



PUBLIC MEETING NOTICE
FOR THE
WASHINGTON COUNTY PLANNING COMMISSION

TEMPORARY MEETING LOCATION: PUBLIC SERVICES BUILDING – BOARD ROOM 120D
155 N FIRST AVENUE, HILLSBORO, OR 97124

WEDNESDAY, JULY 24, 2019

PUBLIC MEETING 6:30 PM

Prior to scheduled public hearing items, the Planning Commission schedules time to receive briefings from County staff as work session items. These briefings provide the Planning Commission an opportunity to conduct informal communications with each other, review the agenda, and identify questions before taking action on agenda items during the public meeting. No public testimony is taken on work session items.

Following work session briefings, the Planning Commission considers items published in the agenda, including scheduled public hearing items and consideration of past meeting minutes. The public is welcome to speak during the public hearing portions of the meeting. The public may also speak on any item not on the agenda during the Oral Communications section of the agenda.

Upon request, the County will endeavor to arrange provision of the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. If you need a sign language interpreter, assistive listening device, or a language interpreter, please call 503- 846-3519 (or 7-1-1 for Telecommunications Relay Service) by 5:00 p.m. on the Monday before the meeting date.

A handwritten signature in black ink, appearing to read "Andy Back", is written over a horizontal line.

Andy Back

Planning and Development Services Division Manager

WASHINGTON COUNTY PLANNING COMMISSION

The Planning Commission welcomes your attendance at the Public Meeting. Please feel free to speak on a public hearing agenda item or during oral communications. Time is generally limited to five minutes for individuals and 10 minutes for an authorized representative of a Citizen Participation Organization (CPO). The Chair may adjust time limits. In fairness to others, we respectfully ask your cooperation on the following:

Please follow sign-in procedures located on the table by the entrance to the auditorium.

- When your name is announced, please be seated at the table in front of the Commission and state your name and home or business address for the record.
- Groups or organizations wishing to make a presentation are asked to designate one spokesperson in the interest of time and to avoid repetition.
- When more than one speaker is heard on any matter, please avoid repetition in your comments and be mindful of previous speakers' remarks.
- If you plan to submit written testimony at the hearing, please bring 15 copies for distribution to Commission members and County staff.

PUBLIC MEETING DATES

BOARD OF COMMISSIONERS WORK SESSIONS

8:30 a.m. 1st and 3rd Tuesdays

2 p.m. 4th Tuesday

BOARD OF COMMISSIONERS MEETINGS

10 a.m. 1st and 3rd Tuesdays

6:30 p.m. 4th Tuesday

PLANNING COMMISSION MEETINGS

1:30 p.m. 1st Wednesday

6:30 p.m. 3rd Wednesday

Note: Occasionally it may be necessary to cancel or add a meeting date.



July 17, 2019

To: Washington County Planning Commission

From: Andy Back, Manager *Andy Back*
Planning and Development Services

Subject: **PROPOSED LAND USE ORDINANCE NO. 854 - An Ordinance Amending the Rural/Natural Resource Plan to Expand District A and B Overlays Associated with Baker Rock Resources Farmington Quarry and Add a Related Area of Special Concern**

STAFF REPORT

For the July 24, 2019 Planning Commission Hearing
(The public hearing will begin no sooner than 6:30 p.m.)

I. STAFF RECOMMENDATION

Conduct the public hearing; recommend approval of Ordinance No. 854 to the Board of Commissioners (Board)

II. OVERVIEW

Baker Rock Resources (the “Applicant” or “Baker Rock”) has applied to Washington County for approval of a Comprehensive Plan amendment affecting the Rural/Natural Resource Plan (RNRP). The amendment would expand existing overlays associated with protection of Mineral/Aggregate resource sites and confirm that mining is allowed in the expansion area when resources in the existing permitted quarry are depleted. As proposed by staff, the amendment would also apply an Area of Special Concern (ASC) that sets forth conditions for the quarry expansion area.

The 52.6 acre expansion area (“Expansion Area”) lies west of and adjacent to the existing Farmington quarry, and east of SW Farmington Road and SW Clark Hill Road. To the south, rural uses predominate. Rock excavated from the Expansion Area will be processed at the existing processing facility at the currently permitted quarry via internal haul routes, and transported off the site utilizing existing haul routes.

The Planning Commission (PC) is charged with making a recommendation to the Board regarding whether Ordinance No. 854 should be adopted, adopted with conditions, or rejected. The PC may also forward the ordinance to the Board without a recommendation.

If, at the conclusion of public hearings on Ordinance No. 854, the Board determines that the expansion area proposed for the Farmington Quarry is a significant aggregate resource site pursuant to Statewide Planning Goal (“Goal”) 5, the Board can decide to authorize mining on the site. To allow mining, the County must designate the Expansion Area as Mineral and Aggregate Overlay District A. Ordinance No. 854, if adopted, would also apply the Mineral and Aggregate Overlay District B designation to properties within 1,000 feet of the Expansion Area. Uses on those properties would be limited to protect the mining operation from impacts of future conflicting uses on neighboring land. A map depicting the above noted overlays and ASC is included in Attachment B of this report.

III. BACKGROUND

Quarries as Protected Resources

Oregon recognizes quarries that meet certain criteria, primarily related to quality and quantity of rock, as significant mineral and aggregate resources. Such quarries and associated activities for extraction and processing of the rock are eligible for protection under Goal 5 – “Open Spaces, Scenic and Historic Resources and Natural Resources.”

Within the County’s RNRP and Community Plans, a District A overlay identifies quarries that meet Goal 5 criteria; and a District B overlay identifies offsite land where potential future uses are somewhat restricted to protect against impacts to mining operations and ensure that conflict and compatibility issues are addressed.

Criteria

The criteria applicable to this plan amendment request are contained in the Goal 5 Administrative Rule for mineral and aggregate resources (OAR 660-023-0180). That rule effectively preempts existing County standards for such resources since the County Comprehensive Plan has not been updated to be consistent with current Goal 5 provisions. Under OAR 660-023-0180(9), local jurisdictions must apply the OAR directly until such time as the jurisdiction’s standards are amended to incorporate its provisions. This report addresses findings of compliance with Goal 5. Other Goals apply as well, and those Goals are addressed within Attachment A (Draft Findings for Ordinance No. 854), incorporated herein by reference.

Key considerations in a Goal 5 mineral and aggregate resource analysis include aggregate quality, quantity, location and potential conflicts between onsite and offsite uses. Local standards and further land use review by the County are limited to the “minimum review necessary” to assure compliance with the Goal 5 Post Acknowledgement Plan Amendment (PAPA) Rule and may not provide a basis to deny mining unrelated to the rule requirements (OAR 660-023-0180(5)(e)). While superseded local code requirements such as CDC Section 379 are not directly applicable as approval criteria, they may be used as tools to assess whether a conflict is

minimized or to establish a program to achieve compliance with Goal 5. For example, application of District A/District B standards of CDC Section 379 could be used to ensure adequate protection of the Goal 5 resource from future conflicts with offsite uses.

Process

In 2008 when a similar application was initiated, the County determined that a hybrid quasi-judicial and legislative review applies to applications for mineral and aggregate resource overlay expansions. Application of the District A overlay to the quarry expansion area is being considered at the quarry owner's request and would only affect property under control of the quarry owner. These aspects of the proposal are consistent with a quasi-judicial plan amendment application. The overlay that would protect the quarry from impacts of potential future offsite uses (District B) would affect offsite lands not under the quarry owner's control, and application of that overlay has not been requested by affected property owners. Those circumstances suggest a legislative process. A hybrid quasi-judicial and legislative review is treated as a land use ordinance, but ensures a higher level of public notice consistent with quasi-judicial review requirements.

The law requires County completion of the plan amendment review process within 180 days from the date of a complete application. The application was accepted on April 19, 2019, and 180 days from that date would be Oct. 16, 2019. Continuance that would cause the 180-day limit to be exceeded would cause the application to expire.

An amendment to the County's Comprehensive Plan is not a development permit. If this plan amendment is approved, a future Type II development review would be needed for issuance of a development permit, required for quarry operations in the expansion area. While that review would attach conditions set forth in proposed RNRP amendments to a development permit, pursuant to OAR 660-023-0180(5)(e) it could not supersede this plan amendment decision or serve as a basis for denying authorization to mine.¹

Once approved locally, state agencies also regulate development and operation of aggregate mining and processing as follows:

- Department of Environmental Quality (DEQ) – air quality, stormwater runoff, wastewater and noise
- Department of Geology and Mineral Industries (DOGAMI) – site reclamation and mine safety standards
- Department of State Lands (DSL) – earth removal and fill permits for activities in wetlands, waterways and other state lands
- Oregon Water Resources Department (WRD) – water rights

¹ Pursuant to CDC Section 106-57, "development" is any man-made change to improved or unimproved real estate or its use, including but not limited to construction, installation or change of land or a building or other structure, change in use of land or a building or structure, land division, establishment, or termination of right of access, storage on the land, tree cutting, drilling, and site alteration such as that due to land surface mining, dredging, grading, construction of earthen berms, paving, improvements for use as parking, excavation or clearing.

Ordinance Notification

Notice 2019-09 regarding proposed Ordinance No. 854 was mailed June 21 to parties on the General and Individual Notification Lists (community participation organizations, cities, special service districts and interested parties). A copy of the notice and ordinance was provided to the Planning Commission at that time. A display advertisement regarding the ordinance was published July 5 in *The Oregonian* newspaper.

A Measure 56 Notice was mailed July 12 to eight owners of unincorporated property notifying them of the changes proposed by Ordinance No. 854. A copy of this notice is included as Attachment B.

IV. ANALYSIS

The Applicant has requested a PAPA through the process outlined under Goal 5, to determine whether the proposed Farmington Quarry expansion area qualifies as a significant mineral and aggregate resource and if so, whether mining can be authorized within it. Consequently, the Applicant must demonstrate compliance with, and the County's decision must be consistent with, the Goal 5 administrative rule, as well as other applicable Goals.

This analysis evaluates the application under the provisions of OAR 660-023-0180, the administrative rule that implements Goal 5. Tabs and Figures referenced herein refer to those within the submitted application, which is Attachment C to this report.

As previously explained, County Mineral and Aggregate District A/District B standards of CDC Section 379 are superseded by current Goal 5 provisions and are not applicable as approval or denial criteria. However, such code provisions may be used as tools to assess whether a conflict is minimized, and may also be used to establish a program to achieve Goal compliance and ensure adequate protection to the resource from future conflicts with offsite uses.

Ordinance No. 854 proposes to amend the RNRP to:

1. Add the proposed Farmington Quarry Expansion Area to the Washington County Inventory of Significant Mineral and Aggregate Sites ("Inventory") by applying Mineral and Aggregate Overlay District A to property identified as tax map and lots 1S2 26C 400, 500, 600, 700, 702, 800, 900 and 1000, and a portion of tax map and lot 1S2 26 4400;
2. Designate property located within 1,000 feet of the District A Expansion Area as District B, wherein conditions apply to protect the mining operation from impacts of future conflicting uses on neighboring land; and
3. Provide conditions for land within these District A and B expansion areas through adoption of new plan text and an Area of Special Concern. As part of this, allow excavation and related activities (but not crushing or other processing) within the District A Expansion Area.

The Applicant provided findings to support the ordinance, which are addressed in this staff report. These findings show compliance with OAR 660, Division 23 (Requirements and Application Procedures for Complying with Statewide Planning Goal 5), specifically OAR 660-023-0180.

A. Completeness

An application submitted for consideration under OAR 660-023-0180(3) and (5) must meet the provisions of OAR 660-023-0180(8) to be considered complete. The completeness criteria established under the Goal 5 rule are substantively stringent. Consistent with the requirements established in OAR 660-023-0180(8)(a)-(e), the application included the following materials:

1. Information relating to the quantity, quality and location of the aggregate resource under consideration (see Tab A);
2. Conceptual reclamation plan (see Tab B, Figure 5);
3. A traffic impact analysis (TIA) (see Tab C);
4. A map depicting a potential “impact area” wherein prospective conflicts between onsite and offsite uses are to be analyzed and, where identified, minimized (see Application Narrative and Tabs B, L and M); and
5. A site plan containing the information required by rule (see Application narrative and Tab A).

B. Determination of Significance as a Goal 5 Resource - OAR 660-023-0180(3)

The first step in reviewing an application for aggregate and mineral resources such as this is to determine whether the resource is “significant;” i.e., whether the material to be mined is of sufficient quantity and quality to protect.

Determination of significance calls for consideration of resource quality, quantity and location. The criteria applicable to evaluating the significance of the Site and the resource present there are found at OAR 660-023-0180(3)(a) which provides as follows:

An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in subsections (a) through (c) of this section ...

- (a) *A representative set of samples of aggregate material in the deposit on the site meets applicable Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or more than 500,000 tons outside the Willamette Valley;*

Quantity

The Applicant has provided information prepared by a professional geologist that demonstrates the applicable Goal 5 criteria have been met. Erick Staley of GeoDesign, Inc., registered in Oregon to perform such evaluations, conducted a study of the aggregate resources underlying the Expansion Area properties. GeoDesign based its calculations on the uniformity of basalt resources in this area of Cooper Mountain. Tab A, Figure 6 shows how the western extent of the Columbia River Basalt Group (CRBG) closely follows SW Farmington Road indicating that the bedrock in the expansion area is similar to that found in the existing quarry. Mining at the existing quarry has exposed basalt resources several hundred feet thick around the perimeter of the quarry and the mine floor (see Tab A, Figure 4).

To confirm this understanding, GeoDesign reviewed well logs within the expansion area which indicate that it is likewise underlain by several hundred feet of basalt, as deep as 100 feet below mean sea level (at least 250 feet deeper than the current mine floor).

To calculate the quantity of rock material in the expansion areas, GeoDesign relied on three-dimensional models of the on-site mineable resources in the expansion area as shown on Tab A, Figures 8 through 10. The volume of nonaggregate material, which includes an overburden layer (rock or soil above the aggregate resource) averaging 15 feet thick, was subtracted from the total volume of all materials present between the modeled surfaces. According to the applicant's geologist, this is a common method of volume calculation in the mining industry. The resulting volume obtained by this process was 12,796,319 yd³ (cubic yards) or a little less than 29 million tons.²

This calculated volume is far greater than the 2 million ton threshold set by the Goal 5 rule (OAR 660-23-0180(3)(a)) for resource aggregate sites in the Willamette Valley.

Based on the calculations above, estimated volume of the aggregate resource exceeds minimum requirements for significance in the OAR.

Quality

Another component of the significance determination is whether the aggregate resource meets quality standards for base aggregate. OAR 660-023-0180(3)(a) relies on the evaluation of aggregate material samples from the site to determine if they meet applicable Oregon Department of Transportation (ODOT) established base rock standards. According to the rule, base rock is to be tested "for its ability to withstand abrasion and degradation." The ODOT abrasion test indicates how aggregate will withstand grinding actions, for example, from heavy traffic. ODOT's air degradation test measures the quantity and quality of the material produced by attrition (for example, by repeated traffic loading and unloading). The sodium sulfate soundness test measures the quantity of material produced by repeated immersion in a corrosive solution of sodium sulfate.

²In calculating the volume of material at the Site, GeoDesign notes that a conversion factor is needed to convert the amount of rock in the ground ("in-place bank") from cubic yardage to tonnage. Referencing the typical density for in-place basalt resource of 2.5 tons per cubic yard, the applicant calculates a net tonnage of basalt within the expansion area of 28,808,498 tons.

The Applicant explains that the Farmington Quarry, including the expansion area, consists of Columbia River Basalt Group (CRBG) formations, and that CRBG is considered to have significance potential for aggregate due to its durability and consistency. According to the Applicant, aggregate sampled from different areas within the quarry exceeds ODOT's specification for aggregate base rock over the years 2005, 2009, 2012, 2015 and 2017, and these findings are set forth in the GeoDesign Report in Tab A, Table 3 and in Attachment B of that same report. The consistency of the test results over this more than 10-year period demonstrates the consistency of the resource throughout the quarry, including the expansion area.³

No concerns have been raised regarding sample collection and analysis methodology. Based on the information submitted by the Applicant, the quality of aggregate material in the expansion area appears to meet applicable criteria for significance as set forth in OAR 660-023-0180(3)(a).

Location

OAR-660-023-0030(3)(a) states that information about location shall include a description or map of the resource area sufficient to determine whether a resource exists.

The Applicant's figures, in particular Tab A, Figures 1 – 8, locate the expansion area and the resource within it. The resource has been explored and delineated using commonly accepted geologic methods practiced by Oregon registered and certified professional geologists having substantial experience in the aggregate mining industry in Oregon. The success of the existing Farmington Quarry, mined since 1956, and other mines that previously operated in the immediate area, indicates the resource is well-located for production and sale of aggregate.

Submitted information is adequate to comply with the Goal 5 location criterion.

Exception to a Determination of Significance on Class I or II or Unique Soils

Even if a particular site meets the criteria for significance identified above, the site may still not be protected if it contains a certain percentage of farm soils that the rules require to be preserved. OAR 660-023-0180(3)(d)(A-B) states that a significance determination can be impacted in the following circumstances:

- (A) *More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on the date of this rule; or*
- (B) *More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS*

³ It does not appear that the applicant tested the basalt within the expansion area but rather relied on the uniform geologic consistency between the existing quarry and the expansion area as the basis to determine the quality of the resource. The rule requires an assessment of the quantity and quality of the resource "at the site." The term "site" is not defined in the rule but the term "expansion area" is defined to mean "aggregate mining area contiguous to an existing site." Given this definition, as well as the geologist's report showing the continuous nature of the resource between the existing site and expansion area, this information is sufficient to make a determination of significance.

maps available on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds:

- (i) 60 feet in Washington, Multnomah, Marion, Columbia, and Lane counties;*

According to (B)(i) above, the amount of Class II soil is not relevant when the resource on the site is greater than 60 feet thick. As previously noted, the geologist's report located in Tab A of the application indicates the resource is several hundred feet thick. The potential Exception to a Determination of Significance based on soils is therefore not applicable and does not influence the County's decision on the significance of the resource in this case.

Regardless, according to Natural Resource and Conservation Service (NRCS) mapping, only about 25.7% of the 52.6-acre expansion site is shown to include Class II soils – less than the 35% maximum referenced in subsection (B) above. Soils in the remainder of the expansion site are indicated as Class III and IV.

Based on submitted information, the site appears to meet requirements for resource quality, quantity and location; and exceptions to significance determination based on soils are not applicable.

C. Determining Whether Mining can be Allowed – OAR 660-023-0180(5)

Demonstrating that the resource is “significant” is only the first step in the process. The rule has no requirement to proceed further through the Goal 5 process if the resource is not determined to be significant. Goal 5 is intended to evaluate only resources determined to be significant. Because the resource on the site meets the definition of “significant,” OAR 660-023-0180(5) next requires the County to determine whether mining can be allowed.

The following steps are necessary to complete the County's evaluation of whether mining can be allowed within the expansion area of Farmington Quarry:

1. Establish an “impact area” for analysis;
2. Determine existing and approved uses therein;
3. Identify potential significant conflicts between those uses and the proposed use consistent with OAR 660-023-0180(5)(b)(A-F);
4. Minimize identified potential significant conflicts;
5. Conduct an Economic, Social, Environmental and Energy (ESEE) Analysis only for conflicts not minimized below the threshold of significance;
6. Determine ESEE consequences of potential new or future conflicts that could impact the mining operation;
7. Develop a program to:
 - a. Achieve Goal 5 compliance and allow mining; or

- b. If conflicts cannot be minimized as determined necessary through ESEE analysis, the County may choose not to allow mining in the Expansion Area.

Impact [Analysis] Area – OAR 660-023-0180(5)(a)

OAR 660-023-0010(3) defines the term "impact area" as "a geographic area within which conflicting uses could adversely affect a significant Goal 5 resource." For aggregate resources, OAR 660-023-0180(5)(a) further explains that:

*The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section **and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance.** For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site. (Emphasis added).*

The Goal 5 impact area establishes a boundary within which the applicant and County are to evaluate nearby existing, approved, and future uses, and whether there are potential significant conflicts between those uses and proposed mining operations.

Per OAR 660-023-0180(5)(b), "Dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government" are approved land uses.

A "conflict" is a use or activity subject to land use regulations that would interfere with or be adversely affected by mining or processing activities at a significant mineral or aggregate resource site (OAR 660-023-0180(1)(b)).

Within the remainder of this report, the above described "impact area" is referred to as the "impact *analysis* area." This is to distinguish it from a 1,000-foot distance wherein the applicant's analysis ultimately recommends protections against impacts to mining from potential future uses (through application of the County's District B overlay). In other words, this staff report analyzes potential conflicting uses up to 1,500 feet away, but limits uses only to 1,000 feet. Consistent with above requirements, the application includes a map identifying properties within a 1,500-foot impact analysis area (see Tab B, Figure 2A). Staff finds that the established 1,500-foot area appears adequate for purposes of this analysis.

Existing or Approved Uses – OAR 660-023-0180(5)(b)

The Goal 5 rule establishes criteria for identifying existing and approved uses within the impact analysis area, and a limited list of uses and potential types of conflicts that the County may consider when evaluating potential significant conflicts with the proposed mining operation. These are addressed in the following sections.

The Applicant conducted and provided the results of its inventory of existing land uses within 1,500 feet of the site. As listed in Tab L, these include residential, agricultural and forestry uses, and a park site with historic buildings. Rural residential uses predominate.

As previously explained, the standards of CDC Section 379 (Mineral and Aggregate Overlay District) are superseded by the more current Goal 5 rule, and therefore are not applicable as *approval* criteria. However, such code provisions may be used as tools to meet Goal 5 resource protection requirements. An existing District B overlay, applicable since 1983, extends 1,000 feet into rural land bordering the existing quarry, consistent with Section 379. The applicant's impact analysis ultimately proposes continued use of the 1,000-foot rural District B standard as demonstrated to be sufficient through past practice.

Identifying Conflicts – OAR 660-023-0180(5)(b)(A-F)

The current Goal 5 rule, adopted in 1996, made a substantial change in the way conflicting uses are evaluated under Goal 5, limiting the analysis to only the following potential conflicting uses:

- (A) *Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;*
- (B) *Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;*
- (C) *Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR chapter 660, division 013;*
- (D) *Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;*
- (E) *Conflicts with agricultural practices; and*
- (F) *Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780.*

Subsequent amendments to the Goal 5 rule have not changed the conflicting use analysis process.

The Applicant had technical studies conducted to identify potential conflicts from the proposed mining activities at the site with local roads, other significant Goal 5 resources, agricultural practices, and uses sensitive to noise, dust or other discharges. Application narrative and technical reports within appendices provide testimony and evidence. Conflicts identified by the Applicant are considered below.

The Applicant notes the northeasterly historic Jenkins Estate, operated by Tualatin Hills Park and Recreation District, and developed urban residential uses to the northeast and east, exceed 1,000 feet from the expansion area and are separated from it by the existing quarry. As such, it is not expected there will be significant new conflicts from mining the expansion area, which is farther from above noted uses than existing mining operations.

The County's responsibility is to determine "significant potential conflicts" with existing and approved uses (see OAR 660-023-0180(5)(a) and (d)). Before mining can be authorized, such conflicts must be minimized or if not minimized, an analysis of ESEE consequences must be conducted. A potential conflict can be considered resolved because the County does not find it significant or because it has been minimized. Minimization can occur by showing that the Applicant can meet a federal, state or other local standard applicable to the conflict, or by showing that the conflict is reduced to a level which is no longer significant (OAR 660-023-180(1)(g)). Absent an established standard, the "significance" of any conflict is a subjective judgment left to the County.

Discharges - OAR 660-023-0180(5)(b)(A)

OAR 660-023-0180(5)(b)(A) requires the County to evaluate conflicts with "sensitive uses" that would potentially be impacted by "discharges" from the proposed expansion area. The rule specifically identifies noise and dust as discharges requiring evaluation and possible minimization. It also refers to conflicts caused by "other discharges."

Activities proposed within the Expansion Area are limited to those related to blasting and excavation. These include: blasting, use of heavy equipment, ground disruption, berm building, and rock drilling. Proposed activities do not include processing or crushing. All rock removed from the expansion area will be transported via internal roads to crushing and processing facilities within the existing quarry site, which is not the subject of this application.

As required by the Goal 5 rule, the Applicant has evaluated the potential conflicts due to noise, dust, and other discharges that might arise with regard to existing and approved off-site uses and associated activities that are sensitive to such discharges (OAR 660-023-0180(5)(b)(A)).

Noise

The application contains an evaluation of possible noise from aggregate removal activities within the expansion area that was prepared by a licensed acoustical engineer, Ioana Park of BRC Acoustics (BRC). The BRC report describes sound levels associated with current mining activities and the proposed expansion area and identifies noise mitigation measures. The report, entitled *Sound Analysis for Baker Rock Quarry Expansion, Washington County, Oregon* ("Noise Report") is available at Tab D of the application.

OAR 660-023-0180(1)(g) provides that a conflict is deemed minimized if the applicant can ensure conformance with the applicable federal, state or local standard, such as Oregon Department of Environmental Quality (DEQ) standards for noise. Land comprising the proposed expansion area qualifies as a “previously unused industrial site.” Such properties have no previous history of industrial use to serve as a basis for setting noise limits (see *Morse Bros. v. Linn County*, 42 Or. LUBA 484 (2002)). In addition to setting allowable noise levels in any one hour, activities and equipment operating on a previously unused industrial site cannot increase hourly statistical sound levels (L50 and L10) at neighboring properties by more than 10 dBA. The “previously unused” standard is considered the more stringent because it relates to and limits elevation of existing ambient noise levels.

BRC selected four noise-sensitive receivers (nearby residences and commercial property addressed in Tab D, Figure 2-1) for measurements of baseline sound levels. Existing sound levels were monitored continuously for multiple hours. The main sources were distant traffic on Farmington Road, residential activity, occasional aircraft flyovers and daytime mining activities at the existing quarry. The results shown in Tab D, Table 4-1 indicate sound measurements below Oregon DEQ daytime and nighttime noise limits at all measurement locations.

BRC used a computer model to evaluate future sound levels resulting from activities within the expansion area. The model considered distances between noise sources and receivers, atmospheric conditions, ground cover, topography and noise-generating sources. The model assumed that the following equipment would be used simultaneously and continuously during the work day on or near the expansion area:

- Front-end loaders
- On-site haul trucks
- Hydraulic and pneumatic rock drills
- Processing, asphalt, STB plants and dirt dumps within existing permit areas

The BRC Report concludes that, without mitigation, noise levels at certain residences could exceed DEQ daytime and nighttime noise standards during various phases of mining both the main and northwest portions of the expansion area. To ensure the operation complies with the applicable DEQ standards, BRC has proposed methods to mitigate the noise. The noise model concludes that sound levels from quarry operations will comply with DEQ noise limits with mitigation that includes a 2,500-foot long berm at the west-southwest corner of the Main Expansion Area within the proposed 100-foot wide perimeter setback. The berm would be constructed prior to mining the existing ridge north of the Main Expansion Area and maintained after mining of the Main Expansion Area is complete. The location and height of the proposed noise mitigation berm is shown in Tab D, Figure 7-1. Second, BRC recommends limiting the schedule of mining at the working face (the “working face” is the surface area where mining is occurring. As material is removed, the working face moves back to the newly uncovered material) within the final phase of expansion, including restricting mining of the Northwest Expansion Area to hours between 7 a.m. to 10 p.m., during which Oregon DEQ daytime noise limits are in effect. With noise

mitigation, none of the expected sound-level increases exceeds 10 dBA above existing ambient sound levels.

Dust

Mining operations produce dust. While no processing is proposed within the Expansion Area, overburden removal, aggregate extraction (including blasting), truck and equipment movement and reclamation activities disturb the ground surface and produce dust that has the potential to adversely affect surrounding uses and may require mitigation.

According to the application, mining and related activities have been conducted at the Farmington Quarry since 1956 and have been effectively minimized and controlled on-site. The Applicant proposed using the same or similar dust suppression measures in the Expansion Area that have successfully been used in the existing quarry area. In general, the Applicant proposes to provide gravel amendments on haul roads, moderate the speed of its trucks on-site and use water to control and limit dust.

The Applicant believes dust will not create a significant conflict. Staff concurs that, with proposed mitigation, dust is not likely to generate significant impacts.

Other Discharges

Goal 5 requires the County to evaluate conflicts with "other discharges." The rule defines houses and schools as uses that are sensitive to such discharges, but does not define the term "other discharges." Hence, the County has the authority and responsibility to define that term. Vibrations from mining and blasting have been considered "other discharges" in previous Land Use Board of Appeals (LUBA) cases, e.g., *Walker v. Deschutes County*, 55 Or LUBA 93 (2007). Light from night operations may also be considered a type of discharge. Potential other discharges identified in the application include turbidity in stormwater runoff, turbidity impacts to groundwater; and discharges from blasting such as vibrations and their effect on nearby structures and wells.

Stormwater

DOGAMI and DEQ have joint regulatory authority of the treatment and discharge of stormwater at mine sites and WRD has a role in regulating groundwater. Turbid stormwater can be generated when stormwater runoff is allowed to flow over areas of disturbed soils. The mining plan for the Expansion Site has been designed to direct all stormwater inward to settling ponds within the existing permitted facility and from there, controlled discharge will occur pursuant to a DEQ Storm Water Pollution Control Plan (SWPCP) and discharge permit (see Tabs I and J regarding the permit for the existing facility, which requires monitoring of the two settling ponds under procedures that provide a reasonable and practicable measure to reduce turbid stormwater discharge). Conditions of approval requiring an amended permit from DOGAMI and DEQ prior to excavation in the expansion area will minimize conflicts. Based on the foregoing, conflicts due to stormwater can be minimized through a condition to obtain necessary permits.

Groundwater

According to the Applicant's geologist, GeoDesign, water bearing zones reported in well logs are lower than the proposed mining depth, in some cases by over 100 feet. The geologist opines, therefore, that proposed mining will not have a detrimental impact on groundwater resources (see Tab M, Figure 1). GeoDesign explains that these findings are supported by mining at the existing quarry where no groundwater has been encountered.

Further, the Applicant acknowledges that DOGAMI may impose additional conditions as part of the surface mining operating permit to prevent or mitigate off-site impacts to groundwater resources. A condition in the filed Exhibit requires continued monitoring and compliance with related DOGAMI permit requirements. The Applicant asserts that GeoDesign findings coupled with DOGAMI monitoring obligations will be sufficient to minimize any potential impact to groundwater.

Staff adds that in Oregon, significant interagency coordination occurs. 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 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 for aquifer storage and recovery projects. The Laboratory Division provides monitoring support to many program areas relating to groundwater...⁴

Blasting and Vibration

Safety is of utmost concern during a blast. The actual blast is almost instantaneous and flying rock can result. To protect structures and people, strict safety practices are employed as described in the McCallum Rock Drilling (MRD) report ("Blasting Operations Safety Plan 2018," Tab F). The Applicant retained MRD to evaluate the prospect of impacts to nearby structures from blasting. The MRD report evaluates effects of the physical blast and vibrations generated by the blast.

According to the MRD report, modern blasting techniques and monitoring allow commercial quarrying operations and non-mine residences to coexist, with no

⁴ <http://www.oregon.gov/DEQ/wq/programs/Pages/GWP-about.aspx>

cracking of residential structures as a result of vibration. The report states that the US Bureau of Mines sets minimum standards for vibrations that address the weakest structural components found within residential construction (lath and plaster interiors in poor condition). The report reasons that by following the US Bureau of Mines standards, including the federal ground motion standard, buildings will be protected. The filed Exhibit includes a requirement for a survey to document the baseline condition of residences within 1,500 feet prior to initial blasting.

Based on the foregoing, staff finds that conflicts resulting from “other potential discharges” as a result of extraction activities within the expansion site can be minimized.

Conflicts with Local Roads – OAR 660-023-0180(5)(g)

The Goal 5 administrative rule provides:

Local governments shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the local government (OAR 660-023-0180(5)(g)).

No change or modification of the Applicant’s existing processing methodology or facility (including access roads or entrances to public roads) will occur as part of this proposal. The application states that the aggregate excavated from the Expansion Areas will be transported to the existing processing facility via internal haul roads rather than external roadways. The Applicant also explains that areas within the expanded quarry boundary will not be developed until existing permitted resources are exhausted. The Applicant notes that no conflicts between mining trucks and farm vehicles have been identified along Farmington Road. The Transportation Impact Analysis (TIA) submitted by Karl Birky, a licensed transportation engineer from Associated Transportation Engineering & Planning Inc., confirmed that because there is no change in the number of trips or the nature of traffic at the access to the Farmington Quarry, the existing traffic pattern will not change (see Tab C).

Staff finds that since mining of the expansion area is not proposed until such time as existing supply is depleted, no significant conflicts with local roads are expected.

Safety Conflicts with Existing Public Airports – OAR 660-023-0180(5)(b)(C)

OAR 660-023-0180(5)(b)(C) requires an assessment of potential safety conflicts with existing public airports due to bird attractants such as open water impoundments as specified under OAR Chapter 660, Division 013. Because no public airports are located within the 1,500-foot prescribed impact analysis area, this criterion does not apply.

Conflicts with Other Significant Goal 5 Resource Sites – OAR 660-023-0180(5)(b)(D)

OAR 660-023-0180(5)(b)(D) limits consideration of conflicts with other Goal 5 resources to "resource sites within the impact area that are shown on an acknowledged list of significant

resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated."

The County RNRP Goal 5 Resources Map includes Tualatin River Basin tributaries along the edges of the impact area to the north, on the Jenkins Estate property, and to the west and southwest of the Main Expansion Area (see Tab E and Tab B, Figure 2A). The potential conflict affecting the riparian resources would be stormwater discharge impacts. This potential conflict is minimized by adherence to stormwater control plans and permits discussed above. Conditions of approval requiring an amended DEQ/DOGAMI Stormwater Pollution Control permit for the Expansion Area prior to excavation will minimize conflicts.

The Jenkins Estate is an inventoried historic resource. The existing quarry is located between the expansion area and the Estate site. Mining within the Expansion Area is proposed to occur as resources within the existing facility are depleted. Since the expansion area is farther from the Estate than the existing mine, conflicts beyond the status quo are not anticipated as a result of operations in the Expansion Area.

Conflicts with Agricultural Practices - OAR 660-023-0180(5)(b)(E)

Goal 5 requires that significant potential conflicts with agricultural practices be identified (OAR 660-023-0180(5)(b)(E)). OAR 660-023-0180(5)(c) states that "[t]o determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section." ORS 215.296(1) states:

A use allowed under ORS 215.213(2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or*
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

To conduct this analysis, the Applicant or local government must define surrounding lands, farm uses and applicable accepted farm practices. The terms "significant change" and "significantly increase the cost" were the subject of a recent decision by the Oregon Supreme Court, *Stop the Dump v. Yamhill County*, 364 Or 432 (2019). In that case, the court held as follows:

*As used in ORS 215.296(1) to modify a "change in accepted farm or forest practices on surrounding lands," the ordinary meaning of "significant" indicates that the change has, or is likely to have, an important influence or effect on the farm or forest practices "on surrounding lands." Similarly, the ordinary meaning of "significantly" with respect to an increase in the cost of accepted farm or forest practices appears to mean to increase the cost in a significant manner, that is, in an influential and important way. See Webster's at 2116 (defining "significantly" as "in a significant manner * * * : to a significant degree.").*

In short, to approve the proposed use, the County must conclude the expanded mining will not have an important influence or effect on farm practices in the impact analysis area, and that the mining will not increase the cost of farming in an influential or important way. It is not clear what information the Applicant used to identify farm uses within the evaluation area, but the application contains a table identifying the uses on surrounding lands. These include a variety of crops such as nursery, orchard, row, hay and cover crops, a small horse pasturage and stabling and a small animal husbandry operation. The application contains a detailed list of the activities associated with each farm operation and includes third-party articles explaining the detailed component parts of sheep raising, plant nursery growing operations, hazelnut farming and orchard grass production (see Tab M). In sum, activities associated with the various identified farm uses include soil preparation, pruning, planting and other ground disturbing activities, irrigation, application of herbicides and pesticides, plowing, harvesting, and transporting products to market, and animal feeding, grazing, watering, sorting and penning, inoculating, housing and transporting.

The Applicant listed dust, traffic, groundwater and noise from the mining operation as aspects of the proposed use that could potentially conflict with the identified farm uses.

The Applicant contends that the presence and continued operation of the existing Farmington Quarry helps to provide context for this analysis. The application notes that many of the same farm practices identified above have taken place adjacent to the existing quarry and its processing activities (such as crushing, sorting and screening) for 30 to 40 years without conflict. If the Applicant has demonstrated that the existing mine can operate as a good neighbor by not causing significant adverse impacts to the success and profitability of farming operations that are immediately adjacent, it would be reasonable to assume that the less impactful aggregate removal activity occurring within the Expansion Area will not create new or significantly exacerbate existing conflicts.

Agriculture: Dust Conflicts

Mining generates dust. Agricultural practices such as tilling, harvesting, and livestock movement also generate dust. DEQ does not regulate agricultural dust levels. Staff has not received evidence suggesting that any agricultural uses within the impact analysis area are dust-sensitive, for example, grape vines are known to be adversely affected by dust but none are reported within the impact analysis area. Rather, the application includes a letter from a nursery and garden center located directly across Farmington Road from the Farmington Quarry opining that mining within the Expansion Area is not likely to generate any greater levels of dust than any other cropland agricultural use (see Tab M, Figure 2).

As discussed above, the Applicant has agreed to implement dust control measures consistent with DEQ recommendations including controlling truck speed on-site, graveling internal truck paths to minimize dust, revegetating disturbed areas and using water trucks and water supplies to eliminate dust from operations.

With recommended conditions of approval to ensure these practices (included in filed Exhibit 1 of the Ordinance), no significant change to or increase in the cost of farm practices is expected due to dust from excavation within the Expansion Area.

Agriculture: Traffic Conflicts

The Applicant's Traffic Impact Analysis (TIA) indicates that roads in the area are adequate for levels of service, capacity and functional characteristics such as sight distance, horizontal and vertical alignments and similar requirements. As noted above, no new truck traffic is expected as a result of this request since the applicant proposes mining in the expansion area as transition is made from the existing facility's resource. Quarry trucks from the existing operations have shared public roads with farm and forestry machinery such as tractors, trucks, tillers and harvesting equipment for decades. As previously noted, the applicant proposes the Expansion Area as a replacement resource, to be mined as transition is made from the existing facility's resource. Further, all trucks carrying excavated rock to market will originate from the existing permitted site (not the expansion site) and use an existing access. Washington County Transportation Planning staff reviewed the TIA and indicated they had no concerns.

Based on the TIA and subject to conditions of approval, a finding can be made that no significant change or increase in the cost of farm practices is expected due to traffic from excavation within the Expansion Area.

Agriculture: Groundwater Conflicts

All agricultural activities rely on an adequate water supply to operate. The record contains a letter from an adjacent nursery owner expressing its reliance on existing wells to operate and noting no adverse impact from the existing Farmington Quarry operation (Tab M, Figure 2). As discussed above, the Applicant's geologist GeoDesign has examined the existing well logs in and around the expansion areas and concluded that proposed mining depths will not conflict with the existing water-bearing zone. Further, the Applicant has agreed to monitor existing wells within the Expansion Areas as required by proposed conditions (see filed Ordinance Exhibit). With these measures and conditions, no significant change to or increase in the cost of farm practices can be expected as a result of excavation to proposed depths within the Expansion Area.

Agriculture: Noise Conflicts

The Applicant's noise analysis predicts that the mining operation will increase ambient noise levels in adjacent areas, including agricultural areas. Farming also generates noise. OAR 340-035-0015(38) indicates that property used in agricultural activities is not noise-sensitive unless it is normally used for sleeping or as schools, churches, hospitals or public libraries. Farm practices identified by the Applicant do not include any such uses; and the experience at the existing Farmington Quarry site is instructive. In particular, agricultural uses have coexisted with operations of the existing mine over many decades with little conflict. Given the noise minimization measures proposed to ensure compliance with relevant DEQ noise standards, no appreciable increase in noise is expected.

No significant change to or increase in the cost of farm practices is therefore expected due to noise from excavation within the Expansion Area.

D. Conflict Minimization Plan – OAR 660-023-0180(5)(c)

Goal 5 requires that the County determine whether potential significant conflicts with existing and approved uses can be minimized to the point where the County believes they are no longer significant.

OAR 660-023-0180(5)(c) states:

If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the [significant aggregate resource] site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.

Pursuant to OAR 660-023-0180(1)(g):

"Minimize a conflict" means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the DEQ standards for noise and dust levels), to "minimize a conflict" means to ensure conformance to the applicable standard.

The application identifies uses and activities that could conflict with mining activities within the Expansion Area, identifies and analyzes each potential conflict with regard to the existing and approved land uses, and proposes measures to minimize conflicts to a level that is not significant or that complies with a local, state or federal standard. Filed Exhibit 1 of the Ordinance includes proposed conditions for the District A Expansion Area intended to ensure no significant impacts.

No additional conflicts have been identified. Unless additional claims of conflict are raised during proceedings, it appears that conflicts can be minimized and an ESEE is not required.

E. Post-Mining Uses for the Site – OAR 660-023-0180(5)(f)

OAR 660-023-0180(5)(f) provides:

Where mining is allowed, the local government shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, local governments shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.213(1) or 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking. Local governments shall coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.

The expansion area is not predominantly Class I or II soils or Unique Farmland. The application explains that when the expansion site is fully mined, upon reclamation it will

return to uses allowable in the underlying AF-20 and AF-5 land use designations. See conceptual reclamation plan (Tab B, Figure 5).

F. Limiting Conflicting Uses within the Impact Area – OAR 660-23-0180(7)

Having determined that the aggregate resource is significant, and having evaluated potential conflicts and found that they can be minimized, the mining use can be allowed. However, that does not complete the analysis. In addition to allowing the mining, the County may be required to restrict uses on surrounding land to protect the resource found at the quarry site. In doing so, the County must “follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site” (OAR 660-023-0180(7)). This provision requires consideration of whether new conflicting uses (such as residences) should be allowed within the impact area.

The Applicant has provided an analysis that discusses the economic, social, environmental and energy (ESEE) impacts of allowing, limiting or preventing new uses within the impact area using the standard process of: (1) identification of the new (future) conflicting uses; (2) identification of the impact area; (3) analysis of the ESEE consequences; and (4) program to achieve Goal 5.

Identification of Future Conflicting Uses

The applicant explains that, because of their similar nature, there are no conflicts between mining at the Farmington Quarry Expansion Site and adjacent aggregate uses that are currently included in District A mineral/aggregate overlays.

As for the other neighboring uses, the Applicant has generally identified these as: (1) farm and forest uses, including related commercial uses such as horse boarding, feedlots, and propagation/harvest of forest products; (2) noise sensitive uses including dwellings and park facilities; and (3) non-noise sensitive uses such as accessory structures and transportation facilities. Potential for related conflicts is addressed below.

Identification of Impact Area (District B)

The application relies on a 1,500-foot presumptive impact analysis area around the Expansion Site within which to assess potential conflicts, except as evaluation of potential impacts to agriculture considers surrounding farm properties that may extend beyond that boundary.

For purposes of the ESEE analysis, most of the allowed uses within 1,500 feet or less were not found likely to pose conflicts with aggregate removal. The applicant therefore does not propose application of the County’s District B overlay to the entire 1,500-foot analysis area. A 1,000-foot District B standard has applied to rural land bordering the existing quarry since 1983. The analysis found the same distance adequate to protect the quarry from future uses on lands bordering the Expansion Area.

Analysis of ESEE Consequences

Economic Consequences

Although the application acknowledges that allowing new conflicting uses in the impact area could limit the applicant's ability to fully extract the mineral and aggregate in the expansion area, the application also concludes quarry use will have minimal adverse effect, if any, on potential future uses within the proposed District B area. Reasonable mitigation measures for dust control, groundwater protection and noise control will reduce identified conflicts and adverse effects on new uses, protecting them from potential economic detriment due to quarry operations. As a result, conflicting uses can exist without significant economic impacts to either the mining use or the conflicting use.

Staff adds that if mining cannot occur in the Expansion Area, markets may have to rely on resources farther from urban areas. Fuel costs for rock transport over longer distances can lead to higher aggregate costs for consumers; and potential roadway deterioration from heavy trucks along longer haul routes could increase fuel costs for other drivers sharing those roadways (see "Energy Consequences" below).

Social Consequences

The application states that aggregate provides social benefits to the residents of Washington County as a key component of infrastructure. The aggregate and other material extracted from the quarry is used to construct roads, streets, highways, sewers, waterworks, and other public works that benefit all residents in Washington County and the region. Some social consequence may result from elimination of six existing houses from the expansion area. Goal 10, intended to retain/encourage housing in urban areas, does not directly relate to the six homes since they are outside the UGB in an area generally expected to support resource or rural uses. The applicant's representative indicates, however, that the homes will remain until mining commences in the Expansion Area, potentially available as residences for a considerable period.

In addition, there is evidence indicating that adverse impacts can be minimized and that minimization, coupled with the locational dependence associated with aggregate uses, suggests the social consequences weigh in favor of allowing both uses.

Environmental Consequences

In addition to emissions such as dust and vibration, which are addressed extensively above, the mining use will generate some carbon emissions. However, other allowed uses such as farming would also have some level of carbon emissions. In addition to the previous discussion, the application stresses minimization measures proposed to address environmental effects. These include on-site rock hauling to a processing facility within the existing mine, thereby reducing traffic impacts; stormwater management, monitoring of wells, and limiting mining depth to avoid impacts to wells; and measures to reduce noise and vibration. Since these measures reduce environmental consequences to a level that is no longer significant, new uses are subject to only modest limitations as proposed in the filed Exhibit. Staff adds that, as discussed under "Economic Consequences" above, hauling rock from the site to nearby urban markets would

require less fuel than hauling from more distant quarries – associated emissions would also be comparatively less.

Energy Consequences

The application notes potential energy consequences of allowing new off-site uses along the periphery of the site are theoretical. It also points out that based on the conflict minimization considerations above, energy consumption associated with new uses in the analysis area will remain largely unchanged whether or not the quarry operation expands.

Staff adds that, for the operator and aggregate consumer, locating the proposed operation close to the existing processing facility provides a level of energy efficiency, as does location close to fast-growing urban areas where aggregate for construction and maintenance of transportation facilities is most needed. While the application finds that nothing about the expanded quarry would increase energy demands for new conflicting uses, staff notes that denying expansion could increase reliance on aggregate sources much farther from urban markets. When heavy aggregate must be hauled long distances from quarries to processing or roadwork/development sites, fuel demands for transport rise significantly. Additionally, roads used for the longer haul are subject to more rapid deterioration. Poor quality roads impact fuel efficiency for haulers and other roadway users alike. This analysis favors fully allowing the quarry expansion and moderately limiting conflicting uses in the area.

ESEE Conclusions

This ESEE analysis suggests that both an expanded Goal 5 protected mineral and aggregate resource and future uses surrounding it are important, and each can coexist without significant impacts to the other. However, the applicant has proposed modest restrictions on new uses for the protection of the aggregate operation through application of a 1,000-foot District B overlay as described elsewhere in this report.

G. Program to Achieve Goal 5 Compliance

OAR 660-023-0180(5)(e) sets forth the steps the County must take should it decide to allow mining:

Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e.g., site plan review), if required by the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not provide opportunities to deny mining for reasons unrelated to these requirements, or to attach additional approval requirements, except with regard to mining or processing activities:

- (A) *For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;*
- (B) *Not requested in the PAPA application; or*

(C) For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.

For each Goal 5 resource site, the local government conducting the Goal 5 evaluation must adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to Goal 5 (see OAR 660-023-0050(1)). Within the context of a PAPA request made under Goal 5 in relation to a mineral and aggregate resource, and therefore within the context of OAR 660-023-0180, the relevant decisions are those relating to:

- Determining resource significance,
- Authorizing mining,
- Identifying conflict minimization measures, and
- Limiting, allowing, or prohibiting future conflicting uses.

The aggregate-specific section of Goal 5 requires that local governments amend the Goal 5 resource inventories in their comprehensive plan to include the significant site, and amend the comprehensive plan and implementing ordinances to allow mining and to provide for the post-mining use (see OAR 660-023-0180(5)(f)). The local government must also develop a program to implement its decision under OAR 660-023-0180(9) with respect to new conflicting uses that include adoption of an ESEE consequences analysis. See OAR 660-023-0180(9), OAR 660-023-040, and OAR 660-023-050.

To ensure that all potential conflicts are minimized and not significant, amended RNR Policy 7 requires compliance with Conditions of Approval developed for Ordinance No. 854 shall be demonstrated through the Washington County Type II Development Review process.

If this plan amendment request is approved, pursuant to OAR 660-023-0180(5)(e) future Development Review shall ensure compliance with amended Policy 7 (Mineral and Aggregate Resources) of the RNR, but shall not supersede this decision or serve as a basis for denying authorization to mine at the Farmington Quarry.

To establish a program implementing requirements noted above for the proposed quarry expansion, including implementing the County's determination of the site as a significant Goal 5 mineral and aggregate resource and allowing mining of the expansion site, staff recommends the Board adopt amendments to the RNR as shown within the filed Exhibits. These include but are not limited to:

- Expansion of the existing Farmington Quarry District A overlay to include the proposed Expansion Area within the County's inventory of significant Goal 5 mineral and aggregate resources;
- Addition of an Area of Special Concern and associated conditions for approval and operations, applicable to the expanded District A area through a Type II development review; and

- Expansion of the existing associated District B, subject to conditions within amended RNRP text, to include land within 1,000 feet of the District A expansion area.

H. Superseded Washington County Criteria

This analysis is not intended to provide findings for whether Washington County Community Development Code (CDC) criteria are met since County criteria are preempted by OAR 660-023-0180. Nonetheless, to address the County's interest/concern regarding resource aggregate uses as evidenced in its previously adopted standards – and to provide the County with a relative level of comfort regarding future site operations – staff has summarized key provisions of superseded CDC Section 379 below and analyzed the extent to which the proposal complies.

379-7 Uses Permitted Through a Type II Procedure in District A

Section 379-7 allows quarrying/mining for rock, associated stockpiling of mineral/aggregate and earth, storage of necessary equipment and supplies, and accessory structures for related management/maintenance and equipment. Proposed uses are consistent with these allowances.

379-13 Development Standards - District A

Section 379-13 includes the following:

Dimensional Requirements

Plans, prepared by a certified geologist, mining engineer, engineering testing firm or other qualified personnel are required, demonstrating the minimum lot area necessary to accommodate setbacks as follows:

- *Extraction areas set back at least 100 feet from the quarry boundary (except where abutting another quarry in which case no setback applies) and 500 feet from existing noise sensitive uses; and*
- *Production/processing equipment storage locations set back at least 50 feet from the quarry boundary and 100 feet from existing noise sensitive uses.*

This section also allows storage of overburden saved for reclamation within setbacks.

As proposed, aggregate removal will be set back 100 feet from the expanded District A boundary except where it abuts the existing quarry. No permanent storage of equipment or processing of materials is proposed in setbacks. All overburden will be stored as required by the DOGAMI reclamation plan.

Screening

Plantings are required to screen views of the site and all related equipment from public roads, urban land use districts and existing noise sensitive uses within 1,000 feet.

A planted noise mitigation berm is required along the west-southwest corner of the Main Expansion Area, and trees and vegetation will be maintained as practicable along the Northwest Expansion Area. As mining moves westward, overburden will be stockpiled in berms within the 100-foot setback along Farmington Road and planted.

Access

Standards require paved or graveled and oiled roads both on and off-site, as well as a vehicle barrier or gate at access points.

No new access to public roads has been authorized for the quarry Expansion Area. The vehicular access and barrier/gate currently serving the existing quarry will serve the Expansion Area. A condition within the filed Exhibit addresses internal road dust management by applying a 20 mph speed limit and requiring adherence to DOGAMI recommended best management practices and operator's DEQ Air Contaminate Discharge Permit specifications.

Hours

Blasting is limited to hours between 9 a.m. and 6 p.m. Monday through Friday (except on holidays when prohibited or through a Type II exception process); subject to operator's provision of notice to homeowners within 1,000 feet at least 96 hours before blasting.

Filed conditions limit blasting as reflected above.

Environmental Standards

Compliance with Environmental Performance Standards of CDC Section 423 and 1983 Oregon DEQ standards is required.

Environmental concerns will be addressed through current DEQ/DOGAMI permit requirements, as previously addressed.

Site Reclamation and Performance Agreement

A site reclamation plan is required, approved by DOGAMI and prepared in conjunction with an Oregon surface mining permit, to demonstrate that the site will be reclaimed for land uses specified in the underlying land use district.

A condition in the filed Exhibit requires an amended Reclamation Plan Permit from DOGAMI prior to excavation in the Expansion Area and maintenance of adequate security for reclamation as required by DOGAMI.

379-14 Development Standards - District B

Section 379-14 requires the following for new dwellings and other noise sensitive uses, and new lots eligible for such, to minimize impacts of noise and dust:

- *Setbacks potentially greater than district minimums; walls, berms, planted buffers, and special insulation and window placement as determined necessary;*
- *Agreement that occupant will not object to mineral and aggregate operations; and*
- *Notation on document creating any new lot indicating it is in District B.*

A condition in the filed Exhibit applies the above to the proposed District B area.

Conclusion

Based on information included within the application and addressed in findings within this report and Attachment A (incorporated by reference herein), the County can find that this application complies with Goal 5 requirements for determination of a site as a significant natural mineral/aggregate resource, that mining can be allowed on the proposed expansion site, and that this plan amendment can be approved subject to provisions included within filed Exhibits to ensure ongoing Goal 5 compliance.

Summary of Proposed Changes

Ordinance No. 854 proposes to amend the Washington County Rural/Natural Resource Plan, an element of the County Comprehensive Plan, to expand overlays related to identification and protection of significant mineral and aggregate resources at Farmington Quarry, to authorize mining within the quarry Expansion Area subject to application of related conditions through future development review.

Key Provisions:

- Expands the District A overlay that identifies a protected significant mineral and aggregate resource under Statewide Planning Goal 5.
- Identifies the District A expansion area as an ASC and applies related conditions applicable to the future land use permit.
- Expands the District B overlay, applicable to properties within 1,000 feet of the proposed new District A boundary, to protect allowed quarry activities from potential conflicting future uses of nearby properties.

List of Attachments

The following attachments identified in this staff report are provided below:

Attachment A: Draft Findings for Ordinance No. 854

Attachment B: Measure 56 Notice

Attachment C: Plan Amendment Application Materials ([linked here](#) & available at Clerk's Desk)

DRAFT FINDINGS FOR ORDINANCE NO. 854

**AN ORDINANCE AMENDING THE RURAL/NATURAL RESOURCE PLAN
TO EXPAND DISTRICT A AND B OVERLAYS ASSOCIATED
WITH BAKER ROCK RESOURCES FARMINGTON QUARRY
AND ADD A RELATED AREA OF SPECIAL CONCERN**

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. 854 amends the Rural/Natural Resource Plan (RNRP) to expand existing overlays associated with future quarry expansion and protection of Mineral/Aggregate resource sites, and to apply an Area of Special Concern (ASC) that sets forth conditions for the quarry expansion area.

The County and state recognize that a stable supply of aggregate, available from sources relatively near urban worksites, is necessary for maintaining adequate public transportation infrastructure.

Key Ordinance Provisions

Ordinance No. 854 amends the RNRP as follows:

- Expands the District A overlay that identifies a protected significant mineral and aggregate resource under Statewide Planning Goal 5 (Goal 5).
- Identifies the District A expansion area as an ASC and applies related conditions applicable to the future land use permit.
- Expands the District B overlay, applicable to properties within 1,000 feet of the proposed new District A boundary, to protect allowed quarry activities from potential conflicting future uses of nearby properties.

Amendments to the RNRP affect Policy 7 (Mineral and Aggregate Resources) and the Goal 5 Resources Map.

Because the ordinance would make certain 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 Applicant provided responses to each applicable Goal in the Application. The County is required to make findings that the amendment is consistent with all applicable Goals and with the requirements of Metro's Urban Growth Management Functional Plan (UGMFP) and the Regional Transportation Plan (RTP). Findings are provided within the staff report and are specifically incorporated as findings as if set forth in this document.

The Board finds that Statewide Planning Goal 14 (Urbanization) is not applicable because this ordinance applies to land outside the urban growth boundary.

Part 2:

STATEWIDE PLANNING GOAL FINDINGS

The purpose of the findings in this document is to demonstrate that Ordinance No. 854 is consistent with Statewide Planning Goals (Goals), Oregon Revised Statutes (ORS), Oregon Administrative Rule (OAR) requirements and Metro's Urban Growth Management Functional Plan (UGMFP).

Because the County has not updated its Comprehensive Plan to be consistent with current Goal 5 Mineral and Aggregate Resource provisions, the Goal 5 administrative rule supersedes existing County plan policies and CDC approval criteria. OAR 660-023-0180(9) requires local jurisdictions to apply the OAR directly if local standards have not been amended to incorporate its provisions. Other Goals apply as well. Goal compliance is addressed herein. No goal compliance issues were raised in the hearing proceedings described below.

The following findings are provided to demonstrate compliance with the statewide planning Goals.

Goal 1 - Citizen Involvement

The purpose of Goal 1 is to develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process. The Applicant has submitted a Goal 5 plan amendment application. Such an application requires public notification and public hearing(s) as well as notice to DLCD of the plan amendment under ORS 197.610. Notice of proposed Ordinance No. 854 was provided to DLCD June 17, 2019 and mailed to parties on the General and Individual Notification Lists (community participation organizations, cities, special service districts and interested parties) June 21. A display advertisement regarding the ordinance was published July 5 in *The Oregonian*. The County also mailed a Measure 56 notice to potentially affected owners of property within the proposed District B expansion area on July 12. This notice is required when a change to existing land use regulations may affect the permissible uses of properties in an affected area or zone, and potentially change property value as a result. Opportunities for citizen involvement have been addressed in accordance with Goal 1. See additional findings in the staff report.

Goal 2 - Land Use Planning

The purpose of Goal 2 is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to ensure an adequate factual base for such decisions and actions. The county has adopted a Comprehensive Plan that was acknowledged as consistent with Oregon's Statewide Planning Goals. Key elements of the Plan

related to this request include the Rural/Natural Resource Plan (RNRP) and the Community Development Code (CDC). The RNRP provides implementation strategies in Policy 1 (“Planning Process”) that “[p]rovide for legislative plan amendments to apply or remove the Mineral and Aggregate Overlay Districts (Districts A and B) when the requirements of the RNRP, the Transportation Plan, Section 379 of the Community Development Code, and OAR 660-023-0180 are met.” The Applicant requests the County amend the RNRP to identify the quarry expansion area as a significant aggregate resource area and authorize mining within it. Although CDC standards for Mineral and Aggregate Resources are not consistent with superseding state Goal 5 provisions for such resources, this application has been reviewed against Goal 5 directly and found to comply. The PAPA process under OAR 660-023-0180 establishes procedures for amending a comprehensive plan and land use ordinances as they relate to aggregate resources and mining. No exception to any Goals is requested or necessary for the proposed use. The application provides the necessary factual support to demonstrate the project is compatible with Goal 2.

Goal 3 – Agricultural Lands

The purpose of Goal 3 is to preserve and maintain agricultural lands for farm use. A portion of the future quarry expansion site is currently zoned AF-20 (an exclusive farm use designation). ORS 215.213 and 215.283 allow aggregate mining on resource farmland with local approval, provided it is consistent with the analysis required by ORS 215.296(1). OAR 660-023-180 requires minimization of significant potential conflicts using the analysis established by ORS 215.296(1). There are agricultural lands surrounding the site that support farm uses. The Applicant has conducted analyses of the project against the criteria of ORS 215.296(1) and OAR 660-023-0180(5)(b)(E), which concluded that existing farm practices would not be significantly impacted by the proposed mining operation. The application provides the necessary factual support to demonstrate the project is compatible with Goal 3.

Goal 4 – Forest Lands

There are no Goal 4 resource forest lands within the proposed quarry expansion area or adjacent to it that are currently in forest use. Compliance with Goal 4 is not impacted.

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.

The application is intended to meet and implement the provisions of Goal 5 as set out in OAR 660-023-0180. As demonstrated in the application and staff report, the application satisfies the criteria for deeming the proposed quarry expansion area a significant aggregate resource site. The application also indicates that there are no other significant inventoried Goal 5 resources on the proposed expansion site. Findings supporting those conclusions are contained in the staff report.

The site is in proximity to the Jenkins estate, a mapped Goal 5 historic resource, but the site is an expansion of the existing use and is located farther than the existing quarry from the Jenkins Estate. There have been no reported conflicts between existing quarry operations and the Jenkins

Estate. Further, the expansion area will not be used for processing or batching of asphalt and therefore will not create related conflicts. Thus, it does not appear there are any new potential conflicts with the existing Jenkins Estate Goal 5 historic resource.

The application provides the necessary factual support to demonstrate that the proposal complies with Goal 5 criteria for mineral and aggregate resources, and that mine operations can occur without significant conflicts to other Goal 5 resources.

Goal 6 - Air, Water and Land Resources Quality

The purpose of Goal 6 is to maintain and improve the quality of the state's air, water, and land. This Goal addresses waste and process discharges from future development and requires local governments to determine that the future discharges, when combined with existing development, would not threaten to violate applicable state or federal environmental quality statutes, rules, and standards. Within the context of Goal 6, the term "waste and process discharges" refers to solid waste and thermal, noise, atmospheric, or water pollutants, contaminants or other products. The term also includes indirect sources of air pollution that result in emissions of air contaminants for which the state has established standards. Consistent with the best management practices established by the Oregon Department of Environmental Quality's visible emission and nuisance requirements, dust will be minimized by controlling truck speed, graveling and wetting internal roads as necessary, and promptly removing dirt and other materials that might become airborne from any paved portions.

Stormwater discharges will be directed on-site and will be handled through an NPDES 1200A permit. Turbidity in groundwater associated with mining below the water table is not expected because mining will occur well above the elevation of the water-bearing zone and the wells will be monitored. A 100-foot buffer on all sides of the extraction site within the expansion area (except where adjacent to the existing quarry), along with water settling ponds, will help to ensure that turbid water does not move off-site.

Once approved locally, mineral/aggregate operations require permits from the Department of Geology and Mineral Industries (DOGAMI). State agencies generally regulate development and operation of aggregate mining and processing as follows:

- Department of Environmental Quality (DEQ) – air quality, stormwater runoff, wastewater and noise
- Department of Geology and Mineral Industries (DOGAMI) – site reclamation and mine safety standards
- Department of State Lands (DSL) – earth removal and fill permits for activities in wetlands, waterways and other state lands
- Oregon Water Resources Department (WRD) – water rights

Amendments to the RNRP, as proposed by Ordinance No. 854, facilitate protections applied through regulatory agencies noted above, and include a number of related conditions aimed at ensuring compatibility of the proposed use with surrounding lands and uses. Ordinance No. 854 therefore complies with Goal 6 provisions.

Goal 7 - Areas Subject to Natural Hazards

Goal 7 is intended to protect people and property from natural hazards. There are no known hazards or natural disaster areas in or near the quarry expansion area. No known mapped landslides occur within the Expansion Area. The Expansion Area is not mapped within the 100-year regulatory floodplain. There is no particular natural hazard related to this site which requires special protection for people or property. Therefore, the County can find that Goal 7 is met.

Goal 8 - Recreational Needs

No recreational opportunities are known to be reduced or eliminated by the proposed mining operation. The site will not create new conflicts with the Jenkins Estate or its grounds, operated by the Tualatin Hills Park and Recreation District, and therefore will not reduce recreational opportunities for visitors and citizens of the state to that site. To the extent applicable, Goal 8 is met. Ordinance No. 854 maintains compliance with Goal 8 and does not affect the County's ability to plan for recreational sites or facilities.

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. 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% of statewide demand for aggregate would be needed within the urbanizing Willamette River Basin. Ordinance No. 854 is consistent with 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. The proposed ordinance is consistent with Goal 9.

Goal 10 - Housing

Goal 10 requires that local jurisdictions ensure an adequate inventory of buildable lands inside the Urban Growth Boundary (UGB) suitable and available for housing in adequate numbers, variety and price ranges to meet residents' needs. The Expansion Area includes six existing dwellings located outside the UGB. Goal 10, intended to retain/encourage housing in urban areas, does not directly relate to the six rural homes. The applicant's representative indicates, however, that the homes will remain, potentially available as residences for a considerable period, until the underlying expansion area is needed for mining. No urban residential lands will be lost or gained due to the proposed mining.

Ordinance No. 854 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. The aggregate removal activities proposed within the expansion area will not require or increase demand for public facilities and services because, as proposed, the expansion site will not be mined until resources in the existing facility are depleted. The demand for public services such as fire and police response will not significantly change due to this expansion. Further, 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. 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. Ordinance No. 854 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 compliance with TPR provisions follows:

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

The amendments in Ordinance No. 854 do not significantly affect the transportation system as described by the criteria in OAR 660-012-0060.

The application explains that the expansion of the site is not an intensification of the existing and approved Farmington Quarry site, since it is intended to be mined as existing resources are depleted. Rock extracted from the expansion area will be transported to areas within the existing quarry for processing. Truck volumes/traffic and associated impacts to public roads are therefore not expected to increase as a result of mining the Expansion Area. As such the proposal is not expected to change the functional classification of any existing or planned transportation facility in the area, the standards implementing the functional classification system, or the types or levels of travel or access such that they would be inconsistent with the adopted functional classification system designated by the acknowledged TSP for any existing or planned transportation facility. Further, the proposal is not expected to degrade the performance of any existing or planned transportation facility.

The existing road system currently provides an adequate level of service for traffic associated with the existing site as well as neighboring uses (farm and residential), and is expected to do so over the transportation planning horizon. See Tab C of the application. Based on the above, the application complies with Goal 12.

Goal 13 - Energy Conservation

Goal 13 requires that land and uses developed on the land be managed to maximize the conservation of all forms of energy. As proposed, mining within the Expansion Area and processing extracted rock on the existing site will eliminate the need to transport it to an off-site processing facility. Mining within the Expansion Area will provide a local source for rock to serve continuing growth and development in the county, close to urban markets. The potential need to ship rock necessary for road building, bridge repair and construction projects long distances from outside the area is therefore reduced, potentially reducing related fuel

consumption consistent with the energy conservation intent of Goal 13. Based on the above, this application is compatible with Goal 13.

Goal 14 – Urbanization

The subject property is not within an urban growth boundary and the applicant does not request any change in the surrounding area from a rural to urban use. Aggregate mining is considered a rural land use and does not promote urbanization; therefore, Goal 14 is not applicable.

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. 854 findings have been prepared to address Title(s) 8 and 12 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. 854 was mailed June 17, 2019, to Metro. Metro provided no comments in response.

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. 854 applies only to lands outside the UGB, but is in the vicinity of residential uses, urban and rural. 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.

Part 4:

REGIONAL TRANSPORTATION PLAN FINDINGS

This section addresses the consistency of Ordinance No. 854 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.

Truck traffic associated with proposed 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. 854 does not make amendments to transportation system designations. Furthermore, the amendments adopted by

Ordinance No. 854 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. 854 maintains compliance with the RTP based on these findings and related findings in Part 2 under Goals 9, 11 and 12.

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July 12, 2019

This is to notify you that the Washington County Board of Commissioners (Board) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

This notice is provided in order to comply with Ballot Measure 56 (M56), which was approved Nov. 3, 1998 by Oregon voters. M56 requires the County to provide notice to property owners when a proposed land use regulation would change the zoning of their property or change existing land use regulations in a way that might limit or prohibit land uses previously allowed. M56 also requires that the following sentence be included in this notice: “The Board has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.”

The Washington County Planning Commission will hold a public hearing for proposed Ordinance No. 854 on **July 24, 2019 at 6:30 p.m.** The Planning Commission will forward a recommendation about the proposed ordinance to the Washington County Board of Commissioners (Board).

The Board will hold a public hearing regarding the adoption of proposed Ordinance No. 854 **Aug. 27, 2019 at 6:30 p.m.**

Public hearings before the Planning Commission and Board are in the Auditorium of the Charles D. Cameron Public Services Building, 155 N. First Avenue, Hillsboro, Oregon. Any person may testify before the Planning Commission or Board at any scheduled public hearing, either in person or in writing. Written testimony may be submitted prior to or at a public hearing. You are encouraged to attend the public hearings because revisions to the proposed ordinance are possible.

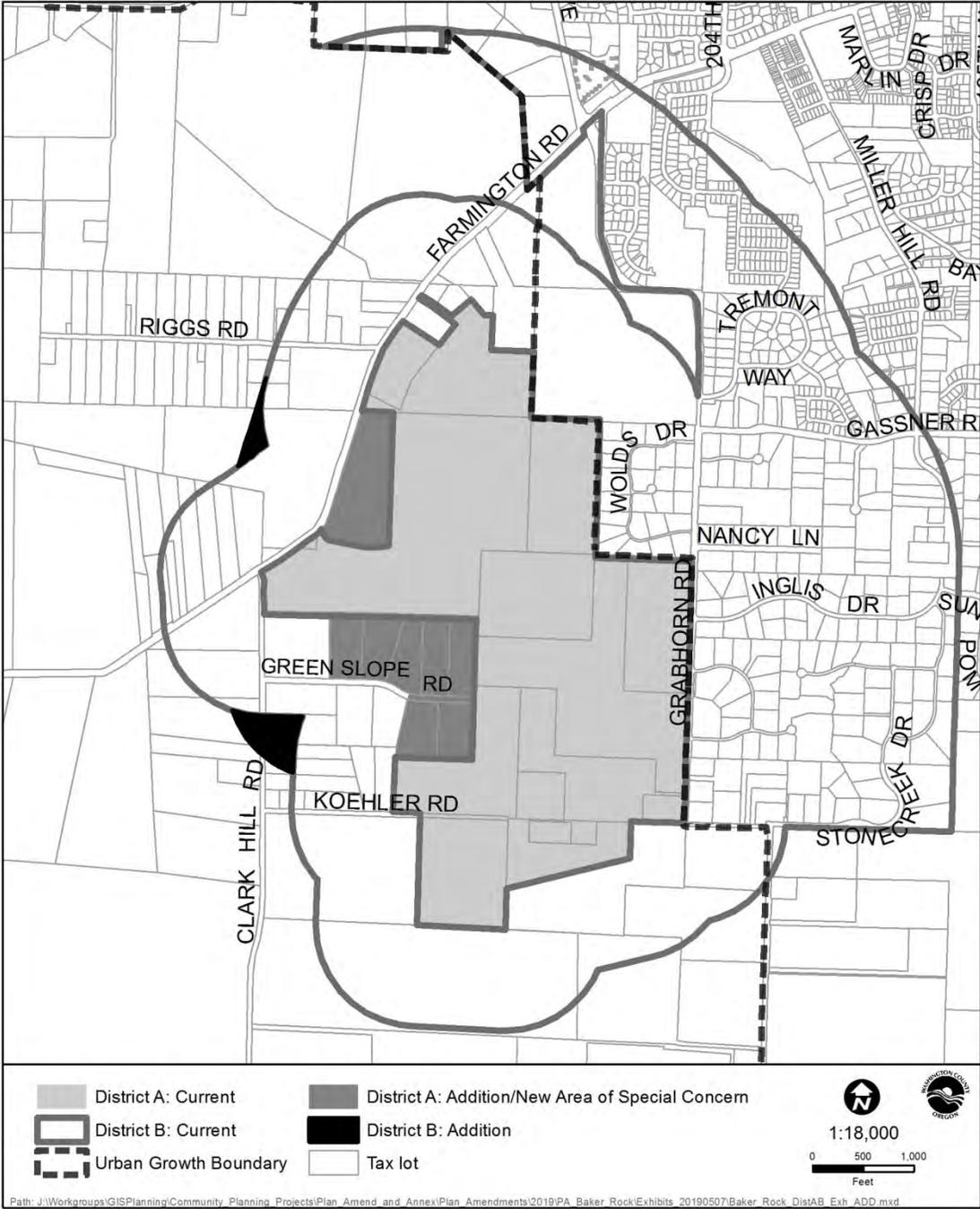
Proposed Ordinance No. 854

Ordinance No. 854 proposes an amendment to the Rural Natural Resource Plan (RNRP) to expand a “District A” overlay that designates Baker Rock Resources Farmington Quarry as a protected significant mineral and aggregate resource under Statewide Planning Goal 5 (Goal 5).

The existing quarry is located in rural Washington County between SW Farmington and Grabhorn Roads. The proposed expansion would bring approximately 53 additional acres into District A, in two areas along the western border of the existing quarry. As proposed, the District A expansion area will be designated within the RNRP as an Area of Special Concern (ASC) wherein specific conditions apply. All land in the proposed District A expansion area is under quarry ownership.

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning
155 N First Avenue, Suite 350, MS 14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us

Consistent with Goal 5, when land is designated District A, the County applies a “District B” overlay to surrounding properties to ensure that their potential future uses do not interfere with allowed quarry activities. This ordinance proposes District B overlay expansion to a distance of 1,000 feet from the proposed new District A area. As proposed, District B would extend farther into seven lots that are partially impacted by the overlay now, and part of one additional lot. These lots are not under quarry ownership. The existing District A and B, the proposed additions to these Districts, and the proposed new ASC are shown below.



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Proposed Ordinance No. 854 is available for inspection at the Washington County Department of Land Use & Transportation, Planning and Development Services, located in the Adams Crossing Building at 161 NW Adams Ave., Hillsboro, Oregon. An electronic copy of the proposed ordinance is available on the County's webpage:

www.co.washington.or.us/landuseordinances

For additional information concerning proposed Ordinance No. 854, you may call Long Range Planning at 503-846-3519.

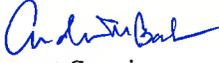
The property owner is further advised that:

- The above description of the proposed ordinance and its effect on property may change prior to adoption as the Board takes into account testimony and evidence from the public, the Planning Commission and County staff.
- A free self-subscription to Land Use Ordinance Updates is available: <http://washtech.co.washington.or.us/subscriptions/>
- No additional notice about the proposed ordinance will be mailed to you unless you subscribe to Washington County's Individual Notice for land use ordinances. The Individual Notice generally describes each proposed land use ordinance and future proposed substantive changes, if any. The Individual Notice also includes the dates and times of initial public hearings before the Planning Commission and Board, and the first two public hearings before the Board for proposed substantive changes to an ordinance. The annual cost for receiving the notice is \$8.00. Please contact Long Range Planning at 503-846-3519 if you wish to subscribe to this notice.



July 17, 2019

To: Washington County Planning Commission

From: Andy Back, Manager 
Planning and Development Services

Subject: **PROPOSED LAND USE ORDINANCE NO. 857 - An Ordinance Amending the Comprehensive Framework Plan for the Urban Area, the Aloha-Reedville-Cooper Mountain Community Plan, and the Community Development Code to Adopt Pedestrian-Oriented Mixed-Use Districts and Apply Them in the Aloha Town Center Area**

STAFF REPORT

For the July 24, 2019 Planning Commission Hearing
(The public hearing will begin no sooner than 6:30 p.m.)

I. STAFF RECOMMENDATION

Conduct the public hearing; recommend approval of Ordinance No. 857 to the Board of Commissioners (Board).

II. OVERVIEW

Ordinance No. 857 amends the Comprehensive Framework Plan for the Urban Area (CFP), the Aloha-Reedville-Cooper Mountain Community Plan (Community Plan), and the Community Development Code (CDC) to create new Pedestrian-Oriented Mixed-Use Districts, and apply them to the portion of the Aloha Town Center within approximately 1/4 mile of Tualatin Valley (TV) Highway and SW 185th Avenue; the affected properties are shown in Attachment A. The intent of these changes is to encourage future development of the area that is pedestrian-friendly and transit-supportive, and to provide new land use districts that could potentially be applied elsewhere in the urban unincorporated area, where pedestrian-friendly development is desired. These changes are supported by planning efforts and community involvement in the Aloha area over a number of years.

III. BACKGROUND

Ordinance No. 857 originated with land use recommendations from the Aloha Tomorrow Study completed in 2017. Background information on the Aloha Town Center and the Aloha Tomorrow Study is provided below, along with information on the development of Ordinance No. 857.

Town Centers

In 1995, Metro adopted the 2040 Growth Concept to serve as a regional 50-year plan for managing growth and development inside the Urban Growth Boundary (UGB). The 2040 Growth Concept includes Design Types: Regional Centers, Station Communities, Corridors, Employment Areas, and Town Centers. According to Metro's 2040 Growth Concept, Town Centers are intended to provide a strong sense of community for the surrounding area through a mix of commercial, retail and residential uses; to allow for an 18-24 hour activity pattern that provides an area with a "lived-in" feeling; and to be pedestrian-friendly and well-served by transit.

Washington County's CFP, Policy 40 (Regional Planning Implementation) implements Metro's 2040 Design Types and identifies three Town Centers in the County's unincorporated area: the Bethany Town Center, the Cedar Mill Town Center, and the Aloha Town Center.

The Metro 2040 Aloha Town Center is an approximately 419-acre area centered on the intersection of TV Highway and SW 185th Avenue. As shown in Figure 1, the Aloha Town Center is generally bounded to the north, east, south and west by SW Sandra Lane, SW 170th Avenue, SW Blanton Street, and SW 192nd Avenue, respectively. In 2000, Metro acknowledged the Aloha Town Center location, based on the County's existing land use designations.

Aloha Tomorrow Study

From mid-2016 to the end of 2017, the County conducted the Aloha Tomorrow (AT) Study with the assistance of a consultant team led by CH2M and including Angelo Planning Group. The AT Study was the County's first planning effort focused on the Aloha Town Center area, and was funded by a Metro Community Planning and Development Grant the County received in 2016. The purpose of the AT Study was to build upon the previous work of the *Aloha-Reedville Study and Livable Community Plan* (2014), which provided high-level recommendations for the larger Aloha-Reedville area.

The AT Study consisted of a transportation component and a land use component. The transportation component of the study examined potential design alternatives for high capacity transit in the TV Highway corridor. Transportation recommendations from the AT Study are currently being further refined by a separate project, Moving Forward TV Highway, which will likely result in an ordinance to be filed in 2020.

The land use component of the AT Study investigated the portion of the Aloha Town Center located within an approximate 1/4-mile walking distance from the intersection of TV Highway and 185th Avenue, referred to as the "Town Center focus area," rather than addressing the entire

Aloha Town Center. This smaller geographic area, shown in Figure 1, was chosen in order to strategically target public and private investment, and because this area contains the land use designations with the highest allowed commercial intensity and residential density in the larger Aloha Town Center. Investigation of this area was the first step toward implementing the community vision established in the Aloha-Reedville Study and Livable Community Plan: a walkable and livable town center with a mix of commercial and residential uses near TV Highway and SW 185th Avenue, with Alexander Street serving as a walkable main street for the area.

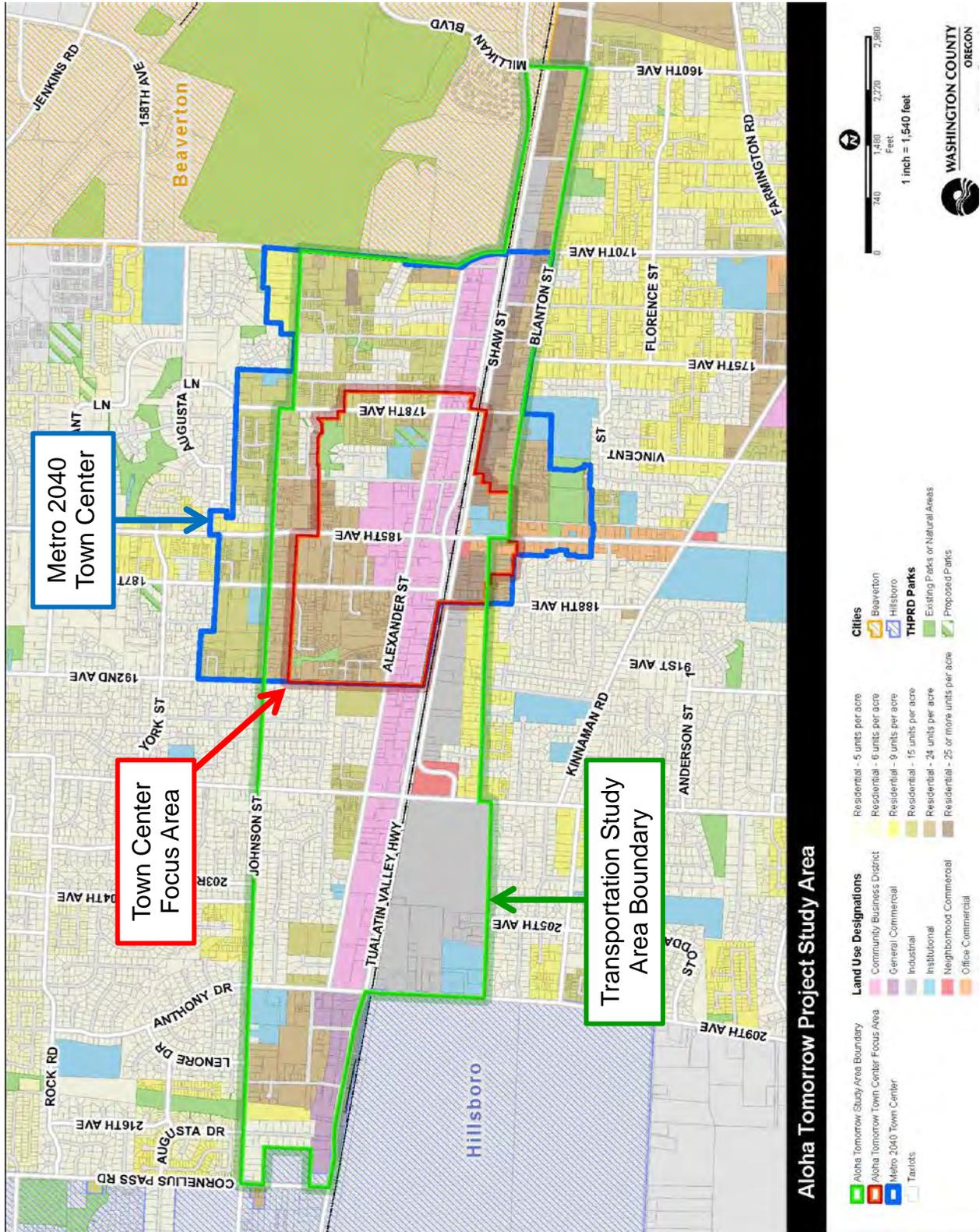
As part of the background work for the AT Study, Johnson Economics prepared a study area memorandum, *Market Analysis of Housing and Retail Trends* (Mar. 15, 2017)¹, which includes the following findings on Aloha Town Center market factors:

- There is a strong projected demand for both housing and commercial space in the Aloha Town Center area over the next 20 years.
- Commercial demand is likely to lag behind residential demand somewhat as new households move into Aloha and the South Hillsboro area.
- While the buildout of South Hillsboro will bring new commercial space that may compete with Aloha businesses, it will also bring thousands of new households and increase the overall customer base. Many of these new residents will pass through the Aloha Town Center on a daily basis, increasing its visibility.
- At the time of the market analysis, it appeared that achievable pricing in the study area was currently high enough to attract redevelopment and infill development of residential uses.
- Achievable pricing and commercial lease rates are likely still a bit low to support new development and redevelopment of commercial uses in the study area. However, such opportunities are projected to follow residential development.

The County has limited ability to affect Aloha Town Center market factors such as commercial demand or commercial lease rates. However, the County can amend its comprehensive plan documents to include new land use designations and development regulations that will set the stage for a pedestrian-friendly Aloha Town Center, when future residential and commercial demand spurs new development and redevelopment of the area.

¹ This memorandum is posted on the County's Aloha Tomorrow webpage:
<https://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/PlanningPrograms/CommunityPlanning/aloha-tomorrow-maps-and-documents1.cfm>

Figure 1 - Aloha Tomorrow Study Area



Over the course of the AT Study, Long Range Planning staff and the consultant team developed land use concepts for the portion of the Aloha Town Center within approximately 1/4 mile of the TV Highway and SW 185th Avenue intersection. The concepts were refined into specific land use recommendations based on feedback received from stakeholders and the community. The concepts and recommendations were reviewed with the Aloha Tomorrow Technical Advisory Group (TAG), composed of representatives from area cities (Beaverton, Hillsboro, Forest Grove and Cornelius), regional agencies (Metro, Trimet, Oregon Department of Transportation, Tualatin Hills Park & Recreation District, Tualatin Valley Fire & Rescue), and County departments and sections (Engineering, Housing, Long Range Planning and Current Planning).

Community feedback on the land use concepts and specific recommendations was obtained through a series of online and in-person events held over the course of the AT Study. These included an online survey in February 2017, a physical open house in April 2017, an online open house in October 2017, and a second physical open house in November 2017. In addition, staff presented information about the AT Study at several 2017 community events.

The AT Study final report was completed in December 2017, and acknowledged by the Board via Resolution and Order 17-137.² The land use recommendations in the final report were:

- A. Promote a livable, walkable, vibrant Town Center through the following actions:
 - 1) Establish two new land use districts for the area to reinforce the range of commercial and residential uses currently allowed, and to expand the areas where a mix of uses is allowed:
 - a) Locate a new, more intensive district in the area's center to focus urban scale mixed-use and commercial use in this area, supported by pedestrian-oriented development standards.
 - b) Locate a new, less intensive district placed between the more intensive district and the existing residential districts to support the development of Alexander Street as a "main street" - an inviting place to walk, shop, gather and live. This new district will also create a node south of TV Highway that allows multifamily housing and commercial uses that support transit and affordable housing choices.
 - 2) Include updated development standards for the two new land use districts to make the area more pedestrian- and transit-oriented, including development standards for building orientation, setbacks, street-facing building facades, parking location, and signs.
- B. Encourage residential conversions to small business where land use designations allow:

The Aloha Town Center has many single-family residences in locations that allow business and commercial activity. These small-scale locations provide opportunities for affordable commercial space for small and local business, but meeting the minimum parking quantity requirements can be difficult and/or a cost barrier. Code amendments

² The AT Study final report was posted on the County's Aloha Tomorrow webpage at: www.alohatomorrow.com

to reduce parking should be considered for these cases, to encourage residential conversions to small businesses.

Ordinance No. 857 is intended to implement these AT Study land use recommendations.

Development of Ordinance No. 857

Implementation of the AT Study was identified as a Tier 1 task in both the 2018-19 and 2019-20 Long Range Planning Work Programs adopted by the Board. Both work programs identified this as a multi-year task, since it consists of land use and transportation recommendations that may be undertaken as separate projects. Ordinance No. 857 proposes to implement the AT Study's land use recommendations.

In winter 2018 and early spring 2019, staff began identifying the comprehensive plan amendments needed to implement the AT Study's land use recommendations, and began formulating the amendments.

Ordinance Considerations

The AT Study recommended applying new land use districts with pedestrian- and transit-oriented development standards to a portion of the Aloha Town Center area. Staff considered applying the Transit Oriented (TO) Districts of CDC Section 375 and the associated transit-oriented design principles, standards and guidelines of Section 431 to the area. These standards, adopted in 1998, are also intended to direct and encourage development that is transit-supportive and pedestrian-oriented. However, Sections 375 and 431 are lengthy and complex, and in staff's experience, the requirements of Section 431 have been difficult for the public to understand and challenging for staff to implement during development review of sites with TO District land use designations.

For these reasons, staff opted to develop a new land use designation category that could be applied to the Aloha Town Center area. This new category, Pedestrian-Oriented Mixed-Use Districts, contains development standards and dimensional requirements that are intended to promote pedestrian-friendly development. These standards were modeled after similar standards adopted for North Bethany's Main Street area in 2018. The North Bethany Subarea Plan specified that its Main Street area was required to have detailed development standards to ensure that the future buildings along the Main Street would be pedestrian-friendly. The proposed development standards for the Pedestrian-Oriented Mixed-Use Districts contain the same elements, but are somewhat less stringent to provide a bit more flexibility for use in areas with existing development that will redevelop over time.

Public Involvement

Refinement of the ordinance content was informed by community involvement. Staff attended meetings of the Aloha Business Association and Community Participation Organization (CPO) 6 in spring and summer 2019 to brief the organizations on the upcoming ordinance and obtain feedback. An Aloha Tomorrow Community Open House was held in April 2019 to share proposed land use amendments for the ordinance and transportation information from the Moving Forward TV Highway Project with community members.

The open house was held at the Aloha Grange, located in the approximate middle of the Aloha Town Center area directly affected by Ordinance No. 857's proposed amendments. Approximately 126 people attended the event and submitted approximately 84 comment cards; approximately 40% of the comments received were related to land use issues. Attendee feedback on the proposed land use amendments was generally positive and supportive, although some attendees expressed concerns that new land use designations and development standards could raise the area's property taxes and potentially displace low-income residents. The materials displayed at the open house were also posted on the County's Aloha Tomorrow website, with the opportunity to submit written comments.

Ordinance Notification

Notice 2019-10 regarding proposed Ordinance No. 857 was mailed June 28 to parties on the General and Individual Notification Lists (community participation organizations, cities, special service districts and interested parties). A copy of the notice and ordinance was provided to the Planning Commission at that time. A display advertisement regarding the ordinance was published July 5 in *The Oregonian* newspaper.

A Measure 56 Notice was mailed July 12 to 175 unincorporated area property owners, notifying them of the changes proposed by Ordinance No. 857. A copy of this notice is included as Attachment A.

IV. ANALYSIS

As noted earlier, the AT Study recommended new land use designations and updated development standards for the portion of the Aloha Town Center within 1/4 mile of the TV Highway and SW 185th Avenue intersection, to promote future pedestrian-oriented and transit-supportive development in the area. Additionally, the Johnson Economics' study area memorandum, *Market Analysis of Housing and Retail Trends*, indicated a strong projected demand for both housing and commercial space in the Aloha Town Center over the next 20 years as new households move into Aloha and South Hillsboro, although commercial demand is likely to lag somewhat behind residential demand.

Staff believes it makes sense to implement the AT Study's land use recommendations to adopt new pedestrian-oriented and transit-supportive land use designations and updated development standards now, prior to future market changes that will spur development and redevelopment in the area.

Ordinance No. 857 amends the CFP, the Aloha-Reedville-Cooper Mountain Community Plan, and the CDC to implement the land use recommendations from the AT Study. Overviews of the amendments to each document are provided below. *Please refer to Ordinance No. 857 for specific amendment language.*

Overview of CFP Amendments

CFP Policy 18 (Plan Designations and Locational Criteria for Development) is amended to:

- Add a new land use designation category, Pedestrian-Oriented Mixed-Use Districts, comprised of two new land use designations:
 - Community Core Mixed-Use District (CCMU), intended to provide a mix of commercial and high-density residential uses on a medium-to-large scale; and
 - Neighborhood Mixed-Use District (NMU), intended to provide a mix of residential and commercial uses at a density and intensity lower than that of the CCMU District.
- Add characterization descriptions and locational criteria for the new CCMU and NMU land use designations.

As noted below, the new CCMU and NMU land use designations are proposed to be applied to certain properties in the Aloha Town Center Focus Area. However, in the future, these designations may be applied to other urban unincorporated areas through quasi-judicial or legislative plan amendments. Proposals to apply the CCMU and NMU land use designations in other areas will be subject to the proposed locational criteria for these districts in CFP Policy 18.

Overview of Aloha-Reedville-Cooper Mountain Community Plan Amendments

The ordinance proposes both text and map amendments to the Aloha-Reedville-Cooper Mountain Community Plan (Community Plan) to apply new CCMU and NMU land use designations and a new Area of Special Concern to the portion of the Aloha Town Center within approximately 1/4 mile of Tualatin Valley Highway and SW 185th Avenue. The specific amendments are summarized below.

The Land Use Districts Map of the Community Plan is amended to:

- Apply the two new proposed land use designations, CCMU and NMU, to the portion of the Aloha Town Center within 1/4 mile of Tualatin Valley Highway and SW 185th Avenue, as shown in Attachment B.

The AT Study recommended that a new land use district be established in the area's center, to focus urban scale mixed-use and commercial use in that area. Consistent with this recommendation, the CCMU District designation is proposed to be located in the central portion of the Aloha Town Center, on the north side of TV Highway, on properties that are currently designated Community Business District (CBD). The CCMU District allows medium-to-large scale commercial uses and higher-density residential uses that are similar to those allowed in the CBD District, but the CCMU District also includes pedestrian-friendly dimensional requirements and development standards to promote a pedestrian-oriented and transit-supportive area as future development occurs.

The AT Study also recommended that a new district, also allowing both commercial and residential uses but at a somewhat smaller scale than the CCMU District, be located between the CCMU District and the existing residential districts, in order to 1) support the development of SW Alexander Street as a "main street" - an inviting place to walk, shop, gather and live; and

2) create a node south of TV Highway that allows multifamily housing and commercial uses that support transit and affordable housing choices. Consistent with this recommendation, the NMU District designation is proposed to be located on the north side of the proposed CCMU District, to frame SW Alexander Street and serve as a transition area between the CCMU District and the residential districts further north. The NMU District is also proposed to be placed on the south side of TV Highway, to create a node of residential, commercial, and mixed-use development there. The NMU District designation is proposed to be placed on properties with a range of current land use designations: Office Commercial (OC), Neighborhood Commercial (NC), Community Business District (CBD), Residential 25 or More Units per Acre (R-25+), Residential 24 Units per Acre (R-24), and Residential 15 Units per Acre (R-15).

An Institutional (INST) land use designation is proposed to be placed on portions of one property located on the north side of SW Alexander Street between SW 178th and 182nd Avenues, to reflect its intended use. This property, owned by Tualatin Hills Park & Recreation District (THPRD), is approximately 3 acres in size and has an existing INST land use designation over the majority of its land area. However, two small portions of the property close to SW Alexander Street have R-24 land use designations, which are a holdover from a time when each contained a single-family residence; Ordinance No. 857 proposes to extend the INST designation to these portions of the property. THPRD purchased the property several years ago, removed the residences, and is in the midst of park planning for this site. The THPRD Planning Manager indicated that, given the planned park use of the site, the District would prefer the entire property have an INST designation, rather than being split-zoned.

Text of the Tualatin Valley Highway Corridor Subarea of the Community Plan is amended to:

- Update the introductory description of the Tualatin Valley Highway Corridor Subarea to:
 - Acknowledge the Aloha Town Center designation, which has a substantial geographic overlap with this subarea; and
 - Acknowledge the Aloha Tomorrow Study and its smaller focus area, which is wholly contained within this subarea.
- Add new Area of Special Concern (ASC) No. 3A, which coincides with the portion of the Aloha Town Center within approximately 1/4 mile of the TV Highway / SW 185th Avenue intersection, in which the new CCMU and NMU land use designations will be applied.
 - The ASC 3A description identifies the locations where two new CDC development standards, Primary Frontages and Prominent Corners, will apply within that area.
 - The Primary Frontages standards will apply to the segment of SW Alexander Street between SW 178th and SW 192nd Avenues.
 - The Prominent Corners standards will apply to SW Alexander Street at its intersections with SW 178th, 182nd, 185th, 187th, and 192nd Avenues.

The Areas of Special Concern Map of the Community Plan is amended to:

- Remove segments of ASCs 3, 5 and 6 from the portion of the Aloha Town Center within approximately 1/4 mile of the TV Highway / SW 185th Avenue intersection (so that new ASC 3A can be applied to that area); and
- Apply the new ASC 3A to that area, as shown in Attachment C.

Text of the Transportation section of the Community Plan is amended to:

- Add new Pedestrian Connectivity Area 5, which will apply to the block bounded by SW Alexander Street, TV Highway, SW 187th Avenue and SW 192nd Avenue.

This block, which abuts TV Highway (an arterial) and SW Alexander Street (a collector) has a perimeter length of approximately 3,380 feet and an east-west length of approximately 1,283 feet. These are greater than desired for a pedestrian-friendly area and represent significant out-of-direction travel for a pedestrian desiring to move between SW Alexander Street and TV Highway.

The Aloha Town Center is designated as a Pedestrian/Bicycle District in the Transportation System Plan. Therefore, CDC Section 408-6 (Review Standards for Development on Lands Designated in the Community Plan Local Street Connectivity Maps or on Lands Designated as a Pedestrian/Bicycle District) applies to this area. Section 408-6 requires residential, office, retail and institutional development to provide an accessway to connect streets when a block abutting an arterial or collector street has a block length of greater than 530 feet.

Proposed Pedestrian Connectivity Area 5 reinforces the existing Section 408-6 standards and increases the likelihood that a pedestrian accessway will be provided through this block as part of future development. Existing Pedestrian Connectivity Areas 1 through 4, which are located in other geographic areas of the Community Plan, have a similar purpose.

The Pedestrian Connectivity Map of the Community Plan is amended to:

- Add new Pedestrian Connectivity Area 5, consisting of a cluster of eight properties in the center of the block bounded by SW Alexander Street, TV Highway, SW 187th Avenue and SW 192nd Avenue; as shown in Attachment D.

Overview of CDC Amendments

The ordinance divides the proposed CDC amendments into two separate exhibits. The first exhibit contains new CDC Section 392 (Pedestrian-Oriented Mixed-Use Districts). The second exhibit contains cross-references between existing CDC sections and new Section 392. The content of each CDC exhibit is summarized below:

New Section 392, Pedestrian-Oriented Mixed-Use Districts

The intent of Section 392 (Pedestrian-Oriented Mixed-Use Districts) is to encourage development that is pedestrian-friendly and transit-supportive. The permitted and prohibited

uses, dimensional requirements and development standards of this section are all geared toward promoting a pedestrian-friendly and transit-supportive area as future development occurs.

The AT Study recommended the creation of these new districts and their application to the portion of the Aloha Town Center within approximately 1/4 mile of TV Highway and SW 185th Avenue. However, adoption of these new districts through Ordinance No. 857 will allow them to be applied to other urban unincorporated areas of the County through future quasi-judicial or legislative plan amendments.

The new Pedestrian-Oriented Mixed-Use Districts category in Section 392 includes two new districts: Community Core Mixed-Use District (CCMU) and Neighborhood Mixed-Use District (NMU). The proposed permitted uses, dimensional requirements and development standards for these new districts are displayed in tables and/or simplified bullet lists wherever practicable, to make them easier to identify and comprehend.

Permitted and Prohibited Uses

A wide variety of commercial and residential uses are allowed within the CCMU and NMU Districts, as shown in the Section 392-4 use table.

The CCMU District is intended to provide a mix of retail, service and business establishments at a medium-to-large scale, so it allows some more intensive, larger-scale commercial uses, such as large mobile food sites and retail marijuana facilities, which are not allowed in the NMU District. The NMU District is intended to be a medium-scale transitional district between larger-scale, more intensive commercial or mixed-use districts (such as the CCMU District) and less intensive, smaller-scale residential districts. Because the NMU District functions as a transition area, the commercial uses allowed in that district are geared toward those more compatible with nearby residential areas.

Permitted uses in the districts are intended to promote a pedestrian-friendly character. Drive-in or drive-up establishments (including drive-thru windows for eating and drinking establishments and banks), service stations and car washes are not allowed uses in the proposed CCMU and NMU Districts because they are not pedestrian-oriented uses.

Change or Expansion of Existing Uses or Structures

This subsection is intended to:

- Provide clarity on how existing use expansions will be treated under standards of the Pedestrian-Oriented Mixed-Use Districts; and
- Explicitly allow one-time small-scale floor area expansions of existing uses without triggering some of the district's requirements. This allowance gives existing businesses the flexibility to make smaller-scale changes without being subject to new standards that may constitute barriers to such changes. This is a new allowance not found elsewhere in the CDC, and is intended to help existing small businesses remain in place. Larger floor area expansions are subject to all new district standards.

The content of this subsection is summarized below:

- Uses and structures prohibited in Pedestrian-Oriented Mixed-Use Districts that were lawfully in existence at time of application of the district will be considered nonconforming, and future expansion of such uses and structures are subject to Section 440 (Nonconforming Uses and Structures). Section 440 generally limits expansion of nonconforming uses and structures to a one-time maximum of 20%.
- Conversion of a single-family residence to an allowed nonresidential use is exempt from Section 392 development standards and requirements for maximum building setbacks and street frontage occupancy when floor area expansion associated with the change of use does not exceed a maximum of 20%. This new exemption is proposed in order to encourage the conversion of single-family residences to small businesses, which was an AT Study recommendation.
- A building addition to an existing structure, or the addition of a new building on a site with an existing building, is exempt from Section 392 requirements for maximum building setbacks and street frontage occupancy when the floor area expansion is limited to a one-time maximum of 20% or 3,000 square feet, whichever is less. This proposed new exemption provides existing uses with the flexibility to make small-scale expansions or minor upgrades without triggering a requirement to place the building expansion close to the street, which could make a small-scale expansion impracticable.

Density Requirements

Residential density allowances in the Pedestrian-Oriented Mixed-Use Districts are organized into three density tiers.

- Within each density tier, the CCMU District allows higher residential densities than the NMU District. This is consistent with the NMU District's role as a transitional or "step-down" district between the more intensive CCMU District and the less intensive residential districts.
- Higher residential densities are allowed in both districts when a development provides "required outdoor area" consistent with the requirements of the R-25+ District (Residential 25 or More Units per Acre) in Section 307-7.5; additional open space that meets the Planned Development standards for open space in Section 404; and/or a public pedestrian area such as a plaza, patio or courtyard that is located between the street-facing building façade and front lot line.
- For the CCMU District, the proposed densities allowed by the three density tiers are consistent with the existing densities allowed by the CBD District's three density tiers.
- For the NMU District, the proposed densities allowed by the three density tiers are similar to the existing densities allowed by the R-25+ District's three density tiers.

The density tiers are summarized below:

- Tier 1 (lowest density):
 - Residential use is not within a building that includes a commercial use
 - CCMU: 20-40 units per acre
 - NMU: 20-25 units per acre
- Tier 2 (middle density):
 - Residential use is not within a building that includes a commercial use, and the development provides required outdoor area and a public pedestrian area
 - CCMU: 40-100 units per acre
 - NMU: 26-40 units per acre
- Tier 3 (highest density):
 - Residential use is within a building that includes a commercial use, and the development provides required outdoor area, additional open space, and a public pedestrian area
 - CCMU: No minimum or maximum density requirement
 - NMU: No minimum; maximum is 60 units per acre

Dimensional Requirements

The dimensional requirements of the Pedestrian-Oriented Mixed-Use Districts are intended to promote pedestrian-friendly and transit-supportive development by requiring minimal building setbacks and specified amounts of street frontage occupancy. Street frontage occupancy is the percent of a property's street frontage that is occupied by a building. Street frontage occupancy and minimal building setbacks from the sidewalk help establish the sense of enclosure that creates more comfortable spaces for walking. Minimal setbacks and high frontage occupancy work together to establish a consistent street wall adjacent to the sidewalk, providing an engaging experience for pedestrians.

The dimensional requirements include:

- Minimum building setbacks:
 - Zero feet for buildings with non-residential uses on the ground floor
 - 10 feet for buildings with residential uses on the ground floor
- Maximum building setback of 20 feet
- Street frontage occupancy: At least 50% of a site's street frontage to be occupied by a building located no further than the maximum 20-foot setback (staff believes 50% street frontage occupancy is the minimum amount required to create a sense of enclosure)

Development Standards

The development standards for Pedestrian-Oriented Mixed-Use Districts are intended to promote pedestrian-friendly and transit-supportive development. These standards address requirements for building design and site layout.

The development standards require:

- Buildings to have a primary entrance door facing a public sidewalk.
- Street-facing building facades to have a specified minimum amount of:
 - Transparency (window area);
 - Weather protection (such as awnings, canopies, arcades, colonnades, or recessed entries); and
 - Building articulation (façade variation and roofline articulation).
- Prominent Corners (as identified in the relevant community plan) to provide treatments that distinguish the building corners on these sites from the rest of the block.
- Off-street parking to be:
 - Located to the side or rear of buildings; and
 - Screened from the right-of-way by a solid, low wall or landscape buffer with a maximum height of 3 feet.

In addition, the development standards address a couple of specific site circumstances, including sites that have multiple street frontages. The requirements for sites that have multiple street frontages are summarized below:

- A lot at the corner of two intersecting streets or site having three or more street frontages is required to:
 - Meet the maximum setback, street frontage occupancy, transparency, weather protection, and building articulation standards on all street frontages; and
 - Locate a building or a plaza space with pedestrian amenities at each corner.
- A through lot with frontage on two streets is required to:
 - Have at least one frontage that meets the maximum setback, street frontage occupancy, transparency, weather protection, and building articulation standards.
 - If the standards are proposed to be met on only one frontage, the requirement identifies which frontage should be considered the primary frontage.
 - Along the other frontage, a street edge treatment must be installed that includes a wall or fence between 3 and 4 feet in height and an 8-foot side landscape strip containing trees, shrubs and groundcover.

The above requirements for a through lot are designed to require a new building to comply with the development standards, while not unduly burdening the developer. The Aloha Town Center contains several through lots with frontages on both TV Highway and Alexander Street, and through lots are present in other urban unincorporated areas of the county where the proposed Pedestrian-Oriented Mixed-Use Districts may be applied in the future. For through lots, staff believes it would be unreasonable to require construction of a building that extends to both street frontages, or to require construction of two separate buildings, one along each frontage. Therefore, staff has proposed a prioritization hierarchy to identify the street frontage on which the development standards must be met. If the developer opts not to meet the development standards along the other frontage, she is required to install a street edge treatment to provide

screening of the “rear” side of the building, where parking and loading activities may be likely to occur.

The other specific circumstance addressed by the development standards is conversion of a single-family residential structure to an allowed nonresidential use, when the use has a total floor area of 2,000 square feet or less.

- In that circumstance, the development standards allow the minimum number of off-street parking spaces required by Section 413 (Parking and Loading) to be reduced up to 30%.

This proposed allowance is based on an AT Study recommendation to consider reducing the minimum number of off-street parking spaces required for residential conversions to small business. The AT Study final report noted the Aloha Town Center has single-family residences in locations that allow business and commercial activity. This is likely the case in other urban unincorporated areas of the county where the proposed Pedestrian-Oriented Mixed-Use Districts may be applied in the future. These small-scale locations provide opportunities for affordable commercial space for small local business, but may have difficulty meeting the minimum parking requirements due to cost or the location of the existing structure on the site. Staff believes a moderate parking reduction of up to 30% is reasonable for a residential-to-commercial conversion where the total floor area after conversion is limited to 2,000 square feet or less.

Cross-References between Existing Sections and New Section 392

The second CDC exhibit in the ordinance adds text to nine existing CDC sections that refer back to new Section 392, or the new CCMU and NMU districts described in Section 392. In most cases, the new cross-references are limited to the names of the new Pedestrian-Oriented Mixed-Use Districts or to short phrases.

The amendment to Section 414 (Signs) is more extensive, and proposes sign allowances for the Pedestrian-Oriented Mixed-Use Districts as new subsection 414-3. To accommodate the insertion of new subsection 414-3, subsequent subsections are renumbered.

The proposed sign allowances for the Pedestrian-Oriented Mixed-Use Districts are summarized below:

- The current standards of Section 414-2 (Signs - Commercial and Institutional Districts) shall apply to the Pedestrian-Oriented Mixed-Use Districts, with the following additional specifications and prohibitions:
 - In the CCMU District, wall sign size shall comply with the requirements of Section 414-2.2.B, which apply to the more intensive commercial districts: Community Business District, General Commercial and Rural Commercial.
 - In the NMU District, wall sign size shall comply with the requirements of Section 414-2.2.A, which apply to the less intensive commercial and institutional districts, including Neighborhood Commercial, Office Commercial, and Institutional.
 - Ground-mounted monuments or site entry markers up to 15 feet in height may be approved when:

- Total area and volume of monument incorporating sign letters does not exceed 45 square feet or 90 cubic feet.
- Position of monument does not obscure roadway visibility or result in potential traffic hazards.
- Free-standing signs (pole-mounted signs) are prohibited.

Free-standing signs are allowed in most urban unincorporated areas, but are prohibited in the Transit Oriented (TO) Districts, which also have a focus on transit- and pedestrian-friendly requirements. Where free-standing signs are allowed, their maximum height is 20 feet in residential districts and 28 feet in commercial and institutional districts.

Prohibition of new free-standing signs in the Aloha Town Center area was an AT Study land use recommendation. The intent of the recommendation was to reduce the visual clutter and auto-centric appearance of the area. Community members expressed significant support for the prohibition of free-standing signs in AT Study online surveys and public open houses in 2017. At the Aloha Tomorrow open house on April 3, community members continued to express support for this proposal.

The proposed maximum height for ground-mounted (monument) signs in the Pedestrian-Oriented Mixed-Use Districts is 15 feet, which is the same height limit adopted for the TO Districts. This 15-foot height maximum is shorter than the 28-foot maximum height for free-standing signs, thereby helping to reduce visual impacts. On the other hand, the 15-foot height maximum is significantly taller than the maximum height for ground-mounted signs allowed elsewhere in the urban unincorporated county, where they are limited to 4 feet in height. The proposed taller height limit for these signs is intended to allow for sign visibility while minimizing visual clutter.

In summary, these amendments are intended to promote development that is pedestrian-friendly and transit-supportive in a portion of the Aloha Town Center area. In the future, the proposed Pedestrian-Oriented Mixed-Use districts and development standards could also be applied to other areas of the urban unincorporated county where pedestrian-friendly and transit-supportive development is desired.

Summary of Proposed Changes

Ordinance No. 857 proposes to amend the Comprehensive Framework Plan for the Urban Area (CFP), the Aloha-Reedville-Cooper Mountain Community Plan, and the Community Development Code (CDC) to implement land use recommendations from the Aloha Tomorrow Study.

Key Provisions:

- Creates two new land use districts: Community Core Mixed-Use District and Neighborhood Mixed-Use District. These new land use districts allow a variety of residential and/or commercial uses, and include development standards for pedestrian-friendly and

transit-supportive building and site features that would apply to future development in areas so designated.

- Applies the new Community Core Mixed-Use and Neighborhood Mixed-Use Districts to a portion of the Aloha Town Center within approximately 1/4 mile of the Tualatin Valley Highway / SW 185th Avenue intersection; those properties are currently designated Community Business District (CBD), Office Commercial (OC), Neighborhood Commercial (NC), Residential 25 Units or More per Acre (R-25+), Residential 24 Units per Acre (R-24), and Residential 15 Units per Acre (R-15).
- Creates new Area of Special Concern (ASC) 3A and applies it to the Aloha Town Center area in which the new Community Core Mixed-Use and Neighborhood Mixed-Use Districts are being applied. The ASC provides more detail on required locations for specific development standards.
- Creates new Pedestrian Connectivity Area 5, whose purpose is to connect SW Alexander Street to Tualatin Valley Highway within the block bounded by SW Alexander Street, Tualatin Valley Highway, SW 187th Avenue and SW 192nd Avenue.
- Provides cross-references between several existing CDC sections and the new Section 392 requirements for the Pedestrian-Oriented Mixed-Use Districts.

List of Attachments

The following attachments identified in this staff report are provided below:

- Attachment A: Measure 56 Notice
- Attachment B: Proposed Amendments to the Land Use Districts Map of the Aloha-Reedville-Cooper Mountain Community Plan
- Attachment C: Proposed Addition of New ASC 3A to the Areas of Special Concern Map of the Aloha-Reedville-Cooper Mountain Community Plan
- Attachment D: Proposed Addition of Pedestrian Connectivity Area 5 to the Pedestrian Connectivity Map of the Aloha-Reedville-Cooper Mountain Community Plan



July 12, 2019

This is to notify you that the Washington County Board of Commissioners (Board) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

This notice is provided in order to comply with Ballot Measure 56 (M56), which was approved Nov. 3, 1998 by Oregon voters. M56 requires the County to provide notice to property owners when a proposed land use regulation would change the zoning of their property or change existing land use regulations in a way that might limit or prohibit land uses previously allowed. M56 also requires that the following sentence be included in this notice: “The Board has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.”

The Washington County Planning Commission will hold a public hearing for proposed Ordinance No. **857** on **July 24, 2019** at **6:30 pm**. The Planning Commission will forward a recommendation about the proposed ordinance to the Washington County Board of Commissioners (Board).

The Board will hold a public hearing regarding the adoption of proposed Ordinance No. **857** on **August 27, 2019** at **6:30 pm**.

Public hearings before the Planning Commission and Board are in the Auditorium of the Charles D. Cameron Public Services Building, 155 N. First Avenue, Hillsboro, Oregon. Any person may testify before the Planning Commission or Board at any scheduled public hearing, either in person or in writing. Written testimony may be submitted prior to or at a public hearing. You are encouraged to attend the public hearings because revisions to the proposed ordinance are possible.

Proposed Ordinance No. 857

Ordinance No. **857** proposes to amend the Comprehensive Framework Plan for the Urban Area, the Aloha-Reedville-Cooper Mountain Community Plan, and the Community Development Code to create the Pedestrian-Oriented Mixed-Use Districts, and apply them to the portion of the Aloha Town Center that is within approximately 1/4 mile of the Tualatin Valley Highway / SW 185th Avenue intersection (see attached map). These new land use districts will allow a variety of residential and/or commercial uses, and will include development standards for pedestrian-friendly and transit-supportive building and site features that would apply to future development.

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning
155 N First Avenue, Suite 350, MS 14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us

The filed ordinance includes text describing the Pedestrian-Oriented Mixed-Use Districts, the land uses permitted in these districts, and the dimensional requirements and development standards that would apply to future development in these districts. Ordinance exhibits include maps showing the proposed location of the Pedestrian-Oriented Mixed-Use Districts on properties now designated Community Business District (CBD), Office Commercial (OC), Neighborhood Commercial (NC), Residential 25 Units or More per Acre (R-25+), Residential 24 Units per Acre (R-24), and Residential 15 Units per Acre (R-15).

Proposed Ordinance No. **857** is available for inspection at the Washington County Department of Land Use & Transportation, Planning and Development Services, located in the Charles D. Cameron Public Services Building at 155 N. First Ave., Hillsboro, Oregon. An electronic copy of the proposed ordinance is available on the County's webpage:

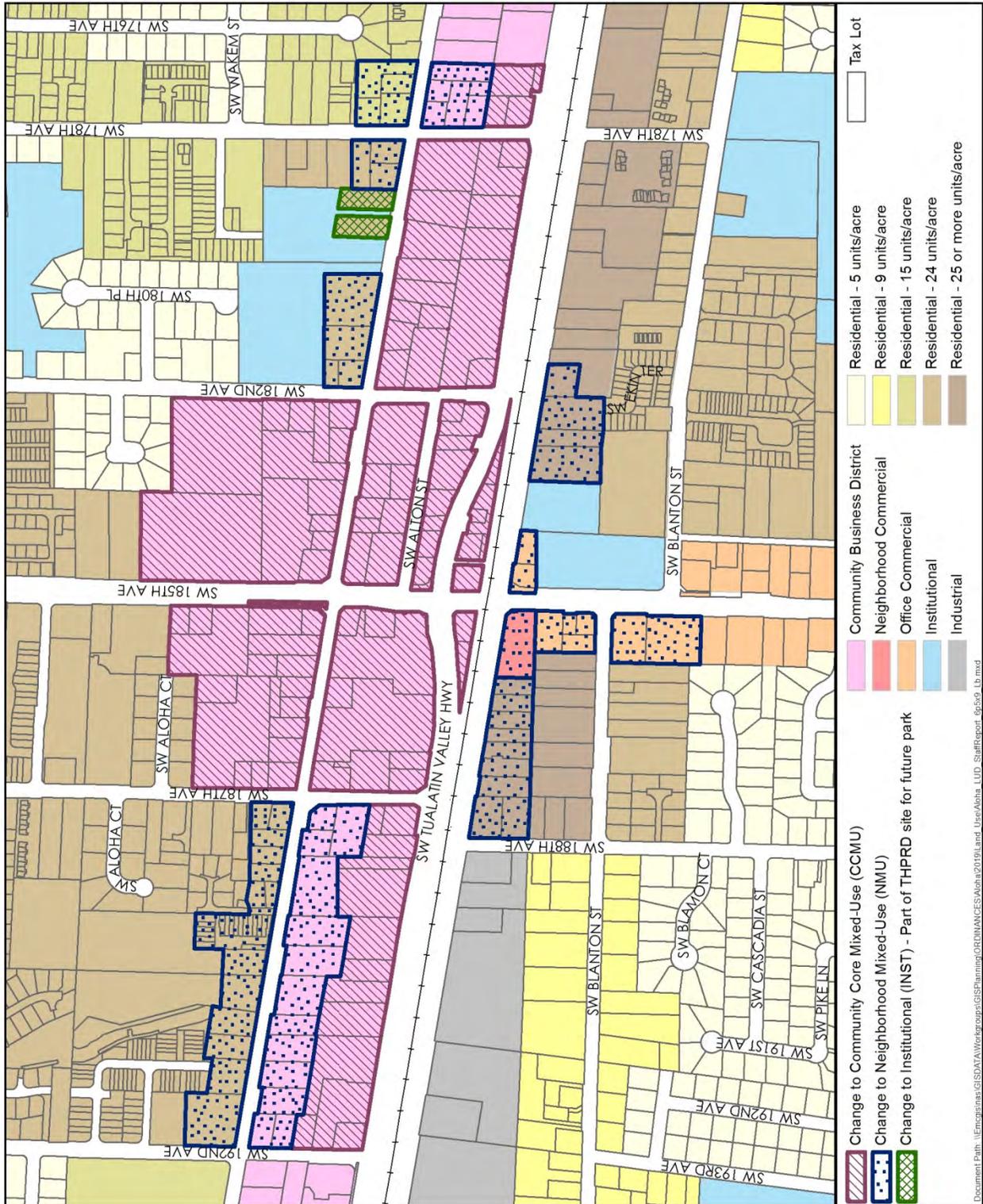
www.co.washington.or.us/landuseordinances

For additional information concerning proposed Ordinance No. **857**, you may call Long Range Planning at 503-846-3519.

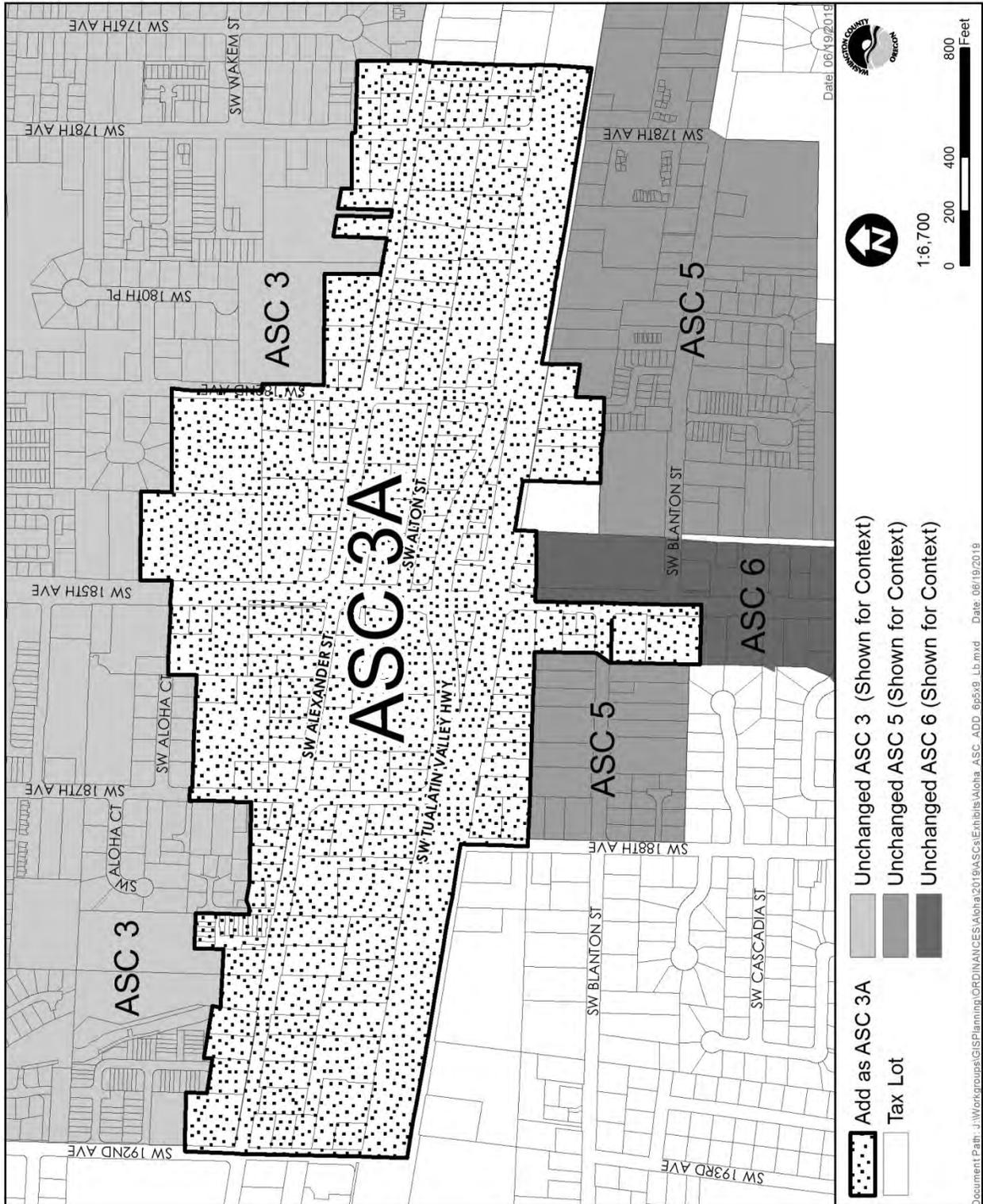
The property owner is further advised that:

- The above description of the proposed ordinance and its effect on property may change prior to adoption as the Board takes into account testimony and evidence from the public, the Planning Commission and County staff.
- A free self-subscription to Land Use Ordinance Updates is available: <http://washtech.co.washington.or.us/subscriptions/>
- No additional notice about the proposed ordinance will be mailed to you unless you subscribe to Washington County's Individual Notice for land use ordinances. The Individual Notice generally describes each proposed land use ordinance and future proposed substantive changes, if any. The Individual Notice also includes the dates and times of initial public hearings before the Planning Commission and Board, and the first two public hearings before the Board for proposed substantive changes to an ordinance. The annual cost for receiving the notice is \$8.00. Please contact Long Range Planning at 503-846-3519 if you wish to subscribe to this notice.

**Proposed Amendments to the Land Use Districts Map of the
 Aloha-Reedville-Cooper Mountain Community Plan**



Proposed Addition of ASC 3A to the Areas of Special Concern Map of the Aloha-Reedville-Cooper Mountain Community Plan



Proposed Addition of Pedestrian Connectivity Area 5 to the Pedestrian Connectivity Map of the Aloha-Reedville-Cooper Mountain Community Plan



Add Proposed Pedestrian Connectivity Area

 Purpose: To connect SW Alexander Street and Tualatin Valley Highway

 Tax lot



1:4,000

