

**Planning Commission Preliminary Findings of Fact
COMPREHENSIVE PLAN AMENDMENT REQUEST
AC-117-18
ASSOCIATED WITH
CONDITIONAL USE REQUEST
CUP-N-329
Amended April 10, 2018**

REQUEST: To add a locally significant aggregate site to Morrow County’s Inventory of Natural Resources - Aggregate and Mineral Resources.

APPLICANT/OWNER: Aaron Heideman
33999 River View Dr.
Hermiston, OR 97838

PROPERTY DESCRIPTION: Tax Lots 2801 and 2807 of Assessor’s Map 1N 26

PROPERTY LOCATION: Southeast of Lexington on Kemp Lane.

I SUMMARY OF APPLICATION AND PROCESS:

The subject quarry location is zoned Exclusive Farm Use. The proposed aggregate quarry is being developed as a result of the desire for the applicant to provide aggregate materials for development of roads, base rock, concrete and asphalt in the general vicinity. The proposed quarry is estimated to produce less than 500,000 tons of aggregate material.

Oregon Revised Statute 215.298 and Oregon Administrative Rule Division 23 requires that a permit for mining of aggregate shall be issued only for a site included on an inventory in an acknowledged comprehensive plan; this action will meet that requirement. The applicant has submitted an application for a Conditional Use Permit to mine aggregate on the subject property along with the application to include the site in the Comprehensive Plan. As required by the Morrow County Comprehensive Plan two public hearings will be required – one Planning Commission and one County Court – prior to approval of the requested amendment. The tentative hearing schedule is included at the end of these Findings of Fact. If the Planning Commission approves the Conditional Use Permit for the proposed quarry site, mining will be allowed only after the site has been added to the Comprehensive Plan’s list of significant aggregate sites.

II SUMMARY OF APPLICABLE CRITERIA: Substantive criteria found in the Comprehensive Plan include the Review and Revision items, but also in the Goal 5 Analysis provisions under Aggregate Resources. The Substantive Criteria are found below in **bold**, with responses in regular type.

MORROW COUNTY COMPREHENSIVE PLAN: CRITERIA. The following criteria must be considered before approval of an amendment to the Comprehensive Plan is given:

1. **Address the Criteria found in the Morrow County Zoning Ordinance Article 8 Amendments; and**

2. **Show how the request complies with the relevant statewide land use planning Goals. Include evidence of coordination and compliance with State agencies regarding the statewide planning Goals. (MC OR-1-2013)**

The Morrow County Zoning Ordinance criteria follow with the necessary analysis. The DLCDC is notified of this action. Staff would find these criteria met.

MORROW COUNTY ZONING ORDINANCE: SECTION 8.040. The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Court in reaching their decision.

- A. **The local conditions have changed and would warrant a change in the zoning of the subject property(ies).**

This amendment is required by the Oregon Revised Statutes and Oregon Administrative Rules. No local conditions have changed or mistake was made in the original designation of the Comprehensive Plan or Zoning Ordinance.

- B. **The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.**

1. **Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:**

- a. **Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;**
- b. **Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,**
- c. **Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.**

No land use designations are changing nor are any transportation systems being affected at this time. Planning staff would find these criteria not applicable. See additional analysis below.

2. **A plan or land use regulation amendment significantly affects a transportation facility if it:**
 - a. **Changes the functional classification of an existing or planned transportation facility;**
 - b. **Changes standards implementing a functional classification;**
 - c. **Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or**
 - d. **Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan. (MC-C-8-98)**

The development of an aggregate site permitted to mine up to 500,000 tons of material would not in and of itself significantly affect adjacent transportation facilities. The functional classification of the local road network would not need to be changed, nor would the level of service of adjoining roads be reduced below a minimal acceptable level. The concurrent Conditional Use Permit CUP-N-329 evaluates the proposed mining activity and has determined that the use should be allowed as long as certain conditions are met. Planning staff would find these criteria to be met.

- C. That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.**

The proposed amendment is consistent with unamended portions of the Comprehensive Plan and does support its goals and policies. There has always been a need for aggregate in Morrow County, and this action will help to meet that need.

- D. The request addresses issues concerned with public health and welfare, if any.**

Planning staff have not identified any concerns with public health or welfare. The associated Conditional Use Permit CUP-N-329 addresses various environmental concerns related to noise and dust.

Mineral and Aggregate Resources

When an application has been received to protect an aggregate or mineral resource, or the County decides to inventory mineral and aggregate resources in its jurisdiction, the County will use the definitions in OAR 660 Division 23. The protection process will meet the requirements as outlined below dependent upon the zoning of the subject property and the size of the mining operation. (MC OR-1-2013)

Option 2. Small sites on land zoned for Farm Use (EFU, RRI and SF40) with 500,000 tons or less of material to be mined:

- I. Significance: The aggregate site must meet the following conditions to be considered significant under this section:**
- A. The quantity of material proposed to be mined from the site is estimated to be 500,000 tons or less over the duration of the mining operation;**
 - B. Not more than 35 percent of the proposed mining area consists of Class I, Class II, or a combination or Unique soil.**

The proposed mining site is on land zoned Exclusive Farm Use and is not currently tilled or used for other productive agricultural purposes. The applicant has indicated that mining will not exceed 500,000 tons over the duration of the mining operation, and should there be a decision to mine over that amount understands additional evaluation would be required under the Morrow County Comprehensive Plan. The soils of the mining location are Lickskillit very stony loam and Willis Silt loam with soil classifications of VII and IV respectively, meeting the requirement that not more than 35 percent of the proposed mining area consists of Class I or II soils. These criteria are met.

- II. **Approval Criteria. When determined to be significant under this section, an aggregate site on farmland must meet the following criteria:**
 - A. **The proposed aggregate mine shall satisfy the standards of the Conditional Use Permit approval process outlined in the Zoning Ordinance;**
 - B. **Post mining use of the site shall be a use allowed under in the Zoning Ordinance and provided for in coordination with DOGAMI regarding the regulation and reclamation of aggregate sites, except where exempt.**
 - C. **The Conditional Use Permit shall not allow mining of more than 500,000 tons of material.**

This application is being considered concurrently with Conditional Use Permit CUP-N-329 and the Planning staff review indicates that mining can occur according to the identified standards. This criteria is met with the approval of CUP-N-329.

- III. **Comprehensive Plan Amendments. The site will be included in the County's Comprehensive Plan Inventory of Natural Resources - Aggregate and Mineral Resources. (MC OR-1-2013)**

See attached Inventory of Natural Resources.

- III **DLCD 35 DAY NOTICE:** February 16, 2018
- IV **PROPERTY OWNER NOTICE:** March 7, 2018
- V **LEGAL NOTICE:** Heppner Gazette Times and East-Oregonian
March 7 and April 4, 2018
- VI **AGENCIES NOTIFIED:** Phil Stenbeck, Jon Jinnings and Tim Murphy, Department of Land Conservation and Development; Ben Mundie, DOGAMI; Jim Johnson, Oregon Department of Agriculture; Mike Gorman, Morrow County Assessor's Office.
- VII **HEARING DATES:**
 - Planning Commission
March 27, 2018
Port of Morrow Riverfront Center
Boardman, Oregon
 - April 24, 2018
Morrow County Bartholomew Building
Heppner, Oregon
 - Board of Commissioners
May 30, 2018
Morrow County Bartholomew Building
Heppner, Oregon
- IX **RECOMMENDATION:** The Planning Department recommends that the Planning Commission recommend to the Morrow County Board of Commissioners approval of the application as presented:
 - 1. Amend the Comprehensive Plan to include the subject aggregate quarry site as

part of Morrow County Comprehensive Plan Inventory of Natural Resources -
Aggregate and Mineral Resources.

Jeff Wenholz, Chair

Date

Attachments:

Vicinity Map

Soils Map

Comprehensive Plan Inventory of Natural Resources - Aggregate and Mineral Resources