Despite these requests the PC did not propose any changes to Ordinance No. 824 and voted unanimously to recommend Board approval. Draft PC Deliberations are provided in Attachment A.

**Public Testimony**

To date, two citizens have responded to notice of this ordinance. Both are residents who live near an existing significant quarry.

1. Testimony from Steven Starkel at August 2 PC meeting:

   Mr. Starkel provided a video and oral testimony at the PC hearing, opposing the ordinance based on his belief that expansion of mineral/aggregate allowances could add potential for increased impacts to nearby forests and residential quality of life.

   **Staff Response**

   The latter requires consideration through a conditional use process, subject in part to evidence of compatibility with surrounding uses. As discussed earlier, the state’s aggregate policy recommends a balanced approach to addressing the competing needs for mineral/aggregate operations, and for protection against their potential impacts on surrounding lands and residents. Likewise, both the Forest Practices Act and Statewide Planning Goal 4 (Forest Lands) allow the County to permit mineral/aggregate operations in forest zones.

   As discussed earlier, the conditional use process allows the County discretion as to whether to deny or approve an application based on whether it is appropriate for an area/community,
and to apply conditions to protect surrounding areas against impacts. As conditional use provisions, and consistent with the state’s promotion of a balanced approach, proposed standards have been designed to require significant consideration of potential for offsite impacts – and to give such issues weight in the decision-making process.

2. August 21 letter from Gary Virgin:

Mr. Virgin submitted a letter, dated August 21, 2017, indicating concern for availability of aggregate needed to construct and maintain roads, but proposing that the County take on a higher level of technical oversight regarding well water protections. He believes that DOGAMI has not historically protected wells and streams from quarry activities adequately, citing past cases of water contamination. He recommends County application criteria calling for detailed analysis of all wells within a half mile, yearly submittal of reports on conditions of wells in the analysis area, and restrictions against drilling at the quarry within 20 feet of a water table or to depths lower than the bottom of any well in the analysis area.

Staff Response

Following a stringent approval process through the Environmental Protection Agency (EPA), authority for implementation of water pollution laws and related water protection permitting lies with states. The DEQ Groundwater Quality Protection rule recognizes domestic water supply as being the groundwater use that would “…usually require the highest level of water quality.”12 The OAR states that DEQ must require and evaluate technical information/reports submitted by applicants for uses with potential to contaminate groundwater. Extensive requirements, in part, call for details on aquifers, wells, various specifics of groundwater conditions, and may call for ongoing monitoring and reporting. According to a state publication on related permits:

DEQ and EPA are jointly responsible for enforcing laws regulating the discharge of pollution into public waters, including groundwater. DEQ regularly inspects permitted facilities to determine compliance with applicable laws. In addition, EPA may conduct its own inspection of facilities in Oregon. Generally, NPDES [National Pollutant Discharge Elimination Systems] and state WPCF [Water Pollution Control Facility] permits require that a permittee regularly monitor its discharge, submit these monitoring reports to DEQ, and report to DEQ any non-compliance or anticipation of non-compliance with its permit. For major NPDES permittees, this reporting must also be made to EPA. Federal laws provide EPA and DEQ with various options for enforcement… [for violation of] requirements and endangering the health and welfare of the public or environment.13

In Oregon, significant interagency coordination occurs as well. The state Department of Environmental Quality (DEQ) explains:

Although DEQ has primary responsibility for groundwater protection, Oregon’s groundwater quality protection program consists of a number of programs spread among different state agencies. Four state agencies, the Department of Environmental

12 OAR 340-040
Quality, the Oregon Department of Human Services Drinking Water Program, the Water Resources Division [WRD], and the Oregon Department of Agriculture implement the majority of federal and state programs relating to groundwater.

In addition... it is the Water Quality Division's responsibility to oversee the implementation of the Groundwater Quality Protection Act and rules. DEQ also permits artificial groundwater recharge projects... and provides input to WRD [related to]...aquifer storage and recovery projects. The Laboratory Division provides monitoring support to many program areas relating to groundwater...

A partial list of state agencies/responsibilities related to water protection is included as Attachment C.

Upon receipt of the aforementioned public comment letter, staff had further discussions with specialists at DOGAMI, DEQ, WRD and the County Department of Health & Human Services Environmental Health Division regarding well concerns. Contacts further discussed the rules/regulations and interagency arrangements that are in place to protect groundwater and drinking water.

DOGAMI’s Mineral Land Regulation and Reclamation Program (MLRR) is the lead program for mine regulation in Oregon. An MLRR representative confirmed that per an agreement with DEQ, and with input from other resource-related agencies, the DOGAMI MLRR program implements the federal Clean Water Act General Stormwater Permit and the state Water Pollution Control Facility (WPCF) Permit at aggregate sites. Related permit requirements of the state Water Resources Department, Division of State Lands, and other authorities also apply in some cases.

A hydrogeologist from DOGAMI’s MLRR program further explained that when evaluating an application for a proposed upland forestland quarry where pit dewatering is proposed, offsite well locations are required due to potential water quantity concerns. He indicated, however, that aggregate operations on upland forests have not been shown to impact groundwater quality. SU quarries that could be allowed through Ordinance No. 824, if adopted, would be only on EFC land, which is characterized as upland forest land.

Land use staff is not equipped to analyze information at the level recommended within the resident’s letter. Further, the resident’s suggested half-mile analysis area appears disproportionate to the analysis area allowed by the state for potentially much larger significant quarries. Those are to be determined by the local government but “limited to 1,500 feet.”

Water quality issues are critical, however. Criteria within the ordinance is therefore intended to ensure that preliminary information is available by which to consider potential for offsite...

14 http://www.oregon.gov/DEQ/wq/programs/Pages/GWP-about.aspx
15 OAR 660-023-0180(5)
impacts – and to allow such issues significance in the decision-making process. As part of the land use review, the ordinance calls for submittal of information indicating proximity to wells, a specialist’s risk assessment, evidence of insurance and bonding, and evidence of preparation for the required DOGAMI permit. Proposed provisions of the ordinance also state that a land use permit does not allow SU quarry operation without required approval of other agencies (including but not limited to DOGAMI and DEQ, which apply groundwater protections). Staff does not recommend changes to the ordinance regarding this issue.

Summary of Proposed Changes

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, 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

Proposed amendments affect the following Comprehensive Plan Elements:

Rural/Natural Resource Plan

➢ Policy 7 – Mineral and Aggregate Resources

➢ Appendix A: Glossary

Community Development Code

➢ Section 110 – Transition to Development Code

➢ Section 203 – Processing Type I, II and III Development Actions

➢ Section 300 – Introduction

➢ Section 342 – Exclusive Forest and Conservation District (EFC)

➢ Section 379 – Mineral and Aggregate Overlay District

➢ Section 430 – Special Use Standards

Attachments:

Attachment A – Draft PC deliberations

Attachment B – Citizen letter of testimony dated August 21, 2017

Attachment C – Partial list of state agencies/responsibilities related to water protection
WASHINGTON COUNTY PLANNING COMMISSION  
WEDNESDAY, AUGUST 2, 2017

Draft Deliberations

Proposed Ordinance No. 824 - An Ordinance Amending the Rural/Natural Resource Plan (R/NRP) Community Development Code (CDC) to Allow Special Use Mineral and Aggregate Quarries in the Exclusive Forest and Conservation District

Planning Commission (PC) members present: A. Richard Vial, Jeff Petrillo (arrived at 1:45 p.m.), Ed Bartholemy, Ian Beaty, Tegan Enloe, Deborah Lockwood, Anthony Mills (arrived at 1:43), Eric Urstadt, and Matt Wellner.

Staff present: Andy Back, Theresa Cherniak, Anne Kelly, Kim Armstrong, John Floyd and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel.

Summary

a. Ordinance No. 824 - Quarries
Anne Kelly, senior planner from the Community Planning section of LRP provided a PowerPoint presentation regarding Ordinance No. 824 – Quarries. This ordinance was authorized by the Board as part of the 2017 LRP Work Program. Staff provided background information related to reason for ordinance and existing standards, key considerations, recommendations and next steps.

Recommendation
• Staff recommended to the Board, approval of Ordinance No. 824

Testimony received in Opposition of Ordinance No. 824
• Video received on August 2, 2017 from Steven Starkel

Oral Testimony received in Opposition to Ordinance No. 824
• Steven Starkel, 10825 SW Grabhorn Rd, Beaverton – Mr. Starkel commented that his EFC (Exclusive Forest and Conservation) property has a rare white oak forest and expressed concern that mining could harm forests. Also, Mr. Starkel commented that the County should show statistical data justifying the need. He also indicated that audio studies in Ordinance No. 701 showed proof that quarry noises cannot be mitigated. He was opposed to quarries near residential housing. He also commented that notification should be sent to residents at greater distances who would be affected by quarry expansions.
Discussion

- Discussion about shortage of quarries/aggregate, impacts on housing costs, and desire for more data on the demand for aggregate.
- Discussion regarding quarry hours of operation, and whether business hours should be standardized with no flexibility.
- Question regarding number of cases appealed in recent years.
- Discussion of DOGAMI (Oregon Department of Geology and Mineral Industries) requirements and whether they regulate quality/quantity.
- Comment that major local aggregate supplier was unable to provide rock to individual for personal use because the quarry had allocated all available supply for road construction.
- Discussion about having a two stage approach, with some questioning why staff is bringing forward the SU quarry first and others commenting that this incremental approach was a good one.

Final Vote
Commissioner Mills moved to recommend approval of Ordinance No. 824 to the Board of Commissioners Urstadt seconded motion. **Vote: 9 – 0. Motion passed.**

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End of deliberations.
Board of Commissioners
Washington County, Oregon
254 N First Ave
Hillsboro, OR 97124

21 August 2017
Gary L Virgin
9910 SW Clark Hill Road
Beaverton, Oregon 97007

Dear Commissioners;

As a 15 year member of RROMAC I am very concerned with the availability of aggregate material for road construction and maintenance. As a 49 year resident neighbor of Baker Rock’s operation, we realize the rate of extraction that is currently taking place. In addition our private well is our only source of household water. Loss of use of our well would be devastating. I have a major concern with the water protection provisions contained in the proposed Ordinance 824.

As part of the permit for operation issued by the county, all wells within ½ mile of the proposed quarry boundaries should be characterized as to well depth, standing water level and chemical and coliform content. All operational wells should have the present usage, if any, identified as to household drinking water, livestock water, irrigation water or other uses. The section 430-130.4A specifies an inadequate 1000 feet area of consideration.

The detailed mining plan for the permitted quarry should clearly identify the proposed mining depth, the lowest point of which should not lie below the bottom of any identified well, using a mean sea level reference. The quarry should not be allowed extraction within 20 feet of the water table within the quarry site.

Traditionally DOGAMI has been viewed as the monitoring organization for quarry operation. DOGAMI’s failure in Washington County to prevent Karban from penetrating into the water table at Farmington, failure to prevent Karban from destroying the Salmonberry fishery watershed, and failure to prevent a long ago bankrupt Canadian operator from stacking leachable tailings into a watershed near Riddle, Oregon requires that Washington County have a strong oversight position. Near Riddle miles of a stream was polluted to the point of no longer supporting aquatic life due to DOGAMI’s inattention.

I believe that annual audit of the initial documented condition of the identified wells by an independent third party should be included in Ordinance 824. I also believe it is a mandatory requirement for Washington County to record and investigate any changes in conditions discovered by the annual third party audit. Since there will be a low population of wells in the proposed areas to be permitted under Ordinance 824, the requirement for documentation, audit and change investigation should not be overly burdensome on the quarry operator or Washington County. The protection the plan offers to those dependent on the wells is huge.

Sincerely;

Gary L Virgin
Partial List of State Agencies/Responsibilities Related to Water Protection

- Drinking Water Protection Program – requires states to develop Source Water Assessments for surface and groundwater public water supply systems [DEQ and Department of Human Services (DHS)];
- Groundwater Management Areas – Designated when groundwater has elevated contaminant concentrations (DEQ);
- Underground Injection Control Program – Regulates waste injection into the ground with groundwater protection requirements (DEQ);
- Wastewater Permitting Program – Requires facilities with potential to impact groundwater to have a groundwater quality protection program [DEQ through federal NPDES (National Pollutant Discharge Elimination Systems) and state WPCF (Water Pollution Control Facility) permits]; and
- Drinking Water Program (DHS) – Administers the Safe Drinking Water Act programs [including Public Water System (PWS) monitoring, Real Estate Transaction Well-Testing, Drinking Water Protection Program (with DEQ), Wellhead Protection Area Certification, and PWS technical assistance for well construction issues, provides input to the Oregon Department of Water Resources (DWR/water master) on Artificial Groundwater Recharge and Aquifer Storage and Recovery (ASR) projects.
- Allocation of groundwater and surface water rights, provision of water resource data, administration of statutes and rules governing monitoring and supply well construction, usage, abandonment, low temperature geothermal wells, and ASR, extensive groundwater investigations (DWR); and
- Permitting for mining development and reclamation, coordination with DEQ and other agencies to address groundwater issues related to permitting (DOGAMI).

1 http://www.oregon.gov/DEQ/wq/programs/Pages/GWP-about.aspx
Individual Notice No. 2017-05

At your request, Long Range Planning is providing you with Individual Notice No. 2017-05 which describes proposed Land Use Ordinance No. 824.

Ordinance Purpose and Summary

Ordinance No. 824 proposes adoption of Community Development Code (CDC) standards to allow a new Special Use (SU): Special Mineral/Aggregate Mining and/or Processing in the Exclusive Forest and Conservation (EFC) District. Existing CDC quarry standards for mineral/aggregate operations address only large sites meeting minimum quantity and quality specifications of the state for determination as “significant” protected resources. Proposed SU standards are intended to provide a path for approval of quarries that do not meet state minimums for significance and special protection, but may still provide feasible alternative sources of mineral and aggregate needed for construction and maintenance of transportation facilities and for other construction projects throughout the county. The ordinance also makes minor clarifications in the CDC and Rural/Natural Resource Plan.

Who is Affected

Those operating or living on/near land in the EFC District may be affected.

What Land is Affected

Land in the EFC District.

Key Provisions

- Provides a Type III Special Use (SU) process for conditional approval of Special Mineral/Aggregate Mining and/or Processing in the EFC District (hereafter referred to as SU quarries) on EFC sites where aggregate material does not meet state thresholds for protection as a “significant” (Goal 5) resource, as allowed by state law and similar to practices of other Oregon counties.
- 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 that are 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, natural resources, and transportation improvements from impacts of the SU quarry.
Initial Public Hearings
Time and Place
Planning Commission
1:30 p.m.
August 2, 2017
Board of Commissioners
10:00 a.m.
September 5, 2017

Hearings are in the Hillsboro Civic Center Shirley Huffman Auditorium, 150 E. Main St., Hillsboro, Oregon.

At its September 5, 2017 public hearing, the Board of Commissioners (Board) may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If adopted September 5, 2017, the ordinance would become effective November 24, 2017.

Rural/ Natural Resource Plan Policies Amended
➤ Policy 7 - Mineral and Aggregate Resources
➤ Appendix A: Glossary – Mineral and Aggregate Resources

Community Development Code Standards Amended
➤ Section 110 - Transition to Development Code
➤ Section 203 - Processing Type I, II and III Development Actions
➤ Section 300 - Introduction
➤ Section 342 - Exclusive Forest and Conservation District (EFC)
➤ Section 379 - Mineral and Aggregate Overlay District
➤ Section 430 - Special Use Standards

How to Submit Comments
• Submit oral or written testimony to the Planning Commission and/or the Board at one of the public hearings.
• Written testimony, including email, may be sent to the Planning Commission or Board in advance of the public hearings in care of Long Range Planning.
• Include the author’s name and address with any public testimony.

Washington County, Department of Land Use & Transportation Planning and Development Services, Long Range Planning 155 N. First Ave., Suite 350, MS14, Hillsboro, OR 97124-3072 Telephone: 503-846-3519 Fax: 503-846-4412 Email: lutplan@co.washington.or.us

Staff Contact
Anne Kelly, Senior Planner Telephone: 503-846-3583 Email: anne_kelly@co.washington.or.us

Proposed ordinance is available at the following locations:
• Department of Land Use & Transportation at the address listed above
• www.co.washington.or.us/landuseordinances
• Cedar Mill Community Library and Tigard Public Library
• Community Participation Organizations (CPOs); Call 503-846-6288 for a directory of CPOs.
July 7, 2017

To: Community Participation Organizations, Cities, Service Districts, Interested Parties

From: Andy Back, Manager, Planning and Development Services

Subject: PROPOSED LAND USE ORDINANCE NO. 824

The Washington County Planning Commission and Board of Commissioners (Board) will soon consider proposed Ordinance No. 824. Listed below is a description of the ordinance, hearing dates, and other relevant information. If you have any questions about the ordinance, or if you would like additional information, please contact Long Range Planning at 503-846-3519. This ordinance is available on the Washington County website at:

www.co.washington.or.us/landuseordinances

Ordinance Purpose and Summary

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At its September 5, 2017 public hearing, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If adopted September 5, the ordinance would become effective November 24, 2017.
Key Provisions

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

- Policy 7 – Mineral and Aggregate Resources
- Appendix A: Glossary – Mineral and Aggregate Resources

Community Development Code Standards Amended

- Section 110 – Transition to Development Code
- Section 203 – Processing Type I, II and III Development Actions
- Section 300 – Introduction
- Section 342 – Exclusive Forest and Conservation District (EFC)
- Section 379 – Mineral and Aggregate Overlay District
- Section 430 – Special Use Standards

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- Written testimony, including email, may be sent to the Planning Commission or Board in advance of the public hearings in care of Long Range Planning.
- Include the author’s name and address with any public testimony.

Washington County, Department of Land Use & Transportation Planning and Development Services, Long Range Planning
155 N. First Ave., Suite 350, MS14, Hillsboro, OR 97124-3072
Telephone: 503-846-3519 Fax: 503-846-4412
Email: lutplan@co.washington.or.us

Staff Contact

Anne Kelly, Senior Planner
Telephone: 503-846-3583
Email: anne_kelly@co.washington.or.us

Proposed ordinance is available at the following locations:

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- Cedar Mill Community Library and Tigard Public Library
- Community Participation Organizations (CPOs); Call 503-846-6288 for a directory of CPOs
BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

ORDINANCE 824

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.

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

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

E. The Board finds and takes public notice that it is in receipt of all matters and information necessary to consider this Ordinance in an adequate manner and finds that this Ordinance complies with the Statewide Planning Goals, the standards for legislative plan adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington County Charter, the Washington County Community Development Code, and the Washington County Comprehensive Plan.
SECTION 2

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

A. Exhibit 1 (1 page), amends the Rural/Natural Resource Plan:
   1. Policy 7 (Mineral and Aggregate Resources); and
   2. Appendix A (Glossary).

B. Exhibit 2 (15 pages), amends the following Sections of the Community Development Code:
   1. Section 110 – Transition to Development Code;
   2. Section 203 – Processing Type I, II and III Development Actions;
   3. Section 300 – Introduction;
   4. Section 342 – Exclusive Forest and Conservation District (EFC);
   5. Section 379 – Mineral and Aggregate Overlay District; and
   6. Section 430 – Special Use Standards.

SECTION 3

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

SECTION 4

All applications received prior to the effective date shall be processed in accordance with ORS 215.427.
SECTION 5

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

SECTION 6

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

///

///
SECTION 7

This Ordinance shall take effect on November 24, 2017.

ENACTED this _____ day of ______________, 2017, being the ______ reading
and _______ public hearing before the Board of County Commissioners of Washington
County, Oregon.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

CHAIRMAN

RECORDING SECRETARY

READING

First ______________________
Second ____________________
Third ______________________
Fourth _____________________
Fifth ______________________
Sixth ______________________

PUBLIC HEARING

First ______________________
Second ____________________
Third ______________________
Fourth _____________________
Fifth ______________________
Sixth ______________________

VOTE: Aye: ________________
Nay: ______________________

Recording Secretary: ________________ Date: ________________
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
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);  

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

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(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

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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.