



Crook County

Community Development Department - Planning Division

300 NE 3rd Street, Room 12

Prineville, OR 97754

(541)447-3211

plan@co.crook.or.us

Crook County Planning Commission-Staff Report II

Comprehensive Plan Amendment to Add Property to Inventory of Significant Aggregate Sites

September 14, 2021

APPLICATION: 217-21-000436-PLNG

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

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

REQUEST: The Applicant is requesting approval to add the subject 77.98-acre property to the Crook County Comprehensive Plan's Inventory of Significant Mineral and Aggregate Resources. If the site is added to the Inventory, the Applicant is also requesting a conditional use approval for aggregate mining on the property. (217-21-000573-PLNG).

LOCATION: The subject property is located at the corner of Stahancyk Lane and NW Lamonta Road on the north side of Stahancyk and the west side of Lamonta, approximately 3 miles northwest of the City of Prineville. The situs address is 6487 NW Lamonta Road, Prineville, Oregon. The property is identified on the County Assessor's maps as Township 14S, Range 15E WM, Section 14, tax lot 103.

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 217-21-000436-PLNG) and to authorize the extraction of sand and gravel from the site (Conditional Use Application 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 24, 2021 public hearing. At the conclusion of the August public hearing, the record was left open for seven days for rebuttal evidence and argument (until September 1, 2021) and an additional seven days for the Applicant's final argument (September 8, 2021).

The record consists of testimony received at the public hearings and written testimony including the Applicant's original burden of proof statement and Exhibits 1 – 34. This staff report addresses the proposal to add the property to the County's inventory of significant aggregate sites. The findings related to the conditional use

request for mining operation are in the staff report for file 217-21-000573-PLNG.

After the Planning Commission recommends to either to approve or deny the proposed plan amendment to add the property to the County's inventory of significant aggregate site, the plan amendment is subject to a hearing before the Crook County Court.

BACKGROUND

A. Project Summary: The Applicant currently operates a sand and gravel mine and aggregate processing facility on property adjacent to, and just west of, the subject property commonly known as the "Woodward Site". The Woodward Site was added to the inventory of significant mineral and aggregate sites (217-15-000114-PLNG) and received conditional use approval (217-15-000115-PLNG) in 2015. As the aggregate on the Woodward Site is depleted, the Applicant is requesting approval to continue mining to the east on the subject property. The subject property, sometimes referred to as the "Vanier Property", is zoned Exclusive Farm Use (EFU-2) and is not currently on the Crook County Comprehensive Plans' inventory of significant mineral and aggregate sites.

The Applicant does not intend to process aggregate on the Vanier Property. Aggregate extracted from the Vanier Property will be processed at the existing permitted facilities at the Woodward Site. The portion of the Woodward Site used for processing is zoned for heavy industrial use. No changes in operations at the existing operations on the Woodward Site are expected. The Woodward Site is operating under a Department of Geology and Mineral Industries (DOGAMI) permit for mining and reclamation.

Aggregate resources are expected on the subject property at an average thickness of 12 feet. The Applicant acknowledged that groundwater may be encountered during mining, but stated that it is not expected to prevent normal, dry mining methods (i.e., excavators loading materials into haul trucks). The Applicant stated that if 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 or trenches so overburden may be replaced safely and efficiently without impacting nearby groundwater rights. The Applicant has proposed baseline testing of area groundwater wells to assess both water quality and quantity. The Applicant states that undisturbed areas will continue to be available for agricultural use until mining commences on that part of the site. As mining cells are completed, land will be returned to agricultural use. Reclamation will be completed in accordance with the DOGAMI approved reclamation plan. Based on the Applicant's testimony, reclamation will return the site to agricultural use (hay production) and the condition of the agricultural site will be "as good as" at the beginning of the mining process.

B. Zoning: The property is zoned for exclusive farm use (EFU-2; Prineville Valley – Lone Pine Areas).

C. Project Size: The subject property is 77.98 acres.

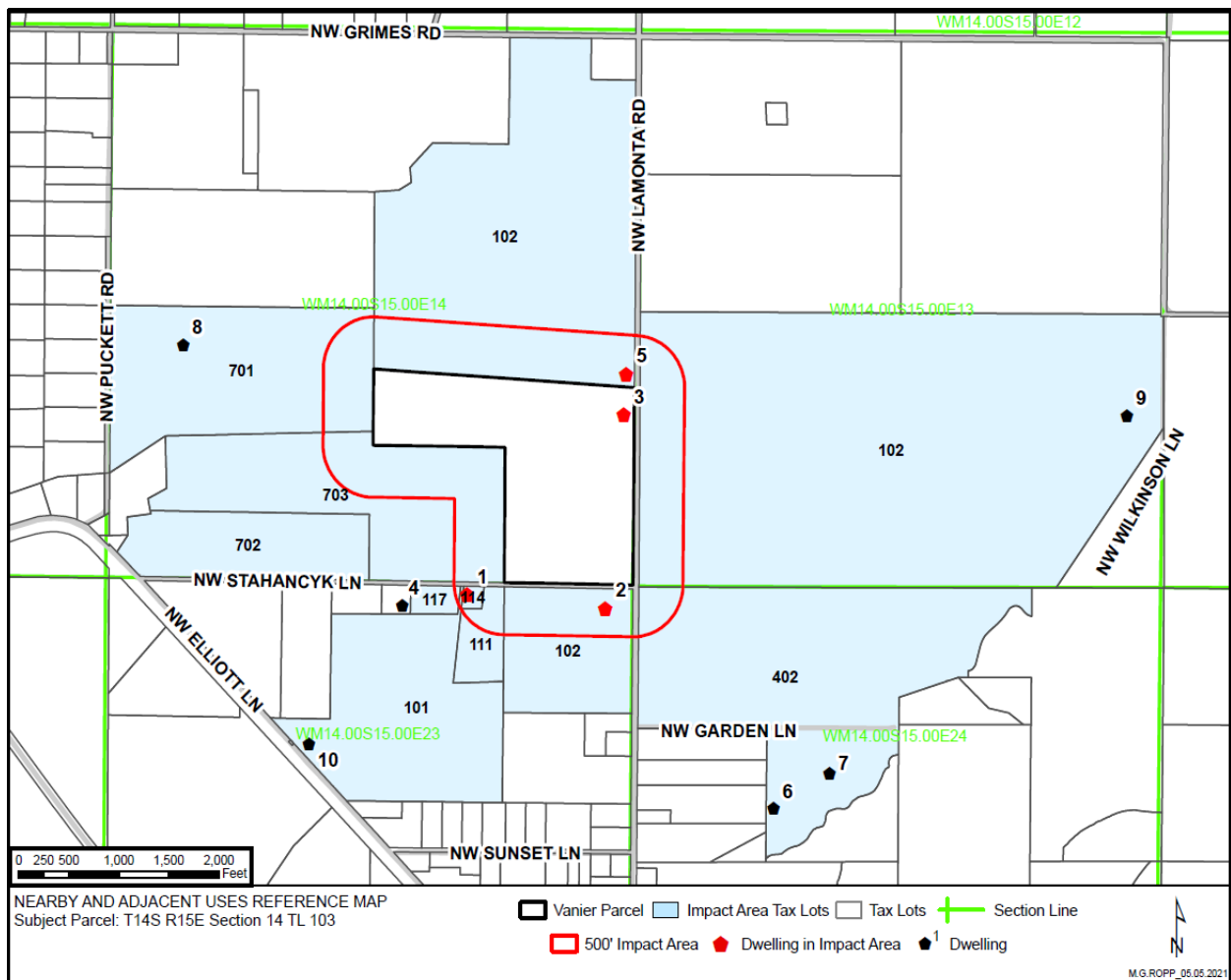
D. Site Description: The subject property is currently used for grazing and hay production. There is an existing dwelling on the northeast corner of the subject property that is accessed from Lamonta Road. The site slopes gently towards the northwest. There is an unnamed drainage just north of the property flowing towards the west and southwest. This is part of the irrigation system maintained by the Ochoco Irrigation District. Water flows from the northeast toward the southwest and into the Rye Grass Canal system.

E. Ownership: The subject property is owned by Robert and Lani Vanier. They have owned the property since 2007.

F. Water Rights: According to the Applicant, the subject property has irrigation water rights through the Central Oregon Irrigation District.

G. Surrounding Land Uses: The Applicant provided a map showing nearby properties and dwellings (see below). Properties range in size from less than an acre to 286 acres. Most are used for farming (hay production). There are several smaller residential parcels in the area on the south side of Stahancyk. The Woodward property to the west is split zoned. The western 35.36 acres is zoned for heavy industrial use. The eastern 76.08 acres, adjacent to the subject property, is zoned EFU-2. The Applicant’s map also identifies a 500’ impact area around the proposed mine site.

Surrounding Properties – 500’ Impact Area



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.

H. Soils

Map Unit	Soil Type	Classification	Acres	Percent of acres
020	Boyce silt loam -0-2% slopes	3	0.2	0.2%
123	Ochoco Prineville complex 0-3% slopes	3	75.9	97.2%
133	Ochoco Prineville complex 3-8% slopes	3	2.0	2.5%

APPLICABLE CRITERIA

Oregon Administrative Rules (OAR) Chapter 660, Division 16¹

Crook County Comprehensive Plan. Ordinance No. 55, Comprehensive Plan Mineral and Aggregate Policies

Ordinance No. 43, Crook County Goal 5 Resources (Mineral and Aggregate Elements)

Crook County Code Chapter 18.144 Aggregate Resource Sites

Crook County Code 18.144.040(1)(a) – Approval and review criteria for aggregate resources sites requires that a proposed site for mining of aggregate must be designated as a mineral or aggregate resource site on an inventory of significant Goal 5 resources in the comprehensive plan. In addition, the proposed use must be consistent with the applicable ESEE (economic, social, environmental and energy) analysis. Criteria regarding the comprehensive plan amendment and ESEE analysis are in standard font and findings are in ***bold/italics***.

¹ Oregon's Statewide Planning Goal 5 protects natural resources and conserves scenic and historic areas and open spaces. It pertains to twelve types of natural resources, including aggregate and mineral deposits. Goal 5 instructs local jurisdictions (i.e. Crook County) to adopt programs to inventory and protect natural resources, including locations with significant aggregate resource (e.g. sand, gravel, basalt) suitable for construction materials. Initially, Goal 5 was implemented through OAR Chapter 660, Division 16 ("Division 16"). In 1996, Division 16 was largely superseded by OAR Chapter 660, Division 23 (the "New Goal 5 Rule."). Although many jurisdictions currently apply Division 23 to implement their Goal 5 program, Crook County continues to apply Division 16.

OAR 660-016 Applicability

Many jurisdictions currently apply Division 23 (the “new” Goal 5 rule) to implement their Goal 5 program, Crook County continues to apply Division 16, as permitted by OAR 660-023-0180(9):

(9) Local governments shall amend the comprehensive plan and land use regulations to include procedures and requirements consistent with this rule for consideration of PAPAs (post-acknowledgement plan amendments) concerning aggregate resources. Until such local regulations are adopted, the procedures and requirements of this rule shall be directly applied to local government consideration of a PAPA concerning mining authorization, unless the local plan contains specific criteria regarding the consideration of a PAPA proposing to add a site to the list of significant aggregate sites, provided:

- (a) Such regulations were acknowledged subsequent to 1989; and,
- (b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review after September 1, 1996, except as provided under OAR 660-23-0250(7).

Crook County Ordinance 51, a comprehensive plan amendment including provisions governing the County’s compliance with Goal 5, was adopted and acknowledged by the Oregon Land Conservation and Development Commission in 1991. It was amended by Ordinance 55 in 1992. Crook County has not since entered periodic review. Therefore, the County’s consideration of a PAPA to add the subject property to the County’s Inventory is not subject to the OAR 660, Division 23. The provisions of OAR 660, Division 16 continue to apply.

Crook County Ordinance 51

Ordinance No. 51 was adopted as an emergency ordinance on September 16, 1991 in response to a modified enforcement order from the Land Conservation and Development Commission (LCDC). It appears its purpose was to amend the Mineral and Aggregate Element of the Crook County Comprehensive Plan adopted through Ordinance No. 43 on January 23, 1991. Ordinance No. 51 included seventeen (17) policies, most of which served to acknowledge the County’s obligation to protect mineral and aggregate resources for use, but do not appear to constitute approval criteria that an Applicant must address. Ordinance No. 51 was amended in 1992 by Ordinance No. 55. The new ordinance deleted policies 2, 9, 11, 13, 15, 16, and 17 and amended policy 4. Ordinance No. 55 added a new policy 11 stating the “Decisions of the County in determining the significance of a mineral or aggregate site, identification and analysis of conflicting uses, and development of a program to achieve Goal 5 with respect to the resource site shall be consistent with state law. To the extent feasible, mitigation of the effects of mining on other uses of land shall occur as part of the development of a program to achieve Goal 5 with respect to the resource site. This decision of the County shall be based on substantial evidence.”

The following policies establish basic requirements to determine “significance.”

Policy (6): A mineral and aggregate resource site that is not on the Crook County Goal 5 inventory or that is listed as a 1B site shall be placed on the inventory of significant sites and shall be conserved and protected for surface mining after all the following conditions are met:

- (a) A report is provided by a certified geologist, engineer or other qualified person or firm verifying the location, type quantity and quality of the resource.
- (b) The site is determined to be a significant 1C site after reviewing all the evidence regarding location, quality, and quantity of the mineral and aggregate resource and site is added by amendment to the comprehensive plan; and
- (c) There are no conflicting uses of the ESEE analysis results (sic) in a determination that the resource is important relative to conflicting resources, uses and thither applicable statewide planning goals.

The Applicant has submitted a report with the application verifying the location, quantity, and quality of the aggregate resource. The Planning Commission shall review the evidence to ensure that (b) is met. Based on evidence in the record, there are conflicting uses (See discussion below).

The inventory requires identification of the resource location (legal description, map of the site boundaries) including designation of an impact area. Ordinance 43 defines “impact area” as that area surrounding and near a Goal 5 mineral and aggregate resource site wherein the presence or application of a conflicting use that is allowed outright or conditionally in the surrounding broad zoning district would adversely impact the resource site by limiting the mining or processing of the resource. The Ordinance goes on to state “Unless otherwise indicated in the text of this Plan or on the respective resource site and impact area map, the impact area is that property extending outward from the resource site boundary to a distance of five hundred (500 feet).”

Based on an evaluation of the location, quality and quantity information, the County makes a determination of “significance.” There are three options under OAR 660-16-0005: (a) Not significant, (b) Significance not determined; or (c) Significant sites. Sites are then evaluated to determine if there are conflicting uses.

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

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

Location: The Applicant has provided information regarding the specific location of the resource site and has identified a 500’ impact area around the site. (See the map included earlier in this report).

Quality: OAR Chapter 660 Division 16 does not include standards specifying the minimum quality and quantity of an aggregate resource that constitutes a significant resource. It describes quality in terms of the site’s relative value compared to other examples of the same resources found in the jurisdiction. Crook County required that the quality of the site be determined based on (1) all available information concerning test results and (2) the resource site’s relative value, as compared to other examples of the same resource existing in Crook County.

Crook County has found that the highest value resources are those meeting at least the following Oregon Department of Transportation (ODOT) specifications:

- **Resistance to abrasion;**
- **Sodium sulphate soundness;**
- **Air degradation.**

Although OAR Chapter 660, Division 23 (the “new” Goal 5 rule) does not apply directly to this Application, OAR 660-023-0180(3) is instructive in that it provides clear and objective standards (currently applicable in most cases throughout the state) for the minimum quality and quantity required for an aggregate resource to be considered significant. The Division 23 rule includes the ODOT specifications described above.

The Applicant provided information on the sand and gravel resource on the subject property. Materials were tested for quality relative to Oregon Department of Transportation (ODOT) specifications for Portland Cement Concrete (PCC) as part of the Aggregate Resource Investigation conducted by Tim Marshall, an Oregon Registered Professional Geologist. This report is provided in the Applicant’s comprehensive plan amendment application and is included as part of the record. Mr. Marshall provided the Applicant with a report of the investigation entitled “Aggregate Resource Investigation, Vanier Site” (the “Geologist’s Report”). The Geologist’s Report describes sample collection and testing protocol and concludes that the aggregate resource on the subject property meets ODOT specifications for resistance to abrasion, sodium sulfate soundness and air degradation. The report was based on seven (7) test holes identified on the Vanier property. Detailed results are included in the tables provided in the Geologist’s Report.

Sodium Sulfate Soundness – Coarse and fine aggregates used for PCC Concrete are tested for “soundness” using sodium sulfate salt. The samples from the proposed site for coarse aggregates (5% by weight) and fine aggregates (7%) are less than the specified thresholds of 12% (coarse aggregates) and 10% (fine aggregates).

Abrasion (durability) – Coarse aggregates to be used for PCC aggregates shall have a maximum result of 30%. The sample tested for Abrasion had a result of 17.5% and meets the ODOT specification for resistance to abrasion.

Oregon Air Aggregate Degradation – Coarse aggregates used for PCC aggregates are tested for Oregon Air Aggregate Degradation. The test sets a maximum allowable amount passing the No. 20 sieve of 30% and a maximum sediment height of 3.0 inches. The representative sample had results of 19.9% passing the No. 20 sieve and a maximum sediment height of 1.1 inches. The material passed the “degradation” test.

In addition to the above, the Applicant also conducted “gradation” tests to determine the relative percentages of different sizes of aggregate. ODOT specifications require that there not be greater than 4% by weight of the fine aggregates passing through the “number 200 sieve). During the testing an average of 7.7% of material based through the sieve. The Geologist’s report suggested that because materials are washed during processing, the finer materials would be sorted out and the final, processed material would meet the specification.

The gravel from the site was also tested. The average percent of gravel greater than 3/4’ from the tested samples was 14%. While that fraction is generally too coarse for use in PCC concrete, it could be crushed and incorporated into concrete aggregates as has been done currently at the Woodward site.

Quantity: A determination of quantity requires consideration of the relative abundance of the resource.

The subject property is 77.98 acres in size. The Geologist's Report estimates the property contains a total of 1,509,381 cubic yards of aggregate resource. For comparison to the minimum quantity threshold at OAR 660-023-0180(3), cubic yards must be converted to tons: 1 cubic yard = 1.6 tons. The recoverable aggregate resource will be reduced by required 100' setbacks. The Applicant stated that the intent is to maintain a 100-foot setback from the north, south and east property line and a 50-foot setback from the northwest property line (the Profily property). No setback (zero) is proposed along the west property line, the Woodward mining site. Even accounting for the setbacks, there will still be more than 1.5 million tons of recoverable aggregate resource. Based on the information provided by the Applicant, this is more than three (3) times the minimum quantity (500,000 tons east of the Willamette Valley) required to be considered significant under OAR 660-023-0180(3).

Based on information provided in the Applicant's Geologist's report, the resource meets ODOT specifications for Portland Cement Concrete. The resource warrants a designation of "1" under Crook County's Resource Quality and Ranking System. Based on information in the record, the Vanier property contains a significant aggregate resource and should be placed on the County's Goal 5 mineral and aggregate inventory as a 1C site.

- (a) There are no conflicting uses or the ESEE analysis results in a determination that the resource is important relative to conflicting resources, uses, and other applicable statewide planning goals and policies.

Crook County's comprehensive plan incorporates the Goal 5 requirement that requires identification of conflicting uses within the impact area and an assessment of other applicable statewide planning goals. Specifically, the application must consider existing and potential uses in areas near the resource site that are recognized in the County's zoning districts. All properties near the subject property are zoned for exclusive farm use except for 35.36 acres on the western edge of the Woodward site that is zoned for heavy industrial use.

Based on the evidence in the record, there are conflicting uses within the 500-foot impact area. The information provided by the Applicant demonstrates that there are three (3) dwellings² on parcels within the 500-foot impact area. There is limited potential for new permitted or conditional uses in this area due to the area's EFU zoning. Permitted uses and conditional uses in the County's EFU zones are listed in Crook County Code 18.16.

Crook County's Comprehensive Plan includes a step-by-step process to evaluate mineral and aggregate resources, including a process to evaluate conflicting uses. (Section 3 of the Mineral and Aggregate chapter). This section requires not only consideration of the impact of conflicting uses on significant aggregate resources but also a consideration of "reverse impacts." Specifically, Goal 5 resource sites may impact those conflicting uses and the County will consider negative impact by the resource on the use when analyzing the economic, social, environmental and energy (ESEE) consequences. In this situation, mining activities present potential for adverse impacts to conflict with nearby farm operations and small residential acreages. These potential conflicts may be mitigated through the imposition of conditions of approval through the conditional use application. Analysis of the conflicting uses is provided below.

² There is also a dwelling on the subject property.

The County can find that the resource is important relative to conflicting uses and place the Property on the inventory of significant mineral and aggregate sites to ensure the resource is conserved and protected for surface mining. Any mining activities would require a conditional use permit and be subject to specific conditions. Because there are existing conflicting uses (potential new uses that may conflict with the mining operation and uses that mining operations may conflict with), an analysis of the Economic, Social, Environmental, and Energy consequences of the conflicting uses is required (See discussion below).

Applicable Provisions of OAR 660-016

OAR 660-016 includes the following sections:

660-016-0000 - Inventory Goal 5 Resources

660-015-0005 - Identify Conflicting Uses

660-016-0010 - Develop Program to Achieve Goal

660-016-0015 - Post-Acknowledgement Period

660-016-0020 - Landowner Involvement

660-016-0030 - Mineral and Aggregate Resources

The language in Division 16 serves to instruct the county on procedural requirements for complying with Goal 5 and places the responsibility for analysis and achievement of a program to protect resources on the County.

If the site is deemed to be significant based on an analysis of the resource quality, quantity and location, OAR 660-016-0005 directs the county to identify conflicting uses, consider impacts to conflicting uses from the mining operation and impacts to the mining operation from conflicting uses, and consider the applicability and requirements of other Statewide Planning Goals.

- (1) **Preserve the Resource Site** – Not Applicable. Applies only if there are no conflicting uses.
- (2) **Determine the Economic, Social, Environmental and Energy Consequences (ESEE Analysis);**
 - Identify the Impact Area
 - Identify conflicting uses
 - Determine the ESEE consequences
 - Assess the applicability of other Statewide Planning goals.

Impact Area: The Applicant has provided a diagram outlining a 500-foot impact area for all parcels within 500 feet of the Property. (Figures 3 and 4 and Table 1 of the Applicant’s burden of proof statement). The 500-foot impact area is consistent with language in the County’s comprehensive plan.

Conflicting Uses: The ESEE analysis considers both uses that may conflict with mining operations and the conflicts to other uses resulting from mining on the subject property. All parcels in the impact area are zoned Exclusive Farm Use – 2 (Prineville Valley-Lone Pine Areas) with the exception of the portion of the Woodward property zoned for heavy industrial use. The Applicant states that the proposed mining activities will not be a conflicting use for the adjacent H-M zoned property. Mining and associated activities (e.g., crushing and screening) are uses permitted outright in the County’s H-M zone (Crook County Code 18.72.010).

Aggregate mining is a conditional use in an exclusive farm use zone (Crook County Code 18.16.015(11) and ORS 215.283(2)(b)). Agricultural uses are not considered conflicting uses with mining activities; however, some non-agricultural uses allowed in farm zones may conflict with mining activities (e.g., farm and non-farm dwellings and commercial activities in conjunction with farm use). Potential conditional uses in the EFU zone could include schools, churches, parks, campgrounds and home occupations. These uses could conflict with mining

operations.

Mining operations are likely to conflict with existing uses. There are eleven (11) tax lots at least partially within the impact area. There are four residences within the impact area including one dwelling on the subject property. The Applicant has proposed a series of measures to minimize conflicts with nearby residential and farm uses. Specific conditions of approval are discussed in the staff report for 217-21-000573-PLNG, but these generally include:

1. Installing a vegetated berm that will serve as a visual and noise buffer along Stahancyk Lane and along the northeast property line (adjacent to the Davis property).
2. Limiting all processing activities to the existing processing site on the Woodward property.
3. Retaining only one access onto Stahancyk and not creating a new access on Lamonta.
4. Implementing a dust control management plan
5. Conducting baseline monitoring and periodic monitoring of groundwater quality and quantity.

ESEE Analysis: The ESEE analysis is intended to weigh the economic, social, environmental and energy consequences (both positive and negative) of protecting the aggregate site as a significant Goal 5 resource. The ESEE analyses provide the basis for the County to weigh the values of competing uses and the consequences of permitting or prohibiting resource uses and conflicting uses. The ESEE analyses consider not only the consequences associated with protecting the resource but also consider the extraction and processing of the mineral and aggregate resource. The ESEE analysis conducted for the appropriate sites are limited in scope to the impact areas which are identified in the Inventory Section and are identified as those sites having some form of conflict. The impact area is the 500' area surrounding the proposed mine site (See map in section G above). There are 11 properties within the impact area including the adjacent Woodward mining and processing site, three dwellings and agricultural properties to the north and east.

Economic Consequences: The Applicant states that the proposed aggregate site will have positive economic impacts by providing a local source of high-quality aggregate material for area construction projects. This will benefit the economy of Crook County and Central Oregon. The landowner will benefit from the mining of aggregate resources without significant negative consequences because the subject property is required to be reclaimed for agricultural use (hay production).

Testimony suggested that negative economic consequences will occur for area property owners including reduced property values due to ongoing mining operations. The farmer currently leasing the subject property and Woodward property testified that mining would result in soils that would be less productive for crop production and would require additional costs for fertilizer. The mining of the subject property would also impact the current irrigation system on the subject property.

Social Consequences: Positive social impacts of the proposed mining operation will include continued opportunities for employment, tax revenue and local aggregate supply produced by the operation.

Based on the testimony received, negative social impacts will result in a reduction in the rural quality of life for the adjacent residents. Impacts associated with the site could include continued heavy truck traffic, noise and dust. Neighbors were concerned about the impacts to scenic vistas. Concerns were also raised about the mining operation's potential impacts to groundwater quality and quantity. The County has received complaints regarding noise and dust caused by the existing mining and processing operation on the Woodward property.

The Applicant proposes to limit impacts by mining and reclaiming the site in 10-acre cells and by placing screening berms around the active mining site. Vegetated earthen berms will minimize negative impacts by

providing visual screening and reducing noise from mining operations. Permit conditions will require that the operator manage fugitive dust: dust control is required as part of the operator's Department of Geology and Mineral Industries (DOGAMI) operating permit and the Department of Environmental Quality air quality standards regarding dust..

Area residents may be concerned about potential impacts due to truck traffic. However, no new access points are proposed on Lamonta or Stahancyk. Trucks will continue to enter and exit using the existing access at the Woodward property, generally traveling from Stahancyk to Elliot Lane to Highway 26.

Environmental Consequences: Possible negative impacts include increased dust and disruption of wildlife by noise and mining activities. The Applicant will be required to submit a dust control plan and this plan will be subject to Oregon Department of Environmental Quality review.

As evidenced by the "Mine Hydrogeologic Characterization" report prepared by Wenck (Stantec Consulting Services Inc.) submitted by Applicant, it is expected that groundwater will be encountered during mining operations on the site. The Applicant is proposing to mine smaller cells and to "dewater" each cell as necessary. Water will be pumped from an active cell into a recharge trench so it can infiltrate back into the unconfined aquifer. The Applicant will collect data on water levels and water quality from onsite monitoring wells and has offered to collect baseline data from adjacent neighboring wells.

Dust will be controlled by applying water and by seeding and/or mulching exposed soil surfaces. Water will not be discharged from the site. It will be allowed to infiltrate, on site, in accordance with a permit issued by the Department of Environmental Quality (DEQ) with oversight by the Department of Geology and Mineral Industries (DOGAMI). Oregon Department of Fish and Wildlife (ODFW) has not identified any wildlife or sensitive bird habitat near the site.

Energy Consequences: Positive energy impacts will result from continued operation of the established processing facilities at the Woodward property, located in an area that minimizes transportation costs related to moving aggregate materials. Negative energy impacts may occur only if aggregate is mined from the area for transport out of the county, which is unlikely because of the distances involved. Reducing emissions associated from transferring aggregate from outside Crook County area is a positive impact.

Conflicts with Statewide Planning Goals: OAR 660-16-0005(3) requires local governments, in analyzing the ESEE consequences of conflicting uses, to also consider the applicability and requirements of other Statewide Planning Goals.

Goal 1 – Citizen Involvement: Crook County requires notice to adjacent property owners and a public hearing before the Planning Commission and the County Court prior to adoption of any comprehensive plan amendment. In addition, public notice is provided through the local newspaper. Information relating to the hearing (e.g., the staff report and exhibits) are available on the County's website and hard copies are available to the public when requested. Notice of the proposed plan amendment was also provided to the Department of Land Conservation and Development. The Planning Commission conducted a site visit to the subject property prior to the first hearing. Adjacent property owners within 750' feet of the subject property were notified of the visit and invited to attend. Two public hearings were held by the Planning Commission to consider this application and the related conditional use application. Members of the public were provided an additional seven days to respond to new evidence and the Applicant was provided seven days to submit a final argument.

Goal 2 – Land Use Planning: This decision will be subject to the policies and processes of Crook County's

Comprehensive Land Use Plan and the County's zoning code (Chapter 18) and will meet the Goal 2 requirements regarding land use planning.

Goal 3 – Agricultural Lands: The Applicant states that it intends to minimize conflicts with neighboring agricultural activities by the operational design for mining the site. The agricultural use on the site will be temporarily interrupted as actual mining is conducted in phases. The site will be reclaimed to allow agricultural use after mining is complete. DOGAMI'S reclamation permit requires the site to be reclaimed to the current agricultural use. The Planning Commission received testimony regarding the lack of organic matter and nutrients in the topsoil and overburden preventing the site from returning to productive agricultural use. The Planning Commission understands that the Applicant and property owner will need to establish terms that minimize impacts to current agricultural operations on the subject property (e.g., minimizing impacts on the current irrigation system).

The Applicant states that the aggregate operation will not force a significant change in accepted practices, nor will it result in a significant cost increase to accepted farm practices. Adjacent property owners are concerned about the impacts of dust on their crops causing reduced yields and reduction in quality. While there may not be a change in farm practices, there may be reductions in yields and income. The Applicant states that the proposed berms and dust control measures are intended to mitigate the impacts of dust on adjacent properties. Concerns were raised by an adjacent dairy operator regarding impacts due to a potential loss of water supply or groundwater contamination. There will be a disruption of current irrigation practices on the subject property until site reclamation is complete.

According to the Applicant, the mining operation on the Vanier property will be a continuation of the current mining operation on the Woodward property. The Applicant will construct a vegetated berm to serve as a visual and noise barrier to minimize impacts on adjacent farming operations. The mining operation of the Vanier property will be extraction only: all processing will continue to occur on the Woodward property. There will be no new access onto Stahancyk Lane or Lamonta Road. All aggregate materials will be transported on a haul road internal to the mining operation to the existing Woodward property processing site. Mining operations on the Woodward property have been occurring for several years and the Applicant is not aware of any of its current operational activities that have caused adverse impacts to surrounding lands devoted to farm use to the extent that the impacts have forced a significant change in, or significant increase in the costs of, accepted farm practices.

Goal 4 – Forest Lands: There are no forest lands in the vicinity of the subject property. Forest lands will not be impacted. There is no conflict with Goal 4.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: The Applicant proposes to add this site to the Goal 5 inventory of significant aggregate resource sites. Based on information from the Oregon Department of Fish and Wildlife (ODFW) and other resource management agencies, development of this site for aggregate productions does not conflict with any other Goal 5 resources. 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.

Goal 6 – Air, Water and Land Resources Quality: Goal 6 relates to protection of air and water quality. The operation of the aggregate mining site will be conducted in compliance with all other applicable state and local permits and regulations. The Oregon Department of Geology and Mineral Industries (DOGAMI) has oversight responsibility for mining operations and final reclamation. Dust control is a required component of the operating

plan. The Oregon Department of Environmental Quality (DEQ) permits will be required for stormwater management and the dust control plan will be reviewed to address air quality concerns. The Applicant has agreed to provide limited baseline monitoring of groundwater quality.

Goal 7 – Areas Subject to Natural Disasters and Hazards: The proposed mine site is not recognized as being an area subject to natural disasters or hazards. There is no conflict with Goal 7.

Goal 8 – Recreational Need: The proposed mining operation will not impact recreational needs or areas used for recreation. There is no conflict with Goal 8.

Goal 9 – Economy of the State: Development of the aggregate site is consistent with Goal 9 because aggregate is a necessary commodity for road and building projects. A local source of aggregate provides an economic benefit to Crook County and the Central Oregon area.

Goal 10 – Housing: Development of the aggregate resource site will have no impact on the supply of housing in Crook County. Properties zoned for Exclusive Farm Use are typically unlikely to be approved for residential development. Having a local supply of aggregate materials should help meet demand for residential construction.

Goal 11 – Public Facilities and Services: No new public services will be required to support development of the aggregate resource site. Sewer service is not required, and water and power are currently available to serve the site. An existing truck route will be used for traffic associated with the site and no new connections to County roads are required.

Goal 12 – Transportation: Development of the proposed aggregate resource site does not conflict with the Crook County Transportation Plan or Goal 12. The site is located on an existing designated truck route less than ½ mile(s) from Highway 26. No new access points are needed or requested. No new access to County roads is required.

Goal 13 – Energy Conservation: Development of an aggregate resource site in Crook County reduces the consumption of energy needed to move aggregate from locations farther away to projects in Crook County. The proposed site is consistent with Goal 13.

Goal 14 – Urbanization: This proposal does not include expansion of any urban growth boundary. This area has not been considered for UGB expansion. If the area is considered for urbanization in the future, the reclaimed site could be available for development.
(Goal 15 applies to Willamette River communities and Goals 16-19 apply to coastal communities).

Program to Achieve Goal 5: OAR 660-016-0010 states that based on the ESEE analysis, a jurisdiction must “develop a plan to achieve the Goal.” A jurisdiction is expected to resolve conflicts in any one of the following ways:

- 1) **Protect the Resource Site:** If, on the basis of the ESEE analysis, the jurisdiction determines that the resource site is extremely valuable relative to conflicting uses, and the ESEE consequences of allowing conflicting uses are great, the resource site must be protected, and all conflicting uses prohibited on the site and possibly within the impact area; These are identified as “3A” sites in the Comprehensive Plan.
- 2) **Allow Conflicting Uses Fully:** If the ESEE analysis determines that a conflicting use is sufficiently important relative to the resource site, the conflicting use must be allowed fully regardless of the impact on the resource site; In these cases, the mineral or aggregate mining may be disallowed completely

and/or the conflicts may be allowed fully. This approach is used when the conflicting use or conflicting applicable requirements of other Statewide Planning Goals for a particular site is of sufficient importance, relative to the resource site. These sites are designated within the Comprehensive Plan as “3B” sites.

- 3) **Balancing Conflicts:** If the resource site and conflicting uses are both important relative to each other, the conflicting uses can be allowed in a limited way in order to protect the resource site to a limited extent. The jurisdiction must designate with certainty which uses and activities are to be allowed fully, which are not to be allowed at all, and which are to be allowed conditionally. The jurisdiction must also designate specific standards and limitations to be placed on the permitted and conditional uses and activities. These standards must be specific enough that affected property owners can clearly understand them. The Planning Commission could find that based on the analysis of the ESEE consequences and other Statewide Goals, Crook County has determined that both the resource site and conflicting zoning uses and conflicting applicable requirements of other Statewide Planning Goals are important relative to each other. These sites are identified as “3C” in the Comprehensive plan.

The Comprehensive Plan states that the ESEE consequences should be balanced so as to allow the conflicting use or conflicting applicable requirements of other Statewide Planning Goals, but in a limited way so as to protect the resource site to some desired extent.

Limitations or conditions may be placed on the mining and/or on the conflicting uses, but only those necessary to resolve the conflicts as described in the ESEE analysis. These limitations must be “clear and objective.” To achieve this, the County must designate:

1. the uses and activities that are allowed fully,
2. the uses and activities that are not allowed at all,
3. the uses that are allowed conditionally,
4. the specific standards or limitations that are to be placed on the permitted and conditional uses and activities for each resource site, and
5. clear and objective standards for the limitations.

The Planning Commission could determine that all existing uses are allowed within the 500’ impact area and that new uses within the impact area would either not be allowed or would be subject to the applicable zoning provisions (e.g., chapter 18.72 for the heavy industrial property or 18.16 for property zoned for exclusive farm use). These zoning provisions identify both uses that are allowed and those uses allowed conditionally. Current zoning provisions in 18.16, 18.144 (mineral and aggregate site) and 18.160 (conditional uses) identify limitations that may be placed on mining activities through a conditional use review process.

Both the resource site and adjacent uses are important. New uses are unlikely within the 500-foot impact area. In considering whether or not to approve a conditional use permit for mining operations, the County will need to determine how to protect the resource site while minimizing impacts to surrounding uses.

Conclusion: Based on information in the record, the subject property meets the “location, quality and quantity”

requirements as a significant aggregate site (1C in the County’s Comprehensive Plan). However, there are existing uses that may conflict with the mining operation and that the mining operation may conflict with.

The Planning Commission may find that the conflicting uses are sufficiently important relative to the mine site to disallow the aggregate mining completely and/or fully allow the conflicting uses

If the Planning Commission finds that both the resource site and uses within the 500’ impact area are important, it is recommended that the site be classified as “3C,” a significant resource site but one where the resource site and conflicting uses are both important and need to be balanced. Conditions proposed on the mining operation as part of the conditional use review (217-21-000573-PLNG) can limit impacts to conflicting uses. The Planning Commission should also determine whether or not uses allowed either outright or conditionally should be permitted within the 500’ impact area.

Planning Commission options:

Recommend adoption of the proposed Plan Amendment to add the subject property to the Comprehensive Plan’s Inventory of Significant Mineral and Aggregate Resources to the Crook County Court for their consideration.

Recommend denial of the proposed Plan Amendment.

Respectfully submitted,



Brent Bybee, Planning Manager
Signing For
Ann Beier, Crook County Community Development Department