

## **EXHIBIT A**

### **FINDINGS FOR ORDINANCE NO. 824**

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

**September 5, 2017**

Part 1 – General Findings

Part 2 – Statewide Planning Goal Findings

Part 3 – Urban Growth Management Functional Plan Findings

Part 4 – Metro Regional Transportation Plan Findings

#### **Part 1:**

#### **GENERAL FINDINGS**

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

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

#### **Key Ordinance Provisions**

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

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

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

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

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

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

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

## **Part 2:**

### **STATEWIDE PLANNING GOAL FINDINGS**

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

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

### **Goal 1 - Citizen Involvement**

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

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

### **Goal 2 - Land Use Planning**

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

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

### **Goal 4 – Forest Lands**

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

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

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

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

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

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

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

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

### **Goal 6 - Air, Water and Land Resources Quality**

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

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

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

### **Goal 7 - Areas Subject to Natural Hazards**

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

### **Goal 8 - Recreational Needs**

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

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

### **Goal 9 – Economic Development**

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

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

### **Goal 10 - Housing**

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

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

### **Goal 11 - Public Facilities and Services**

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

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

### **Goal 12 - Transportation**

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

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

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

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

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

### **Goal 13 - Energy Conservation**

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

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

### **Part 3:**

### **URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN FINDINGS**

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

### **Title 3 - Water Quality and Flood Management**

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

### **Title 8 - Compliance Procedures**

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

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

### **Title 12 – Protection of Residential Neighborhoods**

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

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

## **Part 4: REGIONAL TRANSPORTATION PLAN FINDINGS**

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

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