



**Crook County  
Community Development**  
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**AMENDED STAFF REPORT  
CONDITIONAL USE– AGGREGATE MINING OPERATION  
3/31/2022**

**APPLICATION:** 217-21-000573-PLNG

**PROPERTY OWNERS:** Robert and Lani Vanier  
P.O. Box 326  
Dayville, Oregon 97825

**APPLICANT/AGENT:** Matt Ropp, Manager of Land Planning  
Knife River Corporation – Northwest  
32260 Old Highway 34  
Tangent, Oregon 97389

**SUBJECT PROPERTY:** T14 S, R15 EWM, Section 14, Tax lot 103  
6487 NW Lamonta Road, Prineville, Oregon

**PROPOSAL:** The Applicant requests a conditional use permit for aggregate mining on the subject property. The Applicant proposes phasing in mining to allow continued use of the property for agricultural production. The site will be reclaimed for agricultural use.

**PROCEDURAL BACKGROUND:** The Applicant, Knife River Corporation Northwest, submitted an application to add the subject property to the Crook County inventory of significant aggregate resource sites (Application No. 217-21-000436-PLNG) and an application for a conditional use permit to authorize the extraction of sand and gravel from the site (Application No. 217-21-000573-PLNG). The applications were considered in a series of public hearings before the Crook County Planning Commission. The first evidentiary hearing was conducted on July 28, 2021, and continued for additional testimony to an August 25, 2021, public hearing. At the conclusion of the public hearing, the record was left open for seven days for additional testimony (until September 1, 2021) and an additional seven days for the Applicant’s final argument (September 8, 2021). At that time, the record consisted of testimony received at the public hearings and written testimony including the Applicant’s original burden of proof statement and Exhibits 1 – 34.

The Planning Commission scheduled a meeting for deliberation only on September 22, 2021. The Planning Commission approved a motion to forward a recommendation to the Crook County Court to add the subject property to the County’s inventory of significant mineral and aggregate resources as a “3B” site. The Planning Commission also agreed to postpone deliberations on the conditional use request until the County Court reached a decision on the proposed plan amendment.

The Comprehensive Plan (Comp Plan) amendment recommendation was considered by the County Court at public hearings on October 20, 2021, November 3, 2021, December 3, 2021, and January 5, 2022 (deliberation only). The County Court visited the subject property and the Woodward site on October 26, 2021. Adjacent

property owners were invited to participate in the site visit. The County Court also visited Knife River's Butler Ranch project to view a reclaimed mine site (Knife River exhibit 45 - aerial view of reclaimed site).

The County Court applied a four-step process in reviewing the Comp Plan amendment request (See Exhibit 47 - Memorandum from John Eisler providing a detailed description of the process). The process to add a site to the County's Goal 5 inventory of significant mineral and aggregate sites is as follows:

Step One: Determine Whether the Resource Site is Significant

Step Two: Identify Conflicts

Step Three: Analyze Economic, Social, Environmental and Energy (ESEE) Consequences

Step Four: Develop a Program to Achieve Goal 5

Based on information provided by the Applicant, the County Court found that the subject property is a significant site based on the location, quality and quantity of the sand and gravel resource on the site. No testimony was received in opposition to this finding. The County Court found that there were land uses within the 500-foot impact area that could conflict with mining activities (adjacent residential and agricultural uses). Based on a review of conflicting uses and analysis of ESEE (economic, social, environmental and energy) consequences of the mine, the County Court found that "conflicting uses" should be allowed fully, notwithstanding possible impacts of those uses on the resource site. The County Court agreed with the Planning Commission's recommendation to add the subject property to the inventory of significant mineral and aggregate sites as a "3B" site, finding that the conflicting uses are of sufficient importance, relative to the resource site. Attachment A of Ordinance 328 outlines the Comp Plan process and includes a description of the ESEE analysis and Program to Achieve the Goal.

During the County Court's public hearings, the Court received additional evidence and argument, including both oral and written testimony. This additional evidence was included in the Court's record for the Comp Plan Application. After adoption of the Comp Plan amendment by the County Court, the Planning Commission held a public hearing on February 23, 2022, to consider whether to reopen the record to include the additional argument and evidence received by the County Court during the Comp Plan application proceedings. The Planning Commission took testimony from the public and the Applicant and determined that it was appropriate to reopen the record to include the additional testimony and evidence received by the County Court including Exhibits 35-66 and minutes and audio tapes of the County Court's hearing and deliberations. Per CCC 18.172.081(18), the Planning Commission passed a motion to receive additional written testimony limited to the new evidence, arguments, testimony, or standards and criteria in the County Court record from parties with standing in the prior proceedings.<sup>1</sup> The County received exhibits 67-71 from project opponents by the March 2, 2022 deadline and exhibits 72-80, the Applicant's rebuttal statement, by March 9, 2022. The Planning Commission also took notice of Ordinance 328.

The Planning Commission scheduled a hearing on March 16, 2022, for deliberation only to consider whether to approve or deny the conditional use permit request. The Planning Commission considered information in the record in reaching their decision. The Applicant had extended the 120-day timeline for the conditional use application to March 16, 2022. The Applicant confirmed during the March 16 hearing that the 120-day timeline for a final, signed decision could be extended to April 1, 2022.

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<sup>1</sup> Crook County Code 18.172.081(18) Reopening the Record. When the hearing authority reopens the record to admit new evidence, arguments, or testimony, the hearing authority must allow people who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts. Upon announcement by the hearing authority of their intention to take notice of such facts in its deliberations, any person may raise new issues which relate to the new evidence, arguments, testimony, or standards and criteria which apply to the matter at issue.

## SUMMARY OF EVIDENCE AND TESTIMONY

The Planning Commission reopened the record for the conditional use permit to include all exhibits (35-66), testimony before the County Court, and minutes and audio recordings of County Court proceedings regarding the Comprehensive Plan Amendment request. Evidence and testimony provided during the County Court hearings generally addressed issues related to conflicts between mining operations and uses on neighboring properties, specifically the potential impacts of mining on area residential and agricultural uses. Testimony from neighbors raised concerns regarding noise and dust from the site based on operations at the existing Woodward site. They requested reduced operating hours. Neighbors were concerned about reductions in property values and loss of the rural character of the area due to mining activities. Many of these concerns were raised during the initial Planning Commission hearings in 2021.

Much of the testimony before the County Court related to neighbors' concerns regarding potential impacts to groundwater quality and quantity resulting from mining operations. Concerns were also raised about the inability of the Applicant to reclaim the site due to groundwater and low soil productivity.

Exhibit 65 provides a detailed summary of testimony received after the County Court's November 3, 2021 hearing (exhibits 57 through 63). In addition to comments directed at specific criteria, neighbors testified that the Applicant had not fulfilled conditions of approval regarding dust control and weed control on the existing mining operation on the Woodward site. One commenter provided evidence of Knife River violations of Department of Environmental Quality surface water requirements at other sites in Oregon. Testimony also was directed at the Applicant's hydrology reports, challenging methodology and findings of the reports.

Some testimony was neutral or offered in support of the application. Testimony was provided to describe the economic importance of a local source of aggregate. Testimony from the Department of Geology and Mineral Industries (DOGAMI) supported the use of recharge trenches to de-water the mining area. DOGAMI also stated that the Applicant had met reclamation requirements at other Crook County sites. Testimony regarding site reclamation was also received from a Crook County property owner whose site had been mined and reclaimed by the Applicant. The Applicant provided an aerial photo of the reclaimed site.

The Applicant provided testimony regarding conflicts with neighboring uses and the associated impacts on mining operations (e.g., increased costs due to mitigation measures, decreases in operational efficiencies due to limits on mining activities) (Exhibit 63 – ESEE analysis). They provided additional exhibits related to the site lay-out and relationship to adjacent properties. The Applicant provided additional testimony regarding site hydrology and proposed mitigation to avoid and minimize groundwater quality and quantity issues and submitted a final argument.

This testimony was addressed in the Findings of Fact and Conclusions of Law attached to Ordinance 328 (Attachment A to the ordinance) for the Comp Plan Amendment in the ESEE analysis – the analysis of the economic, social, environmental and energy costs associated with mining activities. Because many of the comments received during the County Court hearing are relevant to the conditional use permitting process and the requirements of Crook County Code 18.144 and Crook County Code 18.160, the Planning Commission approved motion at their February 23, 2022 meeting, to reopen the record to include testimony and exhibits provided to the County Court.

Additional testimony on the record was received by March 2, 2022. The Community Development Department received written testimony from five parties with standing.<sup>2</sup> Many of the comments related to a recently

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<sup>2</sup> Testimony was also provided by Donna Kriege. She had not participated in any of the hearings before the Planning Commission or the County Court and this testimony was not accepted into the record. The Planning Commission

issued Oregon Water Resources Department (OWRD) permit authorizing groundwater withdrawals on the Woodward property (Limited license LL-1876). This permit authorizes use of groundwater from an existing well and three additional deep wells (255') to provide up to 78 million gallons of water annually for processing aggregate on the industrial site. Neighbors raised concerns about this proposal and the fact that they were not provided notice of the permit application. They are most concerned about how the new wells will impact groundwater resources on adjacent properties in conjunction with the proposed mining activities.

Exhibit 67 (Zimmerlee) challenges the Applicant's well log data and information on standing water levels. He described saturated soils on the Woodward property and is concerned that soils on the subject property will also be saturated, making it difficult to reclaim the property for productive agricultural use. He mentioned the failure of DOGAMI to enforce state mining and reclamation permit conditions. He raised concerns about the new OWRD permit for new wells on the Woodward industrial property.

Exhibit 68 (Mikulski) also raised concerns about the OWRD permit on the Woodward industrial property and the lack of notice of the OWRD permitting process. As neighbors of the proposed mine with both residential and agricultural use, they are very concerned about groundwater levels and potential drought conditions.

Exhibit 69 (Newton) raised concerns about the Applicant's hydrologic assessments and the methodology used in generating reports. He expressed concerns about the ability to reclaim the property for agricultural use with the high groundwater table and saturated soils. He was concerned about pollutants entering groundwater.

Exhibit 70 (Davis) reiterated concerns about springs on their property and the potential for diversion of surface water from the mine site. The potential impact of saturated soils on agriculture and site reclamations was also raised. The letter also was concerned about potential impacts to their drainfield from water infiltrating from the mine site. They also were concerned about the new groundwater wells on the Woodward property and the impact on water resources in the area.

Exhibit 71 (Johnson) was concerned about the impact of mining on her dairy operations and specifically the need to have a dependable source of clean water for her herd. She also raised concerns about the newly permitted wells on the Woodward industrial site.

The Planning Commission accepted final argument from the Applicant by March 9<sup>th</sup>, 2021. Exhibit 72, submitted by Amber Hudspeth on behalf of the Applicant, provided well monitoring data for the shallow well on the Mikulski property. Data was collected from 2017– 021. Based on the summary tables provided by Ms. Hudspeth, there has been little change in groundwater levels and water quality during that time period. The Applicant states that there is no evidence that existing mining operations have impacted nearby wells. (Exhibit 77 includes the Applicant's submittal of this testimony).

Exhibit 75 was submitted to demonstrate Mr. Lidstone's qualifications to address hydrogeologic issues. This was offered in response to Exhibit 67.

Exhibit 76 was submitted by Mark Stacy (Stantec) and Chris Lidstone (CDLidstone) as rebuttal testimony on behalf of the Applicant. Specifically, the letter rebutted efforts by Mr. Zimmerlee (Exhibit 67) and Mr. Newton (Exhibit 62) regarding the 2021 Hydrogeologic Report for the subject property. The letter describes the methodology used by the Stantec team to collect and map groundwater data. It also reiterated the feasibility of dewatering mine cells and reinjecting groundwater into recharge trenches. The letter suggests that no new

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determined in their February 23, 2022, meeting to consider reopening the record that only parties with standing could submit written testimony on evidence and testimony included in the County Court record.

information has been provided to suggest that the proposed mining approach and mitigation measures will not be effective.

The letter also rebutted testimony from Mr. Zimmerlee regarding the high-water table and how activity on the Woodward site limited his ability to farm and would have negative impacts on site reclamation. The Stantec letter responds that mining activities on the Woodward site are not responsible for wet areas on the subject property but rather are likely to result from discharge of springs on the adjacent Davis property.

The Stantec letter responded to concerns regarding the Oregon Water Resources Department (OWRD) recent issuance of a limited license to withdraw groundwater on the Woodward industrial site (Exhibits 67, 68, 69, 70 and 71). The letter described OWRD’s notice process and finding that the issuance of the license would “not impair or be detrimental to the public interest.” The letter suggested that the actual water usage on the Woodward property would be much less than estimated by neighboring property owners.

The Stantec letter also addressed concerns raised by Mr. Zimmerlee regarding numerous violations on the Woodward site (Exhibit 67). According to the letter, DOGAMI’s investigations are documented and available as public records. It should be noted that no records of DOGAMI’s investigation have been submitted to the record for this application. The letter addressed general concerns regarding the proposed mine site and referenced the Applicant’s willingness to enter into a Groundwater Protection Guarantee with the County.

A letter was submitted by Mr. Vanier, the owner of the subject property (Exhibit 73). Mr. Vanier rebutted testimony in exhibits 67-71 and clarified his lease agreement with Mr. Zimmerlee and expectations regarding proposed Knife River operations. The Applicant submitted this evidence as well (Exhibit 78).

Matt Ropp, Knife River Technical Services Manager, submitted a letter outlining the process to date and summarizing the new evidence provided in support of the application (Exhibit 74). The Applicant also submitted photos of the site.

The findings below include reference to new Exhibit information where appropriate.

**APPLICABLE CRITERIA:**

<b>Crook County Code</b>	<b>Title 18 ZONING</b>
<b>Chapter 18.08</b>	<b>DEFINITIONS</b>
<b>Chapter 18.16</b>	<b>EXCLUSIVE FARM USE ZONES, EFU-1 (POST-PAULINA AREA), EFU-2 (PRINEVILLE VALLEY-LONE PINE AREAS), AND EFU-3 (POWELL BUTTE AREA)</b>
<b>Chapter 18.144</b>	<b>AGGREGATE RESOURCE SITES</b>
<b>Chapter 18.160</b>	<b>CONDITIONAL USES</b>
<b>Chapter 18.172</b>	<b>ADMINISTRATION PROVISIONS</b>
<b>Chapter 18.180</b>	<b>TRANSPORTATION</b>

**Crook County-Prineville Area Comprehensive Plan**, Chapter III, Land Use, Agriculture, Pages 40-47, Policies for Agricultural Areas of Crook County. Goal 5, Aggregate sites as amended by Ordinance 328 (February 2, 2022).

**Oregon Revised Statutes 215.283(2)(b) and ORS 215.298**  
**Oregon Administrative Rules (OAR) 660-016 and 660-033-130**

**BACKGROUND**

The Applicant currently operates a sand and gravel mine and aggregate processing facility on an abutting tract of land to the west of the subject parcel (T14 R15 Section 14 tax lots 702 & 703 - the "Woodward" site).<sup>3</sup> As the aggregate reserve on the Woodward property is depleted, the Applicant proposes to continue mining to the east on the subject parcel (T14 R15 Section 14 tax lot 103) (referred to as the "subject property" or "Vanier property"). The subject parcel is zoned Exclusive Farm Use (EFU-2).

The Applicant does not intend to process aggregates on the Vanier property. Aggregates extracted from the Vanier property will be processed and exported from existing permitted processing facilities on the adjacent Woodward site. Aggregate materials will be transferred from the Vanier property to the processing facility via haul roads internal to the mine site. The Applicant states that no significant change to the nature of operations or impacts resulting from activities at the Woodward processing facility is expected. The original conditions of approval (217-15-000115-PLNG) continue to apply to the Woodward site.

The Vanier property is currently used for grazing and hay production. There is an existing dwelling on the northeast corner of the property. The Applicant plans post-mining reclamation to return the property to a condition suitable for the same agricultural use. The Applicant intends to mine the Property in cells, approximately 60 feet in width. Up to 10 acres will be disturbed at one time (5 acres for active mining with topsoil removed from the next 5-acre cell used to reclaim the first cell). An average of 13 feet of overburden will be stripped from the surface using excavators and loaders. Topsoil will be saved for surface reclamation. Remaining overburden (silt, clay, fine sand) excavated from the initial cell(s) will be used to construct an 8-foot-high berm along the Davis property on the north-east side of the property and along Stahancyk Lane. No berm is proposed along Lamonta Road.

Recoverable aggregates (sand and gravel), with an expected average thickness of 12 feet, will be excavated and transported to the Woodward site for processing. The Applicant states that groundwater may be encountered during mining but is not expected to prevent normal dry mining methods (i.e., excavators loading materials onto haul trucks). In the event groundwater infiltration complicates replacement of overburden during reclamation, the Applicant intends to temporarily use pumps to transfer water from open cells to a recharge trench so that overburden may be replaced safely and efficiently without impacting nearby groundwater rights. Undisturbed areas will remain available for agricultural use until mining commences. As cells are completed, land will be returned to agricultural use as soon as possible. Reclamation will be completed in accordance with a DOGAMI approved reclamation plan.

#### **BASIC FINDINGS:**

- A. LOCATION:** The subject property is located at the intersection of NW Stahancyk Lane and NW Lamonta Road on the north side of Stahancyk and west side of Lamonta, approximately 3 miles northwest of the City of Prineville.
- B. ZONING:** The property is zoned Exclusive Farm Use Zone, EFU-2 (Prineville Valley-Lone Pine Areas) and is designated Agricultural in the Crook County Comprehensive Plan.
- C. SITE DESCRIPTION:** The subject property is currently, and has been for many years, employed for farm use (irrigated hay and pasture). The property includes a single-family dwelling that has been on the property since the 1920s, two general purpose buildings and a machine shed.

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<sup>3</sup> This property was added to the County's Goal 5 inventory of significant resource in 2015 (217-15-000114-PLNG) and granted conditional use approval for a mining operation (217-15-000115-PLNG).

- D. COMPREHENSIVE PLAN DESIGNATION:** The property is designated as Agricultural Land. The site has been added to the County's Goal 5 Inventory of Significant Mineral and Aggregate Resources (Ordinance 328, February 2, 2022).
- E. ACCESS:** The subject has direct frontage on NW Stahancyk Lane and NW Lamonta Road, both County owned and maintained roads. However, the mining operation on the subject property will only be accessed from the existing access for the mining operation on the Woodward property, directly to the west of the subject property. There will be no direct access to NW Stahancyk Lane or NW Lamonta Road for mining operations on the subject property.
- F. SOILS:** According to United States Department of Agricultural (USDA) Natural Resource Conservation Service (NRCS) Web Soil Survey the subject is comprised of three soil mapping units (SMU).

Soil Type	Acres	If irrigated	Non-irrigated
#020 Boyce Silt Loam 0-2% slopes	0.2	3	-
#123 Ochoco Prineville Complex 0-3% slopes	75.9	3	-
#133 Ochoco Prineville Complex 3-8% slopes	2	3	-

- G. NATURAL HAZARDS:** There are no mapped natural hazards on the subject property. The property is not in a mapped special flood hazard area.
- H. WETLANDS:** The National Wetlands Inventory does not include any wetlands on the subject property.
- I. SURROUNDING LAND USES:** The Applicant provided a table summarizing area land uses that are within the 500-foot impact area of the proposed mining operation. Surrounding parcels are zoned for exclusive farm use or heavy industrial use. The properties are identified on the accompanying map. There are larger agricultural operations to the southeast, east and north. The Woodward property with the existing mining operation is directly to the west. The processing facility is located on the Woodward property zoned heavy industrial. There are several smaller farms south of the subject property, across Stahancyk Lane. Many of the properties have existing dwellings.

T-R-S Tax Lot	Direction from Subject	Distance from Mining to Tax Lot	Site Address	Existing Dwelling	ID # on Map	Distance from Mining to Dwelling	Acres	Zoning	Primary Use	Land Owner
14-15-13 TL 102	East	160'	5777 NW Wilkinson Rd	Yes	9	5,010'	286.5	EFU-2	Farm Use - Hay	Mark & Casey McKinnon
14-15-14 TL 102	North	50'	6525 NW Lamonta Rd	Yes	5	245'	156.0	EFU-2	Farm Use - Hay	Dean & Teresa Davis
14-15-14 TL 701	West	0'	5950 NW Puckett Rd	Yes	8	1,845'	76.1	EFU-2	Farm Use - Hay	Scott & Crista Porfily
14-15-14 TL 702	West	1,350'	4755 NW Stahancyk Ln	No	-	-	35.4	HM	Industrial - Aggregate	Woodward Land & Timber LLC
14-15-14 TL 703	West	0'	Stahancyk Ln	No	-	-	76.1	EFU-2	Farm Use & Aggregate	Woodward Land & Timber LLC
14-15-23 TL 101	Southwest	425'	4243 NW Elliot Ln	Yes	10	2,560'	66.8	EFU-2	Farm Use - Hay	Samual Stafford
14-15-23 TL 102	South	140'	3320 NW Stahancyk Ln	Yes	2	320'	33.2	EFU-2	Farm Use - Pasture	Billie Johnson
14-15-23 TL 111	Southwest	140'	Stahancyk Ln	No	-	-	8.8	EFU-2	Farm Use - Pasture	Adam & Karen Mikulski
14-15-23 TL 114	Southwest	245'	3992 NW Stahancyk Ln	Yes	1	390'	0.9	EFU-2	Residential	Adam & Karen Mikulski
14-15-23 TL 117	Southwest	455'	Stahancyk Ln	*No	*4	-	3.0	EFU-2	Residential & Farm Use	Rick Kriege
14-15-24 TL 402	Southeast	205'	2720 NW Garden Ln	Yes (X2)	6 7	2,685' 2,780'	123.3	EFU-2	Farm Use - Hay & Pasture	Simmons Farm, LLC; Elsie & Henry Simmons

\* Kriege owns 14-15-23 TL 116, west of TL 117. TL 116 is outside of the 500' impact area and includes a dwelling that is 1,000 feet from the mining area.





<b>4</b>	<b>Mineral, Aggregate, Oil and Gas Uses</b>			
4.1	Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.	STS	Administrative	
4.2	Operations for the exploration for minerals as defined by ORS <a href="#">517.750</a> .	STS	Administrative	
4.3	Operations conducted for mining and processing of geothermal resources as defined by ORS <a href="#">522.005</a> and oil and gas as defined by ORS <a href="#">520.005</a> not otherwise permitted.	C	Planning Commission Hearing	
4.4	Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources.	C	Planning Commission Hearing	<a href="#">18.16.015(11)</a> <a href="#">18.144</a>
4.5	Processing as defined by ORS <a href="#">517.750</a> of aggregate into asphalt or Portland cement.	C	Planning Commission Hearing	<a href="#">18.16.015(10)</a>
4.6	Processing of other mineral resources and other subsurface resources.	C	Planning Commission Hearing	

**18.16.015(11)** Mining, crushing or stockpiling of aggregate and other mineral and subsurface resources are subject to the following:

- (a) A land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre.
- (b) A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the Crook County comprehensive plan.
- (c) Mining, crushing, stockpiling and process of aggregate and other mineral subsurface resources are subject to the provisions of Chapter [18.144](#) CCC.

***Finding: The proposed application is subject to the provisions of 18.16.015(11). A land use permit is required because more than 1,000 cubic yards of material and more than 1-acre will be excavated. The Crook County Court approved a plan amendment (File 217-21-000436-PLNG) to add the subject property to the County Comprehensive Plan's inventory of significant mineral and aggregate sites as a "3B" site (Ordinance 328). The County Court found that conflicting uses were of sufficient importance based on existing land uses and potential impacts should be allowed fully, regardless of the potential impact of the conflicting uses on the resource site. The provisions of CCC 18.144 are discussed below.***

**18.16.020 Conditional use review criteria.<sup>4</sup>**

An applicant for a use permitted as a conditional use "C" in Table 1 must demonstrate compliance with the following criteria and specific requirements for conditional uses in Chapter 18.160 CCC:

- (1) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;
- (2) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

***Finding: The Applicant states that the mining operation on the Vanier property will be an extension of the current mining operation on the Woodward property. The Applicant stated that, based on six years of operation at the Woodward site, there has been no evidence provided that mining operations forced a significant change in or significantly increased the cost of agricultural activities. Mining operations on the Woodward property have been occurring for several years and the Applicant stated that they are not aware that any of its current operations have caused adverse impacts to surrounding lands devoted to farm use to the extent that said impacts have forced a significant change in, or significant increase in the costs of, accepted farm practices.***

***The Applicant stated in their rebuttal (Exhibit 34) "While there were general statements that dust on hay crops makes the hay less suitable for livestock feed, there was no explanation of how the dust would impact farm crops to a degree that it will force a significant change in accepted farm practices on surrounding lands devoted to farm use or significantly increase the cost of farm practices on surround lands devoted to farm use." The Applicant also stated that much of the dust was associated with processing on the Woodward site rather than the extraction activities. However, they did acknowledge that disturbed ground that had not yet been reclaimed contributed to dust issues, particularly during windy conditions. The Applicant has submitted a dust management plan and proposes berms along Stahancyk and the northeast corner of the property (adjacent to the Davis property). The Applicant agrees to construct the haul road from the subject property to the processing area on the adjacent Woodward property with an all-weather, crushed rock surface. Disturbed areas will be mulched, hydroseeded or revegetated to stabilize soils and minimize dust (Proposed conditions 6 (berms) and 7 (dust mitigation)).***

***Truck traffic associated with the current mining operations was not raised by area farmers as an issue that changed their farming practices or increased their costs significantly. All aggregate materials from the subject property will be exported from the current access to/from the existing Woodward property processing site. There should be no new traffic impacts to area farms resulting from the proposal. The conditions applying to traffic from the Woodward site remain in effect (217-15-000115-PLNG).***

***Area farmers and neighbors did raise concerns about the potential impact of mining activities on groundwater quality and quantity. In addition to testimony before the Planning Commission, additional testimony was provided to the County Court regarding potential impacts to groundwater and additional testimony provided to the Planning Commission in response to the County Court record. The Applicant's Aggregate Mine Hydrogeologic Characterization report included in the burden of proof statement, identifies shallow groundwater as an issue and proposes pumping into recharge trenches to remove water from active mining cells. Farmers and area residents raised concerns regarding potential loss of well water and contamination of well water. The Applicant has proposed baseline monitoring of water levels and water***

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<sup>4</sup> Crook County Code language mirrors that of Oregon Revised Statute (ORS) 215.296 (1) and Oregon Administrative Rules (OAR) 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses.

**quality parameters for wells and springs identified in Exhibit 24 page 2 (subject to landowner approval). (Proposed condition 10).**

(3) The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this title and the following general criteria:

(a) The use is consistent with those goals and policies of the comprehensive plan which apply to the proposed use;

***Finding: The use has been included in the County's inventory of significant Goal 5 mineral and aggregate resources (Ordinance 328). The use of the property as an aggregate site will be consistent with the Crook County Comprehensive Plan, subject to the ESEE analysis and the adopted program to implement Statewide Planning Goal 5. The proposed use is allowed as a conditional use in the County's EFU-zones.***

(b) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

***Finding: The parcel is suitable for the proposed use considering its size, shape, location, topography and existence of improvements and natural features. The parcel is large enough and has natural features that allowed it to be designated as a significant aggregate site based on the quantity and quality of aggregate materials. It is located adjacent to an existing aggregate mine and processing site that is accessed by an existing truck route. The site is generally flat and requires no site improvements.***

(c) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district.

***Finding: The Applicant states that proposed use will not permanently alter the character of the surrounding area because the operation will be limited in duration and no structures will be built. The operation will be an extension of an existing aggregate site. The mining operations will impact the surrounding area for the 5–10-year duration of mining operations and the subject property will be reclaimed for agricultural use.***

***The Planning Commission received testimony from neighboring property owners stating that mining operations would alter the character of the surrounding area by taking existing agricultural land out of production and changing the rural character and scenic nature of the area. These impacts were considered in the County Court's analysis of the ESEE consequences associated with the resource site. Properties in the area are zoned for exclusive farm use and heavy industrial use. While these uses will continue, there will be impacts to those properties from mining activities. The program to achieve the Goal included conditions of approval to limit impacts to surrounding properties. See the discussion of 18.160.020(2).***

(d) The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and

***Finding: No new infrastructure or public facilities are needed to support this proposed use.***

(e) The use is or can be made compatible with existing uses and other allowable uses in the area.

***Finding: The Planning Commission's motion to deny the Application found that despite proposed conditions to implement the Comp Plan Program to Achieve, including provisions relating to the subject property and other conditions designed to address potential impacts, the proposed use cannot be made compatible with***

*existing uses in the area and that the use would have a significant impact on allowable uses in the area. See the discussion of 18.160.020(2).*

**Crook County Code 18.144 Aggregate Resource Sites  
18.144.040 Approval and Review Criteria.**

(1) Notwithstanding any provisions in this title to the contrary, an application for a permit for a use listed in CCC 18.144.030 shall be allowed if it meets the following criteria:

(a) The site must be designated as a mineral or aggregate resource site or an energy source site on an inventory of significant Goal 5 resources in the comprehensive plan.

***Finding: The Applicant submitted a plan amendment application (217-21-000436-PLNG) requesting the subject property be added to the mineral and aggregate inventory in the Crook County Comprehensive Plan. The Crook County Court approved designation of the subject property as a significant mineral and aggregate site (Ordinance 328).***

(b) The proposed use must be consistent with the applicable ESEE analysis and conditions contained in the comprehensive plan. In the event conditions imposed on the mining use by the comprehensive plan to mitigate mining impacts on specific conflicting uses are less restrictive than conditions necessary to address these same impacts under the standards of this section, the conditions imposed by the comprehensive plan control.

***Finding: Based on information in the record, the proposed use is consistent with the applicable ESEE analysis and Program to Achieve the Goal. The ESEE conditions of approval are included as proposed conditions 1-10 of this document. Planning Commission members had questions regarding the implementation of condition #10, the Groundwater Protection Guarantee Agreement.***

(c) The proposed use must be shown to not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(d) The proposed use must be shown to not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

***See the above finding for 18.16.020.***

(e) There must be adequate public facilities and services (street capacity, water supply, police protection, fire protection, energy and communications services) available to meet the additional demands created by the proposed use or that can be made available through the orderly and efficient extension or expansion of these facilities and service

***Finding: Mining of the subject property will not require any new or any change to public facilities and services. There will be no new structures, points of access, or activities requiring increased street capacity, water supply, energy or communications services, fire or police protection. The site is within the Crook County Fire and Rescue District. The subject property will provide additional aggregate reserve that will allow current operations to continue without change to current public facility and service needs/demands.***

(2) An applicant for a use allowed by CCC 18.144.030 may demonstrate that these standards for approval could be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

***Finding: The Applicant acknowledged that conditions of approval may be necessary to ensure consistency with applicable approval criteria.***

(3) To the extent compliance with the approval criteria of this section has been determined as part of the identification and resolution of conflicting uses and development of a program to achieve goal compliance in the comprehensive plan, the determination shall be binding until changed by amendment to the plan.

***Finding: The Applicant acknowledged that conditions of the site specific ESEE and program to achieve goal compliance have been adopted as part of the plan amendment and will be binding and applicable to all land use permits unless changed by an amendment to the plan. See Condition 16.***

(4) No application shall be approved to allow batching and blending of mineral and aggregate into asphalt cement within two miles of a planted vineyard. (Ord. 18 § 11.040, 2003)

***Finding: No batching into asphalt has been requested and no batching is allowed on the subject property. The Applicant is unaware of existing planted vineyards within two miles of the subject property.***

#### **18.144.050 Approval Procedures.**

(1) Each application for approval shall be processed in accordance with Chapter 18.172 CCC and this chapter.

(2) The hearing authority shall review the application and shall grant or deny approval based on conformance of the application with the requirements of this chapter and with the appropriate site-specific or generic ESEE analysis in the comprehensive plan.

(3) The hearing authority may only require modifications to the application as are necessary to fulfill the requirements of this chapter and the appropriate site-specific or generic ESEE analysis. Any modifications must be clear and objective.

(4) The hearing authority shall deny approval only if the requirements of this chapter or the ESEE analysis are not or cannot be satisfied by the proposed application.

(5) Prior to establishing a use authorized by this chapter, the property owner or agent must receive approval from the county.

***Finding: The proposed conditional use has been reviewed under the provisions of Crook County Code 18.172. The Applicant acknowledged that conditions of the site specific ESEE and program to achieve goal compliance have been adopted as part of the plan amendment and are binding and applicable to all land use permits. The Applicant acknowledged that approval from the County is required prior to mining the subject property.***

(6) In addition to all information required for a site reclamation plan by DOGAMI, the applicant shall submit the following information:

(a) An application for a site plan approval shall contain suitable maps, drawings and narrative to assure the requirements of this chapter can and will be met. A complete application must contain the following information:

(i) A complete application form from the county.

***Finding: The Applicant submitted a complete application form, as required by the County. A final site plan is required (e.g., identifying the location and height of berms). See Condition 1.***

(ii) A list of known materials to be extracted or processed together with a general description of the excavation operations and the estimated duration of operation at the site.

***Finding: The Applicant provided a description of the materials to be extracted (see the "Aggregate Resource Investigation" report submitted with their application). A description of the excavation plan/operation is provided in the Mine Hydrogeologic Characterization report submitted with the application. A site plan and cross sections depicting the resource to be excavated and estimated resource volume calculations have been submitted with the application. The duration of the mining operation will depend on market conditions. However, the Applicant estimated the aggregate resource will be depleted and reclamation will be completed within five to ten years.***

(iii) A map of the site which shows existing trees and natural vegetation; existing water courses, including streams, rivers, ponds and lakes; adjacent ownerships, including the location of structures which relate to the setback or other requirements of this zone; and existing and proposed roads.

***Finding: The Applicant provided a site plan depicting existing structures/improvements and proposed setbacks as part of the application (Exhibit 22). There are no water courses, trees or other significant natural features on the subject property. There are two springs north of the subject property, on the adjacent Davis property. This subject property is primarily comprised of cultivated hay/pasture. There are existing trees on the berm on the south side of the current Woodward mining operation.***

(iv) A surface water management plan for the site and all phases of the operation.

***Finding: The Applicant states that there are no surface water features on the subject parcel. All storm water will be contained on site. A stormwater management plan will be required by DOGAMI as part of the Operating Permit. The Applicant has provided a detailed hydrogeologic report and there are proposed conditions of approval related to monitoring and protection of groundwater quality and quantity (Condition 10).***

(v) A map which shows the location of the surface mining area, the location of all processing and storage areas, the location of caretaker dwelling (if proposed), landscaping, screening and buffer areas.

***Finding: There will be no onsite processing of aggregate materials. Aggregate materials may be temporarily stockpiled onsite, but all processing will occur on the Woodward property to the west. The site plan will show the location of berms to screen the property.***

(vi) A landscape management and maintenance plan adequate to demonstrate compliance with provisions of this zone.

***Finding: Mined lands will be reclaimed consistent with the approved DOGAMI reclamation plan. As a condition of approval, the Applicant shall agree to hydroseed, irrigate to maintain vegetation and manage vegetation to prevent the spread of noxious weeds. See Condition 6.***

(vii) A map showing existing contours.

**Finding: The Applicant provided a map showing existing contours (see AGGREGATE RESOURCE INVESTIGATION VANIER SITE PRINEVILLE, OREGON 2019-2020 included in the conditional use application).**

(viii) A map or other drawing showing the contours of the site upon completion of the operation together with a description of the proposed end use of the reclaimed site.

**Finding: The Applicant provided a map showing proposed contours of the site upon completion of the operation and has stated that the site will be reclaimed for agricultural (hay) production. (Exhibit 59 includes Knife River's proposed final site contours).**

(ix) An environmental report from an engineer or other qualified professional which is adequate to demonstrate that the operation can conform to county, DEQ, and DOGAMI requirements as outlined in the "development standards" section of this zone (CCC 18.144.060).

**Finding: The aggregate resource and the mining operation are described in the Aggregate Resource Investigation and the Mine Hydrogeologic Investigation report submitted with this application. The Applicant shall provide evidence of approval of DEQ and DOGAMI requirements to the Crook County Community Development Department.**

(x) A security plan addressing the following issues:

- (A) Lighting.
- (B) Fencing;
- (C) Gates at access points;
- (D) Water impoundments;
- (E) Sloping; and
- (F) Security of vehicles and equipment.

**Finding: The subject property will be surrounded by an 8-foot vegetated berm along Stahancyk Road and the northeast corner of the property along the Davis property. The Applicant is not intending to place a berm along Lamonta Road because of concerns raised by the property's lessee that a berm would limit on-going agricultural activities. There is an existing fence along Lamonta.**

**Mining of the property will occur during daylight hours; lighting will not be required. No lighting is permitted. There will be no direct access from the subject property to adjacent public roads; aggregate materials will be exported from an existing access on the Woodward property. Thus, there will be no gated access points on the subject property. There will be no water impoundments on the subject property. Sloping will be depicted in the approved DOGAMI reclamation plan. Security of vehicles and equipment is not a concern as equipment will be staged at the Woodward property in a secured area. See Condition 11.**

(xi) A noxious weed control plan, acceptable to the Crook County weed master, to control the spread of noxious weeds within and arising from the aggregate resource site. This plan must be implemented in accordance with ORS 569.380 through 569.400 and 569.445 through 569.450 and Chapter 8.24 CCC.

**Finding: The Applicant has coordinated with the Weed Master to extend the current noxious weed control plan for the Woodward property to the subject property. See Condition 13.**

#### **18.144.060 Development Standards.<sup>5</sup>**

Upon approval of a conditional mining use application, all the following standards apply:

<sup>5</sup> The provisions of 18.144.060 establish minimum requirements for operations on the subject property.

(1) Mining activities shall be located and conducted at least:

(a) One hundred feet from an existing noise or dust sensitive use unless the owner of the residence or use signs and files an agreement which authorizes the mining to be conducted closer than 100 feet. In no case shall such mining be conducted closer than 50 feet of the boundary of an adjacent ownership.

***Finding: Based on the plan submitted by the Applicant, mining activities will be conducted at least 100 feet from all existing noise and dust sensitive uses.***

(b) One hundred feet from a road not owned by the applicant and from the property line of the applicant unless that distance is not sufficient to protect the adjoining property from land movement, or the threat of land movement. In such cases, the setback shall be the minimum distance required by DOGAMI that will protect the adjoining property from movement or the threat of movement. This setback shall be reviewed and approved by DOGAMI prior to being approved by the hearing authority. In no case shall the setback be less than 100 feet.

***Finding: The Applicant states that mining activities will be conducted at least 100 feet from adjacent public roads. See Condition 3.***

(2) Processing of resource material and the storage of equipment shall be at least 500 feet from an existing noise or dust sensitive use unless the owner of the residence or use signs and files an agreement which authorizes the processing of resource material or storage of equipment closer than 500 feet. In no case shall such activities be located closer than 100 feet from any adjacent dwellings.

***Finding: The Applicant is not proposing processing of resource material or storage of equipment on the subject property. Processing and equipment storage will occur on the adjacent Woodward property, which is more than 500 feet from existing noise or dust sensitive uses.***

(3) Access. All private roads from mining sites to public highways, roads or streets shall be paved or graveled. All on-site roads and access roads from the site to a public road shall be designed, constructed, and maintained to accommodate the vehicles and equipment which use them. Whether paved or graveled, the roads shall be maintained by the applicant in accordance with county road standards. Before the applicant may exercise the privileges of the permit, the applicant shall provide a letter of agreement to the county to maintain the road to the applicable county road standards. If the applicant fails to provide the letter of agreement prior to exercising the privileges of the permit, or fails to so maintain the road, the applicant shall submit an agreement and security in accordance with CCC 17.40.080 and 17.40.090.

***Finding: The Applicant is not proposing access to abutting public roads from the subject property. Aggregate materials will be hauled from the subject property to the Woodward site for processing. Aggregate materials from the subject property will replace aggregate materials currently being provided for processing at the Woodward plant from the Woodward property. There will be no change to traffic volumes exiting or entering the Woodward site because of approval for mining at the subject property. See Condition 5.***

(4) Effective vehicle barriers or gates shall be required at all access points to the site.

***Finding: There will be no vehicle access to the site. The Applicant states that the subject property will be surrounded by a vegetated earthen berm along Stahancyk. The subject property along Lamonta Road will continue to be farmed and will have a 100' setback from the road. The Applicant will work with the property owner to ensure that there is no access to the mining operation from Lamonta. See Condition 5.***



(5) Screening. Unless inconsistent with the conditions imposed to protect conflicting uses under the comprehensive plan, or of minimal value of effectiveness because of topography or other site features, the following requirements apply to the mining or resource site:

(a) Berms, fencing or vegetation shall be maintained or established to block the view of the mining or resource site from conflicting uses;

(b) To the extent feasible, all-natural vegetation and trees located within 100 feet of the mining site and that block the view of the mining area shall be preserved and fences maintained for the purpose of screening the operation.

***Finding: The Applicant states that an 8-foot vegetated earthen berm will be established to provide screening for mining operations on the subject parcel. There is no significant existing vegetation that could be retained to provide sufficient screening for the proposed mining operation. The Applicant will submit a final site plan showing the location and height of the berms. See Condition 1. See also Condition 6, which addresses the placement and maintenance of berms.***

(6) No alteration or removal of riparian vegetation located within 100 feet of the banks of a year-round stream shall occur.

***Finding: Not applicable. There are no year-round streams on the subject property.***

(7) Mining, storage, and processing operations shall conform to all standards of the Department of Environmental Quality and to the requirements of the Department of Geology and Mineral Industries (DOGAMI). The county may require information, data and analyses which demonstrates the ability to meet state environmental standards.

***Finding: The Applicant shall provide evidence of DOGAMI permit approval, including demonstrated compliance with DOGAMI and DEQ requirements to the Crook County Community Development Department.***

(8) Hours of Operation. All mining extraction, processing and equipment operation shall be subject to the following limitations unless waivers authorize operation at other times:

(a) June 1st through October 31st: 6:00 a.m. to 9:00 p.m., Monday through Friday. 8:00 a.m. to 5:00 p.m., Saturday.

(b) November 1st through May 31st: 7:00 a.m. to 6:00 p.m., Monday through Friday. 8:00 a.m. to 5:00 p.m.

(c) No operations shall be conducted on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day.

***Finding: Site operations will be limited to Monday-Friday and limited to the hours above. No weekend operations are allowed, and no operations are allowed on listed legal holidays. Neighboring property owners requested that operating hours be limited to Monday-Friday to provide some relief from noise and dust associated with the operation. The Applicant stated in rebuttal that mining activities will be completed more quickly if they are allowed to operate on Saturdays. In response to the review of conflicting uses and ESEE analysis, the County Court's Program to Achieve the Goal provisions related to the subject property addressed the neighbors' concerns by limited operating hours on the site to weekdays only. (Condition 4).***

(9) Blasting.

***Finding: Not Applicable. The Applicant is not proposing blasting as part of this permit application. Any blasting on the subject property in the future will require a new ESEE analysis and modification to this conditional use.***

(10) Surface and Ground Water Management. Surface water shall be managed to provide protection against ground or surface water contamination and sediment discharge into streams, rivers and lakes. There shall also be adequate water available to the site for reclamation of the property, maintenance of screening and buffer, dust control, landscape maintenance, and processing of materials.

***Finding: Water management for the proposed operation is addressed in the Mine Hydrogeologic report submitted with the application. DOGAMI and DEQ will regulate and monitor conditions related to surface and groundwater for mining operations on the subject property.***

***Much of the testimony offered to the Crook County Court as part of the Comp Plan review focused on concerns regarding groundwater quality and quantity. New testimony offered in response to the information received by the Planning Commission offered additional comments regarding concerns about potential groundwater impacts, specifically related to a new Oregon Water Resources Department limited license permit (LL-1876) to allow new wells to be drilled on the Woodward industrial site for aggregate processing. (Exhibits 67-71).***

***The Program to Achieve the Goal requires baseline water quality and quantity monitoring in select wells that may be affected by the proposed operations. If groundwater is encountered, it may be pumped out of active mining cells and infiltrated in on-site recharge trenches. The Applicant provided supplemental information on the effectiveness of recharge trenches including an email from DOGAMI describing the use and effectiveness of recharge trenches at other Oregon mining operations. Exhibit 39 showed the proposed location of monitoring wells and recharge trenches. The Applicant also provided additional information on the original hydrologic assessment. The Applicant shall enter into a Groundwater Protection Guarantee Agreement with Crook County as a condition of approval to compensate for injury in the event that corrective action is needed for well deepening, well replacement or replacement water supply. See Condition 10.***

(11) For surface mining, which is not regulated by DOGAMI, the following requirements apply:

***Finding: Not applicable. Surface mining of the subject property is regulated by DOGAMI.***

(12) All mining operations shall be subject to the dimensional standards, yard restrictions, sign limitations and all other substantive standards set out in the zoning district applicable to the property.

***Finding: The Applicant acknowledges these standards.***

(13) Noxious Weed Control. The operator, including all public agencies, shall document compliance with the noxious weed control plan submitted pursuant to CCC 18.144.050(6)(a)(xi) on a yearly basis by submittal of a written report to the Crook County weed master. The report shall be submitted not later than December 15th of each year.

***Finding: The Applicant has worked with the County Weedmaster and will extend the provisions of the noxious weed control plan applied to the Woodward site to the subject property. See Condition 13.***

**CCC 18.160.020 Conditional Uses - General criteria.**

In judging whether or not a conditional use proposal shall be approved or denied, the planning director or planning commission shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

- (1) The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies and regulations of the county.

***Finding: The site has been added to the County Comprehensive Plan's inventory of significant aggregate resources as a "3B" site (Ordinance 328). The proposed use is allowed subject to standards and criteria in state law and Crook County Code as a conditional use in the County's EFU zones.***

- (2) Taking into account location, size, design and operation characteristics, the proposal will have minimal adverse impact on the (a) livability, (b) value and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.

***Finding: The Planning Commission's motion to deny the proposed mining operation found that the proposed use would not meet the requirement to have minimal adverse impact on the livability, value and appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.***

***The proposed mining activity will be located adjacent to an existing mining operation and former industrial site to the west. Properties to the southeast, east and north will continue as agricultural operations. Properties to the south are generally small agricultural operations with dwellings.***

***There was no testimony regarding appropriate development of abutting properties. However, because adjacent properties are zoned for exclusive farm use, development of abutting properties is limited to those uses allowed in the EFU zone – either as permitted uses or conditional uses. Agricultural uses are permitted outright in the area and will generally have fewer impacts on abutting properties than the proposed mining operation.***

***The Planning Commission received testimony from area property owners regarding impacts to livability and property values. Much of the testimony received by the County Court related to the economic, social, environmental and energy consequences of the mine site and addressed neighboring property owners concerns regarding livability and property values.***

***The County Court responded to the potential impacts to adjacent properties by including conditions in the Program to Achieve the Goal. These included limits on operating hours, design and placement of berms, as well as requirements to minimize dust and to address groundwater concerns. Environmental and reclamation issues will also be addressed through the Department of Geology and Mineral Industries and Department of Environmental Quality permitting processes. Conditions on mine operations will help minimize adverse impacts to the livability, value, and appropriate development of abutting properties. (See conditions 2-10).***

***The Planning Commission considered the ESEE analysis and conditions included in the Program to Achieve the Goal but in the motion to deny the application found that even with the conditions, the proposed mining operation would have more than a minimal adverse impact on the adjacent properties.***

(3) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrant.

***Finding: The Applicant proposed vegetative berms to help buffer adjacent properties from the operation. No new structures are proposed. The site will be reclaimed to farm use after the mining operation concludes.***

(4) The proposal will preserve assets of particular interest to the county.

***Finding: The State and Crook County both recognize the importance of aggregate resources to economic development. The Planning Commission acknowledged the economic value in their final decision. Having a local source of aggregate materials helps to reduce construction costs in the County by reducing transportation costs. The County also recognizes the need to protect existing commercial agricultural lands and rural residential uses as demonstrated by the designation of the subject property as a "3B" site on the County's inventory of significant mineral and aggregate resources.***

(5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal and is not motivated solely by such purposes as the alteration of property values for speculative purposes.

***Finding: The Applicant has the capability to develop and use the subject property as proposed and has been successful in other mining operations in Crook County.***

#### **18.160.030 General conditions.**

In addition to the standards and conditions set forth in a specific zone, this chapter, and other applicable regulations, in permitting a new conditional use or the alteration of an existing conditional use, the planning director or planning commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the county as a whole. These conditions may include the following:

(1) Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

***Finding: The County will limit hours of operation. See Condition 4.***

(2) Establishing a special yard or other open space or lot area or dimension.

***Finding: The Applicant will use the existing Woodward site as an equipment storage yard.***

(3) Limiting the height, size or location of a building or other structure.

***Finding: Not applicable. No structures are proposed.***

(4) Designating the size, number, location and nature of vehicle access points.

***Finding: No new accesses points will be required. Access will be from the existing driveway on the Woodward site. See Condition 5.***

(5) Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

***Finding: Not Applicable.***

(6) Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.

**Finding: Not applicable. Vehicle parking, including employee parking and equipment parking, will occur on the Woodward site.**

(7) Limiting or otherwise designating the number, size, location, height and lighting of signs.

**Finding: Not applicable. No signs are being proposed with this application**

(8) Limiting the location and intensity of outdoor lighting and requiring its shielding.

**Finding: Not applicable. No lighting is proposed.**

(9) Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

**Finding: The Applicant is proposing to place 8-foot vegetated berms around the mine site along Stahancyk and on the northeast corner of the property and will provide a final site plan showing the location and height of the berms. See Conditions 1 and 6.**

(10) Designating the size, height, location and materials for a fence.

**Finding: Not applicable. No fencing is being proposed as a part of this application. According to the Applicant, there is existing fencing along Lamonta.**

(11) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

**Finding: The subject property is currently farmed. There are no existing trees, water resources, mapped wildlife habitat or significant natural resources on the subject property. There are springs on the Davis property to the north.**

(12) Other conditions necessary to permit the development of the county in conformity with the intent and purpose of this title and the policies of the comprehensive plan.

**Finding: Proposed conditions of approval 1 – 10 were adopted into the Comprehensive Plan as the “program to implement” Statewide Planning Goal 5 for the subject property. During deliberations on March 16, 2022, the Planning Commission added conditions 11 – 18, but determined even with the conditions, the request did not sufficiently minimize impacts and should be denied.**

#### **18.160.040 Permit and Improvements Assurance.**

The commission may require an applicant to furnish the county with an agreement and security in accordance with CCC [17.40.080](#) and [17.40.090](#) that the planning director or planning commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit.

**Finding: The Applicant agreed to enter into a Groundwater Protection Guarantee Agreement with the County to take corrective action for groundwater if mining operations necessitate well deepening, well replacement or replacement water. See Condition 10. This agreement will be reviewed by Crook County**

***Counsel and is subject to County Court approval. This Agreement was the subject of much discussion during the March 16 Planning Commission deliberation. See Condition 10.***

**18.160.050 Standards Governing Conditional Uses.**

A conditional use shall comply with the standards of the zones in which it is located and with the standards and conditions set forth in this section.

**(9) Mining, Quarrying or Other Extraction Activity.**

(a) Plans and specifications submitted to the planning director or planning commission for approval must contain sufficient information to allow the planning director or planning commission to consider and set standards pertaining to the following:

- (i) The most appropriate use of the land.
- (ii) Setback from the property line.
- (iii) The protection of pedestrians and vehicles through the use of fencing and screening.
- (iv) The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.
- (v) The prevention of the collection and the stagnation of water of all stages of the operation.
- (vi) The rehabilitation of the land upon termination of the operation.

***Finding: The Applicant stated that these requirements will be addressed and conditioned through the DOGAMI operating permit. The Crook County Code requires a minimum property line setback of 50 feet. The setback shall be 100' from all property lines with the exception of a 50' setback along the Porfily property to the northwest of the subject parcel. No setback is required from the mining operation on the Woodward property to the west.***

*(b) Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noise, vibration or dust which may be injurious or annoying to persons or other uses in the vicinity.*

***Finding: The Applicant stated that these standards will be sufficiently addressed and conditioned through the DOGAMI operating permit. The Applicant's "haul road" to transport materials from the subject property to the processing site on the Woodward property will be built to County standards to minimize dust and other impacts. This road will be developed with an "all-weather" surface of crushed rock. See Condition 7.***

*(c) The comments and recommendations of all appropriate natural resource agencies of the state and federal government shall be sought.*

***Finding: The County solicited comments from affected agencies through the conditional use permit affected agencies notice process. Comments were received from the Department of Geology and Mineral Industries (Exhibits 38 and 41). No other agency comments were received.***

*(d) A rock crusher, washer or sorter shall not be located closer than 500 feet from a residential or commercial use.*

***Finding: The Applicant does not intend to crush or wash aggregate on the subject property. Processing will continue to occur on the Woodward property to the west and will not be located closer than 500 feet from a residential or commercial use.***

**18.180.010 Transportation impact analysis.**

(1) Purpose. The purpose of this section is to coordinate the review of land use applications with roadway authorities and to implement Section 660-012-0045(2)(e) of the state Transportation Planning Rule, which requires the county to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following provisions also establish when a proposal must be reviewed for potential traffic impacts, when a transportation impact analysis or transportation assessment letter must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities, the required contents of a transportation impact analysis and transportation assessment letter, and who is qualified to prepare the analysis.

(2) When a Transportation Impact Analysis Is Required. The county or other road authority with jurisdiction may require a transportation impact analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:

- (a) The development generates 25 or more peak-hour trips or 250 or more daily trips.
- (b) An access spacing exception is required for the site access driveway(s) and the development generates 10 or more peak-hour trips or 100 or more daily trips.
- (c) The development is expected to impact intersections that are currently operating at the upper limits of the acceptable range of level of service during the peak operating hour.
- (d) The development is expected to significantly impact adjacent roadways and intersections that have previously been identified as high crash locations or areas that contain a high concentration of pedestrians or bicyclists such as school zones.
- (e) A change in zoning or a plan amendment designation.
- (f) A TIA is required by ODOT.

***Finding: The proposed use will not trigger a Transportation Impact Analysis because the operation will generate less than 250 or more daily trips. The Applicant provided a transportation assessment letter as required by 18.180.010(3). The operation on the Woodward site is limited to 160 trips per day (80 out-going trips and 80 incoming trips) (Planning file 217-18-000347-PLNG). If the Applicant intends to increase the number of trips per day, an application to modify the conditional use permit for the Woodward site shall be submitted to the Crook County Planning Department for a public hearing before the Planning Commission.***

## **CONCLUSIONS**

The Planning Commission deliberated on the proposed mining operation on the subject property. Based on testimony and exhibits in the record, the Planning Commission reviewed the proposed conditions of approval and made the following modifications:

To minimize impacts to adjacent properties, the following conditions of approval are recommended. These include the conditions imposed on the mining use by the comprehensive plan amendments adopted in Crook County Ordinance 328. The proposed use must be consistent with the applicable ESEE analysis and conditions contained in the comprehensive plan. In the event conditions imposed on the mining use by the comprehensive plan to mitigate mining impacts on specific conflicting uses are less restrictive than conditions necessary to address these same impacts under the standards of this section, the conditions imposed by the comprehensive plan control. (Crook County Code 18.144.040(1)(b)). Enforcement of these conditions of approval is subject to the provisions of Crook County Code 18.144.070.

## **CONDITIONS OF APPROVAL**

### **General Requirements**

1. **Site Plan:** The Applicant shall submit an updated site development plan to the Crook County Community Development Department reflecting required setbacks and berms and consistent with applicable conditions of County land use approval. The updated site plan shall be submitted prior to commencement of any site development. Any modification to the site plan will require review and approval by the Crook County Community Development Department.
2. **Water Rights:** The Applicant shall submit evidence of water rights for mining and reclamation use to the Crook County Community Development Department prior to such use of water.

### Quality of Life Concerns

3. **Setbacks:** To minimize impacts to neighboring properties, no active mining shall occur closer than 100 feet from property lines on the north, east and south side of the subject property. Mining shall not extend closer than fifty (50) feet from the adjacent parcel 141415, tax lot 701 (the Porfily property) on the west side of the subject property. No setback is required on the boundary with the Woodward property to the west of the subject property (141514, tax lot 703). Berms and groundwater trenches may be placed within the setback areas subject to the final site plan.
4. **Operating Hours:** Ordinary operating hours shall be Monday through Friday, June 1 through October 31, from 6:00 a.m. to 9:00 p.m., or sunrise to sunset, whichever time period is shorter. Operating hours shall be Monday through Friday, November 1 through May 31, from 7:00 a.m. to 6:00 p.m., or sunrise to sunset, whichever time period is shorter. No operations shall be conducted on weekends or specific holidays. Crook County Code 18.144.060(8)(c) states that no operations shall be conducted on the following legal holidays: New Year's Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day, and Christmas Day.
5. **Traffic:** Access to the subject property shall be limited to the existing access at the Woodward site. Materials will be transferred from the subject property via an internal haul road, or an alternative internal system approved as part of the conditional use permit to the processing plan on the Woodward property. No new access is permitted on Stahancyk Lane or Lamonta Road.<sup>6</sup>
6. **Berms:** Berms are intended to buffer neighboring properties from noise, dust and visual impacts. The Applicant has proposed a height of 8-feet with a slope no steeper than 2:1. The 2:1 slope is intended to allow for mowing of the berms.

Berms shall be placed at the time mining begins in adjacent cells to minimize the amount of disturbed ground. Berms will be hydroseeded, irrigated to maintain vegetation, and managed to prevent the spread of noxious weeds. Berms may be placed within the 100-foot property line setback area. Berms shall be removed upon completion of the mining operation.

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<sup>6</sup> All of the conditions related to access to the Woodward site continue to apply (e.g., daily truck trips, no trucks shall leave or enter the site between 7 minutes before and 7 minutes after the scheduled Crook County School District bus pickup and drop-off times for NW Elliott Lane). The Applicant is responsible for verifying the times with the Crook County School District prior to the start of each school year. The Operator shall train all drivers, including contract drivers, to use caution when existing onto Highway 26 from Elliott Lane.



7. **Dust Mitigation:** The Applicant shall minimize fugitive dust emissions associated with all extraction operations on the site. The Applicant shall implement provisions in the Dust Management Plan (Exhibit 23). Excepting actively mined areas, the Applicant shall stabilize all disturbed areas to minimize dust using hydroseeding or other soil stabilization methods consistent with the Dust Management Plan. The Applicant shall stabilize all stockpile areas with mulch, vegetation, or chemical binders. During non-operation days, the stockpiles and active mining areas shall be sprinkled with water to limit fugitive dust.

If constructing an internal haul road, the Applicant shall construct said road between the subject property and the Woodward processing site with an all-weather surface and aggregate base sufficient to support heavy vehicles and equipment. The surface shall be treated regularly to minimize fugitive dust.<sup>7</sup>

A contact person representing the aggregate operator shall be named and all appropriate contact information shall be provided to Crook County Community Development and to any neighbor that requests such information so the aggregate operator can be contacted if dust is being released. The contact information for the regional office of the Oregon Department of Environmental Quality – Air Quality Division, shall also be provided.

8. **Noise:** Noise is an impact that has been identified as an issue by surrounding property owners. The berms proposed by the Applicant and limits on operating hours are intended to help minimize noise impacts. The County has no noise ordinance, but noise is regulated by the Oregon Department of Environmental Quality. To the extent authorized by law, the Applicant agrees to replace existing backup “beepers” on mining equipment and vehicles with directional “white noise” back-up alarms.
9. **Reclamation:** No more than 10 acres of ground shall be disturbed by mining at any time. The “disturbed area” refers to the active mining area (5 acres) and reclamation cells and does not include the stockpile area or the berm areas. The site will be reclaimed concurrently with mining as cells are completed. Prior to reclamation, the mine operator shall stabilize disturbed areas using hydroseeding or other soil stabilization product to help minimize dust from disturbed areas.

Upon completion of mining cells, the Applicant agrees to remove standing water. Overburden will be replaced and ripped and disked to reduce compaction. Topsoil will be replaced. Reseeding will occur in the next planting season, but soil will be stabilized until planting can occur. The site will be reclaimed concurrently with mining as cells are completed.

All reclamation activities shall be subject to a reclamation plan approved by the Oregon department of Geology and Mineral Industries (DOGAMI). The Applicant shall work with the property owner to ensure that reclamation is carried out in a manner that restores the property to its current use for grazing and hay production.

10. **Groundwater:** The Applicant acknowledges that groundwater may be encountered while mining the Subject Property. If water is encountered, it will be pumped out of the mining area and infiltrated on-site into recharge trenches as described in the Hydrogeologic Characterization report and in Exhibit

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<sup>7</sup> The County Roadmaster provided comments suggesting that the internal haul road shall be constructed to meet the gravel road standards in Crook County Code 17. 36. Although such roads are typically 20’ wide, the Crook County Roadmaster recommends a travel width of 24’ wide to allow for passage of two trucks at the same time.

33. Groundwater concerns pose economic, social and environmental issues for neighboring properties within the impact area. It is understood that requirements for groundwater monitoring and remediation may have economic consequences for the mine operator. Table 3 of the Aggregate Mine Hydrogeologic Characterization report identifies wells that have potential to be influenced by mining activities on the Vanier property in the absence of mitigation.

The Applicant has identified properties within the 500-foot buffer area for baseline testing. These properties identified by the Applicant primarily have relatively shallow wells (drilled above 40-feet) that are in the same aquifer and similar depth to the area proposed for mining.

Baseline data shall be collected for said wells within the 500-foot buffer area prior to mining, and information collected shall be provided to the respective property owner and Crook County Community Development Department.<sup>8</sup> Baseline testing will consist of water level measurements for the wells and discharge measurements of spring flow, as appropriate. Baseline water quality testing will consist of GRO (Gasoline Range Organics), DRO (Diesel Range organics), turbidity, total dissolved solids, iron, manganese, pH, conductivity and temperature.<sup>9</sup>

The Operator shall collect on-site monitoring of well water quantity data continuously and on-site well water quality data quarterly and shall share all collected data quarterly with designated well/spring owners who have granted access and sampling permission. Prior to mining through a trench or a monitoring well, all previously collected groundwater data will be reviewed by a licensed professional geologist or engineer. This data analysis shall consider the relocation and placement of the next infiltration trench and monitoring wells as well as any potential adverse impacts to surrounding properties. The Operator shall adjust the Mine Plan to minimize or eliminate any mine-related adverse impacts. All data shall be maintained on file by the Operator for the duration of the mining operation (or 6 (six) months after reclamation has been completed and the reclamation bond released by DOGAMI.

The Applicant has proposed a groundwater protection guarantee. The Applicant will work with the Crook County Community Development Department and Crook County Counsel to finalize the groundwater protection guarantee. Such guarantee shall be reviewed by the Crook County Court with opportunity for a public comment.

Said groundwater protection guarantee will ensure, at a minimum, that any injury to the quality or quantity of water is promptly and completely compensated through the interim measures by the Applicant for the period of the appropriate state agency's reviews, and that should causation for said injury be determined by the state agency to be attributed to operator, said injury shall be remedied in a complete and permanent manner. The Applicant shall be responsible for reimbursing property owners for any expenses to address groundwater quality or quantity impacts. Any violation of the groundwater protection guarantee by the Applicant shall be prosecuted by the County under CCC 18.144.070, in addition to other remedies or penalties under law. The Groundwater Protection Guarantee Agreement shall remain in force until 6 (six) months after reclamation has been completed and/or the reclamation bond has been released by DOGAMI.

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<sup>8</sup> The Applicant has proposed baseline water quality and quantity testing of three wells (shallow wells on the Vanier property and wells on the Mikulski and Johnson properties) and two springs on the Davis property (page 2, Exhibit 24).

<sup>9</sup> The Hydrologic Report (Table 3) also identifies an additional thirty-nine (39) wells within ½ mile of the subject property that share the same aquifer and could have "possible adverse impacts" in the absence of mitigation measures.

## Additional Conditions

The following conditions are proposed to address specific criteria in CCC 18.144 and 18.160.

11. **Security.** Crook County Code 18.144.050(6) requires the Applicant to include a security plan. All vehicles and equipment shall be parked in a secure area on the Woodward processing site. No vehicles or equipment shall be parked on the subject property. No lights shall be placed on the site.
12. **Surface water.** Crook County Code 18.144.060(10) Development Standards Surface and Ground Water Management. Surface water shall be managed to provide protection against ground or surface water contamination and sediment discharge into streams, rivers and lakes. All equipment and vehicles operating near exposed water will be inspected daily for possible oil leaks and repaired if necessary prior to use. A spill kit for containing hydrocarbon releases will be kept with the equipment operating near exposed water should it be needed. The Applicant shall maintain a spill log onsite and shall report any incidents to Crook County Community Development Department and Crook County Fire and Rescue Department by the next business day.

The Applicant shall work with Crook County's Vector Control District to develop a mosquito control plan and provide a copy to the Crook County Community Development Department prior to commencing mining operations.

13. **Weed Control.** The Applicant consulted with the County Weedmaster who agreed that the noxious weed control plan for the Woodward site could be extended to the subject property. Crook County Code 18.144.070(13) requires that the operator shall document compliance with the noxious weed control plan on a yearly basis by submittal of a written report to the Crook County Weedmaster. The report shall be submitted not later than December 15<sup>th</sup> of each year.
14. **Emergency Management.** The final site plan shall be provided to the Crook County Fire and Rescue District's Fire Marshall. Contact information for the on-site operations manager shall be provided to the Fire Marshall.
15. **Archaeological and Cultural Resources.** The Applicant shall engage with Oregon's State Historic Preservation Office as part of the development process to ensure that requirements related to cultural and historic resources are met. This may require the Applicant to provide on-site surveys of the property. The Applicant will adopt an "inadvertent discovery plan" to address best management practices for archaeological and cultural discoveries during operations.<sup>10</sup>
16. **Modifications.** Any modification of operations shall be subject to County Planning Commission review and amendment of the Crook County Comprehensive Plan.
17. **State Permits.** The Applicant shall provide a copy of the Department of Geology and Mineral Industries operation and reclamation plan to the Crook County Community Development

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<sup>10</sup> In reviewing the plan amendment to add the site to the Goal 5 inventory of significant mineral and aggregate resources, the decision identified potential conflicts with other Statewide Planning goals. Specifically, Goal 5 includes protection of historic and cultural resources (OAR 660-015-0000(5)). The Plan Amendment included the following: "The Applicant will be required to submit an "inadvertent discovery plan" regarding notification to the State Historic Preservation Office in the event of discovery of any natural or cultural resources. This will be addressed in the review of the conditional use permit."

